

# **Delinquent Tax Collection Manual**

**A Comprehensive Guide**



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.

The VLCT Municipal Assistance Center (MAC) provides local officials with legal and technical assistance, training, and consulting services to help them carry out their statutory responsibilities and serve their citizens. MAC also publishes manuals for town officers, model policies and ordinances, and annual survey reports including the municipal compensation and benefits report. MAC staff have diverse backgrounds in public administration, municipal law, land use, government finance, and research methods.

A publication of the VLCT Municipal Assistance Center. Previous versions were published in 1994, 1999, 2008, and 2019 under the title “Handbook for Delinquent Tax Collectors” and in 2022 under the title “Handbook for Vermont Collectors of Delinquent Taxes”.

Copyright © 2023 by Vermont League of Cities and Towns. All rights reserved. Except as permitted under the Copyright Act of 1976, no part of this publication may be reproduced or distributed in any form or by any means or stored in a database or retrieval system without the prior written permission of the Vermont League of Cities and Towns.

**Vermont League of Cities & Towns**

89 Main Street, Suite 4, Montpelier, VT 05602

802-229-9111

800-649-7915 (toll-free for members)

email: [info@vlct.org](mailto:info@vlct.org)

web: [www.vlct.org](http://www.vlct.org)

fax: 802-229-2211

# Table of Contents

- Introduction ..... 1**
- Chapter 1: Requirements of the Collector of Delinquent Taxes ..... 2**
  - A. Election/Appointment of Collector..... 2
    - 1. Seven Types of Collectors of Delinquent Taxes..... 2
    - 2. Incompatible Offices. .... 2
  - B. Bonding ..... 3
  - C. Liability ..... 3
    - 1. Collector’s Liability for Failure to Pay Over Tax Monies..... 3
    - 2. Liability for Neglect of Duty..... 4
    - 3. Collector’s Liability for Collection of an Illegal Tax..... 4
    - 4. Collector’s Liability for Harm to Others Arising from the Performance of their Duties. .... 4
  - D. Independence of Office ..... 4
  - E. Methods of Compensating the Collector of Delinquent Taxes..... 5
  - F. Tax Status of Collector of Delinquent Taxes ..... 5
- Chapter 2: Statutory Framework for Collecting Taxes ..... 7**
  - A. Levying Current Taxes on Real Property ..... 7
  - B. Notice of Current Taxes ..... 7
  - C. Tax Payments ..... 8
  - D. Delinquencies..... 9
  - E. Water/Sewer Delinquencies ..... 10
  - F. Interest and Penalties ..... 10
    - 1. Interest. .... 10
    - 2. Penalty..... 11
    - 3. Other Fees. .... 12
    - 4. Military Exemption..... 12
  - G. Summary of Duties of the Collector of Delinquent Taxes ..... 12
- Chapter 3: Collection of Delinquent Taxes ..... 14**
  - A. Setting up Records ..... 14
  - B. Notifying Delinquent Taxpayers ..... 14
  - C. Accepting Payments..... 15
    - 1. Payments Made after the Due Date but before the Warrant is Issued. .... 15
    - 2. Payments Made after the Warrant is Issued..... 15
    - 3. Accepting Partial Payments..... 16
    - 4. Payments Over Time. .... 16
    - 5. Allocating Partial Payments..... 16
  - D. Record Keeping ..... 18
    - 1. Receipts..... 18
    - 2. Bookkeeping..... 18
    - 3. Other Records..... 20

E. The Money .....	20
F. Reporting .....	21
1. Bi-monthly Reports.....	21
2. Annual Reports.....	21
3. Failure to Report.....	21
4. Public Records Law.....	21
G. Collection Policy.....	22
1. Generally.....	22
2. Recommendations for a Tax Collection Policy.....	22
H. Disposition of Records When Leaving Office.....	23

