Welcome to the River City

Auditing District Clerk Registry Accounts

Wednesday, October 17
9:30-10:20 a.m.

Richard Galindo, Certified Public Accountant, Garza/Gonzalez & Associates CPAs

We plan to discuss the unique issues with the audit process since the registry accounts do not typically operate a traditional accounting system.
Richard Galindo, Certified Public Accountant, Garza/Gonzalez & Associates CPAs, San Antonio

Galindo has been with Garza/Gonzalez and Associates CPAs for 28 years and has managed financial and compliance audits of Texas counties, cities, school districts and other governmental and not-for-profit entities. He has also managed a number of internal auditing engagements for local governments and state agencies. He is a native citizen of San Antonio who attended local schools and graduated from the University of Texas at San Antonio.
SEC. 117.001. DEFINITIONS IN THIS CHAPTER:

(1) "Bank" means a banking corporation or association, an individual banker, or a state or federal savings and loan association or savings bank.
(2) "Clerk" means a county clerk, a district clerk, or a county and district clerk.
(3) "Registry funds" means funds tendered to the clerk for deposit into the registry of the court.
(4) "Separate account" means funds transferred from a special account into a separate interest-bearing account.
(5) "Special account" means an account in a depository in which registry funds are placed.
SEC. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER.

Any funds deposited under this chapter, except cash bail bonds, that are presumed abandoned under Chapter 72, 73, or 75, Property Code, shall be reported and delivered by the county or district clerk to the comptroller without further action by any court.

SEC. 117.002. TRANSFER OF UNCLAIMED FUNDS TO COMPTROLLER.

The dormancy period for funds deposited under this chapter begins on the later of:

(1) the date of entry of final judgment or order of dismissal in the action in which the funds were deposited;

(2) the 18th birthday of the minor for whom the funds were deposited; or

(3) a reasonable date established by rule by the comptroller to promote the public interest in disposing of unclaimed funds.
SEC. 117.003. COMPLIANCE WITH FEDERAL TAX LAW FOR FUNDS HELD UNDER THIS CHAPTER.

(a) If any funds deposited under this chapter are placed into an interest-bearing account, any person with a taxable interest in funds deposited to such account must submit appropriate tax forms and provide correct information to the district or county clerk so that the interest earned on such funds can be timely and appropriately reported to the Internal Revenue Service. The information and forms provided to the district or county clerk under this section are not subject to public disclosure except to the extent necessary to effectuate compliance with federal tax law requirements.

(b) The district or county clerk is authorized to pay any or all of the interest earned on funds deposited under this chapter, without court order, to the Internal Revenue Service to satisfy tax withholding requirements.

BANK DEPOSITORY AND NEW BONDS

Subchapter B. Establishment of Depository. Section 117.021 through 117.028 address the following:

Sec. 117.021. APPLICATIONS. Addresses the selection of a process for which the Depository is contracted with to establish the “Special Account’ held by the county clerk and the district clerks.

Sec. 117.022. NOTICE. A county shall advertise or give notice that the county will accept applications to be the depository for registry funds held by the county clerk and the district clerk.
Subchapter B. Establishment of Depository. Section 117.021 through 117.028 address the following:

Sec. 117.023. SELECTION OF DEPOSITORY.

(a) Application is required to be entered into the minutes.

(b) After a depository is selected, return the certified checks of the applicants not selected. The commissioners court shall return the check of the selected applicant only after the applicant files a bond that is approved by the commissioners court.

(c) The conflict of interests provisions of Section 131.903 apply to the selection of the depository.

Sec. 117.024. QUALIFICATION AS DEPOSITORY.

Sec. 117.025. DESIGNATION OF DEPOSITORY.

Sec. 117.026. ADVERTISEMENT FOR AND SELECTION OF DEPOSITORY OUTSIDE THE COUNTY.
Subchapter B. Establishment of Depository. Section 117.021 through 117.028 address the following:

Sec. 117.027. FAILURE TO SELECT DEPOSITORY. If the commissioners court has not selected a depository under this subchapter, a clerk holding money, an evidence of debt, an instrument of writing, or any other article deposited into the registry of the court pending the result of a legal proceeding shall seal the article in a secure package and deposit the package in an iron safe or a bank vault.

