

# **Delinquent Tax Collection Methods**

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# Delinquent Tax Collection Methods

- **The concept of debt collection triage.**
- **Informal collection techniques – letter writing, telephone calls, and the town report .**
- **Dealing with abusive delinquents.**
- **Tax collection issues: partial payments, payment agreement, receipts and records .**



# Debt Collection Triage

## Optimizing Your Informal Collection Efforts



**tri-age** (tr -äzh , tr äzh ) n. A process in which things are ranked in terms of importance or priority.

**Informal collection:** Methods used to get the delinquent taxpayer to pay before formal collection efforts are undertaken (e.g., phone calls, letters, payment agreements).

**\*Informal collection is quicker and cheaper than formal collection\***

**Formal collection:** Tax sale, action at law, foreclosure, distraint.

# Debt Collection Triage

## Optimizing Your Collection Efforts

Where will my limited resources yield the best results?

Three groups of surgical patients:

- Those requiring minimal medical treatment.
- Those requiring moderate medical treatment.
- Those requiring maximum medical treatment.

Resources are focused on patients requiring moderate treatment. Patients requiring the maximum attention are left (perhaps to die) so that more can be saved. Patients requiring minimum treatment get resources after those requiring moderate treatment.



# Debt Collection Triage

## Optimizing Your Informal Collection Efforts

### THERE ARE SOME DEBTS:

- That you will collect with minimal informal collection efforts (e.g., pay as soon as the first delinquency notice arrives).
- That you will never collect, even with maximum informal collection effort (e.g., going to tax sale, court, or even abatement).
- That you will collect with moderate informal collection effort (e.g., pay after a few months or follow through on payment agreement).



# Debt Collection Triage

## Optimizing Your Informal Collection Efforts

### What factors do you consider?

- How much time has passed
- How responsive the debtor has been to your requests for payment
- Willingness to enter into payment agreement
- Previous delinquencies
- Value of the collateral
- Word on the street
- Intangibles



# Debt Collection Triage

## Optimizing Your Informal Collection Efforts

Delinquencies may be earning interest at a substantial rate. From the town's perspective, delay can actually be beneficial.

But in some cases delay can be detrimental. (e.g., small collateral, declining property values, abandoned property, possible bankruptcy).



# “Informal” Collection Letter Writing

Before any formal collection effort can be undertaken, written notice **MUST** be given to the delinquent taxpayer.

The written notice must allow residents at least 10 days and nonresidents at least 20 days (but not more than 40) to pay the amount due before the collector will proceed with a tax sale or other collection action.

The notice must specify the time and place of payment, amount owed, including taxes, fee and interest.



32 V.S.A. 4842, 4874

Delinquent Tax Collector Workshop, May 2015



# “Informal” Collection Letter Writing

**Give this initial written notice to the taxpayer as soon as possible (so you won't have to do it later).**

- **Send the notice in the form of a personal letter.**
- **Include a copy of the tax bill and your collection policy.**
- **Include in the notice the right to request abatement.**



# Informal Collection

In all correspondence to the delinquent taxpayer:

- **Make it personal.** Use the taxpayer's name, not "Dear delinquent taxpayer." You are trying to build a positive relationship.
- **Be clear and specific about your expectations.** Don't leave any room for misunderstanding.
- **Be diplomatic and professional.** No bullying, insults or veiled threats.



# Informal Collection Telephone Calls

Consider giving each delinquent taxpayer a telephone call.

- Get to know your debtors, work with them, and gain their trust by humanizing the collection process.
- The first goal of the conversation is to get the delinquency paid; The next goal is to establish a positive rapport.



# Informal Collection Telephone Calls

- Explain who you are and why you are calling.
- Express your concern and the consequences of being delinquent.
- Keep a log of your phone calls and record the content of the conversation.
- If you feel you can establish a positive rapport, try a personal visit.



# Informal Collection

## Delinquent Taxpayers in the Town Report

In some towns, the names of delinquent taxpayers are published in the town report.

State law does not require the names of delinquent taxpayers to be published in the town report, but this information is public record.

Some towns take the position that the town report is intended to give voters information about town operations, not to embarrass the town's delinquent taxpayers.

Others believe strongly that listing delinquents by name in the town report provides an effective incentive for timely payment of taxes.



