GOVERNMENT & POLITICS

Assessor again grants Folgers millions in erroneous tax exemptions

by **MICHAEL ISAAC STEIN**
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New Orleans City Hall (Michael Isaac Stein/The Lens)

Orleans Parish Assessor Erroll Williams has once again admitted to inaccurately granting property tax exemptions for Folgers Coffee Company, this time with property valued at about $141 million or more.

The assessor included six Industrial Tax Exemptions on Folgers' 2022 tax bill, even though the exemptions were explicitly rejected by the City Council, **Orleans Parish School Board** and other local taxing bodies in **2020** and **2021**. Some of those exemptions have been active since 2019, even though they were never approved.

The mistakes were **first pointed out last week** by local activist coalition Together New Orleans. A few days later, in response, Williams wrote **a letter** to New Orleans City Councilwoman Helena Moreno saying that Together New Orleans was at least partially correct, that the six exemptions were invalid, and that he would attempt to retroactively collect $6.5 million in unpaid taxes.

But this week, Together New Orleans issued **another memo** claiming the assessor is still leaving out $1.6 million from Folgers' bill. And, the group says, his undercount suggests a troubling internal practice that could be erroneously giving extra tax breaks to hundreds of millions of dollars of business property throughout the city.

To make matters more confusing, the Assessor's Office has since admitted that the $6.5 million figure it released last week was itself inaccurate, but not because of the reasons cited by Together New Orleans.

Williams' spokesman Devin Johnson would not tell The Lens why that number was inaccurate, only that "the preliminary estimates missed the mark" and that the office would release more accurate numbers once they were finalized.

"I wouldn't read too much into the numbers on the spreadsheet," he said. "The final numbers are going to be significantly different."

Johnson also accused The Lens of trying to produce "clickbait that's biased and factually inaccurate."

"So nothing new there," Johnson said.

This isn't the first time Williams' office has significantly undercounted Folgers' property taxes. In 2019, Together New Orleans helped reveal that the assessor was exempting **$40 million of Folgers property** even though the exemptions expired years earlier. After initially standing by his assessments, **Williams eventually conceded** the property should have been taxed.

Soon after that, **the City Council formally called on the assessor** to create a new written policy for reviewing exemptions granted through what has historically been **the state's largest tax subsidy program** — the Industrial Tax Exemption Program, or ITEP.

But the request was passed in a non-binding resolution. Because the assessor is an independently elected official — not a part of city government — the council has no legal authority over his office.

Williams explicitly **told The Lens** at the time that his office would not create a new policy. Instead, he would stick with the process he already had, even though, he admitted to The Lens, it was flawed and wasn't adequate to catch the kind of mistake that Together New Orleans had discovered.

"The review process is not going to catch it," Williams told The Lens in 2019. "It's not the greatest priority for our office, obviously."

Now, the office has once again undercounted Folgers' tax bill. And, as was the case in 2019, the mistake raises the questions of what would have happened if Together New Orleans had not identified the error, as well as what other errors may be in the city's tax rolls.

"It really is problematic that we are having to play this role," Together New Orleans organizer Broderick Bagert told The Lens. "And I think there's some oversight, some training, some accountability that needs to happen. The stakes are really large."

Bagert said he was glad the Assessor's Office took their claims seriously and reacted, but said it raised the specter that there were other commercial properties in the city not paying their fair share.

"What's really scary is that we don't know what we're not seeing. We're not conducting a top to bottom audit of corporate property. … [These issues] could be extending far beyond the handful of companies we've looked at."

In a statement, a spokesman for Folgers' parent company, the J.M. Smucker Company, said that the company has "timely paid all property tax assessments issued to date" and that they "have followed the outlined process of the ITEP program and have no outstanding tax debt or previous filings under formal review."

"We believe there is inaccurate and misleading information being shared," the spokesman, Frank Cirillo, added. He did not point to any specific errors in Together New Orleans' calculations.

"We love being part of the New Orleans community and feel we have demonstrated that

through our interactions with the residents and local government," Cirillo said. "We not only chose to consolidate all our coffee operations from other cities to New Orleans but have made substantive investments in our coffee operations over the past few years. These decisions allow us to employ more than 700 residents in the community and pay wages that exceed local averages."