Sec. 117.028. APPLICATION OF COUNTY DEPOSITORY LAW. Except as otherwise expressly stated, the provisions of Chapter 116 relating to county depositories also apply to a depository selected under this chapter.
Sec. 117.057. NEW BOND.
(a) A commissioners court may require a depository selected under Subchapter B to execute a new bond whenever the commissioners court considers it necessary for the protection of the county clerk’s and the district clerk’s registry funds.

(b) If a depository does not file a new bond required by an order of the commissioners court within five days after the date a copy of the order is served on the depository, the commissioners court may select another depository in the manner provided by Subchapter B.

117.052 DEPOSITS OF REGISTRY FUNDS

(a) A county clerk or a district clerk who is to have for more than three days legal custody of money pending the result of a legal proceeding shall deposit the money in the bank depository.
117.052 DEPOSITS OF REGISTRY FUNDS

(b) The funds deposited shall be carried at the depository selected under this chapter as a special account in the name of the clerk making the deposit.

117.052 DEPOSITS OF REGISTRY FUNDS

(c) A clerk is responsible for funds deposited into the registry fund from the following sources:

(1) funds of minors or incapacitated persons;
(2) funds tendered in an interpleader action;
(3) funds paid in satisfaction of a judgment;
(4) child support funds held for more than three days;
(5) cash bonds;
(6) cash bail bonds;
(7) funds in an eminent domain proceeding; and
(8) any other funds tendered to the clerk for deposit into the registry of the court.
117.052 DEPOSITS OF REGISTRY FUNDS

Sec. 117.0521. CUSTODIANSHIP. A clerk shall act only in a custodial capacity in relation to a registry fund, a special account, or a separate account. A clerk is not a trustee for the beneficial owner and does not assume the duties, obligations, or liabilities of a trustee for a beneficial owner.

Sec. 117.053. WITHDRAWAL OF FUNDS.

(a) If a commissioners court selects a new depository under Subchapter B, when the depository qualifies, the county clerk and the district clerk shall transfer the funds in a special account from the old depository to the new depository, and the clerks may draw checks on the accounts for this purpose.
Sec. 117.053. WITHDRAWAL OF FUNDS.

(b) Except as provided by Subsection (a), a clerk may not draw a check on special account funds held by a depository except to pay a person entitled to the funds.

Sec. 117.053. WITHDRAWAL OF FUNDS.

(b) Except as provided by Subsection (a)...

The payment must be made under an order of the court of proper jurisdiction in which the funds were deposited except that an appeal bond shall be paid without a written order of the court on receipt of mandate or dismissal and funds deposited under Chapter 1355, Estates Code, may be paid without a written order of the court.
Sec. 117.053. WITHDRAWAL OF FUNDS.

(b) Except as provided by Subsection (a)...The clerk shall place on the check the style and number of the proceeding in which the money was deposited with the clerk.

Sec. 117.053. WITHDRAWAL OF FUNDS.

(c) The clerk shall transfer any registry funds into a separate account when directed to by a written order of a court of proper jurisdiction or when the clerk is required to under Chapter 1355, Estates Code. The clerk shall transfer the funds into a separate account in:
Sec. 117.053. WITHDRAWAL OF FUNDS.

(c) …The clerk shall transfer the funds into a separate account in:

(1) interest-bearing deposits in a financial institution doing business in this state that is insured by the Federal Deposit Insurance Corporation;

(2) United States treasury bills;

(3) an eligible interlocal investment pool that meets the requirements of Sections 2256.016, 2256.017, and 2256.019, Government Code; or…

(4) a no-load money market mutual fund, if the fund:

   (A) is regulated by the Securities and Exchange Commission;

   (B) has a dollar weighted average stated maturity of 90 days or fewer; and

   (C) includes in its investment objectives the maintenance of a stable net asset value of $1 for each share.
SEC. 117.054. COUNTY EXPENSES PAID FROM INTEREST.

