

VERMONT LEAGUE OF CITIES AND TOWNS

HANDBOOK FOR COLLECTORS OF DELINQUENT TAXES



A Comprehensive Guide for
Vermont Collectors of Delinquent Taxes



Serving and Strengthening Vermont Local Governments

The Vermont League of Cities and Towns (VLCT) was founded in 1967 as a nonprofit, nonpartisan organization dedicated to serving and strengthening Vermont local government. Today, VLCT supports its member municipalities by offering them a comprehensive insurance program, representation before the state and federal governments, and an extensive educational and technical assistance program.



Founded in 2003, the **VLCT Municipal Assistance Center (MAC)** provides local officials with legal and technical assistance, consulting services, and educational workshops that increase the ability of local officials to serve their citizens. The Center also publishes handbooks for all major town officers and annual surveys on municipal salaries and benefits and current municipal practices. MAC staff have diverse backgrounds in public administration, municipal law, human resources, public finance, and planning and zoning.

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Vermont League of Cities & Towns

89 Main Street, Suite 4
Montpelier, VT 05602

802-229-9111/800-649-7915

fax: 802-229-2211

email: info@vlct.org

web: www.vlct.org

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TABLE OF CONTENTS

ABOUT THIS HANDBOOK	1
INTRODUCTION	3
1. REQUIREMENTS OF THE POSITION OF COLLECTOR OF DELINQUENT TAXES	5
A. Election/Appointment of Collector of Delinquent Taxes	5
1. Incompatible Offices.....	5
B. Bonding.....	5
C. Liability.....	6
1. Collector’s liability for failure to pay over tax monies.....	6
2. Liability for neglect of duty	7
3. Collector’s liability for collection of an illegal tax.....	7
4. Collector’s liability for harm to others arising out of the performance of his or her duties.....	7
D. Independence of Office.....	7
E. Compensating the Collector of Delinquent Taxes.....	8
F. Tax Status of Collectors of Delinquent Taxes.....	8
2. STATUTORY SCHEME.....	9
A. Levying Current Taxes	9
B. Notice of Current Taxes.....	9
C. Tax Payments.....	10
D. Delinquencies.....	10
E. Water/Sewer Delinquencies.....	11
F. Interest and Penalties	11
1. Interest.....	11
2. Penalty.....	12
3. Other fees.....	12
3. COLLECTION OF DELINQUENT TAXES	15
A. Notifying Delinquent Taxpayers.....	15
B. Accepting Payments.....	15
1. Generally.....	15
2. Accepting partial payments.....	16
3. Payments over time.....	16
4. Allocating partial payments	16
C. Record Keeping	17
1. Receipts.....	17
2. Bookkeeping.....	18
3. Other records.....	19
D. The Money	19
E. Reporting.....	20
1. Bimonthly reports	20
2. Annual reports.....	20
3. Report to the Director of Property Valuation and Review	20

TABLE OF CONTENTS

4. Failure to report.....	20
5. Public Records Act	21
F. Town Policy	21
G. Disposition of Records When Leaving Office.....	22
4. TAX COLLECTION METHODS.....	23
A. Generally.....	23
B. Foreclosure.....	23
C. Distrain.....	24
1. Generally.....	24
2. Property subject to distraint	24
3. Process for distraint.....	25
4. Pitfalls of distraint.....	26
D. Action at Law.....	26
E. Tax Sale	28
1. Generally.....	28
2. Notice of tax sale	29
3. Preparing for tax sale	31
a. Title search of property to identify lien holders.....	31
b. Determine what is to be sold.....	31
c. Send out notices of the tax sale.....	31
d. Preparing for the sale	31
4. Settling before sale.....	32
5. Conducting the tax sale.....	32
a. Location of sale.....	32
b. Informing bidders.....	32
c. Accepting bids	33
d. Tender of payment	33
e. Municipal bids	33
f. Sale of land that is being leased.....	34
g. How to proceed if no one purchases a property.....	34
h. FDIC property.....	34
6. Report of sale	34
7. Treatment of sale proceeds	35
8. Redemption	35
a. How a taxpayer/mortgagee redeems	35
b. Repaying the purchaser.....	36
c. Current taxes during the redemption period	36
9. Collector's deed and property transfer tax.....	36
10. Report to clerk.....	36
11. Accounting to taxpayer	36
12. Challenges to deed	37
a. Burden of proof.....	37
b. Statutes of limitations	37
c. Liability of town	37
d. Taxpayer's defenses.....	37

TABLE OF CONTENTS

5. PERSONAL PROPERTY	39
A. Generally.....	39
B. The Lien on Personal Property	39
1. Filing the lien	39
2. Notice.....	39
3. Form of lien.....	39
4. Effect of lien	39
5. Bona fide purchaser	40
C. Collection of Delinquent Personal Property Tax	40
1. Distraint.....	40
2. Action at law	40
3. Notice of collection.....	40
4. Costs.....	41
5. Discharge of lien.....	41
6. Abatement of personal property taxes	41
6. MOBILE HOMES	43
A. How Mobile Homes are Taxed.....	43
1. When due	43
2. Taxed as real property.....	43
3. Mobile homes on rented lands	43
B. Uniform Bill of Sale.....	43
C. Mobile Homes that have Disappeared	44
7. BANKRUPTCY	45
A. Generally.....	45
B. Automatic Stay.....	45
C. Proof of Claim.....	45
D. Types of Municipal Claims.....	46
E. Outcome of Proceedings.....	47
8. CONCLUSION	49
APPENDICES	
A. Schedule for Collector of Delinquent Taxes.....	51
B. Policy for Collection of Delinquent Taxes	53
C. Annual Report of Collector of Delinquent Taxes	54
D. Partial Payment Running Balance	55
E. Record of Accounts.....	56
F. Taxpayer Account Summary	57
G. First Letter to Delinquent Taxpayers	58
H. Delinquent Tax Agreement.....	59
I. Receipt for Partial Payment	60
J. Notice of Lien	61
K. Notice of Personal Property Tax Lien	62

TABLE OF CONTENTS

L. Levy of Tax Warrant.....	63
M. Request to Town Clerk to Record Documents	64
N. Letter Requesting Payment of Services	65
O. Letter to Landowner Warning of Tax Sale	66
P. Notice of Tax Sale to Mortgage/Lien Holder	67
Q. Notice of Tax Sale to Property Owner.....	68
R. Notice of Tax Sale, Posted or Advertised.....	69
S. Notice of Tax Sale, Published.....	70
T. Description of Properties to Be Sold	71
U. Report of Sale	72
V. Failure to Redeem	74
W. Notice of Redemption	75
X. Deed of Collector of Delinquent Taxes	76
Y. Form Letter for Tax Surplus	77
Z. Notice of Distrain.....	78
INDEX (excludes Appendices)	79

ABOUT THIS HANDBOOK

The Vermont League of Cities and Towns Municipal Assistance Center has prepared this *Handbook for Collectors of Delinquent Taxes* as part of its series of publications to assist municipal officials. It is not intended to be a substitute for the Vermont Statutes Annotated, but it should prove to be a valuable starting point.

Collectors of delinquent taxes are faced with the sometimes-daunting task of collecting the delinquent taxes for the local government. This handbook provides an in-depth analysis of the historic purpose and the statutory requirements of the position of delinquent tax collector. It also seeks to provide a realistic guide to some of the practical obligations of the office in order to assist delinquent tax collectors to perform their duties in a complete and effective manner. The appendices to this handbook include sample letters and forms, as well as copies of relevant statutes and case law.

The authorities vested in the collector of delinquent taxes are among the most powerful in all of local government. Improper exercise of these authorities can result in significant legal liability for your town. Reasonable efforts have been made to insure that the information provided in this publication is accurate; however, the Vermont League of Cities and Towns makes no warranty, express or implied, or representation that such information is suitable for any particular purpose or may be relied upon for any specific act, undertaking or course of conduct. In light of the ever-changing status of both statutory and case law, the Vermont League of Cities and Towns recommends that its members consult with an attorney before undertaking a specific course of action based on the material contained herein.

Finally, please do not hesitate to contact us if you have suggestions for improvements or additional material that you feel should be included in this handbook.

CHAPTER 1

REQUIREMENTS OF THE POSITION OF DELINQUENT TAX COLLECTOR

A. ELECTION/APPOINTMENT OF DELINQUENT TAX COLLECTORS

Every town in Vermont must have an official charged with collecting delinquent taxes. However, there are a number of ways in which a town can do this.

SIX TYPES OF DELINQUENT TAX COLLECTOR

1. **Elected Delinquent Tax Collector.** The town (village, city, fire district or incorporated school district) may vote to elect a delinquent tax collector for a one-year or three-year term. 17 V.S.A. § 2646(9).
2. **Elected Tax Collector/Delinquent Tax Collector.** The town may vote to elect a tax collector, who is charged with collecting both current and delinquent taxes, for a one-year term. 17 V.S.A. § 2646 (8 and 9).
3. **Town Manager.** If a town has adopted a town manager form of government, it may also vote to have the manager collect taxes (both current and delinquent, unless the town has voted to have the treasurer collect current taxes). 24 V.S.A. § 1236 (10).
4. **First Constable.** If the town fails to elect a tax collector at town meeting and does not provide any other method (e.g. town manager), the first constable automatically becomes the collector of current and delinquent taxes. 24 V.S.A. § 1529.
5. **Selectboard's appointment.** If there is a vacancy in the office or the collector is unable to discharge his or her duties because of sickness or other reason, the selectboard may appoint someone (regardless of his or her residency) as delinquent tax collector and/or current tax collector for the town. 32 V.S.A. §§ 4799, 4674.
6. **Charter provision.** Some municipalities have specific governance charters that provide that the local legislative body may appoint the delinquent tax collector.

1. **Incompatible Offices.** If you are a delinquent tax collector for the town, you may not also be a member of the selectboard or school board or hold the position of locally elected auditor (or be the spouse of the town's locally elected auditor). 17 V.S.A. § 2647.

B. BONDING

All delinquent tax collectors, whether specifically elected, appointed, or also holding the office of treasurer or constable, must obtain a bond as surety for performance of his or her duties. This bond is designed to insure the town against losing money entrusted to the collector, so that if a delinquent tax collector embezzles the taxes collected, the town can recover the lost amounts from the bonding company.

The selectboard determines the amount of the bond, usually equal to the historical average of delinquent taxes turned over to the collector, and can require additional bonding from time to time, if it is not satisfied that the amount of the bond is sufficient. 24 V.S.A. § 832. It is the delinquent tax collector's responsibility to obtain a bond, and if he or she does not do so within ten days after the selectboard demands it, the office of tax collector will be considered vacant. 32 V.S.A. § 4643. **Note that, even though it is the collector's obligation to obtain a bond, the town must pay the premium.**

In most towns, the town holds one bond that covers all of the public officials in the town that are required to be bonded. After each election, the names on the bond should be updated to ensure that the proper individuals are covered. In rare cases, the bonding company will not insure an individual (usually because of past criminal convictions which may make the individual a poor risk). In such cases the selectboard will notify the delinquent tax collector of the need to obtain a bond, and the desired amount of the bond, and it is the delinquent tax collector's obligation to obtain such bond within ten days of the request or lose his or her office.

In the unlikely event that a collector loses his or her office for failure to obtain a bond, the statutes are very specific about the collector's obligation to lodge with the treasurer of the town the warrants issued to him or her, and a list of the names of, and amounts due from the delinquent taxpayers. Failure to comply with this request, when willful, can result in a fine of up to \$1,000 and/or imprisonment for up to five years. 32 V.S.A. § 4644.

C. LIABILITY

1. Collector's liability for failure to pay over tax monies. A delinquent tax collector who unlawfully neglects to collect and/or pay over a tax that has been paid to him or her shall be accountable for such tax (or the arrearages) to the treasurer, selectboard or other person or body authorized to receive the tax monies. Those persons may cite the collector to appear before a justice of a peace of a neighboring town to show why he or she should not be liable for the arrearages and the costs of the proceedings. The collector must be given six days notice of the hearing, although the petition against him or her does not have to be in writing. 32 V.S.A. § 4691.

If the justice of the peace finds that the collector has failed to turn over tax money received and that decision is not appealed, as described below, then the justice may direct a sheriff to collect the money owed by taking and selling "goods, chattels or estate" of the collector. 32 V.S.A. § 4692.

If a collector wishes to appeal a decision of a justice of the peace, he or she must bring an action in the superior court within *two hours* after the judgment has been rendered (clearly the shortest appeal period in Vermont law). Within 48 hours after an appeal is taken, the collector will need to post a bond to cover double the amounts allegedly owed, and he or she may also be required to provide some security to the town to cover its costs of prosecution. For more details about collection from or punishment of a "delinquent" delinquent tax collector, see 32 V.S.A. §§ 4693-4702.

Note that this statutory procedure is not the exclusive remedy available to the town. The collector also may be subject to a suit for wrongful conversion. If the failure to turn over collected taxes is the result of any sort of fraud, the collector may also be liable for fraud. (This liability will not be discharged even if the collector goes bankrupt). A delinquent tax collector who dies or is unable to perform his or her duties, or whose term expires, and who fails to turn over the tax bill committed to him or her and monies collected thereon shall be liable for the entire amount of the tax bill, and does not have the authority to collect the unpaid taxes. (Nor does his or her guardian, executor, or administrator.) 32 V.S.A. § 4672. Uncollected taxes are generally treated as a legitimate claim against the estate of a deceased tax collector.

- 2. Liability for neglect of duty.** A delinquent tax collector (or any town officer) who neglects his or her lawful duty can be fined up to \$100 for each instance of neglect. 24 V.S.A. § 902. Under the criminal statutes, any town officer who *willfully* neglects to perform his/her lawful duties “shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.” 13 V.S.A. § 3006.
- 3. Collector’s liability for collection of an illegal tax.** A delinquent tax collector will not be liable for the consequences of a mistake, mischarge or overcharge in a tax bill committed to him or her for collection. Moreover, the town must indemnify the collector for any damages that the collector might suffer by reason of the illegality or error of the tax. 32 V.S.A. § 4642.
- 4. Collector’s liability for harm to others arising out of the performance of his or her duties.** Because the delinquent tax collector is an elected or appointed official any action brought against the collector must be brought in the name of the town. The municipality must assume all reasonable legal costs incurred by the delinquent tax collector in such cases, so long as the collector was acting in the performance of his or her duties, and did not act with malicious intent. 24 V.S.A. § 901.

D. INDEPENDENCE OF OFFICE

The *elected* delinquent tax collector holds an independent office of local government. This means that, absent a charter provision to the contrary, the delinquent tax collector is not answerable to any other municipal official. See generally *Bennington v. Booth*, 101 Vt. 24 (1927). (Selectboard has no authority over clerk since he or she is an independent officer of the local government.) *Couture v. Berkshire*, 121 Vt. 359 (1960). (Selectboard has no authority over road commissioner who, at time of this decision, was an independent officer of the local government.)

Because the selectboard or manager has no power to require the elected delinquent tax collector to perform his or her duties in any particular way, the collector may set his or her own hours, may establish his or her own procedures for collecting the delinquent taxes, adopt his or her own collection policies, set up his or her own bookkeeping method, etc. Although the collector is required to conform to all of the statutory requirements of the office, even if the collector fails to or improperly conducts the business of the office, he or she cannot be fired from the position.

The collector is answerable only to the voters who may express their displeasure by declining to reelect. (See also Section C, above, which discusses liability for failure to act.)

E. COMPENSATING THE DELINQUENT TAX COLLECTOR

Delinquent tax collectors in Vermont are paid in a variety of ways. Consider the following:

METHODS OF COMPENSATING DELINQUENT TAX COLLECTORS

- 1. Commission.** Most delinquent tax collectors in Vermont are paid by commission. This means that the collector gets paid by keeping the commission that may be collected on delinquent accounts. 32 V.S.A. § 1674. In such cases the delinquent tax collector usually pays for the expenses of office, such as postage and stationary, from these fees. Some collectors have towns that will cover these expenses so that the entire fee amount is the collector's payment.
- 2. Salary.** In some municipalities the delinquent tax collector is paid a salary. Section 1530 of Title 24 states that "If a municipality votes to pay a salary or other compensation for collecting taxes in lieu of fees and commissions, the latter shall be turned in to the municipal treasurer at least once a month." This means that the selectboard and collector may agree upon a salary, or the voters can vote to pay the collector a particular salary in lieu of fees.
- 3. Fees plus salary.** In some municipalities the collector receives fees plus salary. Municipalities should make it clear when they vote a salary for the collector whether it is in addition to, or in lieu of, the statutory fees.

F. TAX STATUS OF DELINQUENT TAX COLLECTOR

There is quite a bit of folklore that has developed around the topic of the tax status of delinquent tax collectors. Many delinquent tax collectors believe that they are "self employed" or "contractors" for the town, and thus not subject to income tax withholding or Social Security (FICA). The rules show quite clearly, however, that elected officials must be treated as employees, and that they are subject to federal income tax withholding and FICA. **No matter how the delinquent tax collector is compensated, he or she is considered an employee of the town, and accordingly, federal income tax and FICA (social security tax) must be withheld.**

The Social Security rules clearly say that officers of states or of their political subdivisions are employees for purposes of withholding taxes. Thus, if your town is covered by social security (a few small towns in Vermont are not), then the delinquent tax collector must also be covered. As a practical matter, this means that the delinquent tax collector must turn over to the town treasurer all of his or her fees. The treasurer must then issue a paycheck to the collector, with the FICA and income tax withheld and provide a W-2 form at the end of the year. (See sample letters requesting payment in appendices G and N.)

