

Hamilton County, Tennessee
Audit of Payment in Lieu of Taxes
(PILOT) Program

May 2023



OFFICE OF INTERNAL AUDIT
455 NORTH HIGHLAND PARK AVENUE
CHATTANOOGA, TENNESSEE 37404

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COUNTY MAYOR

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HAMILTON COUNTY, TENNESSEE

OFFICE OF INTERNAL AUDIT

To: Weston Wamp, County Mayor
Chip Baker, Chairman – Hamilton County Commission
Hamilton County Commissioners

From: Jenneth Randall

Date: April 27, 2023

Subject: Audit of the Payment in Lieu of Taxes (PILOT) program

We completed an audit of Hamilton County's Payment in Lieu of Taxes (PILOT) program, which is a program to incentivize, on a case-by-case basis, business expansion, attraction, retention, and redevelopment. This program exempts or reduces property and/or personalty taxes to businesses according to their agreement with the Industrial Development Board of the City of Chattanooga, the Industrial Development Board of Hamilton County, and the Health, Education, and Housing Facility Board. The incentive package is determined by one or more of the following:

- Average wages
- Capital investment
- Community impact
- Number of full-time jobs created

BACKGROUND

Tennessee Code Annotated, Section 7-53-305 allows Hamilton County to delegate the Industrial Development Board of Hamilton County, the Industrial Development Board of the City of Chattanooga, and the Health, Education, and Housing Facility Board the authority to negotiate, accept, or waive Payment in Lieu of Taxes from the Corporation. All PILOTS must be approved by the legislative bodies of the City and County before tax exemption is authorized. In TCA Section 7-53-305 (b) (1) (B), agreements entered by a government and/or municipality for Payment in Lieu of Taxes cannot be more than twenty (20) years, plus they cannot have a construction or installation period exceeding three (3) years. Additionally, the contract renewal may only be issued/extended more than twenty years if both the State Commissioner of Economic and Community Development and the Comptroller of the Treasury have made a written determination that the agreement is in the best interest of the state.

PILOT agreements with businesses and not-for-profit organizations help promote, develop, and assist industry, create job opportunities, and increase economic welfare. In return, these businesses agree to make full or partial payments to one or more real property taxing jurisdictions involved.

In Hamilton County, there are two different types of PILOT programs. The “jobs-related incentive program” is where the Chattanooga Chamber of Commerce collects company information, assists in the vetting process, monitors, and annually reports on the status of each PILOT. The second type is the “affordable housing incentive program”. The City of Chattanooga Economic and Community Development department collects and reports data on their website for this housing program. As of the tax year 2022, there were thirty-five (35) PILOT agreements, with a total minimum investment agreement of \$2.9 billion, total job commitment of 8,348, and 1,388 low-income housing options. See **Exhibit A**

Initially, the Chamber of Commerce facilitates the screening of applicants before they go to the Industrial Development Board of either Hamilton County or the City of Chattanooga to finalize the agreement. For affordable housing PILOTs, the City of Chattanooga Economic and Community Development department uses Housing and Urban Development (HUD) eligibility standards for guidance to determine acceptable applicants. After approval, the PILOT then goes before the Health, Education, and Housing Facility Board to finalize the agreement. All PILOT agreements are then presented to the City and/or County legislative body, as applicable, for approval.

On October 26, 2022, the Hamilton County Commission passed Resolution No. 1022-28A, which directs funds received from future PILOT agreements (earmarked for Hamilton County Schools) to be set aside in a restricted Capital Needs Building Fund to meet those future needs.

During our examination, we interviewed departments within Hamilton County government, the City of Chattanooga, and the Chattanooga Chamber of Commerce. We believe the information obtained provides a reasonable basis for our results and conclusion.

AUDIT RESULTS

Our examination of the PILOT Program intended to determine the following:

I. What is the process after the legislative bodies have approved PILOT agreements?

Copies of the approved agreement are forwarded to all parties related to the contract, including the Chamber of Commerce and the Chattanooga Economic and Community Development department.

- The Chamber tracks and collects annual project reports from the companies for the Job PILOTs, which include the total committed investment, jobs, and wages.
- The Chattanooga Economic and Community Development department tracks and reports on the investment and housing units for the affordable housing PILOTs.
- However, none of the above reports are forwarded to the Trustee’s Office, the Finance Department, or the Assessor’s Office for review.