(a) If a special or separate account earns interest, the clerk, at the time of withdrawal, shall pay in a manner directed by a court with proper jurisdiction the original amount deposited into the registry of the court and any interest credited to the account in the manner calculated in Subsection (b).

SEC. 117.054. COUNTY EXPENSES PAID FROM INTEREST.

(b) The interest earned on a special account or a separate account shall be paid in the following amounts:
(1) 10 percent of the interest shall be paid to the general fund of the county to compensate the county for the accounting and administrative expenses of maintaining the account; and
(2) 90 percent of the interest shall be credited to the special or separate account.
SEC. 117.055. COUNTY EXPENSES PAID FROM FEES.

(a) To compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, the clerk shall, at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but that may not exceed $50. Withdrawal of funds generated from a case arising under the Family Code is exempt from the fee deduction provided by this section.

(b) A fee collected under this section shall be deposited in the general fund of the county.

SEC. 117.056. OBLIGATIONS PAYABLE AT COUNTY SEAT.

(b) If the depository is not located at the county seat, the depository shall file a statement with the county clerk of the county designating a place at the county seat where, and a person by whom, deposits by the clerks will be received and checks drawn on the depository will be paid.
SEC. 117.058. ACCOUNTING FOR AND DISBURSING REGISTRY FUNDS IN COUNTIES WITH POPULATION OF 190,000 OR MORE.

(a) This section applies to a county with a population of 190,000 or more.

(b) If the commissioners court of a county provides a depository for the registry funds of the county clerk or the district clerk, those officers shall make reports under oath to the county auditor to properly reflect all registry funds received and disbursed by the officer, including all money remaining on hand at the time of the report. The county auditor shall prescribe the form and frequency of the report.

(c) Each check issued for the disbursement of the funds must be issued in accordance with the laws providing for registry fund depositories. Each check must be signed according to procedure established by the county auditor before delivery or payment.

SEC. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS.

(a) A county clerk or a district clerk is not responsible for a loss of registry funds resulting from the failure or negligence of a depository.
SEC. 117.081. LIABILITY OF COUNTY AND DISTRICT CLERKS.

(b) This section does not release a county clerk or a district clerk from:
(1) liability for a loss of registry funds resulting from the clerk’s official misconduct, negligence, or misappropriation of the funds; or

(2) responsibility for keeping the registry funds safe until the clerk deposits them in a depository selected under Subchapter B.

(c) After a county clerk or a district clerk deposits in a depository selected under Subchapter B the registry funds held by the clerk, the clerk is relieved of the responsibility for keeping the funds secure.

SEC. 117.083. LOSS OF REGISTRY FUNDS.

If registry funds held by a county clerk or a district clerk and deposited by the county with a depository selected under Subchapter B are lost for any reason, including a loss due to the insolvency of the depository, the county is liable to the rightful owner of the funds for the full amount of the funds due the owner.
SUBCHAPTER E. SPECIAL PROVISIONS APPLYING TO FUNDS PAID INTO COURT REGISTRY IN COUNTY WITH POPULATION OF MORE THAN 1.3 MILLION

SEC. 117.111. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE.

THIS SUBCHAPTER APPLIES ONLY TO A COUNTY WITH A POPULATION OF 1.3 MILLION OR MORE.

SEC. 117.112. MONEY AFFECTED.

This subchapter applies to the following kinds of money paid into the registry of any court for which a clerk is or may become responsible:

(1) funds of minors or incapacitated persons;

(2) funds tendered in connection with a bill in interpleader; or

(3) any other funds.
SUBCHAPTER E. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE.

Establishment of Depository. Section 117.113 through 117.118

Sec. 117.113. – Allows the Commissioner’s Court to contract with one or more banks to establish the “registry fund”

Sec. 117.114. NOTICE – Once each week for at least three consecutive weeks before the date the contract will be awarded, the county judge shall place over the judge’s name in a newspaper published in the county a notice that the commissioners court intends to make the contract. A notice shall also be posted at the courthouse door of the county.

SUBCHAPTER E. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE.

