



**A Report to the Galveston
City Council**

Mayor

Jim Yarbrough

Council Members

Tarris Woods

Dr. Craig Brown

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City Auditor

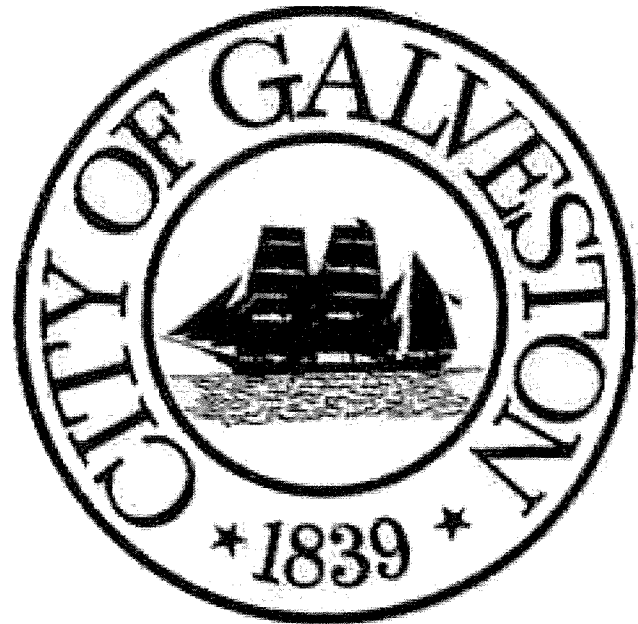
Glenn Bulgherini, CPA

Auditor

Carrie Sumrall, CFE

Audit Report

Smidt JD Branch Holdings LLC
3628 Ave O 1/2 Galveston,
Texas
December 16, 2014



The City Auditor's Office performed a hotel occupancy tax revenue monitoring audit on JD Branch Holdings LLC located at 3628 Ave O 1/2 in Galveston, Texas. The auditors determined that hotel occupancy taxes had been collected from guests but not remitted to the City of Galveston. The total tax due to the City of Galveston plus penalty and interest is \$2,898.17.



HOTEL OCCUPANCY TAX
REVENUE AUDIT Smidt JD Branch Holdings LLC

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AUDIT TEAM

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City of Galveston
Hotel Occupancy Tax Revenue Monitoring Audit – Smidt JD Branch Holdings LLC
City Auditor Executive Summary

BACKGROUND

The City of Galveston levies a Hotel Occupancy Tax (HOT) of nine percent (9%) on qualified room stays costing more than two dollars per night. Hotels are defined in Article III Section 33-86 of the City of Galveston Code as any building or buildings, in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses or other buildings where rooms are furnished for a consideration, but shall not be defined so as to include hospitals, sanitariums or nursing homes. The Hotel Occupancy Tax Collection Report is remitted to the City of Galveston in the following month after collections (i.e. Collections for the month of October are reported and remitted to the City of Galveston in the month of November).

The City of Galveston's Legal Department plays a supporting role in offering advice and filing City of Galveston claims against delinquent establishments. The Office of the City Auditor conducts regular Hotel Occupancy Tax Revenue Monitoring Audits to help ensure compliance.

OBJECTIVES, SCOPE AND METHODOLOGY

The Hotel Occupancy Tax Revenue Recognition Audit was conducted as part of the Office of the City Auditor's Fiscal Year (FY) 2014-2015 Strategic Audit Plan presented to the Mayor and City Council.

Objectives

The objectives of the audit were to determine whether Smidt JD Branch Holdings LLC located at 3628 Ave O ½ in Galveston, Texas is reporting and remitting the correct hotel occupancy tax revenue to the City of Galveston Finance Department in accordance with applicable city and state laws.

Scope

The audit scope included documentation from December 2012 to January 2014 for Smidt JD Branch Holdings LLC. The geographical scope is the City of Galveston's jurisdiction.

Methodology

To accomplish our Audit Objectives we performed the following steps:

- Reviewed applicable laws and regulations.
- Reviewed documentation from the City's Finance Department.
- Interviewed hotel owners, operators and managers.
- Reviewed financial documentation received from hotels.

City of Galveston
Hotel Occupancy Tax Revenue Monitoring Audit – Smidt JD Branch Holdings LLC
City Auditor Executive Summary

AUDIT RESULTS

Overall, we identified \$2,898.17 in hotel occupancy tax revenue, penalties, and interest deficiencies owed to the City.

Refer to the exams attached for detailed information.

STAFF CONDUCT

All staff acted in a professional and timely manner.

CITY MANAGER'S COMMENTS

The City Manager reviewed the report and complements the Auditor on the scope of the review and the resultant recovery. This process has since transitioned to the Park Board and the City Manager supports a process where the Auditor will be instrumental in the selection of both the firm used in the auditing of Hotel Occupancy Tax payments, and the annual selection of hotels and short-term rental property owners/operators to be reviewed.