'They should never have had an exemption'

The Industrial Tax Exemption Program is a controversial tax break that allows businesses to skip out on up to 80 percent of local property taxes on new investments for up to 10 years. (Previously, the exemption applied to 100 percent of property taxes.)

The program is pitched as a way to create new jobs. But as **The Advocate reported in 2017**, the promised jobs don't always materialize. In fact, some of the largest exemption recipients had actually slashed jobs. The program has also been controversial because until recently, local governments had no say in granting or rejecting the exemptions.

Property taxes are among the biggest sources of revenue for local governments. But for years, the parishes, municipal bodies and local school boards that were most impacted by the exemptions were left out of the decision-making process. Instead, the exemptions were unilaterally determined by the Louisiana Board of Commerce and Industry — a state board that historically approved practically every ITEP application submitted.

But starting in 2016, the state **changed the program rules to require the approval** of local taxing bodies, including city councils, school boards, sheriffs and levee authorities. That local veto power was **put to use in New Orleans** for the first time in 2018 by the Orleans Parish School Board.

The six Folgers exemptions currently in question were considered and approved by the Board of Commerce and Industry in November 2020. During that meeting, Williams **submitted a letter of support to the board** urging them to approve the six ITEs.

"Folgers' projects contribute to the economic growth of New Orleans and I support their pending applications and I believe that they will have a meaningful and sustainable impact on

our community," the letter said.

But the six applications still had to go through the local approval process. And in December 2020 and January 2021, the City Council and other local taxing bodies rejected all of them.

One central reason the applications were rejected was that by the time they were considered, all six projects were either completed or under construction, implying there was no need to incentivize them further.

Together New Orleans, which supported the ITEP rule changes, recently commissioned a report to illustrate how those changes have affected local property tax revenue. The report hasn't been issued yet, but Bagert said the numbers indicate that there has been a noticeable uptick in the taxable value on ITEP-eligible properties throughout the state since the rules changed.

But, he said, New Orleans was an outlier.

"And then you look at New Orleans, and the companies eligible for ITEP have less property on the tax rolls now than they did before. So it kind of stands out like a sore thumb. So that's how it got onto our radar. There's no way it can look like that if Folgers property has come back on the rolls."

So the group began taking a closer look at the Folgers property and found that the six ITEs that had been rejected by local taxing bodies in 2020 and 2021 were nonetheless included in the 2022 tax rolls, and that some of those exemptions had been active since 2019, even though they were never approved.

The reason for that mistake seems to be the same thing that caused the inaccurate Folgers tax exemptions in 2019 — Williams' policy of applying ITEs when an application is submitted, before it's actually granted, and then waiting for the state to tell his office if an application has been rejected before going back and retroactively collecting taxes for the erroneously exempted property.

In a March 16 letter to Councilwoman Helena Moreno, Williams blamed the Louisiana Board

of Commerce and Industry for the six inaccurate exemptions, arguing that the state never notified his office they were rejected by local taxing authorities.

"It is frustrating that these contracts have been allowed to languish and we will look to request rule changes from the commerce and Industry Board to eliminate this as an issue moving forward," Williams said in a March 16 letter to Councilwoman Helena Moreno.

According to the press secretary for Louisiana Economic Development, Ron Thibodeaux, the state does not notify assessors when local taxing authorities reject an ITE. He said that information is updated on **a state-run database**, and that his office is consistently available to answer any questions assessor's may have about the status of ITE applications.

Williams' office told The Lens that it wants the state to change its policy and notify his office when local taxing bodies reject an ITE application.

But whether or not Williams is successful in getting that policy change, the fact remains that the state does not currently send those notifications. And Bagert questioned why Williams would use a policy that relies on notifications he knows aren't being sent.

"He's waiting for them to send the letter, but they don't send that letter," Bagert said.

Bagert also pointed out that the local rejection of six ITEs in New Orleans was well covered in the media, adding to his confusion about how the Assessor's Office didn't realize the exemptions had been rejected or why he would need the state to notify him.

In an email this week, the administrator of the ITEP program, Kristin Cheng, told an employee of the Assessor's Office that the six rejected exemptions should have never been applied to the Folgers property.

