

# Delinquent Tax Collectors Workshop

## Review of the Municipal Property Tax System

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**DTC WORKSHOP MAY 2015**

# Topics

- **Who is responsible for paying the property tax?**
- **The legal relationships created when taxes become delinquent**
- **When do taxes become delinquent?**
- **Grace periods and graduated penalties**
- **The importance of the warrant**
- **Interest on delinquent taxes**
- **Personal property**



# Who Pays Property Taxes?

- **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 whether the property is sold after April 1 of that year.**  
***Fulton v. Aldrich*, 76 Vt. 310 (1904).**



# Who Pays Property Taxes?

***“Commencing with the date of the filing by the listers of the grand list in the office of the town clerk of the town, taxes lawfully assessed upon real estate shall be a first lien thereon....”***

**32 V.S.A. § 5061**



# Who Pays Property Taxes?

**Unpaid property taxes are:**

- **a personal obligation of the record owner on April 1<sup>st</sup> (a debt);**

**AND**

- **an encumbrance on the title to the property (a lien) that arises automatically by operation of law.**



# When are Property Taxes Delinquent?

**Taxes become delinquent when a taxpayer fails to pay the taxes on the due date.**

- Due date may be set by the voters. 32 V.S.A. § 4773
- If the due date is set by the voters but no notice is mailed to the taxpayers 30 days prior to the date fixed (as often happens when budgets are defeated), then due date is 30 days from the date of mailing of the notices to the taxpayers. 32 V.S.A. § 4772
- If a due date is not set by the voters, taxes are due 30 days from the date the tax bill is mailed. 32 V.S.A. §§ 4772, 4792



# Due Dates

## Postmarks = due date?

A municipality may vote to accept a postmark as proof of on-time 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



# Due Dates

## **Sunday due date => Monday**

**32 V.S.A. § 3004:** “When an act under this subtitle is required to be done on or before a date which falls on Sunday, such act shall be valid if done on the following Monday.”

## **Saturday due date: make plan & communicate**

Recommend opening the office that day OR allowing payment on the next day that the office is open.

Tax bill should clearly explain when payments will be accepted.





# Installments

- If a municipality collects taxes in installments, it may vote to charge interest on the late installments.
- Taxes do not become delinquent until the due date for the final installment has passed.
- A penalty may not be charged on late installment payments.

32 V.S.A. § 4873



# Grace Periods

- A municipality may also vote to establish a grace period or graduated penalty/fee schedule.

32 V.S.A. § 1674(3)(b)



# Water and Sewer Delinquencies

- Delinquent water and sewer charges create liens against the property and can be collected in the same manner as delinquent property taxes.

24 V.S.A. §§ 3504, 3612, 3306, 3408

- May be better to use authority given in the Uniform Water and Sewer Disconnect statutes  
(24 V.S.A. §§ 5141 et seq.)



# Mobile Homes

- Taxes lawfully assessed upon a mobile home attach as a lien just like on real estate.
- Taxes assessed against a mobile home are due as of the date of sale, transfer or removal of the mobile home from the town in which the mobile home was last listed.
- Owner of the mobile home is liable for commission/penalty and collection costs as of date of removal.

**32 V.S.A. § 5079**



# Questions



# The Warrant

Within 15 days after the tax due date (or a shorter time if the municipality has so voted) the treasurer must issue a warrant and a copy of the tax bill to the DTC against the delinquent taxpayers in the amount that remains unpaid.

**32 V.S.A. § 4793**



# The Warrant

**The warrant from the treasurer is mandatory  
(even if DTC and treasurer are same person!)**

- Gives the delinquent tax collector legal authority to act
- The lack of evidence of this or any other prescribed step in the process may cause problems with collection or result in a court challenge later



# Payment Before Warrant

- The treasurer (or collector of current taxes) must accept payment on behalf of the DTC
- Payment must include interest and fee/penalty
- The taxes, interest and fee collected by the treasurer (or collector of current taxes) must be paid over to the DTC when the warrant is issued.

**32 V.S.A. § 5142(b) and (c)**





# Interest

## Not automatic:

- May only be charged on overdue taxes if the municipality has voted to collect interest.  
**32 V.S.A. § 5136**
- Towns may also vote to charge interest on overdue water and sewer charges.  
**24 V.S.A. § 5151**



# Interest

- **The collector has no discretion regarding the assessment and collection of interest.** If the town has voted to collect interest on overdue taxes, that interest must be collected and may not be waived or reduced.
- The collector does have discretion as to the collection of the commission/penalty (if compensated with commission/penalty)



# Military Exemption

A municipality may vote to exempt the principle residence of full-time active duty military personnel from the payment of any delinquent tax penalty or interest upon.

**32 V.S.A. § 4609**



# Interest

- **1% per month for the first three months and  
1.5% per month thereafter**
- Interest “shall be imposed on a fraction of a month as if it were an entire month.”

**32 V.S.A. § 5136(a)**



# Calculating Interest

**Year 1: 1% for each of the first three months and 1.5% for every month thereafter = 16.5%**

**Year 2 (and every subsequent year) = 18%**

**End of Year 1: 8% + 16.5% = 24.5%**

**End of Year 2: 24.5% + 18% = 42.5%**

**End of Year 3: 42.5% + 18% = 60.5%**

**End of Year 4: 60.5% + 18% = 78.5%**

**End of Year 5: 96.5% + 18% = 96.5%**



# Personal Property

The tax lien on real property = automatic

32 V.S.A. § 5061

**BUT**

The tax 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.

32 V.S.A. § 5071



# Personal Property Lien

- **Exercise of discretionary authority**
- **Must have approval from legislative body**
- **Must use form from 32 V.S.A. § 5073:**
  - description of each article of personal property
  - name and address of the taxpayer or owner
  - names of all other persons having an interest in the property
- **Filed in the personal property records in the clerk's office**
- **Filed after April 1 in the year that the tax is assessed**
- **Must give notice**



# Personal Property Lien

## Notice of personal property lien to:

- Taxpayer (if not owner);
- Owner of the property; and
- All persons having a duly recorded lien on the property

**Sent to the last known post office address of each person by registered or certified mail, return receipt requested.**

- If a partnership, notice to one of partners
- If corporation, notice to the president or treasurer of the corporation.

**32 V.S.A. § 5071**





# Personal Property Lien

## **Effect:**

Good for two years from the date it is filed.

Lien has priority over all others.

Property generally may not be sold, mortgaged, exchanged or pledged

Exception for bona fide purchaser (purchase property for value and without notice of lien)



# Personal Property Lien

## Collection:

- Distraint or Action at law (small claims court)
- Actions must be brought within two years of filing
- Taxpayer liable for \$.50 collection fee and postage
- Town pays DTC and Clerk each \$6.00 for making and recording notice and discharge



# Questions