FOLLOW UP COMMENTS

Smidt JD Branch Holdings LLC paid \$2,400.75 on October 14, 2014. Penalties and interest of \$497.42 was paid at a later date.

SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2
TOTAL OF ADDITIONAL HOTEL OCCUPANCY TAX AND LATE PENALTIES AND INTEREST DUE

EXAM 1

| (1) | (2) | (3) | (4) | (5) |
|--------------------------------------|--|---|---|---|
| DATE OF TAXPAYER (HOTEL) COLLECTIONS | TOTAL OF ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | TOTAL OF ADDITIONAL LATE PENALTIES DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE | TOTAL INTEREST ON DELINQUENT TAX NOT PAID 60 DAYS FROM THE DUE DATE | TOTAL OF ADDITIONAL HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON AND TOTAL OF ADDITIONAL LATE PENALTIES AND INTEREST DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE |
| December 2012 | \$ 49.50 | \$ 7.43 | \$ 5.77 | \$ 62.70 |
| January 2013 | 49.50 | 7.43 | 5.36 | 62.29 |
| February 2013 | 24.75 | 3.71 | 2.47 | 30.94 |
| March 2013 | 148.50 | 22.28 | 13.61 | 184.38 |
| April 2013 | 272.25 | 40.84 | 22.68 | 335.77 |
| May 2013 | 148.50 | 22.28 | 11.13 | 181.91 |
| June 2013 | 173.25 | 25.99 | 11.55 | 210.78 |
| July 2013 | 321.75 | 48.26 | 18.76 | 388.77 |
| August 2013 | 618.75 | 92.81 | 30.93 | 742.49 |
| September 2013 | 123.75 | 18.56 | 5.15 | 147.47 |
| October 2013 | 49.50 | 7.43 | 1.65 | 58.57 |
| November 2013 | 198.00 | 29.70 | 4.95 | 232.65 |
| December 2013 | 173.25 | 25.99 | 2.89 | 202.12 |
| January 2014 | 49.50 | 7.43 | 0.41 | 57.34 |
| TOTALS | \$ 2,400.75 | \$ 360.11 | \$ 137.31 | \$ 2,898.17 |

Column 1: This Column indicates the Month and Year of Taxpayer Collections of Hotel Occupancy Tax.

Column 2: This Column indicates The Additional Hotel Occupancy Tax Due to the City of Galveston Calculated in Exam 2. These Amounts are Carried Forward from Exam 2.

Column 3: This Column indicates the Late Penalty of the Additional Tax Due for Failure to Pay the Tax by the Due Date Carried Forward from Exam 3.

Column 4: This Column indicates the the Interest due on the Additional Hotel Occupancy Tax due to the City of Galveston in Exam 4.

Column 5: This Column indicates the Total Amount Due as of the Date of this Report to the City of Galveston. (Column 2 + Column 3 + Column 4).

**SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2
CALCULATION OF ADDITIONAL HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON FROM GROSS RECEIPTS**

EXAM 2

| (1) | (2) | (3) | (2) x (3) | (5) | (4) - (5) |
|--|---------------------|--|--|--|---|
| DATE OF TAXPAYER (HOTEL) COLLECTIONS | GROSS RECEIPTS | CITY OF GALVESTON MUNICIPAL HOTEL OCCUPANCY TAX RATE | ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | TAX PAID BY THE TAXPAYER (HOTEL) TO THE CITY OF GALVESTON | HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON FROM GROSS RECEIPTS |
| December 2012 | \$ 550.00 | 9% | \$ 49.50 | \$ - | \$ 49.50 |
| January 2013 | 550.00 | 9% | 49.50 | 0.00 | 49.50 |
| February 2013 | 275.00 | 9% | 24.75 | 0.00 | 24.75 |
| March 2013 | 1,650.00 | 9% | 148.50 | 0.00 | 148.50 |
| April 2013 | 3,025.00 | 9% | 272.25 | 0.00 | 272.25 |
| May 2013 | 1,650.00 | 9% | 148.50 | 0.00 | 148.50 |
| June 2013 | 1,925.00 | 9% | 173.25 | 0.00 | 173.25 |
| July 2013 | 3,575.00 | 9% | 321.75 | 0.00 | 321.75 |
| August 2013 | 6,875.00 | 9% | 618.75 | 0.00 | 618.75 |
| September 2013 | 1,375.00 | 9% | 123.75 | 0.00 | 123.75 |
| October 2013 | 550.00 | 9% | 49.50 | 0.00 | 49.50 |
| November 2013 | 2,200.00 | 9% | 198.00 | 0.00 | 198.00 |
| December 2013 | 1,925.00 | 9% | 173.25 | 0.00 | 173.25 |
| January 2014 | 550.00 | 9% | 49.50 | 0.00 | 49.50 |
| TOTALS | \$ 26,675.00 | | \$ 2,400.75 | \$ - | \$ 2,400.75 |

