

Taxes on a property in town have been delinquent for about five years. Our town has a delinquent tax collector who was recently appointed after the prior delinquent tax collector passed away. If a delinquent tax collector dies in office, to whom are the penalties and interest due when the delinquent tax payments are finally made?

Assuming that your delinquent tax collector is compensated with the 8% penalty, the real question is whether that 8% goes to the person who was collector over the last 5 years (while the taxes were delinquent) or to the current collector (who actually collected and processed the payment).

VLCT believes that the tax collector who actually collects the money has the right to keep the 8% penalty as his or her compensation. This is partly based on statutory language; for example, “[T]he collector shall be allowed to charge and collect . . . a commission of eight percent . . .” 32 V.S.A. § 1671 (2). VLCT interprets this to mean that the person who collects the money collects the commission.

Another statute, 32 V.S.A. § 4671, clearly states that when a delinquent tax collector leaves office (by death or otherwise), they or their executor shall hand over the delinquent tax bills and any tax money already collected. Those tax bills are then audited and re-issued to the “new collector” who becomes responsible for them. The time of the audit is the obvious dividing line for accounting purposes. When the 8% is collected later it should go to the new collector.

Finally, as a practical matter, there is no good way to pro-rate the amounts that would go to the “old collector,” versus the “new collector.” Additionally, there is no statutory authority for such an arrangement.

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