



**New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor**

**Department of the Treasury
Division of Taxation
Homestead Benefit Program**

July 1, 2013 to August 31, 2015

**Stephen M. Eells
State Auditor**

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Enclosed is our report on the audit of the Department of the Treasury, Division of Taxation, Homestead Benefit Program for the period of July 1, 2013 to August 31, 2015. If you would like a personal briefing, please call me at (609) 847-3470.

A handwritten signature in black ink, appearing to read "Stephen M. Eells".

Stephen M. Eells
State Auditor
December 15, 2015

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Scope

We have completed an audit of the Department of the Treasury, Division of Taxation, Homestead Benefit Program for the period July 1, 2013 to August 31, 2015. Our audit was limited to the proper application of the tax year 2012 benefit to home sellers.

The Homestead Property Tax Rebate program for homeowners and tenants was created in 1990. The program has changed through the years, with the most recent change in fiscal year 2010 limiting benefits to homeowners based on their 2006 property taxes. New Jersey began to issue homestead benefits in the form of credits on property tax bills for tax year 2009. Ninety-four percent of eligible applicants received their 2012 Homestead Benefit through a property tax credit. The remaining applicants were paid through a check or direct deposit. Property tax relief totaling \$365 million provided by the 2012 Homestead Benefit program was not issued until May 2015.

Objective

The objective of our audit was to determine if eligible applicants who sold their homes subsequent to October 1, 2012 received their 2012 Homestead Benefit.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In preparation for our testing, we studied legislation and policies of the agency. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our testing of financial transactions. We also read the budget messages, requested and queried various data files, and interviewed agency personnel to obtain an understanding of the 2012 Homestead Benefit program and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions on our audit objective as well as internal controls and compliance. Populations were sorted and transactions were judgmentally selected for testing.

Conclusions

We found that because of the timing of the 2012 Homestead Benefit distribution and the process by which applicants were to notify the Division of Taxation of home sales, 19,000 eligible applicants representing \$10 million in benefits may not have received their benefit. In making this determination, we found internal control weaknesses regarding deceased applicants and telephone filing. We also observed matters concerning the timing of the benefit payments and the division's consistent application of eligible property tax limits.

Home Sales

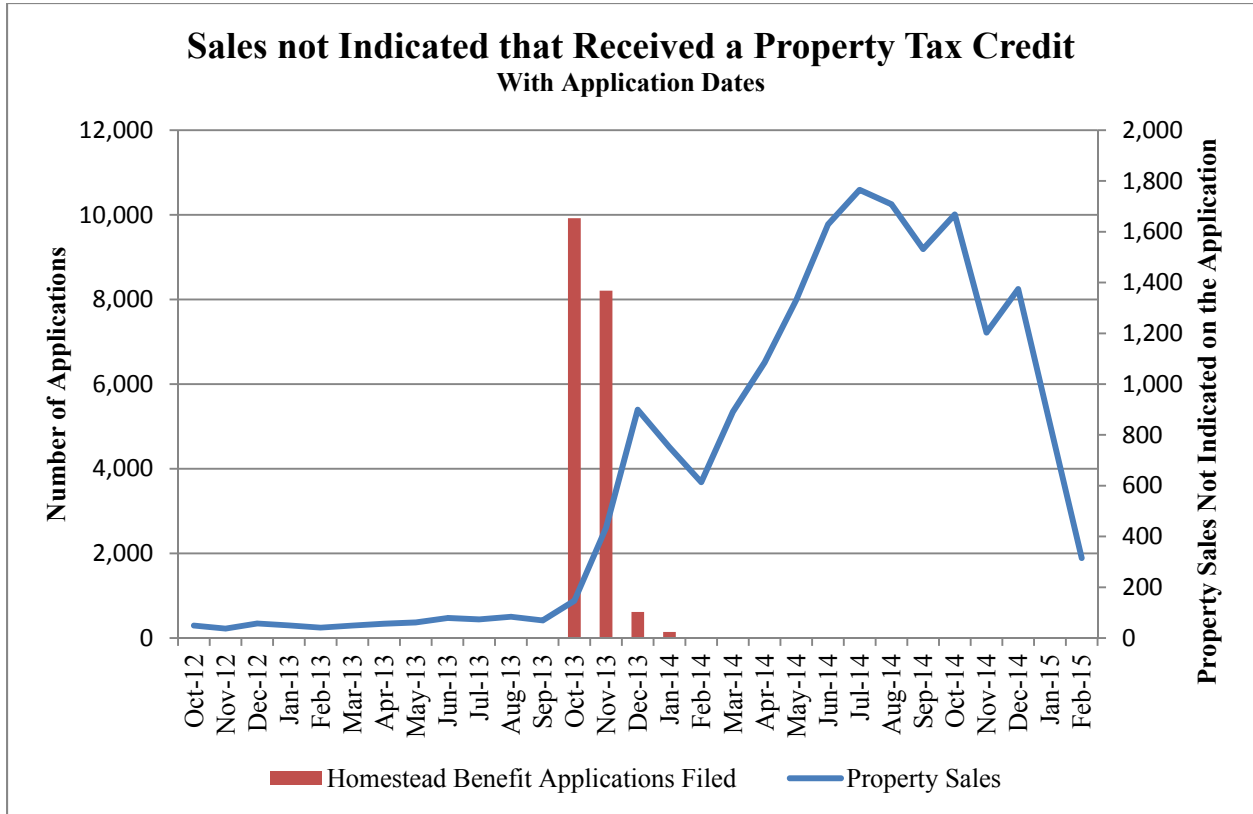
Sales not indicated on the application jeopardized homestead benefits.