# Informal Collection Delinquent Taxpayers in the Town Report

**Vermont Department of Property Valuation and Review gives the following advice, either:**

- 1. List only the parcels and owners that are delinquent at the time of publication but don't include the amount of the delinquency for any individual property (though you certainly could include the town wide amount of delinquent taxes); or**
- 2. Publish a list of delinquent properties but only show the total amount of the delinquency for the parcel, not the components of the delinquency (years owed, principal, interest, etc.)**



# Informal Collection Delinquent Taxpayers in the Town Report

**Act 174, enacted in June 2014, granted Vermont's Commissioner of Taxes the ability to compile and publish lists of delinquent taxpayers. These lists consist of the 100 individual taxpayers and 100 business taxpayers with the highest amount of unpaid tax debt.**



# Informal Collection Delinquent Taxpayers in the Town Report

**No two Vermont municipalities are the same.**

**Each municipality has different expectations for its delinquent tax collector.**

**Suggestion: Try to follow your town's expectations.  
Consider putting it to a public vote. 24 V.S.A. 1683(a)**

## **ARTICLE XIV.**

***Shall the town require the name of delinquent taxpayers be published in the town report?***





# Informal Collection

## Dealing with Abusive Taxpayers

Many people who cannot pay their bills are angry.

They are angry at themselves for not being able to meet their obligations, but they may project their anger on you.

Sometimes you are able to deflect their anger with a positive tone and being friendly and rational.

If you can get them beyond their anger, you may get some positive results.



# Informal Collection

## Dealing with Abusive Taxpayers

If you can't get beyond the anger, don't take their anger personally. Do not raise your voice or lose your cool.

Remember that you hold all the cards. Unless there is no value in the collateral (i.e., it won't sell at tax sale) and the delinquent taxpayer is judgment proof, you will eventually collect the delinquency.

There is no reason to subject yourself to abuse or mistreatment.

These are often the “maximum effort” delinquents that you shouldn't waste your time using informal collection efforts on.



# Questions?



# Tax Collection Issues

## Accepting Payment

**Anyone can make a payment on a delinquent tax bill, (e.g., mortgagee, lessee, lien holder, relative). You should accept payment even if the payment is being made by someone other than the delinquent taxpayer.**

**Accept of partial payment does not preclude the town from collecting the unpaid balance. 32 V.S.A. 5142.**

**You can require that payments be made by bank check, cashier's check, or other certified funds.**



# Tax Collection Issues

## Accepting Payment

You do not have accept personal checks. Do not accept postdated checks.

You should encourage payment by credit card, if the town has made such arrangements.

If you require payment in a certain form, this should be stated in your collection policy.



# Tax Collection Issues

## Payment Agreements

Payment plans should be in writing in the form of a contract or letter of agreement, signed by the delinquent taxpayer.

Require the outstanding balance to be paid off in a year.

Make clear that in the event of a breach, the collector will proceed with tax sale or other collection action.

This is a legal contract. Have the from reviewed by the town attorney.



# Tax Collection Issues

## Receipts

***“A collection of taxes...shall receipt for every payment made to the collector on account of delinquent taxes. Such receipt shall be written in triplicate in a bound book or other permanent record and shall indicate the date of the payment, the name of the person making the payment, the name of the person against whom was assessed the tax on which such tax was assessed and if a partial payment on an annual tax bill, whether applied on poll, personal property or real estate taxes...”***

**32 V.S.A. 5137**



# Tax Collection Issues

## Receipts

**“...Such collector shall detach and deliver the original receipt forthwith to the person making the payment and one copy thereof within 30 days to the town clerk who shall keep such copy on file...” 32 V.S.A. 5137**

**“Annually, on or before February 5, the collector shall deliver to the auditors of each municipality for which the collector is acting all such bound volumes in which entries pertaining to such municipality have been made during the year ending January 31 next preceding, and the auditors shall audit the books forthwith and after the completion of audit shall return such books to such collector.”**





# Tax Collection Issues Reporting

The delinquent tax collector must file a bi-monthly reporting with the treasurer indicating the taxpayer from whom taxes have been collected, the amounts collected, and the years in which taxes were due. 32 V.S.A. 4646

The collector must also file a certified annual report with the treasurer and auditors on or before January 15, showing all the delinquent taxpayers as of December 31<sup>st</sup>, amounts due and years in which taxes were due. 32 V.S.A. 5162

At a minimum, the delinquent tax collector must pay to the town all the money collected every two months or when requested by the selectboard or other proper officer.

32 V.S.A. 4646



# Tax Collection Issues

## Handling the Money

**Some collectors have established their own bank accounts in which collected taxes are deposited until transferred to the town treasury.**

**The better practice is to remit the money immediately to the treasurer. You will get your commission sooner and prevent any liability for mishandled or lost funds.**



# Tax Collection Issues

## Handling the Money

Regardless of how the collector is compensated, he/she must be treated as an employee of the town for purposes of income tax and FICA (social security) withholding.

If the collector is compensated by the fee on delinquencies, any fee collected must be turned over to the town and the town must issue a check back to the collector with proper withholding.

A W-2 must be issued at the end of the year.