CHAPTER 2 STATUTORY SCHEME

A. LEVYING CURRENT TAXES

Before taxes can become delinquent they must first be levied and due. Taxes are levied by the selectboard which, according to 24 V.S.A. § 1521, makes out and delivers a tax bill to the treasurer or collector of current taxes (depending on who the voters have designated for collecting the current taxes). This tax bill must set out the amounts included for state, county, town, town school district and highway taxes, with the name of each person taxed and the amount of his or her tax.

Where the taxable property includes a homestead, the bill must specify the amounts imposed on that homestead for town, local share and statewide education taxes. The selectboard must certify on the tax bill what taxes are included and the rate percent of each tax so included. In addition, the selectboard must attach to the tax bill, when given to the collector of current taxes, a warrant for the collection of the taxes. *Federal Land Bank v. Flanders*, 105 Vt. 204 (1933). Upon receipt of the warrant and tax bills, the collector of current taxes must give the selectboard a receipt to provide a record that he or she has received the bills. The receipt is then given to the town treasurer, who will use it to credit the appropriate town and school accounts. 24 V.S.A. §§ 1522, 1524.

B. NOTICE OF CURRENT TAXES

Although many taxpayers would not agree, payment of current taxes is considered to be voluntary, and no special collection techniques or tactics are required. However, state law does have specific requirements for providing notice to the taxpayer.

The first question is: *Who is the taxpayer?* The tax is the responsibility of “the last owner or possessor thereof on April 1 in each year.” 32 V.S.A. § 3651. The owner, as of April 1, remains liable for the year’s taxes regardless of subsequent conveyances. *Fulton v. Aldrich*, 76 Vt. 310 (1904) (Normally, property taxes are prorated between the buyer and seller at the time the property is sold, and such proration does not involve the town in any way.)

According to 32 V.S.A. §§ 4772 and 4792, the collector of current taxes or the treasurer must mail a notice stating the taxpayer’s grand list amount, the tax rate and the amount of taxes (and when due) to each taxpayer at his or her last known address. If the municipality gives a prepayment discount, information about this discount must be included on the tax bill.

The notice must be mailed to the taxpayer at least 30 days prior to the date fixed by the voters for the payment of taxes. However, if the voters have not set a tax due date, or if no notice is mailed to the taxpayers 30 days prior to the date fixed (as often happens when budgets are defeated), then the taxes are due 30 days from the date of mailing of the notices to the taxpayers. Note that when a town votes to have its taxes paid in installments, the notice must be sent at least 30 days before the first installment payment is due.

Reasonable efforts should be made to determine the current whereabouts of the taxpayer. In other words, the notice requirement may not be met if the town merely relies upon an “Addressee Unknown; No Forwarding Address” return from the post office. If the collector receives such a return, he or she should document a further inquiry as to the present whereabouts of the taxpayer. For example, a tax collector might make a call to a relative of the taxpayer who may live in the town, or to a past employer, if known, and should document these efforts.

C. TAX PAYMENTS

Taxes become delinquent when a taxpayer fails to pay the taxes on the final due date specified on the bill (which must be at least 30 days after the bill has been sent out). Note that with installment payments, an installment may be overdue, but the taxes are not delinquent until the final installment date has passed. However, the town may charge interest on overdue installments if it so votes. 32 V.S.A. § 4873. For example, taxes are due August 15 and November 15. Those due on August 15 are subject to interest as of August 16. However, taxes are not delinquent – with fees and penalty added – until November 16.

Questions sometimes arise as to whether a payment has been made on the due date if it was not received by the treasurer on that date, but was mailed on that date or sometime prior to it. A municipality may vote to fix the method of delivery, including acceptance of postmarked mail, for the payment of property taxes. A municipality that does not vote on the matter must accept payment of a tax delivered or postmarked before midnight on the tax due date. 32 V.S.A. § 4773.

Note that when a due date falls on a Sunday, payments are considered timely if received on the next business day. 32 V.S.A. § 3004. If the town’s due date falls on a Saturday or other day that the town offices are not normally open, the treasurer or collector of current taxes should either open the office that day to receive payments, or specify that payment will be accepted on the next day that the office is open. In all of these cases, the tax bill should explain when payments will be accepted.

D. DELINQUENCIES

Within 15 days after the date on which the final installment is due, the treasurer must issue to the collector of delinquent taxes a warrant against the delinquent taxpayers in the amount of taxes remaining unpaid. This warrant remains in effect until all taxes on it are fully paid or otherwise discharged. A municipality may vote to have the treasurer issue the warrant for delinquent taxes within *less than* the 15-day period. Such vote will remain in effect until the town votes otherwise. 32 V.S.A. § 4793. In any case, the collector of delinquent taxes may then proceed to collect those taxes.

The question arises whether the treasurer must issue a warrant to the collector of delinquent taxes if the treasurer and collector are the same person. Although it may seem like unnecessary busy work, the warrant should be prepared (and delivered to yourself) and properly filed or recorded since it is part of the paper trail needed for tax collection. The lack of evidence of any prescribed step in the process may cause problems with collection or result in a court challenge later.

If the treasurer omits the name of a delinquent taxpayer and/or the amount due when issuing the warrant, the treasurer may issue an additional warrant within one year from the date upon which the taxes became delinquent. This means that the collector of delinquent taxes may receive more than one warrant from the treasurer each year. Each warrant received authorizes the collector to proceed with collection, and to charge and collect a commission for doing so. 32 V.S.A. §§ 4794, 1674(2).

Prior to issuance of the warrant, the treasurer or the collector of current taxes may accept, on behalf of the collector of delinquent taxes, full payment of the overdue tax so long the penalty and the interest due accompany the payment. All taxes, fees and interest so collected must then be turned over to the collector of delinquent taxes. Admittedly, this looks rather silly, as the collector then gives all the money back to the treasurer. However, the reason that it must go through the collector of delinquent taxes is because of the personal income tax and FICA withholding that is required. 32 V.S.A. § 5142(b) and (c).

E. WATER/SEWER DELINQUENCIES

Delinquent water and sewer charges create liens against the property and can be collected in the same manner as delinquent property taxes. 32 V.S.A. §§ 3504, 3612, 3306, 3408.¹ This means that the delinquent tax collector can use any of the collection methods available to collect these delinquencies. In fact, many collectors simply add these charges to the delinquent taxes owed by the taxpayer so that he or she only needs to conduct one tax sale or other collection proceeding to collect both the outstanding property taxes and the outstanding water/sewer charges. However, even when one consolidated collection action is taken against a delinquent taxpayer, the tax collector's records must separately record all payments and collection of the delinquent water and sewer charges, interest and penalties since these monies must be remitted to the treasurer for deposit into the sewer fund.

F. INTEREST AND PENALTIES

1. Interest. Towns may vote on a warned article at town meeting to charge interest on overdue taxes. 32 V.S.A. § 5136. The amount of interest charged by a town may not exceed one percent per month for the first three months and one and a half percent per month thereafter. The statute also provides that interest must be applied to a fraction of a month as if it were an entire month. This means that if taxes are due on August 1, there will be a full one percent interest applied as of August 2, since that one day is a fraction of a month.

Towns that have installment payments may vote to charge interest on overdue installments in the same manner and rate as discussed above. The town may decide whether the interest will begin to accrue after the due date of each installment, or only after the due date of the final installment. 32 V.S.A. § 4873. Naturally, most towns that have adopted an installment

¹ In most cases, however, the town might prefer to use the Uniform Water and Sewer Disconnect authority found in 24 V.S.A. §§ 5141 et seq., since this generally results in speedy resolution of the delinquencies. A town might prefer to use traditional tax collection methods in cases in which there are also delinquent taxes, and when a disconnect might create a health hazard.

method of tax payment have opted to charge interest from the due date of each installment in order to encourage the prompt payment of the tax installments.

Note that interest begins to accrue as soon as a payment is late. If the tax becomes delinquent because of nonpayment by the final due date, the delinquent tax collector may charge interest on the overdue taxes beginning from the date that the payment became late. 32 V.S.A. §§ 4873, 5136.

- 2. Penalty.** According to statute, the collector of delinquent taxes *may* charge a commission of 8% on the amount of the taxes owed. This commission is often referred to as the collector's fee, or penalty. The collector of delinquent taxes has discretion to charge a commission from zero up to a maximum of 8%. 32 V.S.A. § 1674(2). This commission can also be changed by the voters. The voters may reduce the commission, provide for a grace period, or provide for a graduated commission schedule. 32 V.S.A. § 1674(3). If the delinquent taxes are paid before the issuance of the warrant, the penalty and interest must also be collected. 32 V.S.A. § 5142. When taxes are paid in installments, no penalty may be assessed until after the final installment is due. This is in contrast to interest, which begins to accrue after each installment date.

In most instances, the collector may waive the commission, or portion of the commission, if the collector chooses to do so. However, if the collector is paid by salary or other compensation in lieu of the commission, the collector must collect the commission and turn it over to the treasurer at least once a month. 24 V.S.A. § 1530. Likewise, the collector has no discretion regarding interest. If the town has voted to collect interest on overdue taxes, that interest must be collected.

Where the town has voted to have the town manager collect taxes, he or she may collect the same fees and those fees must be paid into the town treasury. 24 V.S.A. § 1236 (10).

It should also be noted that some charters specifically provide for acceleration of future installments upon any installment delinquency, with interest and penalty accruing retroactively to the date of delinquency.

- 3. Other Fees.** According to statute, except when taxes are collected through a tax sale, when the delinquent tax collector must act to "levy" (collect) on persons or their personal property, the delinquent tax collector is entitled to be compensated by additional fees in the same amount as sheriffs are allowed for levying executions. 32 V.S.A. § 1674(4). Section 1591(1)(vii) of Title 32 sets out the fees paid to sheriffs on levy of execution.

SUMMARY OF DELINQUENT TAX COLLECTOR'S DUTIES

- **Notify delinquent taxpayer.** Contact delinquent taxpayers to arrange for the payment of delinquent taxes, plus penalties and interest. (Try to work out a payment schedule). The collector's policy on the collection of delinquent accounts should be in writing and delivered to each delinquent taxpayer. (A best practice would be to include a copy of your policy with each current tax bill, to inform taxpayers ahead of time of the consequences of late payment.)
- **Keep accounts.** Keep accounts of every delinquent taxpayer, and the amounts of principal, interest and penalties owed, and payments made, if any. Provide an accounting to the treasurer (or selectboard, upon its request) at least every two months.



- **Pay town.** Pay over to the town treasurer all taxes, penalties and interest collected by you. This must be done at least once every two months. The treasurer should then issue you a paycheck of the penalties collected, minus payments for FICA and income tax withholding.
- **Direct application of payments.** You must also direct the application of the payments you receive by indicating which accounts should be credited and by indicating how a particular payment must be allocated (principal/interest/penalty).
- **Inform selectboard and/or treasurer.** At least quarterly, provide the selectboard or treasurer with a list of the taxpayers that you have collected from (with the amounts paid), when the taxes were due, and outstanding accounts.
- **Conduct tax sales.** When necessary for the collection of taxes, you must conduct tax sales of property or use other methods for collecting delinquent taxes for the town.
- **Deliver tax bill to successor.** When your term has expired, or if you resign, the delinquent tax collector must immediately lodge with the treasurer the tax bill committed to him or her which remains uncollected (in whole or in part), along with any money collected.

CHAPTER 3 COLLECTION OF DELINQUENT TAXES

A. NOTIFYING DELINQUENT TAXPAYERS

The first task of the delinquent tax collector, once he or she has received the warrant from the treasurer, is to endorse and date the tax bill and immediately mail notices to all delinquent taxpayers telling them when and where taxes, plus the commission and interest, should be paid. The notice must allow residents at least ten days and nonresidents at least 20 days (but not more than 40) to pay the amount due before the collector proceeds with a tax sale or other action. 32 V.S.A. §§ 4842, 4874. A sample notice is included in the Appendix. **Many tax collectors find that it is easier for them to allow all taxpayers at least 20 days before taking formal collection action.**

Most delinquent tax collectors include in their initial notice to the delinquent taxpayer an explanation of how the commission, interest and fees will be added to the bill. In addition, collectors who have adopted a written collection policy (discussed below) should include a copy of that policy with the notice. It is also good practice for the collector to include his or her phone number on the notice and to invite the taxpayer to call to make arrangements for paying the outstanding amounts. In addition, the collector should include in the initial notice a statement that the taxpayer has the right to apply for an abatement of his or her taxes under 24 V.S.A. § 1535. See *Fysh v. Town of Bristol*, Vt. No. S110-95Ac (Aug. 9, 1995).

It is also good practice to notify lien holders and mortgagees about delinquent taxes early, even though the law mandates such notice only at the time of an impending tax sale. Lien holders want and need to protect their interest in the property. Under some types of loans banks have the authority to foreclose when taxes become overdue, even though mortgage payments are current. Early notice to lien holders is a courtesy rather than an obligation, so it is at the discretion of the tax collector. If the practice of providing early notice to lien holders and mortgagees is undertaken, it should be done uniformly.

B. ACCEPTING PAYMENTS

1. **Generally.** Once the treasurer issues a warrant, the responsibility for collection of delinquent taxes rests on the collector of delinquent taxes. After notifying the delinquent taxpayers, most delinquent tax collectors will receive phone calls from those who wish to pay part or all of the outstanding amounts. It is the delinquent tax collector's responsibility to make prompt arrangements to accept those payments.

Note that anyone can make a payment on a delinquent tax bill. This means that the delinquent tax collector must accept payment on a tax bill, even if the payment is being proffered by someone other than the delinquent taxpayer (e.g., mortgagee, lessee, relative).

- 2. Accepting Partial Payments.** In many cases delinquent taxpayers wish to make partial payments towards their overdue taxes. Each delinquent tax collector can decide whether or not to accept such payments. *Villeneuve v. Town of Underhill*, 130 Vt. 446 (1972); *Rooney v. Town of Pownal*, 140 Vt. 150, 154 (1981).

The acceptance of full or partial payment of overdue taxes by a town official will not preclude the town from collecting any unpaid balance of taxes and any interest and collection fees accruing to the town, whether relating to the collected or uncollected portion of the taxes. 32 V.S.A. § 5142(a). Therefore, there is no reason not to accept partial payments. Such payments represent a real effort by the delinquent taxpayer to pay the money owed, and acceptance of partial payments reduces the delinquent accounts while not waiving any of the collector's rights regarding the outstanding balances.

- 3. Payments Over Time.** Often, when a delinquent tax collector decides to accept partial payments from a delinquent taxpayer, he or she will set up a regular payment plan to help ensure that the entire outstanding balance will be paid off by a particular time. In such cases it is imperative for the delinquent tax collector to draft a written agreement. The agreement may require a monthly payment toward the outstanding taxes, interest and penalty owed, in exchange for the delinquent tax collector foregoing additional collection action. When establishing an agreement for payments over time the delinquent tax collector should make sure that the payment amount and schedule is realistic. Otherwise, the delinquent tax collector may find him or herself constantly having to be after the taxpayer for the payments, and threatening formal collection action. In addition, collectors should make it clear that they do not accept postdated checks in satisfaction of delinquent accounts.

Agreements to accept payments over time should always be made in writing and be signed by the delinquent taxpayer, and should make clear that in the event that a payment is missed the delinquent tax collector can proceed with other collection actions, including tax sale of the property.

- 4. Allocating Partial Payments.** When a partial payment is received, you must decide how much of the payment to allocate to the outstanding tax, the interest and the penalties. The delinquent taxpayer would always prefer that the entire amount be applied to the principal since only the principal amount of overdue taxes accrues interest and penalties. This is, of course, the very reason that the payment should not be directed solely at the principal. Once the principal was all paid off, there would be no incentive for the taxpayer to pay off the remaining amounts of principal penalty and interest.²

Some delinquent tax collectors allocate partial payments first to their own fee, then to interest, and then to the principal. This system, while ensuring that the delinquent tax collector gets paid right away, is neither fair to the taxpayer who reasonably expects to pay down a portion of the outstanding principal, nor fair to a newly elected delinquent tax collector that may get stuck with the task of collecting the principal and interest due on an

² In normal commercial transactions involving the accrual of interest and payment of principal, partial payments must be applied first to accrued interest, and the remainder to unpaid principal.

account in which the commission has already been paid. The practice also invites the allegation that that the tax collector is putting his or her interest ahead of the town. (See sample record of partial payment in the Appendix.)

The best method for allocating a payment is by directing a proportionate amount to the principal, interest and penalty. This will result in the taxpayer accruing smaller amounts of interest on the declining outstanding principal amounts, and will enable the delinquent tax collector to collect a fee that is related proportionately to the amount of the taxes he or she has actually collected for the town.

Keeping the tax and the commission columns in proportion so that the commission remaining to be collected is always proportional to the tax outstanding will ensure that a newly elected collector will not end up with unpaid taxes to collect and no commission.

The delinquent tax collector should adopt a policy about allocating partial payments. This policy statement should be included in the initial notice of delinquency, which is sent to all delinquent taxpayers and should state that all partial payments accepted will be allocated in proportionate amounts to principal, interest, and penalty.