II. Are real and personalty taxes properly invoiced and collected on PILOT programs?

Each year, the Hamilton County Assessor of Property appraises and assesses the PILOT property and gives the Hamilton County Trustee, the County Attorney, the related Industrial Development Board, and the applicable company written notice of assessment of the property. Next, the Hamilton County

Trustee invoices the PILOT for property taxes, and payments are promptly received. The process for invoicing and collecting payments from the approved PILOT businesses appears adequate and appropriate.

However, the below items came to our attention that requires correction/attention:

1. HomeServe USA did not meet the minimal contractual investment requirement of \$4,560,000 by December 31, 2021. Therefore, HomeServe has additional taxes due of \$16,710.26 (\$8,478.56 for 2021 and \$8,231.70 for 2022). See **Exhibits B and C**
2. Yanfeng US Automotive Interior System I, LLC did not meet the minimal contractual investment requirement of \$38,400,000 by September 1, 2018. The additional taxes of \$13,161.61 (21.6%) were not charged for tax year 2018. See **Exhibit D**

In tax year 2020, Yanfeng investments increased to \$35,572,223, which is 92.6% of the contractual investment requirement. The county charged Yanfeng an additional 21.6% tax, but Yanfeng should have only been charged 7.4% extra tax. Therefore, Yanfeng should be refunded \$7,312.68 for the 2020 tax year. See **Exhibit E**

In tax year 2021, Yanfeng investments increased to \$37,272,223, which is 97.1% of the contractual investment requirement. The county charged Yanfeng an additional 21.6% tax, but Yanfeng should have only been charged 2.9%. (It should also be noted that there was an increase in Yanfeng's assessment for the 2021 tax year, which is included in this adjustment.) Therefore, Yanfeng should be charged additional taxes of \$583.76 for the 2021 tax year. See **Exhibit F**

In tax year 2022, Yanfeng investments remained the same as the 2021 tax year; however, the amount of county property tax charged to Yanfeng included the additional 21.6%. Therefore, Yanfeng should be refunded \$9,313.64 for the 2022 tax year. See **Exhibit G**

The net amount of taxes to be refunded to Yanfeng for 2018 through 2022 tax years is \$2,880.95.

3. Lastly, we found that property tax invoices for the PILOT program are not recorded as a receivable in the "Property Tax Management System" until the company has paid the tax.

III. Has the PILOT program been adequately monitored by Hamilton County?

- No
- The Hamilton County Finance Department accumulates information pertaining to each approved PILOT, which is posted online at <https://www.hamiltontn.gov/PILOT.aspx>
- Annually, the Chattanooga Chamber of Commerce and the Chattanooga Economic and Community Development department collect information required by the applicable agreements of these companies.
- Annually, the Hamilton County Property Assessor's office sends a letter of assessment to all affiliated parties of the agreements.

- Annually, the Hamilton County Trustee’s office sends an invoice to each company showing the amount of property taxes due based on their property assessment.

After research and discussion with key employees, it was learned that no department has been designated to oversee the administration/monitoring of Hamilton County’s PILOT program.

RECOMMENDATIONS/RESPONSES:

1. The Trustee’s office should invoice HomeServe USA \$16,710.26 for additional property taxes due and should issue a refund to Yanfeng US Automotive I, LLC in the amount of \$2,880.95 for their overpayment of taxes.

RESPONSE: The Trustee’s office agrees and will invoice/refund the above companies as recommended.

2. The Trustee’s office should work with Hamilton County’s Information Technology department to adjust the “Property Tax Management System” to accommodate billing PILOTS, which will aid in tracking the receivable and subsequent payment of PILOT property taxes due.

RESPONSE: In the past, the Trustee’s office has reached out to the I.T. Department to automate and record the tax billings in the Property Tax Management System. After recent conversations, they are working on this system adjustment.

3. We recommend the Mayor to designate someone to monitor all county PILOT agreement requirements. This person should work with the Hamilton County Assessor and the Hamilton County Trustee to ensure additional taxes are billed according to their contracts, and be the point of contact for PILOT questions if additional information is needed. Annual reports should be requested from the Chattanooga Chamber of Commerce and the City of Chattanooga Economic and Community Development department to be informed of reported outcomes. Policies and procedures should be written for the PILOT program to aid management in making good decisions and enforcing rules.

RESPONSE: Someone will be assigned to monitor PILOT agreements as recommended.