Establishment of Depository. Section 117.113 through 117.118

Sec. 117.115. APPLICATIONS. A bank in the county that wants to be a special depository for the registry fund is subject to the same application provisions as those prescribed by Section 116.023 for the applicants for the county depository contract.

Sec. 117.116. SELECTION OF DEPOSITORY. At the time and place stated in the notice, the commissioners court shall select a special depository for the registry fund in accordance with the same provisions as those prescribed by Section 116.024 for the selection of a county depository.
Establishment of Depository. Section 117.113 through 117.118

Sec. 117.117. QUALIFICATION AS DEPOSITORY. A bank selected as a special depository for the registry fund must qualify as the depository in accordance with the same provisions as those prescribed by Subchapter C, Chapter 116, for the qualification as a county depository.

Sec. 117.118. APPLICATION OF COUNTY DEPOSITORY LAW. Matters regarding special depositories for the registry fund are subject to the same provisions as those prescribed by Chapter 116 regarding county depositories.

Sec. 117.119. DEPOSIT OF FUNDS. Money paid into the registry of the court shall be deposited by a clerk into the registry fund at the special depository.

Sec. 117.120. CUSTODIANSHIP. A clerk shall act only in a custodial capacity regarding the registry fund, is not considered to be a trustee for the beneficial owner, and is not considered to have assumed the duties, obligations, or liabilities of a trustee for the beneficial owner.
Sec. 117.121. DISBURSEMENT OF FUNDS.

(a) Money may be paid from the registry fund only on checks or drafts signed by a clerk on the written order of the court with proper jurisdiction, except that the clerk may make a payment without court order for unpaid court costs from a cash bond deposited in connection with an appeal after the appellate court issues its mandate in the appeal if the costs remain unpaid for 45 days after the mandate is issued.

(b) All checks or drafts issued for the disbursement of the registry fund must be submitted to the county auditor for the auditor’s countersignature before delivery or payment. The county auditor may countersign the checks only on written evidence of the order of the judge of the court in which the funds have been deposited, authorizing the disbursement of the funds.

(c) Notwithstanding Subsections (a) and (b), a disbursement under an order of a court in which registry funds have been deposited may be made by electronic transfer if:

1. the designated recipient of the money submits to a clerk a written request for the transfer;
2. the clerk gives written approval for the transfer; and
3. a county auditor countersigns the approval.

(d) A clerk may charge a reasonable fee, subject to the approval of the recipient of the money, for an electronic transfer of a disbursement from a registry fund.
Sec. 117.122. INTEREST.

(a) The interest derived from money on deposit in the registry fund shall be paid as earned as follows:
(1) a sum equal to 10 percent of the interest shall be paid into the general fund of the county to reimburse the county for the expenses of maintaining the registry fund; and
(2) the remaining 90 percent of the interest shall be credited to the registry fund.

(b) For each withdrawal, a clerk shall pay out the original amount deposited in the registry of the court and 90 percent of the interest earned on that amount at the time and in the manner directed by the court with proper jurisdiction.
SUBCHAPTER E. SUBCHAPTER APPLICABLE TO COUNTY WITH POPULATION OF 1.3 MILLION OR MORE.

Sec. 117.123. AUDIT.

(a) The registry funds shall be audited at the end of each county fiscal year by the county auditor or by an independent certified public accountant or a firm of independent certified public accountants of recognized integrity and ability selected by the commissioners court.

(b) A written report of the audit shall be delivered to the county judge, each county commissioner, and a clerk not later than the 180th day after the last day of the fiscal year. A copy of the audit shall be kept at the clerk’s office and shall be open to inspection by any interested person during normal office hours. The cost of the audit shall be paid by the county.
Sec. 117.124. LIABILITY OF CLERK.
(a) A clerk is not responsible for:
(1) a loss of funds resulting from the failure or negligence of a depository; or
(2) the safety of funds after deposit in a depository selected under this subchapter.
(b) A clerk is responsible for:
(1) a loss of funds resulting from the clerk’s official misconduct, negligence, or misappropriation of the funds; and
(2) the safety of funds before deposit in a depository selected under this subchapter.