When a taxpayer is delinquent for more than one year, it is up to the taxpayer to determine to which year the payment should be allocated. The delinquent tax collector must then direct the application of the payment to the particular account. 32 V.S.A. § 4647. Note that it is important for the collector to pay careful attention to the wishes of the delinquent taxpayer since failure to properly apply the tax payment will result in the delinquent tax collector's surety (bonding company) having to pay the proper account for the money misapplied. *Ferrisburg v. Martin*, 60 Vt. 330 (1888); *Tunbridge v. Smith*, 48 Vt. 648 (1876).

C. RECORD KEEPING

It is important to keep accurate records of all payments received. Because the payments you receive must be allocated to principal, interest and penalty, the bookkeeping involved with delinquent tax collection is often fairly complex.

- 1. Receipts.** All payments received must be recorded in triplicate in a consecutively numbered, bound receipt book or other permanent record. 32 V.S.A. § 5137. The receipt books are to be purchased at the expense of the municipality in sufficient quantity such that the sets of books will have receipts that are consecutively numbered. **Each receipt must indicate the date of payment, the year in which the tax was assessed, the name of the person making the payment, the name of the person against whom the tax was assessed, and, if it is a partial payment, the allocation of that payment.** The original receipt must be delivered to the person making the payment and one copy must be delivered to the town clerk. 32 V.S.A. § 5137.

According to the statute, the original receipt must be given immediately to the person making the payment (usually the taxpayer). One copy of the receipt must be sent to the town clerk

within 30 days after the payment has been made. (The clerk must keep a copy of the receipt on file). The remaining receipt should stay in the bound volume, in the delinquent tax collector's possession. On or before February 5th of each year the book must be submitted to the town auditors for their audit of the receipts for the preceding year, ending on January 31. After the completion of the audit, the auditors must return the books to the delinquent tax collector. If the town has voted to eliminate the office of town auditor under 17 V.S.A. § 2651b, the books should be submitted to the licensed public accountant hired by the selectboard.

Delinquent tax collectors in towns that use a fiscal year for their accounts must still submit their receipts to the auditors on February 5, even though the town audit might not take place on all receipts until the end of the fiscal year. Receipts must be written in triplicate in a bound book or some other permanent record. Among other things, the receipt must indicate the date of the payment, the name of the person making the payment, the name of the person against whom the tax was assessed on which they payment is to be applied, and the year in which the tax was assessed. The original receipt must be delivered to the person making the payment and one copy must be delivered to the town clerk. 2 V.S.A. § 5137.

- 2. Bookkeeping.** In order to keep track of all of the delinquent taxpayer accounts it is necessary to keep a record of the amount due on each account and the date and allocation of all payments made. Even if no payments have been made on an account, each delinquent taxpayer's account must be updated monthly to reflect the new interest charges.

A growing number of delinquent tax collectors are doing this record keeping and the concurrent interest and penalty calculations on a computer spreadsheet. No matter how it is done, every delinquent tax collector must record the same information and understand how the calculations of interest and penalty are made. The following are examples of records of delinquent taxpayer accounts.

Most delinquent tax collectors tally the unpaid tax, the commission, and the interest in separate columns, as shown in the following sample:

Sample Record for Delinquent Tax of \$100 with No Payments Made					
<u>Date</u>	<u>Tax</u>	<u>8% Fee</u>	<u>Interest</u>	<u>Payment</u>	<u>Total Due</u>
Nov. 5	\$100	\$8.00	\$1.00	\$0.00	\$109.00
Dec. 5			1.00	0.00	110.00
Jan. 5			1.00	0.00	111.00
Feb. 5			1.50	0.00	112.50
Mar. 5	<u> </u>		<u>+1.50</u>		114.00
	\$100	\$8.00	\$6.00		

The records of an account become somewhat more complex when partial payments are made. *Generally, delinquent tax collectors deduct partial payments first from the interest column, and then proportionally from the commission and tax columns.*

Sample Record for Delinquent Tax of \$100 with Partial Payments of \$50					
<u>Date</u>	<u>Tax</u>	<u>8% Fee</u>	<u>Interest</u>	<u>Payment</u>	<u>Total Due</u>
Nov. 5	\$100.00	\$8.00	\$1.00	\$0.00	\$109.00
Dec. 5			1.00	0.00	110.00
Jan. 5			1.00	0.00	111.00
Feb. 5			1.50	0.00	112.50
Mar. 5			+1.50		114.00
	<u>\$100.00</u>	<u>\$8.00</u>	<u>\$6.00</u>		
Mar. 7	<u>-\$40.74</u>	<u>-3.26</u>	<u>-\$6.00</u>	<u>\$50.00</u>	<u>-\$50.00</u>
	\$59.26	\$4.74	\$0.00	\$50.00	\$64.00

In the above example, a partial payment of \$50 was received in March. The tax collector first applied the payment to the interest column, and subtracted the entire \$6, which had accumulated interest. This left \$44 to allocate to tax and commission. The amount that was allocated to tax, \$40.74, was calculated by dividing \$44 by 1.08. The amount that was allocated to the commission, \$3.26, was calculated by subtracting the tax amount from \$44.

Please note that the interest on a delinquent account is calculated on the amount of the remaining tax only; it is not calculated on the commission, and it is not compounded.

Additional examples of delinquent tax bookkeeping are included in the Appendix.

- 3. Other records.** It is important to keep a permanent record of all correspondence and conversations with taxpayers. Any agreement or plan that you arrived at with the taxpayer should also be documented, as well as the date of such agreement. A complete and consistent record of what happened may help to avoid accusations of harassment or charges of lack of due process or unequal treatment.

D. THE MONEY

According to statute, the delinquent tax collector must pay to the town all money collected at the end of every two months, or whenever requested (in writing) by the selectboard or other proper officer.³ 32 V.S.A. § 4646. Generally, delinquent tax collectors set up a special bank account in which the taxes collected are deposited until the bimonthly transfer to the town treasury. Since in almost all cases the delinquent tax collector is an employee of the town, and FICA and income tax must be withheld from his or her “commission,” delinquent tax collectors may not pay themselves the fees collected. Rather, they must pay to the town all of the monies collected (tax, penalty and interest). The treasurer then pays the tax collector his other fees less the required FICA and income tax withholding

Some delinquent tax collectors do not keep a separate account for the delinquent taxes, but rather immediately remit all monies collected to the town treasurer. A principal benefit of handling the

³ Another “proper officer” might be the town treasurer, since the treasurer is responsible for the receipts of the town.

tax money in this way is that the delinquent tax collector can get paid his or her commissions much sooner than if he or she waited for the bimonthly payment to the town.

Under no circumstances should any receipts on delinquent accounts be deposited into a personal or business account of the delinquent tax collector. There are absolutely no exceptions to this rule, even for the briefest period of time.

E. REPORTING

- 1. Bi-Monthly Reports.** The statutes require the delinquent tax collector to file a report with the treasurer every two months or when demanded by the selectboard. 32 V.S.A. § 4646. The report must include a list of the taxpayers from whom taxes have been collected, showing the amounts collected and the years in which the taxes collected were due.
- 2. Annual Reports.** The delinquent tax collector must file an additional report by January 15 of each year. This report must list all taxes remaining unpaid on December 31, and must include the name of the delinquent taxpayer and the year that the taxes were due. This report must be certified by the delinquent tax collector and delivered to the treasurer. 32 V.S.A. § 5162. (See Appendix C for a sample annual report of a delinquent tax collector.)

The annual report of the delinquent tax collector must be “certified under oath.” This can be done by having the delinquent tax collector’s signature notarized by a notary public.⁴

In addition to providing the annual report to the town treasurer, the delinquent tax collector must also furnish the annual report to the town auditors. 32 V.S.A. § 5163. However, if the town has voted to eliminate the office of auditor under authority of 17 V.S.A. 2651b, the records should be submitted to the licensed public accountant hired by the selectboard. The auditors or accountant must verify the report and certify it as correct. Independent auditors and accountants hired by the town also are entitled to receive this information and to inquire into the state of the tax collector’s accounts.

- 3. Report to the Director of Property Valuation and Review.** The delinquent tax collector must report to the director every six months. This report must include the amount of delinquent taxes contained in the warrant that the delinquent tax collector has collected and paid into the treasury during the preceding six months.⁵ 32 V.S.A. § 5166.
- 4. Failure to Report.** If a delinquent tax collector fails to make the required bi-monthly or annual reports, he or she may be subject to a fine of up to \$100. 32 V.S.A. § 5164.

⁴ 12 V.S.A. § 5854 lists additional officials who may administer oaths.

⁵ Note that within six days after each annual town meeting the municipal clerk must notify the Director of Property Valuation and Review, in writing, of the method to be employed in the town for collecting its taxes (delinquent and current). The agency issues a form for that purpose. 32 V.S.A. § 5167.

5. Public Records Law. The Access to Public Records Act states that all public records must be made available for public inspection and copying upon reasonable notice. 1 V.S.A. § 316. Public records are defined very broadly and would certainly include all of the delinquent tax collector's reports. Correspondence between the tax collector and the town attorney is confidential under attorney-client privilege and exempt from disclosure. 1 V.S.A. § 317(4). If you have a question about a whether a particular document must be disclosed, you should consult your town attorney or call the VLCT Municipal Assistance Center at 800/649-7915.

F. TOWN POLICY

Most delinquent tax collectors adopt a policy that explains how the collector collects delinquent taxes in the town. The adoption of a policy is necessary since the statutes provide delinquent tax collectors with considerable latitude to determine when and how delinquent taxes will be collected. The written policy tells the taxpayer what to expect and it defines the steps for the delinquent tax collector. This helps the delinquent tax collector to treat all people fairly and equally and provides considerable protection against a challenge that alleges the collection



practices violate constitutional protections of due process and equal protection. **Note that this is the tax collector's policy. The selectboard has no authority to approve or disapprove of the town delinquent tax policy. However, it is advisable for the delinquent tax collector to present the policy to the board members so that they understand and support it. Do not hesitate to ask the town attorney to review and suggest revisions to the proposed delinquent tax collection policy.**

TAX COLLECTION POLICY

Delinquent tax collection policies vary considerably from town to town, but most policies include the following information:

- How the delinquent tax collector will initially notify delinquent taxpayers of their delinquency, and whether and how they will be notified of any outstanding balances.
- When the delinquent tax collector will institute collection action. (How long will the taxes be delinquent before action is taken?)
- Whether the delinquent tax collector will accept partial payments and how they will be allocated.
- Whether the delinquent tax collector will set up payment plans, and whether there are any limitations on those plans.
- What types of collection actions will be pursued.
- What costs will be incurred and passed on to the taxpayer.
- Whether lien holders will be notified of delinquencies.

G. DISPOSITION OF RECORDS WHEN LEAVING OFFICE

When a collector of delinquent taxes leaves office, he or she must *immediately* turn over the records to the treasurer, along with any money collected. Such records and accounts must be audited and passed on to the new tax collector. When a tax collector dies or is placed under guardianship, the selectboard may demand that the guardian, administrator or executor provide the same records, so they can be audited and passed on. 32 V.S.A. § 4671.

Records should be available and produced promptly and in some sort of *usable* form. At times, tax collectors have used rather unique or “secret code” computer programs for their records, which they then refuse to decode for their successor. Obviously, this is not a responsible way to perform one’s duties. In addition, statutes require that records be kept in triplicate hard copy.



32 V.S.A. § 5137. Therefore, no matter what sort of electronic records the outgoing collector has, there should also be a usable paper copy of the necessary records and those records should be provided *immediately*.

CHAPTER 4 TAX COLLECTION METHODS

A. GENERALLY

Generally, delinquent tax collectors are able to establish agreements with the majority of the delinquent taxpayers for the payment of the overdue taxes. However, in some instances the delinquent taxpayer will be unwilling or unable to enter into such an agreement. In other cases, delinquent taxpayers who have agreed to pay the taxes over a period of time will fail to live up to their obligation to pay the back taxes. In all of these examples, the delinquent tax collector must take further action to collect the delinquent taxes.

As outlined in Chapter V, Section A above, following receipt of the list of unpaid taxes from the treasurer, the collector of delinquent taxes must provide ten days written notice to each resident delinquent taxpayer (twenty days for taxpayers residing outside the town) of the time and place where payment of the taxes and fees may be made. After the notice is given, the collector may proceed to collect the taxes by one of the processes authorized by statute. 32 V.S.A. §§ 4874, 4842.

There are four methods for collecting delinquent taxes when voluntary agreement fails: **foreclosure, distraint, action at law and tax sale**. In most instances, the tax sale is the most useful mechanism for the collection of delinquent taxes. However, the other methods provide valuable alternatives that should not be overlooked.

The various methods for collecting delinquent taxes are not exclusive, but may be used cumulatively. Thus, choice of one method of collection will not bar the delinquent tax collector from taking advantage of the other methods if they become necessary. *Town of Highgate v. Missisquoi Lime Works, Inc., et al.*, 104 Vt. 526 (1932).

B. FORECLOSURE

A foreclosure action is a legal action brought in superior court to allow real property to be attached and sold to satisfy the debt to the town. 2 V.S.A. § 5061(b). A foreclosure action must be brought in the same manner as an action for foreclosing a mortgage, which means that a lawsuit must be filed in superior court and all other mortgage and lien holders must be notified in accordance with the requirements set out in 12 V.S.A. §§ 4523 et seq. **A foreclosure action can be brought to satisfy delinquent taxes because taxes are a lien on the taxpayer's property. 32 V.S.A. § 5061. Because the taxes are a first lien on the property, all other liens and mortgages are secondary and will no longer exist after foreclosure or tax sale.**⁶

⁶ Note that the lien holders and mortgage holders can still go after the individual for payment on the note, even though they can no longer foreclose on the property after tax sale or foreclosure action by the town. Because the lien holder and mortgage holder's interest is at stake in a foreclosure action, it is very important that the lien holders and mortgage holders are notified of the foreclosure and tax sale actions.

The statutes provide that a foreclosure action may only be brought after the taxes are overdue for two years. 32 V.S.A. § 5061. In addition, tax liens are only good for fifteen years. Thus, a foreclosure action must be brought within fifteen years from the date the taxes were assessed.⁷

The problem with using foreclosure as a method of collecting delinquent taxes is that it may take a year or more for a foreclosure action and attachment process to be completed. However, the judicial supervision involved in a foreclosure action will likely obviate the Vermont Supreme Court's abiding objection to selling more of the taxpayer's property than is necessary to satisfy the delinquent account. Foreclosure actions should be considered in cases in which the delinquent taxpayer's real property has no value and cannot be sold at tax sale.

C. DISTRAINT

1. **Generally.** Distraint is the oldest method for collecting delinquent taxes⁸, although in modern times it is used almost exclusively for the collection of personal property taxes.

Black's Law dictionary defines distraint as "The seizure of personal property to enforce payment of taxes, to be followed by its public sale if the taxes are not paid voluntarily." *Black's Law Dictionary*, 5th ed., p 426.

Thirty-two V.S.A. section 5191 provides that, after the expiration of the tax due date (or sooner, in the case of a person whom the delinquent collector has reason to know is about to leave town), the delinquent tax collector may take goods, chattels and capital stock in a corporation of a person whose tax is not paid.

2. Property Subject to Distraint.

- **Person about to leave town.** If the delinquent tax collector has reason to believe that a person is about to "remove from town," then he or she may distraint any of the goods, chattels and capital stock of the person whose tax is not paid. 32 V.S.A. § 5191.
- **Delinquent real estate taxes.** When the delinquent tax is on the real estate (rather than delinquent personal property tax) the statutes provide that the delinquent tax collector may not distraint "apparel, bedding, household furniture necessary for supporting life, and one sewing machine not exceeding \$25.00 in value."⁹ 32 V.S.A. § 5191.

⁷ Taxes become a lien on the property as soon as they are assessed. Thus, the 15-year period must be calculated from the time of assessment rather than the time of delinquency.

⁸ Chapter 25 of the Laws of the State of Vermont, 1797, section 4, page 337, provides that goods and chattels may be distrained and sold for the payment of taxes. Section 5 provides that if there are no goods and chattels that can be distrained "the constable may take the body of the person or persons neglecting or refusing to make payment ... [and to place them in debtor's prison] until the taxes and costs have been paid." The obvious problem of how one can raise money to pay the taxes while in jail led the Vermont courts to determine that debtor's prison was unconstitutional. However, the most interesting aspect of this old law is that it permits the sale of distrained property in the same manner, and with the same time limits as the modern law.

⁹ The numerous exemptions from attachment set forth in Title 12 will not apply to distraint, allowing a great deal more property to be taken and sold for the payment of taxes than under traditional foreclosure law. *Hackett v. Amsden*, 11 Vt. 201 (1833).

- **Property subject to a lease.** Property subject to a lease may not be distrained. *Bartlett v. Wilson*, 60 Vt. 644 (1888).
- **Property not owned by taxpayer.** Property belonging to a third party cannot be levied upon for taxes due by the taxpayer, even if the property formerly belonged to the taxpayer, and is still in the possession of the taxpayer. *Daniels v. Nelson*, 41 Vt. 161 (1868).
- **Exempt property.** Certain property is exempt from attachment and execution under normal foreclosure law. However, according to old case law, these exemptions will not apply to distrained property. *Hackett v. Amsden*, 56 Vt. 201 (1883). However, recent case law that has held distraint by a landlord to be unconstitutional would indicate that the town is in a much better position if the exemptions set forth in 12 V.S.A. § 2740 were followed when distraining property to pay for delinquent taxes.