New Jersey Statutes state that the Director of the Division of Taxation “shall provide a homestead benefit under this act as a credit only if the director can ensure that the benefit will be applied to the appropriate taxpayer. Otherwise, the director may remit a homestead benefit to an eligible taxpayer as a rebate.”

The 2012 Homestead Benefit application provided instructions for applicants to check a box to indicate if they sold or planned to sell their home, thereby initiating a check or direct deposit so that benefits would be received. This would ensure the new owner of the home did not get a homestead benefit intended for another party. Homestead benefits for 2012 were credited to eligible properties in May 2015, 18 months after applications were mailed. This time lapse increased the number of sellers that did not have the opportunity to indicate a home sale on their application, which was acknowledged by the division. The application instructions stated that if they did not check a box to indicate a home sale, they were to negotiate the benefit at the real estate transaction closing.

We contacted ten title agents from various agencies regarding their experience with the New Jersey Homestead Benefit. None of the title agents surveyed included the homestead benefit in any real estate transaction prior to March 2015, the period when the state notified municipalities that 2012 payments would be sent by May 1, 2015. Additionally, seven of the title agents surveyed were not aware the homestead benefit application instructed the taxpayer to negotiate the credit during the real estate transaction. We also contacted five real estate attorneys and found none included the homestead benefit in any real estate transaction before the dollar amount was available. Therefore, there was no indication that the homestead benefits were part of real estate closing transactions prior to credits being applied to property tax bills.

Consequently, it appears that certain homeowners who sold their homes after applications were submitted and did not indicate so on their application may not have received their homestead benefit. We requested sales data from the division for the period October 1, 2012 to February 28, 2015 and matched it to homes that received the benefit as a property tax credit. Our match resulted in 19,000 homestead benefits totaling \$10 million credited to the property tax bill where the current owner was not the benefit applicant. We found 82 percent of these home sales occurred during calendar year 2014. The final application deadline was January 31, 2014. The following chart provides an illustration.



The chart shows sales not indicated on the application started to sharply increase five months after applications began to be submitted. This may be attributed to the fact that a sale was not considered at the time of filing the homestead benefit application.

Currently, 2013 Homestead Benefits are anticipated to be credited on May 2016 property tax bills, six months after the initial application deadline. Based on 2012 Homestead Benefit data, we estimate that even if tax year 2013 benefits are distributed timely, at least \$2 million will not be paid to the proper applicants because home sales may not be indicated on applications. This considers an estimated nine percent decrease of benefit payments per the 2016 Appropriations Act. We estimate this amount could increase an additional \$2 million to \$6 million if benefits were delayed three to twelve months, respectively, beyond May 2016. Homestead benefits for tax years 2011 and 2012 were paid 13 and 17 months after the initial application deadlines, respectively.