"These applications were denied by all local bodies and there has never been an active contract," Cheng said. "These Projects have never had the status of 'Contract Active' so they should never have had an exemption."

Automatically applying ITEs may have made more sense in the past, when the process was in full control of the state and almost all applications were granted. But Bagert said that now, with the new rules causing more local rejections, the assessor needs to update his policies.

"We're now five years into the reforms. And I don't know what to do. Other assessors have figured out how to treat this."

'We apologize for any confusion this may have caused.'

In a response to Williams earlier this week, Together New Orleans said it was appreciative that the assessor took their claims seriously and quickly confirmed some of them. However, it argued that Folgers should owe $8.1 million in back taxes, $1.6 million more than the $6.5 million the assessor said they owed in his letter last week.

More concerning than the undercount, the memo said, was what led to it.

"The source of the undercount is a mistaken understanding of how business property should be assessed for which the Assessor has been corrected in the past," the memo said.

On ITEP applications, planned investments are broken down into three categories: building and materials, machinery and equipment, and labor and engineering. Together New Orleans claims that although the value of all three categories should be taxed, the assessor has excluded two of them — labor and materials — on four out of the six erroneous exemptions.

In **a chart**, Together New Orleans illustrated how in his letter, Williams appeared to set the fair market value of those four investments at the exact value of the machinery and equipment cost included on the ITEP applications, excluding the labor and materials costs.

As Together New Orleans noted, this has been a point of confusion in the past. In 2019, The assessor told the City Council that he doesn't include labor costs in a business's taxable property. The assessor **defended that policy to The Lens**, confirming it in three separate interviews and describing the policy in detail.

The assessor continued to defend that policy even after The Lens told him that it was out of step with the opinion of the chair of the Louisiana Tax Commission, which oversees Williams' office, and the practices of seven other Louisiana parish assessors that spoke to The Lens.

Williams' spokesman later **claimed he was mistaken**, saying that the all three categories of property cost were in fact included in the taxable value of business property.

"We apologize for any confusion resulting from comments indicating otherwise," Johnson told The Lens in 2019.

But now, the assessor's estimates for Folgers unpaid taxes are making some nervous that the nonexistent policy that the assessor at first vigorously defended in 2019 does, in fact, exist. And this time, Together New Orleans is accusing the assessor of leaving out not only the labor and engineering costs, but also the buildings and materials category as well. That would mean the city is unnecessarily losing out on millions in additional property taxes.

The Lens checked the math included in this week's letter from Together New Orleans, and the numbers provided by Williams do in fact indicate a fair market value that lines up almost exactly with the equipment and machinery costs — excluding labor and materials — listed on the company's ITEP applications.

In response to questions from The Lens, Johnson said that Together New Orleans' numbers were flawed. He said that the estimated investment costs listed on the ITEP applications aren't necessarily what the company actually spends. He said the assessor instead relies on the actual investment costs that Folgers self-reports on its annual tax forms. (Those forms are confidential. And Folgers did not respond to questions about the values they reported for the properties in question.)

"The numbers [Together New Orleans] is using are from the application and do not reflect the actual acquisition costs reported to this office. Their numbers aren't real."

But Johnson did not explain why the assessor's numbers so perfectly lined up with the ITEP application numbers.

Johnson stressed the fact that the numbers in Williams' letter were preliminary, that they would change significantly, and that The Lens should not draw conclusions from them since they are not the final numbers.

"Man, you're really trying to make a simple thing very complicated," he said on Wednesday evening. "The preliminary estimates missed the mark. Will probably have better numbers tomorrow hopefully before noon and will then update council/school board etc. There's not really more to it."

On Thursday morning, Moreno emailed the the assessor to ask why the initial numbers appeared to imply the omission of the labor and materials costs, and to ensure the full property value was being included. Williams responded by saying that labor costs have always been included by his office, but also warned Moreno not to rely too heavily on those initial estimates.

"Our staff is in the final stages of discovery and we know the final numbers are meaningfully different than those initially provided," Williams said. "We apologize for any confusion this may have caused. You will be updated once we have computed the final values."

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