3. Process for Distraint.

- **Identifying and taking property.** The first step for the delinquent tax collector when using distraint is to identify property to take. The statutory authority that permits taking the taxpayer’s property does not authorize the collector to do so by breaking the law. Thus, the collector may not trespass onto the taxpayer’s property to take items subject to distraint. For example, one delinquent tax collector was able to avoid the issue of trespass by distraining a vending machine that was located on city property and locking it up to until the company paid the back taxes. The collector did not have to sell the vending machine, since the removal of the machine and its contents was sufficient to convince the company to pay its taxes.

Be sure to notify the town’s insurance agent when property is being distrained!

- **Notice of sale.** When using distraint as a method for tax collection, the delinquent tax collector must wait four days after seizing the property. The sale must be noticed for at least six days prior to the sale. 32 V.S.A. § 5193. This means that the delinquent tax collector must allow ten days from seizure to sale of the property at public auction. See Appendix Z for a sample notice of distraint. **The delinquent tax collector is not required to hold the sale at the end of the ten-day period, but must do so “within a reasonable time” after the ten days have expired.** *Clemons v. Lewis*, 36 Vt. 673 (1864).
- **Conducting the sale.** The sale must be at “public auction.” This means that the sale must be held at a place that is readily accessible by the public (although not necessarily a public building), such as a particular barn or shed, or even at a particular rock or tree within the town. *Austin v. Soule*, 36 Vt. 645 (1864).
- **Passing title.** The title of the property will pass to the new owner “by law.” *Id.*

- **Returning profit.** If the sale of the distrained property generates more than the amount of taxes, interest, penalty and costs due, the excess must be returned to the taxpayer with an accounting of the sale. 32 V.S.A. § 5193. Note that the statute requiring that the excess be paid to the delinquent taxpayer says that this should be done on demand. However, a court would probably require the return of any profit even if the taxpayer failed to demand it.

4. Pitfalls of Distrain.

Trespass. Although the delinquent tax collector is entitled to take and sell the taxpayer’s property, as mentioned above, the collector may not break the law to do so. Thus, the delinquent tax collector who is able to use distraint without exposing him or herself to liability must be able to “take” the property without trespassing onto the delinquent taxpayer’s property.



Invalid Sale. Case law indicates that a tax sale of distrained property will be illegal unless the tax collector strictly and literally complied with all of the requirements of the statute with respect to notice and sale. *Cummings v. Holt*, 56 Vt. 384 (1883).

Loss or Damage. It is unclear who bears the risk of loss to the distrained property as a result of fire or some other casualty. Thus, if distrained property is destroyed while the town is in possession of it, the town may be liable for the damages.

D. ACTION AT LAW

The delinquent tax collector may choose to collect taxes by an “action at law.” An action at law occurs when the town brings suit in court against the delinquent taxpayer, for the payment of the overdue taxes. 32 V.S.A. §§ 5222 et seq. According to statute, the “[taxes] imposed or assessed ... and all fees accruing or accrued against the taxpayer on account of delinquency may be recovered with costs in an action brought in the name of the town or municipality ... to which such taxes are due.” 32 V.S.A. § 5222. This suit could take many forms. However, because bringing a case to superior court is costly and involves hiring an attorney, most “actions at law” are brought in small claims court.

SMALL CLAIMS COURT

Small claims court is found in the Vermont district courthouses. Upon request, small claims court will send the delinquent tax collector forms to fill out to initiate the action. Such forms should be filled out clearly and explicitly. Many judges have little experience in property tax matters, so the more exact the information they receive, the more likely the tax collector will win the case. Be sure to provide the correct address of the taxpayer, as the clerk of the court will need it in order to serve the taxpayer with notice.

There is a small filing fee for bringing an action in small claims court; however, the delinquent taxpayer will pay this fee since the person who loses in small claims court must bear the court costs. It is not necessary to hire an attorney to bring an action in small claims court as the forms and process are designed for use by people who are not represented by counsel.

When a small claims court judgment remains unpaid for 30 days, the court can order the taxpayer to appear and disclose information relating to his or her ability to pay the judgment. After a hearing, the court can order the taxpayer to make payments toward the outstanding debt. Failure to make these payments can be considered civil contempt of court. 12 V.S.A. § 5537.

Small claims court will only consider matters that involve \$3500 or less. Thus, actions on tax bills that involve more than \$3500 must be brought in superior court. 12 V.S.A. Chapter 187.

If the delinquent tax collector decides not to bring an action in small claims court, and instead decides to pursue an action in superior court, the collector must notify the town agent or other officer whose duty it is to prosecute and defend actions on behalf of the town. The delinquent tax collector should also go before the selectboard to discuss hiring an attorney and payment of the filing fee for initiating the superior court action.

It may take a year or more to get an order from the court granting the town judgment. However, once judgment is obtained, the superior court can allow the town to use the remedy of trustee process¹⁰ to garnish the taxpayer's wages, stock dividends or other income to pay the debt to the town. In some cases the court will only allow the town to recover taxes through trustee process if it can show that the defendant has no personal property in state with value sufficient to pay the tax. *Bartlett v. Wilson*, 60 Vt. 644 (1888). If the tax collector decides not to use trustee process, he or she may still ask the court to let the town attach the delinquent taxpayer's property for payment of the debt.

The tax collector can also record a copy of the judgment order – whether obtained in superior court or small claims court – in the land records in any town where the taxpayer owns real

¹⁰ Trustee process is when the court summons a person or corporation who has possession of the goods or credits of the defendant, and orders them to pay the party entitled to judgment in the action out of those goods or credits. 32 V.S.A. § 5224.

property. The recorded judgment order will become a lien against any real property located in the town where the judgment is recorded. 12 V.S.A. §§ 2001 *et seq.*

When a delinquent tax collector uses an action at law to collect the delinquent taxes, the court can, when it deems it just and reasonable (even if the town has not recovered all of the outstanding taxes), require the defendant to pay the costs of bringing the action, not including attorney's fees. *Montpelier v. Central Vermont R.R.*, 89 Vt. 36 (1915). Note that, when bringing the action, the town is not required to furnish recognizance¹¹ or other security for costs in the proceeding, but the court can assess costs against the town if it deems it just. 32 V.S.A. § 5223.

According to case law, in order to prevail with an action at law, the taxpayer must have been given notice of the delinquency and an opportunity to voluntarily pay the tax. *Williamstown v. Williamstown Co.*, 101 Vt. 419 (1929). In addition, in order to recover with an action at law the town must provide evidence of the existence of a valid tax bill. *Brattleboro v. Carpenter*, 104 Vt. 158 (1932); *Williamstown v. Williamstown Co.*, 101 Vt. 419 (1929). However, according to 32 V.S.A. § 5226, a tax bill that is "regular on its face" which has been placed in the hands of the delinquent tax collector "shall be *prima facie* evidence that the taxes therein standing against the name of the defendant were lawfully assessed against him." **As a practical matter, towns often use small claims court or file actions in superior court when the property involved has no value, such as a run down mobile home or property that may be environmentally contaminated. (In this case, tax sale cannot satisfy the debt.)**

In addition, some collectors will pursue a matter in small claims court if the taxpayer fails to abide by a payment arrangement previously agreed to with the delinquent tax collector. Finally, an action at law is useful for collecting delinquent taxes in situations in which the taxpayer is disputing the validity of the tax.

In any event, collectors who use an action at law to collect delinquent taxes often find that merely filing the action provides sufficient incentive to the taxpayer to voluntarily pay the delinquency.

E. TAX SALE

1. Generally. The most common method of collecting delinquent taxes from taxpayers who will not pay voluntarily is by selling the property at tax sale. Vermont statutes are very specific about the steps a collector must take to bring a property to tax sale, and the statutes even include the forms for some of the required paperwork.

While there is no requirement that an attorney be used to assist in a tax sale, the collector who undertakes a tax sale without professional assistance does so at significant risk. It should be remembered that taking and selling property to recover delinquent taxes is one of the most potent authorities exercised by municipal government. It is not something that should be undertaken lightly.

¹¹ Recognizance is money put in escrow by the plaintiff to pay the defendant's costs in defending the action (not including attorney's fees) if the suit is deemed frivolous.

The allowable costs of the sale include legal expenses actually and reasonably incurred up to a maximum of 15 % of the uncollected tax. 32 V.S.A. § 5258. If the anticipated legal fees appear to exceed that amount, the collector should consult with the selectboard before authorizing the expense.

It generally takes 40 days or more to bring a particular property to tax sale. In order to bring a property to sale, the delinquent tax collector must send out notices of delinquency to the taxpayer and lien holders of a property. After notice has been sent, if the delinquent taxpayer or a lien holder fails to make satisfactory arrangements, the collector may sell as much land as is necessary to recover the delinquent taxes, interest, and fees. **All delinquent tax collectors should have a collection policy to provide guidance as to when a particular property should be put up for sale.**

Because the tax sale of a person's property deprives that person of a constitutionally protected property interest, the delinquent tax collector must closely follow the provisions of the statute, to ensure that the delinquent taxpayer is afforded the necessary due process. Failure to abide by statutory requirements may void the sale but perfection isn't required. For example, when notice of sale was given to a landowner by registered and first class mail, and notice was posted and published for two consecutive weeks, the collector's failure to publish for the third week did not negate the authority to hold a tax sale. *Turner v. Spera*, 140 Vt. 19 (1981). It has also been held that an improper description of the property in the notices, which gave the proper lot numbers but an erroneous reference to the wrong warranty deed, did not constitute improper notice and did not void the tax sale. *Chester Motors Inc. v. Koledo*, 146 Vt. 357 (1985).

While ample caution is advised, tax collectors should not be afraid to hold tax sales when necessary. When conducted in accordance with the statutory requirements and a local tax collection policy, tax sales reinforce public confidence in the idea that every property owner must meet his or her tax obligations. Regularly held tax sales can reduce delinquencies and ultimately the need conduct more sales.

Under federal law, property belonging to a person on active duty with the military can be sold at tax sale only by permission of a court. If the property is sold at tax sale, the owner has a right of redemption up until six months after leaving the military. Interest on the overdue tax accrues at a rate of six percent per annum and no other penalties or interest may be charged. 50 U.S.C. § 560.

- 2. Notice of Tax Sale.** The first step in the tax sale process is to notify the taxpayer and any lien holders or mortgagees of the impending sale of the property. This gives them an opportunity to pay the outstanding taxes in order to avoid the sale and the attendant costs associated with redemption of the property. Sample notices of tax sale are included in the Appendix to this handbook.

If the taxpayer has not already been informed of the right to ask for tax abatement, he or she should be informed at this time. It is probably a good idea to remind the taxpayer of this in writing, even if he or she was given notice before. Taxpayers must also be given notice that,

if the value of the property significantly exceeds the amount of tax due, they have a right to designate what portion of the property shall be offered at tax sale. They must also provide certification that the portion identified meets zoning and Act 250 criteria for subdivision. Of course, they should be informed that if the portion identified by them to be sold cannot be sold for taxes and costs, the tax collector may proceed to sell the entire property. This notice to the taxpayer should be in writing and should be accompanied by a copy of the statute. 32 V.S.A. § 5254 (b).

NOTICE OF TAX SALE

File in clerk's office. The delinquent tax collector must file in the town clerk's office a copy of the warrant, a description of the land, and a statement that he or she will proceed with a tax sale to collect the unpaid taxes. 32 V.S.A. § 5252 (1).

Advertise sale. The delinquent tax collector must advertise the sale for three weeks in a newspaper of general circulation in the community. The last publication must be at least 10 days prior to the sale. 32 V.S.A. § 5252 (2). The form of the advertisement is found in 32 V.S.A. § 5253 and is also included in Appendix R. When calculating the ten-day period, do not include weekends or holidays. Adding some additional days is recommended to ensure that the notice is published in a timely fashion.

Notice to taxpayer. The delinquent tax collector must notify the delinquent taxpayer of the sale in writing, by registered mail, return receipt requested. This notice is sent to the property owner's last known address, and must include the time, date and place of the sale. The notice must be sent at least 10 days prior to the sale (and 20 days prior to the sale for taxpayers who are nonresidents of the town). 32 V.S.A. § 5252 (3). A sample notice is included in the Appendix. Again, do not include weekdays or holidays in calculating these time periods. Adding a few additional days will ensure that the deadlines are met even if the mail is delayed.

It is not the delinquent tax collector's responsibility to ensure that the delinquent taxpayer actually receives the notice. A taxpayer's refusal to accept the certified mail will not prevent the delinquent tax collector from proceeding with the tax sale. On the other hand, the delinquent tax collector must take reasonable steps to ensure that, whenever possible, the taxpayer receives actual notice of the sale. *Jones v. Flowers*, 545 U.S. ___ (2006). Many delinquent tax collectors send a copy of the notice in an unmarked envelope, first class mail, at the same time the registered mail is sent. Consider sending a copy to "Occupant" at the property owner's last known address and to the property, if the two addresses differ. Finally, try posting a copy of the tax sale notice on the front door of the property or some other readily visible location on the property. Of course, this should be done in such a way as to ensure that the peace will not be breached and that your safety will not be jeopardized.

Notice to mortgagees and lien holders. The delinquent tax collector must notify all mortgagees or lien holders of the tax sale proceedings by registered mail, return receipt requested, at least 10 (resident) or 20 (nonresident) days prior to the sale. 32 V.S.A. § 5252 (4).

Post notice in public place. The delinquent tax collector must post a notice of the tax sale in at least one public place in the municipality (generally the clerk's office). 32 V.S.A. § 5253 (5). The required form of the notice is set out in 32 V.S.A. § 5253 and is provided in the Appendix.

3. Preparing for Tax Sale.

- a. Title search of property to identify lien holders.* The first thing the delinquent tax collector should do to prepare for a tax sale is to do a quick title search of the property. This search is not for the purpose of establishing the chain of title to the property, but is to identify all mortgage holders and lien holders with an interest in the property. Failure to notify a lien holder or mortgagee of a tax sale could result in the lien not being extinguished after the sale. This means that the purchaser at the sale will be obligated to pay what is owed to the lien holder or mortgagee or would risk losing the property in a foreclosure action. **Municipal property tax liens generally take priority over federal liens on the same property. Therefore, it is very important to include the appropriate federal agency (depending on the kind of lien that is on the property) when you notify the lien holders of the tax sale of the property.**
- b. Determine what is to be sold.* Not less than 24 hours prior to the sale, the owner of property being sold for taxes may request in writing that a portion of the property be sold. The request must clearly identify the portion of the property to be sold and must be accompanied by a certification from the Act 250 district commission and the town zoning administrator that the portion identified may be subdivided and meets the applicable minimum lot size requirements. In the event that the portion identified by the taxpayer cannot be sold for the tax and costs, then the entire property may be sold. 32 V.S.A. § 5254(b). In any case, any monies collected in excess of the tax, costs and fees must be returned to the delinquent taxpayer when the final settlement occurs after the redemption period. *Bogie v. Town of Barnet*, 129 Vt. 46 (1970).
- c. Send out notices of the tax sale.* After the parcel to be sold is identified, the delinquent tax collector must post, publish, and send out notices of the sale to the delinquent taxpayer and any lien holders as described above. The purpose of the notice is two-fold: (1) to inform the taxpayer and lien holders that the property is to be sold, and that the sale can be avoided by the payment of the taxes due; and (2) to advise prospective purchasers that the land is to be sold. *Chester Motors v. Koledo*, 148 Vt. 357 (1985). So long as these purposes are met “substantial compliance,” rather than exact compliance, with the notice requirements will be sufficient. Nevertheless, it is important to comply with the statutory requirements as exactly as possible to avoid a later challenge to the sale. Sample notices and advertisement of sale are included in the Appendix.
- d. Preparing for the sale.* To prepare for the sale, the delinquent tax collector must prepare a final accounting which sets forth the amount of taxes due, interest to the date of sale, the eight percent fee, and the fees and costs authorized under 32 V.S.A. § 5258. The total of taxes, interest and fees establishes a minimum acceptable bid at sale.

COSTS OF SALE

Levy and extending of warrant	\$10.00
Recording levy and extending of warrant	\$10.00 (to town clerk)
Notices	Actual cost
Publication	Actual cost
Travel	At state employee rate
Attending and holding sale	\$10.00
Making return	\$10.00
Recording return	\$10.00 (to town clerk)
Collector's deed	\$30.00
Collector's fee	8%
Legal Assistance	Expenses actually and reasonably incurred (and authorized by the selectboard) up to a maximum of 15% of the uncollected tax.

- 4. Settling Before Sale.** In many cases, notice that you intend to sell the property is sufficient to nudge the taxpayer into paying the delinquent taxes. Note that even if you do not complete the sale, you may add the costs incurred up to the point, including costs of publication and legal fees, to the bill. 32 V.S.A. § 5142(a).

If the notice of sale does not provide an incentive for the taxpayer to pay the delinquencies, it is often sufficient incentive for the bank (mortgagee) or a lien holder to pay the outstanding amounts. Many banks will call upon receipt of the notice of sale to find out the exact amount owed. Many delinquent tax collectors use this as an opportunity to let the bank know that if it pays the delinquencies by a particular date the advertising costs and legal fees can be avoided. However, some banks try to convince the collector to put off the sale by promising to pay the delinquencies at a later date. Most collectors agree, however, that it is best to conduct the sale (particularly if the notice has already been posted and published) since the bank may redeem the property at any time within the one-year period following the sale. FDIC and RTC sometimes take the position that, since they are the assignee of the original mortgagee, their liability extends only to the net tax due. In accepting account payments from FDIC or RTC either before tax sale or during the redemption period, the tax collector should insist on payment of the *entire* account balance.