The division uses property sales data to update mailing addresses for homestead benefit applications; however, they do not utilize the sales data again prior to releasing homestead benefit payments to municipalities. Although the risk existed that applicants would not take the benefit into account during settlement, it was the division’s decision to issue the benefit as a credit on the property tax bill of the person who owned the property on the date the benefit was paid, as stated in the application instructions.

Recommendation

We recommend the division utilize property sales data to identify applicants that should receive homestead benefit rebate checks in lieu of property tax credits. Additionally, we recommend the division amend the homestead benefit application to remove language instructing applicants to negotiate the benefit as part of the real estate transaction.



Deceased Applicants

The division should heighten its efforts to identify deceased individuals.

The division did not have access to accurate death data when 2012 Homestead Benefits were approved for payment. Prior to May 2015, if individuals did not file a federal or New Jersey tax return, the division did not have current data on file. We analyzed income data reported on 2012 Homestead Benefit applications and found 262,178, or 33 percent of recipients, were not required to file a tax return because they reported zero New Jersey taxable gross income. Eighty percent of those reporting zero taxable income included at least one spouse 65 or older.

Although a surviving spouse may remain eligible, if the primary applicant died prior to October 1, 2012, the applicant did not meet eligibility requirements for the 2012 Homestead Benefit. We performed a match and found 4,853 benefits paid to primary applicants with a date of death prior to October 1, 2012. Benefits issued to these applicants totaled approximately \$2.6 million. Of these applicants, 127 died more than 20 years ago and 16 would be at least 110 years old.

We judgmentally selected 30 primary applicants to test them against the division's tax records. We found six applicants were ineligible; three of the six were paid to the estate, two were paid to the deceased (with no surviving spouse), and one was paid to an individual with an unrelated name on file. The remaining 24 appear to be paid to a surviving spouse and require further proof of identification, residency, and income prior to determining eligibility.

As a result of our match, the division selected 27 of the 4,853 individuals and researched them separately. They found seven ineligible payments to the deceased, seven whose social security numbers were inconsistent with those on file, twelve appeared to be filed by a surviving spouse, and one status was indeterminable.

Recommendation

The division should utilize information available from federally approved data to identify deceased individuals and request additional information where needed. For instances where an applicant is deceased, the division should update homestead benefit filing information for the surviving spouse. Additionally, we recommend the division further investigate the remaining 4,826 individuals and attempt to recoup any payments deemed ineligible.



Telephone Filing

Additional controls should be added to the telephone application process.

Applicants living in a home that received a homestead benefit in the prior tax year receive applications with multiple pre-printed lines. Applicants have the choice to file via telephone or online. Unlike online filing, if these applicants choose the telephone option, social security number verification is not required if all other pre-printed information is correct.

A risk exists for potential applicants who have sold their homes after the October 1 resident eligibility deadline, but did not update their address with the division or were not required to file a New Jersey income tax return. If the new owner received the application they could potentially assume the identity of the previous owner who is entitled to the homestead benefit. To identify homestead benefits susceptible to this risk, we started with the 19,000 homes sold that received a property tax credit, and focused only on sales dates prior to the January 31, 2014 extended filing deadline. We found 372 instances where the applicant applied for the homestead benefit after the home was sold but did not indicate a sale, heightening this potential risk.

Recommendation

We recommend the division require that applicants enter their social security number to verify identity during the application process, reducing the risk of fraud. Additionally, the division should investigate those instances where homestead benefits were applied for after the sales date, but no sale was indicated on the application.



Observations

Timing of Homestead Benefit Payments

Postage savings on thousands of checks is one advantage of issuing the homestead benefit as a property tax credit. Because of a timing adjustment of the homestead benefit payment release for tax year 2012, all municipalities had to re-issue property tax bills to eligible applicants in

March 2015. The division reimbursed the municipalities approximately \$475,000 for this cost, thus reducing any potential savings.

For future homestead benefits, the division should consider issuing the property tax credit in the 3rd quarter of every calendar year, which coincides with the annual mailings of property tax bills for the majority of municipalities. As a result, this will save the printing and mailing costs of issuing revised property tax bills.