We appreciate the help of multiple staff in assisting us during our audit. If you have any questions regarding this report or would like further information, please contact Chris McCollough at 209-6212 or me at 209-6210.

Chris McCollough on behalf of Jenneth Randall
 Jenneth Randall, County Auditor

Staff Assigned to Audit
 Chris McCollough, Assistant County Auditor
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copy: Claire McVay, Chief of Staff
 Cory Gearrin, Deputy County Mayor, Economic and Community Development
 Lee Brouner, Administrator of Finance
 Vonda Patrick, Assistant Administrator of Finance
 Marty Haynes, Assessor of Property
 Bill Hullander, Trustee
 Rheubin Taylor, County Attorney
 Patricia Mitchell, Legislative Administrator

Company Name	State Map No.	Year Beginning	Year Ending	Jobs Commitment	Actual Jobs Reported by Chamber	Minimum Investment Commitment	Actual Investment Reported by Chamber
INDUSTRIAL DEVELOPMENT BOARD OF CHATTANOOGA							
AMAZON.COM DEDC LLC PROJECT	Per 040158; 139-074	2012	2022	1,249	3,623	\$ 91,000,000	\$ 135,817,689
BLUE CROSS BLUE SHIELD OF TN INC	135N-B-005, 005.01, 005.02; Per 031074	2010	2025	N/A	N/A	-	-
COCA-COLA BOTTLING COMPANY UNITED	138O-B-001.03; Per 047001	2016	2027	313	333	62,000,000	64,422,972
HOMESERVE USA CORP	139P-C-007; Per 10054783	2019	2023	154	377	4,560,000	3,335,084
PLASTIC OMNIUM AUTO EXTERIORS, LLC	130-001-.33; Per 046992	2014	2025	250	375	50,000,000	64,345,525
PROVIDENT/UNUM PROVIDENT CORP.	135M-E-001	2011	2025	N/A	N/A	21,000,000	19,826,988
PUREGRAPHITE LLC / NOVONIX LLC	145G-A-002.17	2022	2031	240	N/A	120,000,000	-
RIVERCITY CO - MAJESTIC 12 THEATER	135NB-A-003	2010	2024	N/A	N/A	7,000,000	-
SOUTHERN CHAMPION TRAY 2014	127L-A-022.01; 023; 135F-A-005; 003; Per 046890	2015	2022	84	106	14,480,000	21,150,175
STEAM LOGISTICS		2023	2031	360	0	10,080,000	-
VOLKSWAGEN GROUP OF AMERICA INC	130-008.18, 24; Per 036767, Per 042026	2010	2038	2,000	2,000	1,000,000,000	2,764,700,000
VOLKSWAGEN GROUP OF AMERICA INC - 2014		2015	2038	2,000	2,000	600,000,000	-
YANFENG US AUTOMOTIVE INTERIOR SYSTEMS I LLC PROJECT	Per 050278	2017	2030	260	368	38,400,000	37,272,223

INDUSTRIAL DEVELOPMENT BOARD OF HAMILTON COUNTY

GESTAMP CHATTANOOGA LLC (07/2010)	130-001.25; Per 038692;	2011	2024	230	262	90,300,000	93,939,600
GESTAMP CHATTANOOGA LLC (II)	130-001.26; 138I-A-003; Per 049271; Per 048703; 130-001.34; Per 048704	2017	2029	409	571	144,000,000	238,543,466
M&M INDUSTRIES, INC	146O-C-001 L000; 154-009.09L000; Per 10053579; Per 10053580	2019	2025	88	143	34,160,000	49,064,943
SOUTHERN CHAMPION TRAY 2020				125		75,000,000	
WM WRIGLEY JR CO	138I-A-002.01; Per 404153	2011	2023	54	78	23,100,000	24,489,080
McKEE FOODS (City of Collegedale)	141-033 L000; Per 10052016	2017	2026	50	194	102,500,000	134,354,487
McKEE FOODS (City of Collegedale)	140-172 L000; Per 10058089	2020	2034	482	125	505,000,000	54,375,397
Job - Totals				8,348	10,555	\$ 2,992,580,000	\$ 3,705,637,609