5. Conducting the Tax Sale.

- a. Location of sale.** The actual conduct of the sale can be a very lonely experience, as often there is no one present to bid except a representative of the town. In a few instances, however, there may be a number of bidders and bystanders at a tax sale. Tax sales can take place at any location, public or private, so long as it is open to the public (and not unreasonably difficult to find or get to).
- b. Informing bidders.** Prior to commencing bidding on the property, it is advisable for the collector to determine the exact amount owed as of the date of sale. If appropriate, potential bidders should be informed that the town will bid this amount if no third party

does so at the sale. Bidders should also be informed that the taxpayer, mortgagees and lien holders have a year to redeem the property by paying the purchase price paid at the sale, plus interest; if the property is not redeemed, they will receive whatever title the delinquent had at the time of sale, less any liens and mortgages acquired during the delinquent's ownership. Finally, bidders should be made aware that the delinquent taxpayer remains liable for property taxes during the redemption period, and that if the property is not redeemed, the successful purchaser is very likely to take the property subject to a lien for delinquent taxes, penalty, and interest that accrued during the redemption period.

- c. Accepting bids.* The delinquent tax collector, the attorney for the collector, or an auctioneer may conduct the tax sale. The bidding begins with the collector (or attorney or auctioneer) announcing which property is up for bid (reading the description of the property, or portion of the property to be sold), and then stating the minimum acceptable bid for the property (the taxes, interest, fees and costs). Once bidding has ended, and a final price and bidder are identified, that information should be recorded by the delinquent tax collector. The auction is then final and no more bids can be accepted.
- d. Tender of payment.* Most delinquent tax collectors require successful bidders to tender payment in cash or certified check at the time of the tax sale. This will prevent tax sales from having to be conducted a second time because the purchaser's check has bounced, or because a purchaser has failed to tender the funds, as promised, at a later date. There is no requirement, however, that a delinquent tax collector not accept personal checks, assurances or letters of credit. No matter what the tax collector wishes to do about accepting payments, it is most important that his or her policy is explicitly stated in the delinquent tax collection policy to prevent unequal treatment of bidders.
- e. Municipal bids.* In order for the town to bid on a property the selectboard must pass a resolution authorizing its agent to make the purchase and a record of this authorization should be kept in the delinquent tax collector's records. This means that the delinquent tax collector should be sure to give the board advance notice of upcoming sales so that the issue of bidding on the properties can be included on the agenda of the regular or a special meeting of the board. The agent for the town should not be the collector of delinquent taxes, as that may be perceived as a conflict of interest. Likewise, the collector should not personally bid on the property or have someone else bid for him or her. *Chandler v. Moulton*, 33 Vt. 245 (1860)

At the tax sale the town may buy the property for the amount of taxes, interest, fees and costs due, and once purchased, may hold, lease, sell and convey the property like other real estate belonging to the municipality.¹² 32 V.S.A. § 5259. Indeed, in some instances, the town is the only bidder at tax sales. **Note that the town is not required to bid on property that is up for a tax sale even if there is no one else bidding on the property.**

¹² A municipality's authority to bid at a tax sale is its ultimate recourse to protect itself against any conspired attempts to avoid sale by discouraging all bidding. However, the town is not permitted to hold the property, or retain the proceeds of a resale greater than the amount of delinquent taxes, interest, fees, and costs. *Bogie v. Town of Barnet*, 129 Vt. 46 (1970).

In fact, in some cases it is best for the town not to bid on a particular property. (For example, if it contains hazardous waste, or if there are other costs associated with ownership of the property.)

Some selectboards issue a blanket policy authorizing bidding at all tax sales in which there are no other bidders. This is inadvisable since it may result in the town owning properties that create potential liability for the town. (They may contain hazardous waste, have no or negative value, or involve a health hazard.) Instead, selectboards should evaluate whether or not the town should bid at tax sale on a case-by-case basis.

If the town is the successful bidder, be sure to have the selectboard sign a warrant authorizing the treasurer to deliver a check to the tax collector for processing as in the case of any other tax sale.

- f. Sale of land that is being leased.* Land that is being leased may be “distrained” (sold) to pay outstanding taxes on the property, subject to the existence of the lease. 32 V.S.A. § 5256. This means that if the property is not redeemed, all of the rights and obligations under the lease will run to the new owner (e.g., rental payments will be paid to the new owner). In such a case, the delinquent tax collector must not only send a notice of the sale to the owner and the lien holders and mortgagees, but also to the lessee of the property.

After the sale has been completed, a copy of the warrant, along with the report of sale, giving a description of the taxes, of the property and of the lessor’s interests, must be delivered to the lessor and the lessee.

- g. How to proceed if no one purchases a property.* Many delinquent tax collectors have had instances in which the town is unwilling to purchase a particular property for which there are no other bidders. In such a case, the property is not sold and the delinquent tax collector must decide whether to hold another sale for the property at a later date, or to try to collect the unpaid taxes, interest, penalty and costs using one of the other collection methods discussed above (distrain, foreclosure, action at law).

- h. FDIC property.* Federal law protects property of the FDIC from levy, attachment, garnishment, foreclosure, or any involuntary liens. 12 U.S.C. § 1825 (b)(2). This means that unless the FDIC consents, the municipality may not foreclose its tax lien or bring the property to tax sale. Note, however, that if the FDIC takes ownership of a property after it is sold at tax sale but prior to the expiration of the redemption period, the sale may be completed as required, with the issuance of a collector’s deed.

- 6. Report of Sale.** Within 30 days after a tax sale has been completed, the delinquent tax collector must record a Report of Sale in the town clerk’s office. The form is specified in 32 V.S.A. § 5255, and is reproduced on page 74. You must include in the report of sale the same legal description of the property that was contained in the notice of sale. Once a report of sale is recorded in the clerk’s office, it creates a presumption that the facts contained in the report occurred as recorded. *Richardson v. Dorr*, 5 Vt. 9 (1833).

Note that although no property transfer tax is imposed when a municipality purchases a property, there may be one payable when another party purchases a property. 32 V.S.A. §§ 9602-3.

7. **Treatment of Sale Proceeds.** When the delinquent tax collector receives payment from the successful bidder at the tax sale, he or she should divide the money into two accounts. The collector should first make a payment to the town of all taxes, interest, fees and costs owed by the taxpayer. Any balance can be placed in an interest bearing escrow account for the one-year redemption period. Such account will earn interest at the current market rate. The one percent per month, which must be returned to the buyer in case the property is redeemed, does not apply here. **The money in the escrow account is held so that if the taxpayer wishes to redeem his or her property, this money can be applied to the amount of money required for redemption. On the other hand, if the delinquent taxpayer does not intend to redeem the property, the delinquent tax collector can release the money to the taxpayer. Doing so will make it harder for the taxpayer to redeem the property at the end of the one-year period, since the entire purchase price (and interest) will have to be raised by the taxpayer. After the redemption period is concluded, the escrowed money must be released to the delinquent taxpayer if he or she fails to redeem.**

The town treasurer should then write a check to pay the collector his or her fees, minus any withholding for income tax and FICA, and for any costs paid by the collector that were charged to the delinquent taxpayer's account.

8. Redemption.

- a. *How a taxpayer/mortgagee redeems.* Pursuant to 32 V.S.A. § 5260, the delinquent taxpayer, or the mortgagee of the lands, or his or her representative or assigns, may redeem property sold at tax sale within one year from the day of the sale by paying the sales price, plus interest of 1% per month, or fraction thereof from the day of sale to the day of payment. 32 V.S.A. § 5260. (Any amount that the taxpayer must tender should be reduced by the amount of the excess proceeds from the tax sale that has been held in the escrow account, including any interest that has been earned on the account.) The exception to this general rule is that a person on active military duty has until six months after leaving the military to redeem property sold at tax sale. In addition, interest on such property accrues at a rate of six percent per year. 50 U.S.C. § 560.

The payment must be made to the delinquent tax collector who conducted the sale; however, if the collector is no longer living in the town, or has died, the payment may be made to the town clerk. **The delinquent tax collector has no discretion to accept less than a full payment when a taxpayer wishes to redeem the property. Thus, unless full payment of the sales price plus the applicable interest is tendered, no redemption has occurred.**

Finally, title to the redeemed property is unaffected by the fact that it went through tax sale, as no tax collector's deed was ever issued. Notice of redemption should be given to the town clerk for recording in the land records.

- b. **Repaying the purchaser.** Upon redemption, the money paid by the delinquent taxpayer must be paid over to the purchaser.
- c. **Current taxes during the redemption period.** During the one-year redemption period, the delinquent taxpayer retains title to the land, and will continue to be held responsible for the tax bill. If those taxes are not paid and the property is redeemed, the delinquent taxpayer will be risking another tax sale of the property. If the property is not redeemed, the purchaser at the tax sale will be required to pay the overdue taxes, and any interest or penalties which might have resulted, or risk sale of the property. **The treatment of current taxes during the redemption period is troubling to many people, and we recommend that you advise potential purchasers carefully so that they are not surprised when they receive a notice of overdue taxes along with the collector's deed.**¹³

9. Collector's Deed and Property Transfer Tax. If the delinquent taxpayer or mortgagees fail to redeem the property during the one-year period, the delinquent tax collector must execute a tax collector's deed to pass title from the delinquent taxpayer to the purchaser. 32 V.S.A. § 5261. This deed will extinguish all mortgages and interest in the property held by people who claim under the delinquent taxpayer. Although there is no statutory deadline set, the tax collector should execute the deed as soon as possible after the redemption period has expired in order to clear the books of any escrow monies or accumulated interest due or payable. **The collector's deed should not be made out in the form of a warranty deed since the town cannot warrant good title, and is only passing to the purchaser any rights and title in the property held by the delinquent taxpayer. A sample deed is included in the Appendix to this handbook.**

Generally, a property transfer tax based on the value of the property is imposed by the state when real property title changes. 32 V.S.A. § 9602. However, when property is transferred to the United States, the State of Vermont or any instrumentality, agency or subdivision thereof, no tax is due. 32 V.S.A. § 9603. When property is transferred to the purchaser by collector's deed after the redemption period has expired, it is the responsibility of the purchaser to pay the transfer tax and to file a property transfer return when the deed is filed with the town clerk. 32 V.S.A. §§ 9604-6.

10. Report to Clerk. Within 30 days from the expiration of the redemption period, the delinquent tax collector must provide the town clerk with a list of the lands that have not been redeemed. 32 V.S.A. § 5262. A strict reading of that statute and 24 V.S.A. § 1154 indicates that the clerk should record such information in the land records. However, failure to make this report (and presumably failure of the clerk to record it) will not affect the title of the purchaser.

11. Accounting to Taxpayer. After a tax deed has been made out transferring the property to the purchaser, any amounts remaining in the tax sale proceeds escrow account should be remitted

¹³ In one case, the purchaser paid the current taxes in an attempt to avoid owing the fee and interest. The owner later redeemed the property, and was not required to repay the purchaser.

to the delinquent taxpayer. In addition, if the town purchases the property at tax sale and later sells the property for a profit, any amounts received exceeding the town's original purchase price at tax sale plus costs should be remitted to the delinquent taxpayer. *Bogie v. Town of Barnet*, 129 Vt. 46 (1970). Costs could include those of maintaining, insuring and protecting the property during the time the town held title, lost tax revenue, attorney's fees, and costs of advertisement and resale.

In many cases, the town does not resell property purchased at tax sale until a much later date from the sale. In such cases, it may be difficult to locate the delinquent taxpayer. If the town makes a reasonable effort to locate the delinquent taxpayer, but fails, the town may proceed by placing the funds in an escrow account for five years, after which it may be considered abandoned and, as such, should be reported to the state treasurer. 27 V.S.A. §§ 1217, 1120.

12. Challenges to Deed.

- a. **Burden of proof.** According to case law, the purchaser at a tax sale has the burden of proving every act necessary to the validity of the tax, levy and sale of the property for which his title is being challenged. *Peterson v. Moulton*, 120 Vt. 439 (1958). The collector's return (the report filed with the town clerk after the sale) creates a presumption that the facts contained therein are true, so a properly filed return will greatly ease the purchaser's burden of proof.
- b. **Statutes of limitations.** Thirty-two V.S.A. section 5263 limits the period of time in which a collector's deed may be challenged to three years following the issuance of the deed. (In other cases the statute of limitations for challenging a deed is 15 years.) However, in order to have the three-year limitation apply, the new owner must be in possession of the property, indicating his ownership by paying the taxes on the property, for the three years. Thus, case law has indicated that when the purchaser does not take possession of the property (by evicting the delinquent taxpayer), his claim to title may be challenged after the three-year period has elapsed. *Downer v. Tarbell*, 61 Vt. 530 (1889).
- c. **Liability of town.** If a deed is held to be invalid, the town may be liable to the purchaser for the purchase price, plus interest. *Saulters v. Templeton*, 61 Vt. 119 (1888).
- d. **Taxpayer's defenses.** There are a few, specific defenses that a taxpayer can use to invalidate the sale of his or her property. One defense is the failure to conform with the statutory requirements of notice, reporting and sale. However, so long as the purpose of the notice requirements has been met, the failure to strictly comply with the notice requirements will not void the sale. (See Notice of Tax Sale in Section E.2. of this chapter.)

The taxpayer cannot dispute the validity of a tax sale by disputing the validity of the tax or assessment process. The statutes are clear that a taxpayer who disputes the validity of a tax must file an objection to the tax in the town clerk's office within two months of November 15 of each year that the tax is assessed. 32 V.S.A. §§ 5291, 5292. If the taxpayer objects to the lack of notice and opportunity to be heard, with respect to the

levying of the tax, including the making of the appraisal and the setting of the grand list, this defense must be asserted within six months from the date that the tax may first be collected against him or her (one year for non-residents). 32 V.S.A. § 5293.

According to 32 V.S.A. § 5294, a taxpayer has one year from distraint or tax sale to bring a suit questioning the actions of a treasurer with respect to the tax assessed, the tax bill, or the warrant.

CHAPTER 5 PERSONAL PROPERTY

A. GENERALLY

Collection of delinquent personal property taxes poses a significant challenge to delinquent tax collectors. This is partly due to the nature of the property taxed, since it is easily removed from the town; and partly due to the cumbersome requirements unique to the collection of personal property delinquencies. This section describes the delinquent tax collector's obligations when dealing with delinquent personal property taxes.

B. THE LIEN ON PERSONAL PROPERTY

Liens on personal property differ from tax liens on real property, which are automatic. A lien on personal property does not exist until the tax collector exercises discretionary authority to act with respect to a particular taxpayer, and files a notice of tax lien. *In re Summit Ventures*, 135 B.R. 483 (Bankruptcy D. Vt. 1991).

1. **Filing the lien.** When a tax is due on personal property, the tax collector, with the approval of the legislative body, may file a lien on the property. 32 V.S.A. § 5071. The lien must be filed in the personal property records in the town clerk's office after April 1 in the year that the tax is assessed.¹⁴
2. **Notice.** Notice of the lien must be given to the taxpayer, or to the owner of the property, and to all persons having a duly recorded lien on the property. The notice must be sent to the last known post office address of each person by registered or certified mail, return receipt requested.¹⁵ Failure to comply with statutory notice requirements will result in the property being unencumbered by the tax lien.
3. **Form of Lien.** The tax lien notice must contain a description of each article of personal property upon which a lien is claimed, and the name and address of the taxpayer or owner of the property and of all other persons having an interest in the property. A form for a personal property lien is set forth in 32 V.S.A. § 5073, and is included in Appendix K.
4. **Effect of Lien.** The tax lien is good for two years from the date it is filed. **This means that any collection action must take place within this two-year period.** During the time that the tax lien exists, the lien will have priority over all others, meaning that other liens on the same property may be satisfied only after the taxes are paid or otherwise discharged (by

¹⁴ The town clerk should keep a separate book for recording personal property liens, a brief statement of the substance of the lien, index the recordbook alphabetically and file the notice chronologically in a separate file. Tax liens that affect title to real property should be noted in the grantor/grantee index. *1974 Op. Att. Gen 214.*

¹⁵ If the taxpayer or property owner or lien holder is a partnership, notice must be given to one of the partners. If the taxpayer, owner or lien holder is a corporation, notice must be given to the president or treasurer of the corporation.

abatement). Personal property that is subject to a tax lien may not be sold, mortgaged, exchanged or pledged.¹⁶ 32 V.S.A. 5072.

5. **Bona Fide Purchaser.** The personal property tax lien will not be enforceable against a *bona fide* owner who has purchased the property for value without actual notice of the lien. This means that an innocent purchaser will not be obligated to pay the outstanding personal property taxes if he or she buys property subject to the tax lien without knowing of the lien's existence. Note that the fact that the lien has been filed with the town clerk will not impute constructive knowledge of the lien onto the purchaser. 32 V.S.A. § 5072.

C. COLLECTION OF DELINQUENT PERSONAL PROPERTY TAX

If delinquent personal property taxes are not voluntarily paid, these delinquencies may be collected using distraint or by an action at law (usually small claims court). **Any action to distraint the personal property or to collect the tax through an action at law must be instituted within two years from the filing of the tax lien.** 32 V.S.A. § 5075. (The action does not have to be completed within the two years, since otherwise the taxpayer would have a great incentive to delay proceedings until the lien expires.) Many delinquent tax collectors simply include the delinquent personal property amounts in a tax sale or other collection action taken against the taxpayer for nonpayment of his or her real property tax.