\$10,000 Property Tax Limit

We noted an inconsistency with how the division interprets the maximum amount of property taxes allowed to be calculated for homestead benefit purposes. New Jersey Statutes state that homestead benefit applicants are allowed a rebate or credit for “a percentage of property taxes not in excess of \$10,000 paid by the claimant in that tax year on the claimant's homestead”. The division interprets this as to allow a deduction up to \$10,000 for each owner. We noted the same \$10,000 threshold exists for the property tax deduction or credit taken on the New Jersey individual income tax return. However, instructions for taking the deduction or credit do not allow married couples filing separately to deduct more than \$5,000 each and limit the total deduction to \$10,000 for the property.

We found 508 homes that indicated multiple ownership where the aggregate total property taxes were over \$10,000, including instances where total property taxes more than \$20,000 were split and owners used \$10,000 each for their calculations. The 508 homes accounted for 1,036 applications with maximum homestead benefits of \$1,000 issued to 25 recipients. If property taxes were limited to \$10,000 per property, the state would have saved \$100,000.

The division should apply consistent criteria across all property tax relief programs, and consider implementing the same instructions that exist on New Jersey individual income tax returns.





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CHRIS CHRISTIE
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FORD M. SCUDDER
ACTING STATE TREASURER

December 10, 2015

John J. Termyna, Assistant State Auditor
Office of the State Auditor
125 South Warren Street, PO Box 067
Trenton, NJ 08625-0067

Re: Department of the Treasury, Division of Taxation, Homestead Rebate Program

Dear Mr. Termyna:

We appreciate the opportunity to respond to the audit findings and recommendations for the Department of Treasury, Division of Taxation, Homestead Rebate Program for the period July 1, 2013 to August 31, 2015. The following is in response to the recommendations contained in the audit report.

Recommendation: The Division of Taxation should utilize property sales data to identify applicants that should receive homestead benefit rebate checks in lieu of property tax credits. Additionally, the division should amend the homestead benefit application to remove language instructing applicants to negotiate the benefit as part of any real estate transaction.

Response: As indicated in the audit's narrative, the application for Homestead Benefits includes notice requiring the applicant to indicate whether the property has been sold so that the benefit would be issued in the form of a rebate and not a credit to the benefit of the current homeowner. Applicants also are advised that in the event of a sale after the application is filed, the benefit should be negotiated as part of the closing. Based on the findings of the audit and a review by the Division, it is possible that notwithstanding the notice provided to Homestead Benefit applicants, homeowners who sell their property subsequent to filing are not always properly accounting for it at the closing.

The Division of Taxation concurs with the recommendation and going forward will utilize property sales data to determine if applicants should receive rebate checks in lieu of property tax credits. Also any future applications will omit the directions regarding negotiating the benefit as part of any closing.

Recommendation: The division should utilize information available from federally approved data to identify deceased individuals and request additional information where needed. Additionally, the division should attempt to recoup any payments deemed ineligible.

Response: The Division of Taxation attempts to check all applications to make sure the benefit is being paid to only those who meet the criteria of the program. Beginning in 2015, the Division of Taxation gained access to the information to identify taxpayers who are deceased. This information is being used to validate homestead benefits.

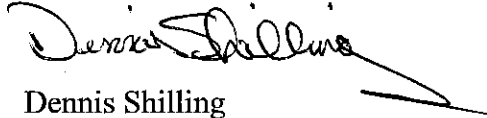
The Division concurs with the recommendation to pursue recoupment of any ineligible payments.

Recommendation: The division should require applicants to enter their social security number to verify identity during the application process.

Response: The Division of Taxation will explore the feasibility of requiring applicants to provide additional data when filing the homestead benefit application via telephone as recommended in the report.

We thank you for your input and appreciate the professionalism that your staff brought to the engagement.

Very truly yours,

A handwritten signature in black ink, appearing to read "Dennis Shilling", with a long horizontal flourish extending to the right.

Dennis Shilling
Acting Director
Division of Taxation

cc: Acting State Treasurer, Ford M. Scudder