Company Name	State Map No.	Year Beginning	Year Ending	Minimum Housing Agreement	Actual Housing	Note
HEALTH, EDUCATION AND HOUSING FACILITIES BOARD						
MA 1400 CHESTNUT LLC	145F-J-003; Per 048861	2017	2030	40	40	
ALCO WOODLAWN PARTNERS, LP (BAYBERRY APARTMENTS DEVELOPMENT)	146D-A-001; 146D-A-009; 146D-D-003; Per 10051748	2018	2032	163	163	
APP BATTERY PARTNERS, LLLP	128P-N-003; Per 10060864	2022	2036	142	142	
CHATT. NEIGHBORHOOD ENTERPRISE, INC MAI BELL 2 RESIDENTIAL PROJECT		2023	2032	26	24	
ECG CHESTNUT, LP	145K-G-001; Per 10054770	2019	2033	199	199	
HERITAGE-MACLELLAN APARTMENTS, LLC	145CB-A-005; Per 051475	2016	2034	18	18	
PATTEN AFFORDABLE PARTNERS, LP	145D-X-007; Per 10055812	2020	2044	240	240	
RESERVE AT MOUNTAIN PASS		2024	2040	240	240	
RIDGEWAY HOUSING PARTNERS, L.P.	145F-A-005; Per 10054385	2019	2033	120	120	
TSO CHATTANOOGA DEVELOPMENT, LP	145DA-D-010; Per 048428	2017	2031	25	25	
UTC FIVE, LLC	135M-G-008; Per 048858	2016	2030	N/A	N/A	Base year 2015
UTC THREE LLC	146H-E-001; Per 045380	2013	2024	N/A	N/A	Base year 2012
UTC TWO LLC	145D-B-008, 012; Per 045379	2013	2024	N/A	N/A	Base year 2012
WALNUT COMMONS LLC	135M-B-008 L001; Per 043664	2012	2025	N/A	N/A	

CHATTANOOGA HOUSING AUTHORITY

RIVERVIEW HOUSING ASSOCIATES, L.P. (JAYCEE TOWER)	145C-B-007; Per 10052783	2018	2028	175	175
Housing - Totals				1,388	1,386

NOTE: PILOT agreements for companies shaded in BLUE have been approved by both the County and City legislative bodies, but the agreements have not become effective as of Tax Year 2022.

Homeserve USA Corp.

Exhibit B

Tax Year 2021

<u>School Tax Rate</u>		1.0116
<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax 100% for Year 2021</u>
139P-C-007	2,208,560	\$ 22,341.79
Per 10054783	362,935	\$ 3,671.45

<u>Hamilton County Rate</u>		1.2257	
<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County 40% for Year 2021</u>	<u>Additional Tax Due - 26.9%</u>
139P-C-007	2,208,560	\$ 10,828.13	\$ 7,281.92
Per 10054783	362,935	\$ 1,779.40	1,196.64
			<u>\$ 8,478.56</u>

	<u>Commitment Per Agreement</u>	<u>Actual¹ Reported</u>	<u>Investment² Performance</u>
Investment	\$ 4,560,000	\$ 3,335,064	73.1%
Jobs	154	377	244.8%

¹Actual reported by Chattanooga Chamber of Commerce

²Must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.

Homeserve USA Corp.
Tax Year 2022

Exhibit C

School Tax Rate 1.0116

<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax</u> 100% for Year 2021	
139P-C-007	2,208,560	\$	22,341.79
Per 10054783	288,065	\$	2,914.07

Hamilton County Rate 1.2257

<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County</u> 50% for Year 2021	<u>Additional Tax</u> Due - 26.9%
139P-C-007	2,208,560	\$ 13,535.16	\$ 7,281.92
Per 10054783	288,065	\$ 1,765.41	949.79
			<u>\$ 8,231.70</u>

	<u>Commitment</u> <u>Per Agreement</u>	<u>Actual¹</u> <u>Reported</u>	<u>Investment²</u> <u>Performance</u>
Investment	\$ 4,560,000	\$ 3,335,064	73.1%
Jobs	154	416	270.1%

¹Actual reported by Chattanooga Chamber of Commerce

²Must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.