1. **Distraint.** Distraint involves taking the property to be sold, holding it while the collector notices its sale, then selling the property at auction, and returning to the taxpayer any proceeds in excess of the amounts owed to the municipality. For more detailed information on distraint, see Chapter 4, Section C.
2. **Action at Law.** An action at law involves initiating a collection action in court. Generally, delinquent tax collectors will choose to pursue the collection of delinquent personal property taxes in small claims court if they are unable to take possession of the personal property subject to the lien.¹⁷ See Chapter 4, Section D for more information on using an action at law for the collection of delinquent taxes.
3. **Notice of Collection.** Under 32 V.S.A. § 5075, the delinquent tax collector must give notice that a distraint action or an action of law has commenced “to all persons except the taxpayer mentioned in section 5071 of this title, in the manner therein prescribed.” This means that notice by registered or certified mail, return receipt requested, must be sent to the owner of the property (if it is not the taxpayer), and to any other person having a duly recorded lien on the property. The statute also specifies how to send notice to a corporation and partnership.

¹⁶ A person who sells, mortgages, pledges or exchanges personal property subject to a tax lien can be fined up to double the amount of the lien on the property. Half of the fine is paid to the town. 32 V.S.A. § 5072. A person who induces another to buy the personal property may be fined up to \$100.00. 32 V.S.A. § 5074.

¹⁷ An action at law is a common tool for the collection of personal property taxes, since the tax collector must avoid breaking the law when distraining personal property, which greatly limits the effectiveness of distraint as a tool for collection of delinquent taxes.

Although the statute specifically states that notice of the institution of collection actions is not sent to the taxpayer, it may make sense in some instances to notify the taxpayer of the intent to institute an action against him or her, but only if it is certain he or she won't move the property out of town. Such notice may provide an incentive for the taxpayer to voluntarily pay the delinquencies to avoid the added costs and expenses of defending an action.

- 4. Costs.** In addition to the taxes, interest and fees, the delinquent tax collector may add any costs of collection that are just and reasonable. *Montpelier v. Central Vermont R.R.*, 89 Vt. 36 (1915). This includes \$0.50 plus postage for every notice sent out. In addition, the tax collector and the town clerk shall each be paid \$6.00 for making and recording the notice. 32 V.S.A. §§ 5075, 5078.
- 5. Discharge of Lien.** The personal property lien may be discharged upon sale or redemption of the property. The distrained property may be redeemed by a lien holder. In all cases, the delinquent tax collector must discharge the record of lien upon payment of the amounts due to the town.¹⁸ 32 V.S.A. § 5076.
- 6. Abatement of Personal Property Taxes.** Many delinquent tax collectors have experienced instances in which personal property that is subject to a tax lien has been removed from town, along with the taxpayer (who has left no forwarding address). In such situations, collection of the tax is virtually impossible. This creates a bookkeeping problem for the collector who may not like the idea of carrying the delinquent taxes on his or her books indefinitely. Unfortunately, the only way the taxes can be removed from the collector's records is if the town's board of abatement decides to abate the taxes.



¹⁸ Payments of \$3.00 each to the town clerk and delinquent tax collector for the filing of the lien and discharge shall be paid by the town if the selectboard so orders it.

CHAPTER 6 MOBILE HOMES

A. HOW MOBILE HOMES ARE TAXED

1. **When Due.** According to statute, taxes assessed against a mobile home are considered due as of the date of transfer, sale, trade or removal of the mobile home from the town. 32 V.S.A. 5079(e). This means that at the time when ownership of a mobile home changes through sale, trade or transfer or when the mobile home is removed from town, assessed taxes are due. If such assessed taxes are not paid at that time, applicable interest and penalties will accrue, beginning on the date of the sale, trade, transfer or removal. If ownership of the mobile home does not change or if the mobile home is not removed from town, the usual due date will apply. 32 V.S.A. § 5079 (b).
2. **Taxed as Real Property.** The statutes are silent as to whether mobile homes must be treated as personal property or real property for the purpose of taxation. However, a 1989 opinion of the Vermont Department of Taxes states that all mobile homes, even those not hooked up or set on a foundation, should be treated as real property unless they are registered by the department of motor vehicles to be moved. However, since mobile homes are easy to move, the Vermont Legislature has created a safeguard designed to ensure that the property taxes on mobile homes are paid up before a mobile home is sold or moved from the town. 32 V.S.A. § 5079.
3. **Mobile Homes on Rented Lots.** The treatment of a mobile home as real property is complicated for the delinquent tax collector because frequently mobile homes sit on property that is owned by another person. Therefore, any mobile home that is sold at a tax sale must be removed by the purchaser after the period of redemption is concluded, or the new owner will be liable to pay rent to the owner of the land.

An additional complication arises because the mobile home owner that is delinquent in the payment of property taxes may also be delinquent on his or her rental payments to the mobile home park owner. The park owner cannot evict or remove the mobile home without a signed mobile home bill of sale that states that the taxes are current.

B. UNIFORM BILL OF SALE

Thirty-two V.S.A. section 5079 requires all owners of mobile homes, except those held solely for sale by a manufacturer, to file a uniform bill of sale with the municipal clerk. (See 9 V.S.A. § 2602(c) for information on the uniform bill of sale.) The mobile home may not be sold, traded, or transferred without the owner filing a new mobile home bill of sale that has been endorsed by the clerk of the municipality “indicating that all property taxes assessed with regard to the mobile home, but not the mobile home site, have been paid.”¹⁹ The mobile home bill of sale must then

¹⁹ Before the clerk can endorse a mobile home bill of sale, the current taxes must be paid, even if the taxes are not actually due until a later date. Although this seems unfair to many mobile home owners, the law is clear about this requirement. See 32 V.S.A. § 5079 (b). If a tax rate has not yet been set, a common practice among towns is to estimate the taxes due based on last year’s tax bill.

be filed with the clerk of the municipality in which the mobile home is located within ten days after the sale, transfer or relocation of the mobile home into a new municipality. Failure to comply with these provisions can result in a fine of up to \$300.00.



In addition, if a mobile home is sold, transferred or removed from the town and a uniform bill of sale has not been endorsed by the clerk as required, then the delinquent tax collector, or any sheriff, constable, police officer, town treasurer or the commissioner of taxes (if the new location of the mobile home is known) may “take

it into possession,” and then deliver it to the delinquent tax collector.

A mobile home may only be taken without judicial process if it can be done without a breach of peace.²⁰ 32 V.S.A. § 5079(d). Most delinquent tax collectors are reluctant to take possession of a mobile home because they are unsure what actions might constitute a breach of the peace. In addition, most collectors are not interested in paying the expense to move the home or to store it in a safe location until a tax sale could be conducted and the redemption period has ended. Instead, once the home is located, many collectors proceed to collect the outstanding taxes by filing an action at law (usually in small claims court).

C. MOBILE HOMES THAT HAVE DISAPPEARED

It is not uncommon for a mobile home to disappear from town without having the bill of sale endorsed by the town clerk. If the delinquent tax collector does not know where the mobile home has gone, the collector must notify the Director of Property Valuation and Review of its removal and provide all information that might aid in the mobile home’s identification (a serial number is helpful). If the director discovers that the mobile home has appeared in another town, he or she will notify the delinquent tax collector so the collector can proceed with collection of the delinquent taxes. 32 V.S.A. § 5079 (f).

In many cases, however, the mobile home is never located, and the collector must attempt to have the outstanding taxes abated so that the delinquencies might eventually be removed from his or her records.

²⁰ The statutes discussing breach of the peace can be found in 13 V.S.A. Chapter 19, and include riots, assaults, drunkenness, etc.

CHAPTER 7 BANKRUPTCY

A. GENERALLY

The bankruptcy of a delinquent taxpayer poses an interesting challenge for delinquent tax collectors, primarily because the rules and procedures of the bankruptcy process are confusing, and also because there is a great deal of variation as to what can be expected at the outcome of the proceedings. Following is a very brief discussion of the effect of bankruptcy on collection of taxes. **The best overall advice we can provide is to consult an attorney knowledgeable about bankruptcy when questions arise, because not only are there are several types of bankruptcy, but bankruptcy law is very complex, each situation is different and the outcome frequently turns on the unique facts of a particular case.**

B. AUTOMATIC STAY

When an individual or corporation files a petition for bankruptcy in the bankruptcy court, the law will impose an automatic stay to prevent any further collection of any debts which the petitioner had accrued prior to filing. This means that once a delinquent taxpayer has filed for bankruptcy, the delinquent tax collector must stop all of his or her collection actions against the taxpayer. A creditor who violates the automatic stay by continuing to try to collect a debt, despite the filing of the bankruptcy petition, can be subject to penalties including damages, costs, attorney's fees and punitive damages.

Because of the automatic stay, once the municipality receives notice of the bankruptcy (regardless of the source of the notice), the delinquent tax collector must not contact the taxpayer about the taxes owed before the petition was filed. (A bill for current taxes may still be sent out.) If it is necessary to communicate with the taxpayer, the municipality should contact his or her attorney. However, if a taxpayer who is going through bankruptcy offers to voluntarily pay his delinquencies, the tax collector may accept such payment without risking penalties for violating the stay. In such a case, it is very important that the offer from the taxpayer did not result from any pressure brought to bear by the tax collector or any other town official.

C. PROOF OF CLAIM

A municipality will receive a formal "Notice of Bankruptcy" when the taxpayer files a petition for bankruptcy that includes the name of the municipality as a creditor (someone the taxpayer owes money to). The bankruptcy court will send a "Proof of Claim" form to the town clerk of the municipality that sometimes serves as the first notice that a bankruptcy petition has been filed.²¹ It is important for the delinquent tax collector to ask the clerk to notify him or her in the event that a "Proof of Claim" or "Notice of Bankruptcy" is received by the clerk. This will prevent the delinquent tax collector from inadvertently violating the stay because he or she was never notified that the town received the notice of bankruptcy.

²¹ The formal notice that a bankruptcy petition has been filed is the "Notice of Bankruptcy" that the court will send to every creditor listed by the petitioner as a creditor.

The proof of claim form requires the municipality to file a sworn statement with the bankruptcy court, indicating the amount, source and type of debt owed by the taxpayer/debtor to the town. Failure to file such a claim can affect the town's ability to recover the delinquent taxes from the taxpayer's bankruptcy estate.

To ensure that it will receive notice of a chapter 7 or 13 bankruptcy, municipalities may wish to annually file a notice of address with the bankruptcy court. 11 U.S.C. § 432(f)(1).

D. TYPES OF MUNICIPAL CLAIMS

The bankruptcy code sets forth the order in which creditors' claims are to be paid by establishing classes of claims and creditors. Those creditors with a class of claim that has a higher priority than others get paid first, and lesser claims get paid only if there is money remaining in the bankruptcy estate after the higher priority claims have been paid. Thus, in order to establish whether and to what extent the municipal claim will be paid, it is important to determine the type of claim the municipality has.

There are two types of municipal tax claims in bankruptcy. First, current taxes are treated as administrative expenses of the bankruptcy estates, and paid in the ordinary course of a bankruptcy proceeding. 11 U.S.C. § 503(b)(1)(B)(i). A municipality is not required to request payment of current taxes in order for them to be paid as an administrative expense. 11 U.S.C. § 503(b)(1)(D). Pre-petition delinquent taxes, in contrast, are considered to be either secured or priority claims, which are paid only after the administrative expenses and federal taxes have been paid.

Vermont law creates an automatic statutory lien on real property when the grand list is lodged on April 1st of each year. 32 V.S.A. § 5061. This lien is also, by statute, senior to all other liens and mortgages on the property.²² In recent case law, the bankruptcy court determined that delinquent property taxes were secured claims even though the petition was filed before the grand list was lodged, but after the tax status day of April 1st. In *In re Summit Ventures*, 135 B.R. 483 (Bankr. D. Vt. 1991), the court reasoned that the town had a secured interest in the property taxes as of the tax status date, such that the filing of the grand list, which perfected the lien, would relate back to the April 1st date. In this case the court allowed the town to recover the delinquent taxes and interest, but no penalties. **Because the bankruptcy court is sometimes confused as to the proper treatment of liens for delinquent real property taxes, to maximize the municipality's likelihood of recovery, the delinquent tax collector should record real property tax liens whenever the delinquent tax collector believes that a taxpayer may be filing for bankruptcy, or whenever the amount owed is sufficiently great that the added protection of the recorded lien would be advisable.**²³

²² This is in contrast to personal property liens, which do not exist automatically but only come into being upon the filing of a lien with the town clerk.

²³ The notice of tax lien should include the taxpayer's name, a legal description of the property, the time period for which the taxes are due and the amount of delinquent taxes including penalties and interest, the statutory authority for the lien and the signature of the delinquent tax collector. The notice of lien must be filed in the land records, and a copy should be sent to the delinquent taxpayer by certified mail. The lien can be discharged after the taxes are paid by filing a discharge that refers to the lien by volume and page number of where it appears in the land records.

Note that delinquent personal property taxes will not be a secured lien unless the lien has been recorded in the town clerk's office before the bankruptcy petition has been filed. *In re New England Carpet*, 26 B.R. 934 Bankr. D. Vt. 1983).

E. OUTCOME OF PROCEEDINGS

If the tax lien is considered by the bankruptcy court to be a secured lien, it is probable that, after a very long wait for the proceedings to be completed, the town will be paid at least the overdue taxes, and the penalty and interest owed.

In some cases the bankruptcy court has determined that the tax lien is unsecured because no record of the lien was filed in the land records. In such cases, this lien is only paid after all secured creditors are paid, which might mean that the town receives little or none of the taxes owed. Because the final act of the bankruptcy court is to discharge all remaining debts, the taxpayer will no longer owe the town any of the taxes, interest or penalties that were included in the bankruptcy petition. However, none of the taxes which accrue *after* the filing of the petition will be discharged as part of the bankruptcy proceeding. Therefore, if they are not paid as current expenses, once the bankruptcy proceedings are complete, ordinary collection methods may be used to collect those post-petition taxes, interest and the penalty. **Note that when a bankruptcy petition is filed after a tax sale, but before the redemption period has expired, the redemption period is tolled until the case is concluded. This means that if the redemption period has run for three months at the time that the bankruptcy petition is filed, it will stop running at that time and will start to run again (the other nine months) only after the bankruptcy proceeding is completed.** *In Re L.H. & A. Realty Co., Inc.*, 57 BR 265 (Bkrcty, D.Vt. 1986).

CHAPTER 8 CONCLUSION

The responsibility of collecting the town's delinquent taxes is not easy, and each collector has his or her own style of doing so. Some pride themselves on their firmness, others on their willingness to accommodate the taxpayer. However, no matter what personal style the collector has, and no matter what type of collection policy the delinquent tax collector adopts, collectors have had the most success when they abide by the following basic principles:

- Remember that the delinquent tax collector is a public official, and as such, has a duty to serve the people. This means that the collector should make sure that each delinquent taxpayer understands what the delinquent tax collector will do to collect the tax, and what options are available to him or her.
- The delinquent tax collector should adopt a uniform policy to insure that all taxpayers are treated fairly. A copy of this policy should be given to each delinquent taxpayer.
- Delinquent tax collectors have the most success when they approach each delinquent taxpayer with respect, and attempt to find a mutually satisfactory settlement of the delinquency before using more formal collection methods.
- The initial notice of delinquency and any subsequent notices should emphasize the conciliatory nature of the process, and the collector's willingness to discuss payment plans.

Note, however, that the delinquent tax collector holds the ultimate authority to determine whether and how to accommodate a taxpayer. Therefore, when more congenial methods of collection fail, the delinquent tax collector should not feel timid about using the statutory collection methods including selling the property at tax sale or bringing an action at law.

- Finally, the delinquent tax collector should become familiar with the various programs designed to benefit taxpayers who are having difficulty paying their property taxes. In addition, the collector should remember to inform delinquent taxpayers of their ability to request abatement of taxes (24 V.S.A. § 1535) and of the exceptions for those on active military duty regarding tax sales and redemption. (50 USCA §§ 501 et seq.)

The problems facing Vermont's delinquent tax collectors are ever changing. When questions arise that are not covered in this handbook, remember that VLCT is here to help! Call us at 800/649-7915.

Appendix A

SCHEDULE FOR COLLECTOR OF DELINQUENT TAXES

After town meeting and before the tax due date:

1. Meet with the selectboard to discuss bonding, payment arrangements, expenses and delinquent tax collection policy.
2. Be sure that you have a supply of receipts (which must be in triplicate) and information sheets that explain your policies, procedures and how you may be contacted. Consider asking your treasurer to include your collection policy with the town's current tax bills.

Once the warrant is received:

1. Endorse and date the receipt of the warrant and the tax bill.
2. Make up bills and send them out with information sheets, including the fact that the taxpayer is entitled to request tax abatement. Mail these first class or certified mail with *Forwarding and Address Correction* marked on the envelope.

In the ten-day period following the first notice:

1. Be sure that the list of delinquent taxpayers is available at the town clerk's office so that it will be consulted during a title search.
2. Set up a file for each taxpayer:
 - a. Verify the address.
 - b. Ascertain the phone number.
 - c. Find out if there are mortgage or lien holders by doing a title search in the town clerk's office.
 - d. Determine if there are any other owners who might be contacted.
 - e. Set up records for calculating interest and recording payments.
 - f. If the amount of taxes due is great, or if you believe that the taxpayer may file for bankruptcy, record a lien in the land records.

