

In our town we have adopted the policy recommended in VLCT's Handbook for Collectors of Delinquent Taxes that partial payments of delinquent taxes be allocated proportionally among the principal, interest and penalty due. Recently, a taxpayer submitted a partial payment and indicated on the check that the entire amount should be directed to paying the principal. The check was cashed and now the taxpayer claims that we are prohibited by law from allocating the partial payment in accordance with our policy. Is this true?

Unfortunately, yes, it is true. According to the Vermont Division of Banking and Insurance, under the Vermont Uniform Commercial Code, if the person issuing a check places conditions on the check, and the check is cashed, the person who cashes the check is deemed to have accepted the conditions. See 9A V.S.A. § 3-311, Note 2. Accordingly, the town accepted the conditions of allocating payment when it cashed the check presented by the taxpayer. The lesson to be learned from this is to always read checks presented to the town to ensure there are no conditions attached to them that are unacceptable to the town.

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