

***Our town has voted to charge interest on overdue property taxes at a rate of “one percent per month or fraction thereof,” as provided in 32 V.S.A. §§ 4873, 5136. When can we add another one percent for a subsequent month? For other overdue accounts, such as water and sewer bills, we apply additional interest on the 10<sup>th</sup> of each month. Can we add interest on taxes then, too? Or must we add interest on the first day of the next calendar month?***

The statute allows voters to impose a penalty on overdue taxes “not to exceed one percent per month or fraction thereof for the first three months...” We interpret this provision to mean that when taxes become overdue, one percent interest is added on immediately. For example, if taxes are due November 15 and the payment is not made, one percent interest is applied on November 16. This part of the statute seems clear to the Law Center. When to apply the next one percent interest, however, is not very clear. There is a difference of opinion among attorneys and collectors of delinquent taxes contacted by the Law Center as to when the “fraction thereof” is applied and when the new month (with its new one percent) starts.

Some towns apply the additional interest on December 1st, reasoning that the fraction of November counts as a “fraction thereof” and December is a new calendar month that requires another one percent interest to be charged. Some towns let an entire month pass and apply the next one percent on December 15 when 30 days have elapsed. The rationale for this approach is that a month equals a 30-day period rather than a calendar month. Accordingly, for towns adopting this interpretation, their “fraction thereof” of interest gets tacked on at the end of a 30-day period rather than at the beginning of the calendar month.

Because the term “month or fraction thereof” is being interpreted differently, resulting in different practices in municipalities, our recommendation is to adopt a *written* policy setting out how your town will implement this provision. The policy regarding the assessment of interest should be adopted by the selectboard (or the voters) and not by the collector of delinquent taxes because the interest is the town’s money and not the tax collector’s. The policy should be made public and strictly adhered to, since equal treatment of all taxpayers is a must.

Another option would be to make taxes due at the end of the month. This would eliminate the issue of whether the next one percent interest charge kicks in after 30 days or in the next calendar month.

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