After the ten-day notice expires:

1. Contact the owner again. Try to get a commitment for full payment. Be sure that the owner understands how the interest is accumulating, what payment arrangements you would accept, that he or she has a right to request tax abatement, and what actions you will take.
2. If no arrangements are accepted, contact the mortgage holders. They will often pay the bill.
3. If the overdue tax is on personal property, ask the selectboard for authorization to place a lien on the property so that it cannot be sold.

Appendix A
SCHEDULE FOR COLLECTOR OF DELINQUENT TAXES

4. Maintain contact with each delinquent taxpayer, by phone or by letter, each month. Document the date, manner of contact (phone, letter, fax, etc.), and the substance of the contact. **Keep copies!**
5. Submit any payments you have received to the treasurer every two months, or according to the arrangements you have made.
6. Keep all files current and date all communications and transactions.

Appendix B

SAMPLE POLICY FOR COLLECTION OF DELINQUENT TAXES

The purpose of this policy is to establish clear guidelines so that all delinquent taxpayers will be treated fairly and will know what to expect.

- A. As soon as the warrant has been received, and each month afterwards, the tax collector will send a notice to each delinquent taxpayer indicating the amount of taxes, penalty and interest owed.
- B. Only payment arrangements that will pay the bill in full before the due date of next year's bill will be accepted.
- C. If the tax on personal property is not paid in full within 10 days of the notice, the tax collector will seek the authorization of the selectboard to place a lien on the property.
- D. Mortgage holders and lien holders will be notified of the delinquent taxes 30 days after the first notice has been sent to the taxpayer and again prior to tax sale.
- E. Partial payments will be applied first to the interest portion of the amount due, and the remainder will be divided proportionally between the principal amount of the tax and the 8% fee.
- F. If the amount due is less than \$500 and no satisfactory payment arrangements have been made in one month, or if the prior payment agreement has not been met, the tax collector will file a complaint with small claims court.
- G. If the amount due is \$500 or more and no satisfactory payment arrangements have been made in one month, or if the prior agreement has not been met, the tax collector will begin the following actions to conduct a tax sale of the property or as much of the property as is necessary to pay the tax, plus costs and fees:
 - 1. The collector will notify the taxpayer and all mortgage and lien holders of the tax sale decision, the date by which full payment must be received, and the costs to expect once the sale process begins.
 - 2. If the deadline date has passed and full payment has not been received, the collector will proceed with a tax sale according to the procedures specified in 32 V.S.A. § 5252.
 - 3. Costs of preparing and conducting the sale, including legal fees up to a maximum of 15% of the amount of the delinquent tax, will be charged to the delinquent taxpayer.
- H. Each taxpayer has a right to apply for abatement of property taxes based on any of the grounds listed in 24 V.S.A. § 1535.
- I. If no one purchases the property at tax sale, or if, in the judgment of the tax collector, proceeding with the tax sale is inadvisable, the tax collector shall collect the delinquent taxes using any or all of the methods permitted by law.

Collector of Delinquent Taxes

Town of _____

Appendix C
ANNUAL REPORT OF COLLECTOR OF DELINQUENT TAXES

STATEMENT OF DELINQUENT TAXES

December 31, _____

Real Estate and Personal Property

<u>YEAR</u>	<u>RECEIVED FOR COLLECTION</u>	<u>COLLECTIONS</u>	<u>ABATEMENTS</u>	<u>12/31/____ BALANCE</u>
1997	61.95			61.95
1998	51.35			51.35
1999	56.75			56.75
2000				
2001	222.40	184.80		37.60
2002	545.51			545.51
2003	2,843.66	2,087.22		756.44
2004	5,440.88	2,259.00	313.75	2,868.13
2005	17,462.97	11,041.54	436.00	5,985.43
2006	77,975.22	55,951.38		22,023.84
2007	<u>134,064.64</u>	<u>40,090.99</u>		<u>94,364.15</u>
	\$238,725.33	\$111,224.43	\$749.75	\$126,751.15
Total Collections.....			\$111,224.43	
Interest.....			<u>8,160.68</u>	
Remitted to Treasurer			\$119,385.11	

Appendix D

SAMPLE PARTIAL PAYMENT RUNNING BALANCE

Klondike, Webster
240 Rambling Court West
Flotsam, VT 05880

Tax Account # 358571 (1997) Real Estate Tax
 Property: Flotsam Center, Lot and House

Initial Tax	969.60	became delinquent November 21, 2007
Initial Penalty	77.57	calculated as 8% of the Initial Tax
Tax Balance	0.00	
Penalty Balance	0.00	Tax Paid 969.60
Interest Balance	0.00	Penalty Paid 77.57
Collection Costs	0.00	Interest Paid 100.87
Payments Made	1148.04	
Current Balance	0.00	

<u>Date</u>	<u>Description</u>	<u>By</u>	<u>Costs</u>	<u>Balance</u>	<u>Interest</u>	<u>Balance</u>	<u>Tax</u>	<u>Balance</u>	<u>Fee</u>	<u>Balance</u>	<u>Amount</u>	<u>Balance</u>
4/23/06	New Account Added*	BTA		0.00	38.80	38.80	969.60	969.60	77.57	77.57	1085.97	1085.97
4/26/06	Interest for March			0.00	9.70	48.50		969.60		77.57	9.70	1095.67
4/26/06	Interest for April			0.00	9.70	58.20		969.60		77.57	9.70	1105.37
5/21/06	Interest for May			0.00	9.70	67.90		969.60		77.57	9.70	1115.07
6/21/06	Interest for June			0.00	9.70	77.60		969.60		77.57	9.70	1124.77
7/09/06	Payment	LPG		0.00	-77.60	0.00	-391.11	578.49	-31.29	46.28	-500.00	624.77
7/20/06	Interest for July			0.00	5.78	5.78		578.49		46.28	5.78	630.55
8/20/06	Interest for August			0.00	5.78	11.56		578.49		46.28	5.78	636.33
8/22/06	Interest for September			0.00	5.78	17.34		578.49		46.28	5.78	642.11
10/21/06	Interest for October			0.00	5.78	23.12		578.49		46.28	5.78	647.89
11/19/06	Payment	LPG		0.00	-23.12	0.00	-573.14	5.35	-45.85	0.43	-642.11	5.78
12/01/06	Interest for November			0.00	0.05	0.05		5.35		0.43	0.05	5.83
12/28/06	Interest for December			0.00	0.05	0.10		5.35		0.43	0.05	5.88
1/20/07	Interest for January			0.00	0.05	0.15		5.35		0.43	0.05	5.93
1/21/07	Payment	BTA		0.00	-0.15	0.00	-5.35	0.00	-0.43	0.00	-5.93	0.00

* on 4/23/06

Appendix E

SAMPLE RECORD OF ACCOUNTS

Lamberski, Noah
82 Varmint Highway North
Kettering, VT 05882

Tax Account # 585713 (1997) Real Estate Tax
 Property: MPTP #32, 41 Maple Product Hill

Initial Tax	352.92	became delinquent November 20, 1997
Initial Penalty	28.23	calculated as 8% of the Initial Tax
Tax Balance	352.92	
Penalty Balance	28.23	Tax Paid 0.00
Interest Balance	98.84	Penalty Paid 0.00
Collection Costs	0.00	Interest Paid 0.00
Payments Made	0.00	
Current Balance	479.99	

<u>Date</u>	<u>Description</u>	<u>By</u>	<u>Costs</u>	<u>Interest</u>	<u>Tax</u>	<u>Fee</u>	<u>Amount</u>	<u>Balance</u>
4/23/06	New Account Added 4/23/06	BTA		56.48	352.92	28.23	437.63	437.63
4/26/06	Interest for March			3.53			3.53	441.16
4/26/06	Interest for April			3.53			3.53	444.69
5/21/06	Interest for May			3.53			3.53	448.22
6/21/06	Interest for June			3.53			3.53	451.75
7/20/06	Interest for July			3.53			3.53	455.28
8/20/06	Interest for August			3.53			3.53	458.81
8/22/06	Interest for September			3.53			3.53	462.34
10/21/06	Interest for October			3.53			3.53	465.87
12/01/06	Interest for November			3.53			3.53	469.40
12/28/06	Interest for December			3.53			3.53	472.93
1/20/07	Interest for January			3.53			3.53	476.46
2/22/07	Interest for February			3.53			3.53	479.99

Appendix F
SAMPLE TAXPAYER ACCOUNT SUMMARY

Messerschmidt, Hannah
89 Waikiki Boulevard
Flotsam, VT 05880

Year and Tax Type Account or Lot No.	2004 RE 210175	2005 RE 210175	2006 RE 210175	2007 RE 210175	TOTALS
Initial Tax	236.58	530.37	575.19	794.88	2137.02
Initial Penalty	18.93	42.43	46.02	63.59	170.97
Interest	109.02	121.66	86.25	23.85	340.78
TOTAL	364.53	694.46	707.46	882.32	2648.77
Payment: Tax	-236.58	-35.94	0.00	0.00	-272.52
Payment: Penalty	-18.93	-2.87	0.00	0.00	-21.80
Payment: Interest	-109.02	121.66	0.00	0.00	-230.68
Adjustments	0.00	0.00	0.00	0.00	0.00
Abatements	0.00	0.00	0.00	0.00	0.00
TOTAL	-364.53	-160.47	0.00	0.00	-525.00
Balance: Tax	0.00	494.43	575.19	794.88	1864.50
Balance: Penalty	0.00	39.56	46.02	63.59	149.17
Balance: Interest	0.00	0.00	86.25	23.85	110.10
TOTAL	0.00	533.99	707.46	882.32	2123.77

Appendix G
SAMPLE FIRST LETTER TO DELINQUENT TAXPAYER

Initial Notice of Delinquent Taxes

Office of the Collector of Delinquent Taxes
Town of _____

____ [Date] _____

____ [Delinquent Taxpayer] _____

____ [street address] _____

____ [city, state, zip] _____

Dear _____:

I have been directed by the Town to collect the taxes which were due at the Town Office on ____ [date] _____. The taxes on your property, described as _____, have become delinquent and the amount due now includes an 8% fee as authorized by the Vermont Statutes, and interest which the Town charges at the rate of ____% per month or any part of a month.

Your bill is presently calculated as follows:

Unpaid balance, property tax	_____
Collection fee of 8%	_____
Interest for _____ months	_____
TOTAL DUE	_____

Please pay \$_____ before _____.

I will receive payment by check or money order, payable to the Town, mailed or delivered to the address above. If you would like to meet with me to make a payment, to go over your bill, or to make payment arrangements, please come to the office on _____, or call me at _____ to make an appointment.

I have enclosed a copy of the Town policy on collection of delinquent taxes. Please note that interest will continue to accumulate, and additional collection costs and fees may be added to your bill. If you have any questions, please call me.

You may be able to receive an abatement of your delinquent taxes under 24 V.S.A. § 1535. If you would like to schedule a meeting with the Town of _____ Board of Abatement, please send a request to the Town Clerk at: _____.

Sincerely,

____ [Signature] _____
[Collector of Delinquent Taxes]

Appendix H
SAMPLE DELINQUENT TAX AGREEMENT

TOWN OF _____
DELINQUENT TAX AGREEMENT

[Date]

[Property Owner]

[street address]

[city, state, zip]

Property Location _____

Parcel Number _____

Delinquent Tax Amount	_____	_____	_____
	Principal	Interest	Penalty

The undersigned agrees to pay the delinquent taxes and accrued interest and penalties in accordance with the following schedule:

[Insert terms of agreement, including starting date, date of payments, amount of payments, and so forth.]

It is understood that payments are first applied to interest, then pro-rated between principal and penalties. Interest charges continue to accrue until all taxes are paid in full. Additional payments are acceptable at any time. It is further understood that failure of the taxpayer to abide by the terms of this agreement in any way may result in the property being sold at tax sale or may result in the Town initiating any other remedies allowed by law. This agreement is void if any new taxes become delinquent during the repayment period.

Taxpayer Signature

Date

Town of _____

Date

Appendix I
SAMPLE RECEIPT FOR PARTIAL PAYMENT

Receipt # []

[Town/City] , Vermont

[Date]

I have received the sum of [four hundred thirty-five and 38/100 dollars] in partial payment of delinquent taxes assessed against tax account number _____ of [name of taxpayer(s)] as follows:

2007 Real Estate Tax	\$392.17
8% Penalty	31.42
Interest	11.79
Collector's Cost	0.00
TOTAL	\$435.38

[Signature]

[Name]

Collector of Delinquent Taxes

Town of _____

Appendix J
SAMPLE NOTICE OF LIEN

NOTICE OF LIEN ON REAL PROPERTY

NOTICE IS HEREBY GIVEN, pursuant to 32 V.S.A. § 5061 [and charter, etc.], that the [Town/City of] _____ asserts its lien against the real estate of [taxpayer: John Doe and Jane Doe] located at ___[street address]___ in said [Town/City of] _____, County of _____, State of Vermont, and being more particularly described as all and the same lands and premises conveyed to the said [John Doe and Jane Doe] by ___[warranty, quitclaim, etc.]___ Deed of [Mark Jones and Mary Jones], dated _____, and recorded in Volume ___ at Page ___ of the Land Records of the [Town/City of] _____, Vermont.

This lien is hereby asserted for delinquent property taxes in the amount of \$_____, plus interest, penalties, costs and collection fees for the tax year [20].

Dated at [Town/City of] _____, Vermont this ___ day of _____, 20___.

_____[Signature]_____
Collector of Delinquent Taxes
Town/City of _____

Appendix K
SAMPLE NOTICE OF PERSONAL PROPERTY TAX LIEN

COLLECTOR OF DELINQUENT TAXES
TOWN OF _____

NOTICE OF PERSONAL PROPERTY TAX LIEN

TO: [insert name and address of each person required to be notified, i.e. the taxpayer and any other person having a duly recorded lien on the property].

[You are/Each of you is] hereby notified that the Town/City of _____ in the County of _____, State of Vermont asserts and claims a tax lien upon certain personal property owned by or in the possession of ___[taxpayer(s)]___ of said ___[Town or City]___ at _____ described as follows:

Said lien to secure the payment of the taxes levied or to be levied upon the grand list of said property by the Town (or City) for the year(s) _____.

Dated at _____, Vermont, this ____ day of [month, year].

Approved

Members of the Selectboard

Collector of Delinquent Taxes

Appendix L
SAMPLE LEVY OF TAX WARRANT

TOWN OF _____
LEVY OF TAX COLLECTOR'S WARRANT

STATE OF VERMONT
_____ COUNTY

By virtue of the original tax warrants lawfully committed to me for the years 20__ and 20__ by the selectboard of the Town of _____, and the delinquent tax bills annexed thereto, I hereby extend and levy my said warrants upon the following property of _____ [name] _____, situated in the Town of _____, and described in the town's land records, Book _____, Page _____.

Dated at _____ in the County of _____ and the State of Vermont this ___th day of _____, 20__.

_____ [Name] _____
Collector of Delinquent Taxes
Town of _____

Received for record at the Town of _____ Clerk's office on _____, 20__.
Recorded in Book _____, Page _____ of the Land Records.

Attest, _____, Town Clerk

Appendix M
SAMPLE REQUEST TO TOWN CLERK TO RECORD DOCUMENTS

____ [Date] ____

Town Clerk, Town of _____

Re: [Name of taxpayer]

____ [Location/description of property] ____

Please record the following enclosed documents:

1. A true and attested copy of my warrant from the Town Treasurer for tax years _____ and _____.
2. The tax bills [and water and sewer charges if applicable] committed to me for collection against [taxpayer(s)] , in connection with the property designated above.
3. My Statement of Levy with a description of the lands to be levied upon attached thereto.

After recording those instruments please return the original documents to me. Thank you.

Sincerely,

Collector of Delinquent Taxes

Town of _____

enclosures

Appendix N
SAMPLE LETTER REQUESTING PAYMENT OF SERVICES

____ [Date] ____

Selectboard

Town of _____

____ [street address] ____

____ [city, state, zip] ____

Please approve the payment of \$_____ to _____, Collector of
Delinquent Taxes, for services rendered from ____ [date] ____ to ____ [date] ____.

Thank you.

Sincerely,

Collector of Delinquent Taxes

Appendix O
SAMPLE LETTER TO LANDOWNER WARNING OF TAX SALE

OFFICE OF COLLECTOR OF DELINQUENT TAXES
TOWN OF _____

_____[Date]____

Dear _____[Taxpayer]_____:

In compliance with the Delinquent Tax Collection Policy, I plan to sell the properties for which the [tax year] taxes have not yet been paid.

Enclosed is a description of your property which will be sold, in whole or in part, and a statement itemizing your delinquent tax obligation, including the delinquent taxes, interest, penalties, costs and collection fees that you owe to the Town.

If you have not either paid your bill in full or made satisfactory payment arrangements by [date], I will proceed with the sale. First, the notice will be posted in [places in town] and published once a week, for three successive weeks, in the [newspaper of local distribution] as required by the Statutes. You will be charged for the cost of the publication, and for other expenses of the sale preparation. Note that interest will continue to accumulate at the rate of ___% per month.

If you make arrangements to pay in installments, then your payment will first go to the interest and costs portion of the amount due, and the remainder will be divided proportionately between the principal amount of the tax and the 8% commission.

I will accept checks or money orders, payable to the Town, mailed or delivered to me personally at this address [or other place the collector designates]. If you would like to meet with me to make a payment, to ask questions about your bill, or to make payment arrangements, I will be available at this address on [days], or by telephone at _____.