Sec. 117.125. TRANSFER OF MONEY.
(a) In the absence of a contrary order from a court having jurisdiction over the registry fund, a clerk may transfer money deposited in the fund into a separate account.

(b) A clerk shall transfer all money deposited in a registry fund under Chapter 1355, Estates Code, into a separate account.
Sec. 117.125. TRANSFER OF MONEY.

(c) Money transferred into a separate account under this section must be:

(1) transferred into an account authorized for investment under Chapter 2256, Government Code, by a local government or investment pool; and

(2) invested according to the investment officer designated under Section 2256.005, Government Code, by the investing entity of which the county is a member.

Sec. 117.125. TRANSFER OF MONEY.

(d) A transfer of money into a separate account under this section is exempt from the requirements prescribed by Section 117.121 for disbursements from registry funds.

(e) An investment of money transferred from a registry fund under this section is subject to the limitations, policies, and standards of care provided by Chapter 2256, Government Code.
THE AUDIT PROCESS

PLANNING THE AUDIT

• PROVIDED BY CLIENT (PBC) LIST IS PROVIDED TO MANAGEMENT
  - DOCUMENTS INFORMATION/ITEMS REQUESTED FOR REVIEW BY EXTERNAL AUDITORS
• BEGINNING BALANCES ARE TRACED AND AGREED TO PRIOR YEAR ENDING BALANCES
• INQUIRIES OF MANAGEMENT REGARDING STAFF CHANGES, SIGNIFICANT EVENTS OR CHANGES IN PROCEDURES/POLICIES
• ANALYTICAL REVIEWS OF FINANCIAL STATEMENT BALANCES ARE PERFORMED TO DETERMINE IF ANY SIGNIFICANT CHANGES FROM PRIOR YEAR
  - OUTLIERS ARE REVIEWED IN GREATER DETAIL TO DETERMINE CAUSE FOR THE SIGNIFICANT CHANGE
• RISK ASSESSMENT PERFORMED FOR SIGNIFICANT AUDIT AREAS
  - INHERENT RISK
  - CONTROL RISK
  - RISK OF MATERIAL MISSTATEMENT
To initiate the audit planning, please provide the following requested information. To the extent possible, please provide Word or Excel files; if not available, PDF files are acceptable:

- Provide the Check Series for the IBA and NB&A check disbursements. (Starting and ending check numbers from October 1, 2017 to September 30, 2018)
- Provide Bank Reconciliations for all months beginning October 2017 – September 2018 for both NB&A and IBA accounts.
- Provide the Court Registry Transactions & Balances reports for all months beginning October 2017 – September 2018. (IT report)
- Provide the Court Registry Activity reports for all months beginning October 2017 – September 2018. (IT report)
- Provide the Court Registry Balance reports for all months beginning October 2017 – September 2018. (IT report)
- For both the NB&A and IBA accounts, provide the Excel report(s) that compares registry activity to IT reports for all months beginning October 2017 – September 2018.
- Provide NB&A and IBA Activity Report (Excel File) for all months beginning October 2017 – September 2018.
- Provide the Allocated Interact worksheet for fiscal year 2018.
- Provide consolidated financials for all accounts (NB&A, IBA, and Minor Trust Accounts) as of 9/30/2018
  - Registry In-/Outs
  - Balance Sheet (showing additions and dilutions)
- Provide a detailed listing of minor funds invested in other banks for all months beginning October 1, 2017 – September 30, 2018. (IT report)

TESTING

- REVIEW DETAIL REPORTS, SUCH AS COURT REGISTRY TRANSACTIONS & BALANCES REPORT AND/OR COURT REGISTRY ACTIVITY REPORT, TO ENSURE ALL TRANSACTIONS AND ACTIVITY ARE CAPTURED IN THE SOURCE DOCUMENTS FOR FINANCIAL STATEMENTS

☐ MAY PERFORM DETAIL TESTING TO ENSURE ALL DATA INCLUDED (SUCH AS TRACING DATA FROM INTERNAL SYSTEM-GENERATED REPORTS TO MANUALLY PREPARED DOCUMENTS/SPREADSHEETS)
TRANSACTION TESTING