Column 1: This Column indicates the Month and Year of Taxpayer COLLECTIONS of Hotel Occupancy Tax. Hotels are Defined in Article III

Section 33-86 of the City of Galveston Code as any Building or Buildings in which the Public may, for a Consideration, Obtain Sleeping Accommodations. The Term Shall Include Hotels, Motels, Tourist Homes, Houses or Court, Lodging Houses, Inns, Rooming Houses or Other Buildings where Rooms are Furnished for a Consideration, but shall not be Defined so as to Include Hospitals, Sanitariums or Nursing Homes. The Hotel Occupancy Tax Collection Report is Remitted to the City of Galveston by the

SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2

CALCULATION OF ADDITIONAL HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON FROM GROSS RECEIPTS

EXAM 2

| (1) DATE OF TAXPAYER (HOTEL) COLLECTIONS | (2) GROSS RECEIPTS | (3) CITY OF GALVESTON MUNICIPAL HOTEL OCCUPANCY TAX RATE | (4) ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | (5) TAX PAID BY THE TAXPAYER (HOTEL) TO THE CITY OF GALVESTON | (6) HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON FROM GROSS RECEIPTS |
|---|---|---|--|--|---|
| | | | (2) x (3) | | (4) - (5) |
| | | | (4) | (5) | (6) |
| | the tenth day of the following Month after Collections. Currently, the Statute of Limitations for Hotel Occupancy Tax is four years. | | | | |
| Column 2: | This Column is the Total Gross Revenue Received from the Occupancy of Rooms. Line 1 Hotel Occupancy Tax Collection Report. | | | | |
| Column 3: | This Column is the City of Galveston Hotel Occupancy Tax Rate is 9% Upon the Cost of Occupancy of any Room or Space Furnished by any | | | | |
| | Hotel where such Cost of Occupancy is at the Rate of Two Dollars (\$2.00) or More per Day. The State of Texas Hotel Occupancy | | | | |
| | Tax Rate is 6% of Gross Hotel Receipts. Both are Charged at the Same Time to Hotel Patrons which Totals 15%. Hotels (Taxpayers) | | | | |
| | send the 9% to the City of Galveston and the 6% Due to the State of Texas is Remitted directly to the State Comptroller's Office. | | | | |
| Column 4: | This Column is the Gross Revenue Received by the Taxpayer (Hotel) X the 9% City of Galveston Hotel Occupancy Tax Rate. (Column 2 x Column 3). | | | | |
| Column 5: | This Column is the Tax paid by the Taxpayer (Hotel) to the City of Galveston. | | | | |
| Column 6: | This Column indicates the Hotel Occupancy Tax Due to the City of Galveston from the Taxpayer (Hotel). (Column 4 - Column 5). | | | | |
| | These amounts are forwarded to Exam 1 and Carried Back to Exam 3 (Column 2). | | | | |
| | | | | | |
| | | | | | |

**SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2
 CALCULATION OF PENALTIES DUE PURSUANT TO ARTICLE III SECTION 33-91 OF THE CITY OF GALVESTON CODE
 EXAM 3**

| (1) | (2) | (2) x 5% | (4) | (5) | (3) + (4) + (5) |
|--------------------------------------|---|---|---|--|--|
| DATE OF TAXPAYER (HOTEL) COLLECTIONS | ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX WITHIN (30) THIRTY DAYS FROM THE DATE THE TAX WAS DUE | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX WITHIN (60) SIXTY DAYS FROM THE DATE THE TAX WAS DUE | TOTAL PENALTIES DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE |
| December 2012 | \$ 49.50 | \$ 2.48 | \$ 2.48 | \$ 2.48 | \$ 7.43 |
| January 2013 | 49.50 | 2.48 | 2.48 | 2.48 | 7.43 |
| February 2013 | 24.75 | 1.24 | 1.24 | 1.24 | 3.71 |
| March 2013 | 148.50 | 7.43 | 7.43 | 7.43 | 22.28 |
| April 2013 | 272.25 | 13.61 | 13.61 | 13.61 | 40.84 |
| May 2013 | 148.50 | 7.43 | 7.43 | 7.43 | 22.28 |
| June 2013 | 173.25 | 8.66 | 8.66 | 8.66 | 25.99 |
| July 2013 | 321.75 | 16.09 | 16.09 | 16.09 | 48.26 |
| August 2013 | 618.75 | 30.94 | 30.94 | 30.94 | 92.81 |
| September 2013 | 123.75 | 6.19 | 6.19 | 6.19 | 18.56 |
| October 2013 | 49.50 | 2.48 | 2.48 | 2.48 | 7.43 |
| November 2013 | 198.00 | 9.90 | 9.90 | 9.90 | 29.70 |
| December 2013 | 173.25 | 8.66 | 8.66 | 8.66 | 25.99 |
| January 2014 | 49.50 | 2.48 | 2.48 | 2.48 | 7.43 |
| TOTALS | \$ 2,400.75 | \$ 120.04 | \$ 120.04 | \$ 120.04 | \$ 360.11 |