# Questions?



# Formal Tax Collection Methods

- **Overview of statutory tax collection methods**
- **Action at law – the small claims court option**
- **Foreclosure**
- **Tax sale**



# Formal Tax Collection Methods

There are 4 methods available to collect delinquent taxes:

- \* Foreclosure
- \* Action at Law (Civil Action)
- \* Distraint
- \* Tax Sale

The methods are not exclusive and can be used cumulatively (but the debt can only be collected once).

In most instance, tax sale is the most useful and appropriate method for collection.

Action at law can be useful when the collateral securing the tax lien has little or no value.



# Action at Law

## The Small Claims Court Option

Property taxes “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 within it to which such taxes are due.”

32 V.S.A. 5222

In most instances, an “action at law” takes the form of a small claim court action brought against the delinquent taxpayer.



# Action at Law

## The Small Claims Court Option

Small claims court can be useful where the collateral securing the property tax lien has little or no value (e.g., a mobile home) and/or where the amount of the delinquency is so small that a tax sale is not warranted.

The maximum jurisdiction of small claims court is \$5,000.

Procedures are simplified so that participants do not need a lawyer. You can be represented by a lawyer, if you choose.

Small claims court is located at the Superior Courthouse in each county.





# Action at Law

## The Small Claims Court Option

**The filing fee is \$52.50 for a claim of \$1,000 or less, or a fee of \$78.75 for a claim over \$1,000.**

**If the collector prevails, the taxpayer will be required to pay the filing fee.**

**The collector fills out a complaint that outlines the basis for the town's claim: who you are suing, why, and the amount of the claim.**



# Action at Law

## The Small Claims Court Option

The court will mail a summons, copy of the complaint, and an answer form to the taxpayer by first class mail.

If the taxpayer does not respond in 30 days, the court will send this same information to the collector to have the taxpayer served by the sheriff or constable.



# Action at Law

## The Small Claims Court Option

If the taxpayer fails to answer after being personally served, the collector will be notified of the default by the court.

If the collector files a motion and affidavit for default judgment within 30 days, the judge will issue a default judgment.



# Action at Law

## The Small Claims Court Option

The taxpayer can admit that the taxes, interest, fee, and costs are owed.

If the taxpayer agrees to pay all at once, the court will issue a judgment of the entire amount.

If the taxpayer offers to make weekly or monthly payments, the court will probably issue a judgment stating the installments that must be paid to the collector.



# Action at Law

## The Small Claims Court Option

The taxpayer can deny the claim. If so, a trial date will be set.

At the trial, the collector will be required to prove that the taxpayer owes the delinquent taxes, interest, fees and costs.

The taxpayer will be allowed to rebut your evidence.



# Action at Law

## The Small Claims Court Option

When the collector prevails, he will receive a judgment order against the taxpayer.

Once judgment is obtained, the collector can use the remedy of trustee process to garnish the taxpayer's wagers or other income to pay the judgment.

The town can also record a copy of the judgment order in the land records in any town where the taxpayer owns real estate. The recorded judgment will become a lien against any property located in the town.



# Questions?



# Foreclosure

**Foreclosure is a legal action brought in Superior Court to allow property to be attached and sold to satisfy the debt to the town.**

**32 V.S.A. 5061**

**After a hearing, the court issues an order setting out a redemption period and directing that the property be sold if it is not redeemed by paying the outstanding taxes and costs due to the town, expenses of the sale, and attorney's fees.**





# Foreclosure

**If the property is not redeemed, it is sold and the proceeds are applied outstanding taxes and costs due to the town, expenses of the sale and the attorney's fees. The residue is applied to satisfy the junior liens. Any amount left over is paid to the taxpayer.**

**The primary objection to foreclosure is that tax sale accomplishes the same result without the necessity for a hearing or court intervention.**



# **Distraint**

**After taxes become delinquent, the collector can seize “the goods, chattels and capital stock in a corporation of a person whose tax is not paid.”**

**32 V.S.A. 5191**

**If the delinquency is not paid within four days after the property is seized, the collector can sell the property at public auction.**

**32 V.S.A. 5193**



# Distraint

**At least six days before the sale, the collector must post a notice of the sale in a public place where the property was taken.**

**If the property is sold at the auction, title to the property is passed to the new owner by operation of law.**

**After deducting the tax and the collector's charges, the balance must be paid over to the delinquent taxpayer.**



**32 V.S.A. 5193**

**Delinquent Tax Collector Workshop, May 2015**

# Distrain

**At one time, the law required a tax collector to distrain personal property before real estate could be sold.**

**Distrain was probably the most commonly used tax collection method. Cows were the most commonly seized property.**

**Today distrain is hardly ever used but is still a lawful collection method.**