• SELECTIONS OF RECEIPTS AND DISBURSEMENTS FOR TESTING OF SEVERAL ASSERTIONS (ACCURACY AND OCCURRENCE)
  - Typically chosen at random through the use of a random number generator, based on the transaction detail listing of the full year under audit (Detail G/L)
  - May choose haphazardly if auditor determines circumstances require certain transactions are reviewed due to being large or unusual in nature

• Since minor trust-related transactions represent large portion of the normal activity during the year, auditor will ensure minor trust-related transactions are included in the sample of transactions to ensure sample is representative of the entity’s activity
  - May require separate selection of only minor trust-related cases if not enough in original selection

TRANSACTION TESTING (CONT.)

• RECEIPTS TESTING
  - Supporting documentation to be reviewed includes, but is not limited to:
    • Court Order
    • Deposit Warrant (Internal)
    • Deposit Slip and/or Bank Statement

• DISBURSEMENTS TESTING
  - Supporting documentation to be reviewed includes, but is not limited to:
    • Court Order
    • Canceled Check
    • Evidence of Authorization to Pay
TRANSACTION TESTING (CONT.)

• TESTS OF TRANSACTIONS INCLUDE TESTING OF THE INTERNAL CONTROLS IDENTIFIED DURING INQUIRIES OF THE CLIENT REGARDING PROCESSES/PROCEDURES AND APPROVALS.
  □ EXAMPLE:
    • SIGNATURE OF REQUESTOR
    • SIGNATURE OF MANAGER
    • SIGNATURE OF COUNTY/DISTRICT CLERK

• AUDITORS MAY TEST DIFFERENT INTERNAL CONTROLS, DEPENDING ON THE PRACTICES AND PROCEDURES OF EACH COUNTY/DISTRICT CLERK.

BANK RECONCILIATIONS

• TESTING OF BANK RECONCILIATIONS AS OF FISCAL YEAR-END FOR ALL REGISTRY CASH ACCOUNTS
  □ REVIEW OUTSTANDING CHECKS AND DEPOSITS IN TRANSIT TO ENSURE PROPERLY CLEARING BANK

• IN ADDITION TO OUR REVIEW OF BANK RECONCILIATIONS PERFORMED BY CLERK MANAGEMENT, WE REVIEW THE BANK RECONCILIATIONS FOR THE REGISTRY ACCOUNTS PERFORMED BY THE COUNTY AUDITORS OFFICE
  □ SERVES AS A SECONDARY REVIEW OF CASH BALANCES AND ACTIVITY TO ENSURE PERFORMED PROPERLY
  □ ANY VARIANCES BETWEEN THE TWO COMPLETED RECONCILIATIONS ARE REVIEWED IN FURTHER DETAIL
FINANCIAL STATEMENTS & NOTES TO THE FINANCIAL STATEMENTS

• ENDING BALANCES PER THE G/L ARE TIED TO ANY SUPPORTING REPORTS AND SPREADSHEETS

• FINANCIAL STATEMENTS AND THE FOOTNOTES ARE PREPARED AND REVIEWED TO ENSURE ALL REQUIRED DISCLOSURES ARE MADE
  • PERFORMED UTILIZING A “DISCLOSURE CHECKLIST”

FINALIZING THE AUDIT

• MANAGEMENT REPRESENTATION LETTER IS PROVIDED TO THE CLIENT TO REVIEW, SIGN, AND PROVIDE BACK TO THE EXTERNAL AUDITORS
  • LETTER CONTAINS AUDIT ASSERTIONS THAT THE CLIENT IS REQUIRED TO AGREE TO; FOR EXAMPLE:
    • TAKING RESPONSIBILITY FOR THE INFORMATION INCLUDED IN THE AUDIT REPORT
    • ENSURING THE INFORMATION PROVIDED TO THE EXTERNAL AUDITORS IS CORRECT AND FAIRLY REPRESENTS THE ACTIVITIES OF THE YEAR UNDER AUDIT

• FINALIZING THE AUDIT OPINIONS
THANK YOU!

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