| | |
|-----------|---|
| Column 1: | This Column indicates the Month and Year of Taxpayer COLLECTIONS of Hotel Occupancy Tax. |
| Column 2: | This Column indicates The Additional Hotel Occupancy Tax Due to the City of Galveston Calculated in Exam 2. These Amounts are Carried Back from Exam 2. |
| Column 3: | This Column indicates the 5% Penalty of the Additional Tax Due for Failure to Pay the Tax by the Due Date. (Column 2 x 5%). |
| Column 4: | This Column indicates the 5% Penalty of the Additional Tax Due for Failure to Pay the Tax Within (30) Thirty Days from the Date the Tax was Due. (Column 3 x 5%). |
| Column 5: | This Column indicates the 5% Penalty of the Additional Tax Due for Failure to Pay the Tax Within (60) Sixty Days from the Date the Tax was Due. (Column 4 x 5%). |

SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2

CALCULATION OF PENALTIES DUE PURSUANT TO ARTICLE III SECTION 33-91 OF THE CITY OF GALVESTON CODE

EXAM 3

| (1) | (2) | (2) x 5% | (2) x 5% | (2) x 5% | (3) + (4) + (5) |
|---|--|--|--|---|---|
| DATE OF TAXPAYER (HOTEL) COLLECTIONS | ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX WITHIN (30) THIRTY DAYS FROM THE DATE THE TAX WAS DUE | 5% PENALTY OF THE ADDITIONAL TAX DUE FOR FAILURE TO PAY THE TAX WITHIN (60) SIXTY DAYS FROM THE DATE THE TAX WAS DUE | TOTAL PENALTIES DUE FOR FAILURE TO PAY THE TAX BY THE DUE DATE |
| Column 6: | This Column indicates the Total Amount of Penalties Due for Failure to Pay the Tax by the Due Date. (Column 3 + Column 4 + Column 5). | | | | |
| NOTE: | An Additional Fine Not Calculated in this Examination Schedule is an Offense Punishable by a Fine Not Exceed Five Hundred Dollars (\$500.00). Each Day a | | | | |
| | Violation is Allowed to Continue Shall Constitute a Separate Offense. Article III Section 33-91. | | | | |
| | | | | | |
| | | | | | |

**SMIDT J.D. BRANCH HOLDINGS, LLC 3628 AVE O 1/2
 CALCULATION OF INTEREST DUE PURSUANT TO ARTICLE III SECTION 33-91 OF THE CITY OF GALVESTON CODE
 EXAM 4**

| (1) | (2) | (3) |
|--------------------------------------|---|--|
| DATE OF TAXPAYER (HOTEL) COLLECTIONS | ADDITIONAL HOTEL OCCUPANCY TAX DUE TO CITY OF GALVESTON | TOTAL 10% INTEREST PER ANNUM ON DELIQUENT HOTEL OCCUPANCY TAX DUE TO THE CITY OF GALVESTON |
| December | \$ 49.50 | 5.77 |
| January | 49.50 | 5.36 |
| February | 24.75 | 2.47 |
| March | 148.50 | 13.61 |
| April | 272.25 | 22.68 |
| May | 148.50 | 11.13 |
| June | 173.25 | 11.55 |
| July | 321.75 | 18.76 |
| August | 618.75 | 30.93 |
| September | 123.75 | 5.15 |
| October | 49.50 | 1.65 |
| November | 198.00 | 4.95 |
| December | 173.25 | 2.89 |
| January | 49.50 | 0.41 |
| TOTALS | \$ 2,400.75 | \$ 137.31 |

Column 1: This Column indicates the Month and Year of Taxpayer Collections of Hotel Occupancy Tax.

Column 2: This Column indicates Additional Hotel Occupancy Tax Due to the City of Galveston Calculated in Exam 2. These Amounts are Carried Back from Exam 2

Column 3: This Column indicates the total interest due on unpaid Hotel Occupancy Tax. The City of Galveston code states that Delinquent Tax shall draw interest at the rate

of ten (10) percent per annum beginning sixty (60) days from the date the tax was due. The interest is calculated thru the date of this report.