School Tax 1.2503

<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax 100% for Year 2018</u>
Per 050278	4,022,271	\$ 50,290.45
Original Billed		50,290.45
<i>Difference</i>		<u>\$ -</u>

Hamilton County 1.5149

<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County 50% for Year 2018</u>	<u>Additional 21.6% Tax Due</u>	<u>Total County Tax Due</u>
Per 050278	4,022,271	\$ 30,466.69	\$ 13,161.61	\$ 43,628.30
Original Billed				30,466.69
<i>Amount Due</i>				<u>\$ 13,161.61</u> ¹
<i>Total Due for 2018 Tax Year</i>				<u><u>\$ 13,161.61</u></u>

	<u>Commitment Per Agreement</u>	<u>Actual² Reported</u>	<u>Investment³ Performance</u>
Investment	\$ 38,400,000	\$ 30,102,233	78.4%
Jobs	260	221	85.0%

¹Additional tax due to Yanfeng not meeting the contractual agreement by 21.6%

²Actual reported by Chattanooga Chamber of Commerce

³Investment performance must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.

School Tax Rate 1.2503

<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax</u> <u>100% for Year 2020</u>
Per 050278	3,367,032	\$ 42,098.00
Original Billed		<u>42,135.30</u>
Refund Amount		<u>\$ (37.30)</u> ¹

Hamilton County 1.5149

<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County</u> <u>50% for Year 2020</u>	<u>Additional 7.4%</u> <u>Tax Due</u>	<u>Total County Tax</u> <u>Due</u>
Per 050278	3,367,032	\$ 25,503.58	\$ 3,774.53	\$ 29,278.11
Original Billed				<u>36,553.49</u>
Refund Amount				<u>\$ (7,275.38)</u> ²
Total Refund for 2020 Tax Year				<u>\$ (7,312.67)</u>

	<u>Commitment</u> <u>Per Agreement</u>	<u>Actual³</u> <u>Reported</u>	<u>Investment⁴</u> <u>Performance</u>
Investment	\$ 38,400,000	\$ 35,572,223	92.6%
Jobs	260	368	141.5%

¹Refund resulted from a decrease in the assessment.

²Refund resulted from a decrease in the assessment and overcharge of additional taxes due to investment performance.

³Actual reported by Chattanooga Chamber of Commerce

⁴Investment performance must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.

School Tax Rate 1.0116

<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax 100% for Year 2021</u>
Per 050278	4,442,419	\$ 44,939.51
Original Billed		39,174.68
<i>Amount Due</i>		<u>\$ 5,764.83</u> ¹

Hamilton County 1.2257

<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County 50% for Year 2021</u>	<u>Additional 2.9% Tax Due</u>	<u>Total County Tax Due</u>
Per 050278	4,442,419	\$ 27,225.36	\$ 1,579.07	\$ 28,804.44
Original Billed				33,985.51
<i>Refund Amount</i>				<u>\$ (5,181.07)</u> ²
Total Due for 2021 Tax Year				<u><u>\$ 583.76</u></u>

	<u>Commitment Per Agreement</u>	<u>Actual³ Reported</u>	<u>Investment⁴ Performance</u>
Investment	\$ 38,400,000	\$ 37,272,223	97.1%
Jobs	260	368	141.5%

¹Amount due resulted from a increase in the assessment.

²Refund overcharge of additional taxes due to investment performance

³Actual reported by Chattanooga Chamber of Commerce

⁴Investment performance must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.

School Tax Rate 1.0116

<u>State Map No.</u>	<u>Assessment</u>	<u>School Tax 100% for Year 2022</u>
Per 050278	4,063,439	\$ 41,105.75
Original Billed		41,105.75
<i>Difference</i>		<u>\$ -</u>

Hamilton County 1.2257

<u>State Map No.</u>	<u>Assessment</u>	<u>Hamilton County 50% for Year 2022</u>	<u>Additional 2.9% Tax Due</u>	<u>Total County Tax Due</u>
Per 050278	4,063,439	\$ 24,902.79	\$ 1,444.36	\$ 26,347.15
Original Billed				35,660.79
<i>Refund Amount</i>				<u>\$ (9,313.64) ¹</u>
Total Refund for 2020 Tax Year				<u><u>\$ (9,313.64)</u></u>

	<u>Commitment Per Agreement</u>	<u>Actual² Reported</u>	<u>Investment³ Performance</u>
Investment	\$ 38,400,000	\$ 37,272,223	97.1%
Jobs	260	368	141.5%

¹Refund overcharge of additional taxes due to investment performance.

²Actual reported by Chattanooga Chamber of Commerce.

³Investment performance must equal 100% or greater

NOTE: Tax calculation: Assessment divided 100 multiplied by the tax rate.