[If there are mortgages or other liens, mention that a notice has also been sent to the mortgage/lien holders.]

You may be able to receive an abatement of your delinquent taxes under 24 V.S.A. § 1535. If you would like to schedule a meeting with the Town of _____ Board of Abatement, please send a request to the Town Clerk at: _____.

Sincerely,

Collector of Delinquent Taxes

Enclosures: itemized bill and description of property

Appendix P
SAMPLE NOTICE OF TAX SALE TO MORTGAGE/LIEN HOLDER

OFFICE OF COLLECTOR OF DELINQUENT TAXES
TOWN OF _____

[Date]

[Mortgage/lien holder]

[street address]

[city, state, zip]

Re: _____
[Taxpayer name]

Delinquent property taxes on property located/described at: _____
[description, tax lot number, etc.]

Dear Mortgage/Lien Holder:

The property identified on the enclosed Notice of Tax Sale will be sold for taxes due the Town/City of _____ at _____ [place of sale] on _____ [date] at _____ [time (a.m./p.m.)] unless the taxes are paid in advance of said sale date. The land records of the Town/City of _____ indicate that this property is subject to a _____ [mortgage, lien, foreclosure, etc.] held by _____ [holder of mortgage/lien] dated _____, and of record in Volume _____, page _____ of the Town/City of _____ Land Records.

The total amount of taxes, interest, penalties, costs and attorneys fees to date necessary to prevent this tax sale is \$_____. Additional interest will continue to accrue at a rate of _____% per month or part of a month and will be added on _____ [day of month on which interest is added] of each month thereafter. There will also be additional charges for publication of the Notice of Tax Sale as of _____ [date]. If the above amount, plus any additional interest, is paid before _____ [time] a.m./p.m. on _____ [date] (*last day you can stop publication*), we will be able to stop publication and there will be no additional charge for publication.

Sincerely,

Collector of Delinquent Taxes

Appendix Q
SAMPLE NOTICE OF TAX SALE TO PROPERTY OWNER

OFFICE OF COLLECTOR OF DELINQUENT TAXES
TOWN OF _____

[Date]

[Delinquent taxpayer]

[street address]

[city, state, zip]

Re: Tax sale of your property located at: _____.

Dear _____:

We have scheduled a tax sale of the above-mentioned property which you own in the Town/City of _____ for [day, month, year] . You can prevent this tax sale by paying the delinquent taxes, penalties, accrued interest, legal fees and costs before that date. The amounts currently due are as follows:

Principal: _____

Interest: _____

Penalty: _____

Costs: _____

Legal Fees: _____

TOTAL: _____

The above interest amount is for interest through [date] . Additional interest will continue to accrue at a rate of _____% per month or any part of a month.

In addition, we will publish the enclosed Notice of Tax Sale as provided by law. The costs of publication plus any accrued interest will be added to the total listed above.

Sincerely,

Collector of Delinquent Taxes

Town of _____

Appendix R
SAMPLE NOTICE OF TAX SALE, POSTED OR ADVERTISED

NOTICE OF TAX SALE

TOWN OF _____

The resident and nonresident owners, lien holders and mortgagees of lands in the Town of _____ in the County of _____ are hereby notified that the taxes assessed by such town for the years _____ through _____ remain, either in whole or in part, unpaid on the following described lands in such town, to wit:

[Insert description of each of the properties]

1. Land and premises described in the _____ deed from [name] to [name], date _____ and recorded in Book _____ Page _____ of the Land Records of the Town of _____.
2. Land and premises described in the _____ deed from (etc.) ...

So much of such lands will be sold at public auction at _____, a public place in such town, on the _____ day of [month], 20____ at ____ o'clock [a.m./p.m.], as shall be requisite to discharge such taxes with costs and fees, unless previously paid.

Dated at _____, Vermont, this _____ day of [year].

Collector of Delinquent Taxes

Town of _____

Appendix S
SAMPLE NOTICE OF TAX SALE, PUBLISHED

COLLECTOR OF DELINQUENT TAXES
TOWN OF _____

[Date]

[Newspaper]

[street address]

[city, state, zip]

Re: Legal Notices

To Whom It May Concern:

Enclosed is a Notice of Tax Sale. Please publish this in [name of newspaper] on _____, _____ and _____ [same day of the week for three consecutive weeks]. Send the bill for these publications to this office, referencing on the bill the Town/City of _____. If you have any questions, please call me.

Very truly yours,

Collector of Delinquent Taxes

Town of _____

Appendix T
SAMPLE DESCRIPTION OF PROPERTIES TO BE SOLD

I, [name] , Collector of Delinquent Taxes for the Town/City of _____, Vermont, pursuant to my duties, hereby state that I have filed a true and attested copy of my Warrant in the _____ Town/City Clerk's office together with a list of all delinquent taxes relating to the properties hereinafter described.

I further state that by virtue of the tax warrant and bills committed to me, I have extended these warrants and do hereby levy upon the properties described hereinafter and so much of it as will satisfy said delinquent taxes will be sold by public auction on [date of tax sale] at _____ o'clock in the [a.m./p.m.] at the Town/City Hall, in the Town/City of _____, Vermont.

Description of properties to be sold:

Property no. 1:

Property no. 2:

et seq.

Dated at _____, Vermont, this _____ day of [month, year].

Collector of Delinquent Taxes

_____, Vermont

Appendix U
SAMPLE REPORT OF SALE

COLLECTOR OF DELINQUENT TAXES REPORT
TOWN/CITY OF _____, VERMONT

By virtue of a warrant lawfully committed to me for the year _____, by the Treasurer of the Town/City of _____, and the delinquent taxes stated therein, I gave notice as required by law to the taxpayers of the Town/City of _____ of the place where and the time when I would receive such taxes. Said taxpayer failed and neglected to pay his (her) said taxes upon such demand. Consequently, on ___[date]___, I did extend and levy my warrant in the manner provided by law upon the following described lands of the following named delinquent taxpayer situated within the Town/City, for the following described taxes due thereon, to wit:

Taxpayer: _____

Amount of Tax Due: \$_____, being delinquent taxes for [year] and [year], plus penalties, interest through [date of tax sale], costs and attorney's fees.

Description of Property:

And on [date notice was sent to newspaper], I did cause notice of the time and place of sale of the above-described lands to be published three weeks successively in the [name of newspaper], [weekly or daily] newspaper circulating in the Town/City of _____ and vicinity for the issues of _____, _____, and _____ [dates of publication], which said notice of sale therein provided that the same would be held at _____, a public place in the Town/City of _____ on [date of tax sale] at [time] unless said lands were previously redeemed by payment of the said tax, and on [date] I gave the delinquent taxpayer, [name], notice by registered mail of the time and place of such sale, and on [date] posted at the _____ Town/City Hall, a public place in said Town/City, notice of the time and place of such sale.

[Insert facts as to mortgagee, if any.]

And said taxpayer having failed and neglected to pay said taxes and costs at [place of sale] on the [date of tax sale] at [time], the time and place set by me for said sale, pursuant to the notice thereof, I did sell so much of said lands as was necessary to satisfy the tax and costs thereon to [name and address of purchaser of property at tax sale], for the sum of [amount paid for property], he (she) being the highest bidder therefore, the land and premises thus sold being the same as those described above.

From the proceeds of said sale, I did pay the costs and legal expenses of said sale amounting in the whole to the sum of \$_____, and on the ___ day of [month, year], turned over to the Treasurer of the Town/City of _____ the sum of \$_____, in full satisfaction of the delinquent taxes, penalties and interest due said Town/City on said premises thus sold.

Appendix U
SAMPLE REPORT OF SALE

And now at _____, in said County, this ____ day of [month, year], I make return of my doings hereunder by filing the same as herein set forth with the Town/City Clerk of the Town/City of _____ for record as provided by law.

Attest,

Collector of Delinquent Taxes

_____, Vermont

Appendix V
SAMPLE FAILURE TO REDEEM

TOWN OF _____

DATE: _____
TO: [Town Clerk]
FROM: [Collector of Delinquent Taxes]
RE: Properties Not Redeemed

Following is a list of the properties that have not been redeemed as of the end of the redemption period following tax sale for delinquent taxes:

Map-Parcel No. _____

Book No. _____

Page No. _____

Tax sale held _____ [date] _____

End of redemption period _____ [date] _____

Prior owner: _____

Purchaser at sale: _____ [name] _____

 _____ [street address] _____

 _____ [city, state, zip] _____

Thank you.

Appendix W
SAMPLE NOTICE OF REDEMPTION

TOWN OF _____

NOTICE OF REDEMPTION

_____[Name]____ of _____[mailing address]_____ has hereby redeemed the property described below by tendering to the Collector of Delinquent Taxes \$_____, the sum for which it was sold, with interest thereon calculated at a rate of one percent per month or fraction thereof from the date of sale to the date of payment. The property is more particularly described in the Report of Sale dated _____, recorded at Book _____, Page _____ of the _____ Land Records.

_____[date]_____

Collector of Delinquent Taxes

Appendix X
SAMPLE DEED OF COLLECTOR OF DELINQUENT TAXES

TOWN OF _____

KNOW ALL PERSONS BY THESE PRESENTS that I, _____ [name] _____, duly elected [or appointed] Collector of Delinquent Taxes for the Town/City of _____, in the County of _____, in the State of Vermont, in consideration of the sum of \$_____ paid to me by _____ [purchaser] _____ at a tax sale, duly warned and held on _____ [day, month, year] _____, do remise, release and forever quitclaim unto the said _____ [purchaser] _____, all of the right, title and interest of the Town/City in and to the following property:

[Description of the property, with reference to the land records, where appropriate.]

The interest of the delinquent taxpayer(s), _____ [name(s)] _____ was sold on _____ [date] _____ at _____ o'clock [a.m./p.m.], and by virtue of the non-redemption of the property within the one-year statutory period, all right, title and interest of _____ [taxpayers] _____, and all those claiming under them, is hereby conveyed in accordance with 32 Vermont Statutes Annotated Chapter 133.

IN WITNESS WHEREOF, I hereunto set my hand and seal this _____ day of _____ [month, year] _____.

In the presence of:

Witness

Collector of Delinquent Taxes
Town of _____, Vermont

Witness

STATE OF VERMONT
COUNTY OF _____, SS

At _____ this [day] of _____ [month, year] _____, personally appeared _____ and acknowledged this instrument by him/her, sealed and subscribed, to be his/her free act and deed, before me.

Notary Public

My commission expires _____

Appendix Y
SAMPLE FORM LETTER FOR TAX SURPLUS

(must be sent by certified mail)

____ [Date] _____

____ [Delinquent Taxpayer] _____

____ [street address] _____

____ [city, state, zip] _____

Re: [year] [Town] Tax Sale

Dear _____,

At the Town of _____ Tax Sale, held on ____ [date] ____, your property identified as Parcel # ____ on the Town tax map, and further identified as

[Insert description of the property.]

was sold to the highest bidder on account of delinquent property taxes. Your property was sold for \$ _____. The amount of delinquent taxes, interest, fees and costs was \$ _____. The \$ _____ surplus has been deposited by the Town of _____ in an interest-bearing escrow account for your benefit.

By statute 32 V.S.A. § 5260, you have the right to redeem your property within one year from the day of sale by paying to the Town the sum for which your property was sold, plus one percent monthly interest thereon. If you redeem within the one-year period, the surplus being held in the escrow account – including any accrued interest, but less any costs incurred by the Town since the sale in connection with the property – will be applied to the redemption price. If you do not redeem the property within the one-year period, the surplus being held in the escrow account – including accrued interest, less any costs incurred by the Town after sale in connection with the property – shall be paid over to you after the last day for redemption has passed.

If you have any questions, you may call me or the Town Treasurer/Manager.

Sincerely,

Collector of Delinquent Taxes

_____, Vermont

Appendix Z
SAMPLE NOTICE OF DISTRAINT

TOWN OF _____
NOTICE OF DISTRAINT

The resident and non-resident owners, lien holders and mortgagees of real estate and business personal property in the Town of _____ in the County of _____ are hereby notified that the taxes on business personal property assessed by the said Town for the years 20__ and 20__ remain, either in whole or in part, unpaid upon the following described business personal property of __[company]__, said property being situated in the Town of _____ in the County of _____ and State of Vermont:

Being the business personal property listed and described in __[company]__'s Vermont Tax Inventory filing as of April 1, 20__ and received and recorded in the business personal property records of the Town of _____, Vermont on April 28, 20__, and more particularly described therein, IN PART, as follows:

[Insert description of the property.]

And so much of such property shall be distrained on the ____ day of [month, year] at ____ o'clock [a.m./p.m.] at [street address, city/town], Vermont, as shall be requisite to discharge such taxes with costs, as described on the 20__ and 20__ warrants received by me and further described as the amounts of \$_____ principal for 20__ taxes and \$_____ principal for 20__ taxes and accrued penalties and interest for same, unless previously paid.

Dated at [city/town] in the County of _____ and the State of Vermont this ____ day of [month, year].

Collector of Delinquent Taxes
_____, Vermont

INDEX

Abatement	15, 29, 41
Absconding taxpayer	24, 44
Access to public records	21
Action at law	23, 26, 28, 40, 44
Allocation of partial payments.....	16
Appointment of Collector of Delinquent Taxes.....	5
Attorney-client privilege.....	21
Audit of records	18
Bankruptcy	45-47
Bids at tax sale	33, 34
<i>Bona fide</i> purchaser.....	40
Bonding.....	5
Collector's deed	36
Challenges.....	37
Commission/fee	8, 11, 12, 15-19
Compensation of Collector of Delinquent Taxes.....	8, 12
Constable as Collector of Delinquent Taxes.....	5
Criminal neglect of duty	6, 7
Current tax collector	5
Current taxes	9, 46
Accrue during redemption period	36
Levying	9
Deed, challenge to.....	37
Delinquency	
Notice.....	15, 17, 49
Warrant	10, 11
Delinquent tax collector, types of	5
Delinquent taxes	
Authority to collect	5
Distrain.....	23, 24-26, 40
Personal property	40
Documentation.....	19
Due process.....	19, 29
Duties of Collector of Delinquent Taxes, summary	13
Election of Collector of Delinquent Taxes	5
FDIC property.....	34
Fees allowed to Collector of Delinquent Taxes (<i>see Commission/fee</i>)	
FICA	8, 11, 19, 35
Foreclosure.....	23, 31
Fraud by Collector of Delinquent Taxes.....	7

INDEX

Illegal tax collected	7
Income tax	8, 11, 19, 35
Incompatible offices.....	5
Independence of office.....	7
Installments	
Interest.....	11
Notice.....	9
Penalty after final installment	10, 12
Interest.....	10, 11, 16, 17
Calculation	18, 19
Overdue installments	10, 11
Leased land at tax sale	34
Legal costs to defend Collector of Delinquent Taxes.....	7
Liability for invalid deed	37
Liability	
Collector of Delinquent Taxes	6, 7
Town	37
Liens	
Longevity	24
Municipal precedence	23, 31
Lien holder/mortgagees	15
Federal liens	32
Identifying.....	31
Notice.....	29, 30, 31
Methods of tax collection, generally.....	23-26, 28, 49
Military personnel as taxpayer.....	29, 35
Mobile homes.....	43
Illegally removed (report to PVR)	44
On rented lots.....	43
Uniform bill of sale.....	43
Money	
Escrow account.....	35
Handling of	19, 22
Mortgagees (see Lien holder)	
Municipal bids at tax sale	33
Neglect of duty.....	6, 7
Fines.....	7
Notice	
Current taxes	9
Delinquent taxes.....	15
Fixed date.....	9
Tax sale	29, 30, 31

INDEX

Payment	
By other than property owner	15
Current taxes	9, 10
Delinquent taxes.....	15
Partial	16, 17, 18, 19
Plan	16
Penalties	12
Personal property	39, 40
Abatement	41
Collection methods	23
Lien	39
Policy	21, 29
Posting of notice	30
Postmark versus due date.....	10
Prepayment discount.....	9
Proceeds of tax sale.....	35
After redemption period.....	31, 35
Property transfer tax.....	35, 36
Property Valuation and Review	20, 44
Proration of property tax.....	9
Public Records Law	21
Receipts.....	17, 18
Record keeping	17, 18, 19
Disposition on leaving office	22
Redemption	35, 36
Active duty military personnel.....	29
Mobile homes.....	43
Period	35
Bankruptcy	47
Personal property	41
Reports	20
Annual.....	20
Failure to report.....	20
Tax sale	34
Salary	8, 12
Sale of portion of property	30, 31
Settling before tax sale.....	32
Small claims court.....	27, 28
Social Security/withholding.....	8
Statute of limitations	37
Sunday tax due date	10
Tax assessment, validity of.....	37

INDEX

Tax sale	13, 28
Costs.....	32
Due process.....	29
Escrow.....	35, 36, 37
Excess proceeds	35, 37
Leased land	34
Location	32
Method of payment.....	33
Minimum bid	31, 33
No bids.....	33
Notice.....	30
Owner in military.....	29
Profits.....	37
Tax status	
Bankruptcy.....	46
FICA	8
Taxpayer defenses.....	37
Taxpayer as “last owner”	9
Title search.....	31
Town manager as Collector of Delinquent Taxes.....	5, 12
Treasurer	
Authority to collect delinquent tax	5, 9
Vacancy in Collector of Delinquent Taxes office.....	5
Warrant to Collector of Delinquent Taxes.....	10, 11
Water/sewer delinquencies	11