## **Chapter 4: Tax Collection Methods..... 24**

A. Generally.....	24
B. Foreclosure .....	24
C. Distrain .....	25
1. Generally .....	25
2. Property Subject to Distrain.....	26
3. Process for Distrain.....	26
4. Pitfalls of Distrain.....	27
D. Action At Law .....	28
1. Generally.....	28
2. Small Claims Court.....	28
3. Superior Court.....	29
E. Tax Sale .....	30
1. Generally.....	30
2. Legal Assistance.....	30
3. Vermont Homeowner Assistance Program Notification Requirement 2022-2025.....	31
4. Demand Letter.....	31
5. Extending the Warrant.....	32
6. Securing a Property against Illegal Activity and Fire Hazard.....	32
7. Preparing for Tax Sale.....	33
8. Providing Notice of Tax Sale.....	34
8. Settling Before Sale.....	37
9. Conducting the Tax Sale.....	38
10. Report of Sale.....	40
11. Treatment of Sale Proceeds.....	40
12. Redemption.....	41
13. Collector’s Deed and Property Transfer Tax.....	43
14. Report to Clerk.....	44
15. Accounting to Taxpayer.....	44
16. Challenges to Deed.....	44

## **Chapter 5: Business Personal Property Tax..... 46**

A. Generally.....	46
B. The Lien on Business Personal Property.....	46

1. Filing the Lien.....	46
2. Form of Lien.....	47
3. Notice.....	47
4. Costs.....	47
5. Effect of Lien.....	47
6. Bona Fide Purchaser.....	47
C. Collection of Delinquent Personal Property Tax.....	48
1. Distraint.....	48
2. Action at Law.....	48
3. Discharge of Lien.....	48
4. Notice of Collection.....	48
5. Abatement of Personal Property Taxes.....	49

**Chapter 6: Mobile Homes.....50**

A. How Mobile Homes are Taxed.....	50
1. When Due.....	50
2. Type of Property.....	50
3. Mobile Homes on Rented Lots.....	50
B. Uniform Bill of Sale.....	50
C. Mobile Homes that have Disappeared.....	52
D. Abandoned Mobile Homes.....	52

**Chapter 7: Bankruptcy.....53**

A. Generally.....	53
B. Automatic Stay.....	53
C. Proof of Claim.....	53
D. Types of Municipal Claims.....	54
E. Outcome of Proceedings.....	55

**Conclusion.....56**

**Appendices.....A-1**

Appendix A: Schedule for Collector of Delinquent Taxes.....	A-1
Appendix B: Model Collection Policy.....	A-3
Appendix C: Sample Annual Report of Collector of Delinquent Taxes.....	A-5
Appendix D: Sample Record of Partial Payment.....	A-6
Appendix E: Sample Record of Accounts.....	A-7
Appendix F: Sample Record of Accounts Summary.....	A-8
Appendix G: Model Notice to Delinquent Taxpayer.....	A-9
Appendix H: Model Delinquent Tax Agreement.....	A-10
Appendix I: Model Receipt of Partial Payment.....	A-11
Appendix J: Model Notice of Lien on Real Property.....	A-12
Appendix K: Model Delinquent Tax Collection Warrant.....	A-13
Appendix L: Model Notice of Personal Property Tax Lien.....	A-14
Appendix M: Model Levy Letter / Levy of Collector’s Warrant.....	A-15

Appendix N: Model Request to Town Clerk to Record Documents.....A-16

Appendix O: Model Letter Requesting Payment of Services .....A-17

Appendix P: Model (optional) Letter to Landowner Warning of Tax Sale .....A-18

Appendix Q: Model Notice of Tax Sale to Mortgage/Lien Holder .....A-20

Appendix R: Model Notice of Tax Sale to Property Owner .....A-21

Appendix S: Model Notice of Tax Sale, Posted or Advertised.....A-22

Appendix T: Model Letter to Newspaper to Publish Notice of Tax Sale .....A-23

Appendix U: Model Tax Sale Cancellation Letter.....A-24

Appendix V: Model Report of Sale .....A-25

Appendix W: Failure to Redeem (Model Notice of Non-Redemption) .....A-27

Appendix X: Model Notice of Redemption.....A-28

Appendix Y: Model Deed of Collector of Delinquent Taxes .....A-29

Appendix Z: Model Form Letter for Tax Surplus .....A-30

Appendix AA: Model Notice of Distrain .....A-31

## Introduction

The Vermont League of Cities and Towns Municipal Assistance Center has prepared this *Delinquent Tax Collection Manual* to assist municipal officials statutorily responsible for this function. It is not intended to be a substitute for legal advice, but it should prove to be a valuable starting point in understanding the legal responsibilities of the collector of delinquent taxes.

The collector of delinquent taxes plays a vital role in ensuring that town property taxes are paid by all of the taxpayers of the town. It is the job of the collector of delinquent taxes to notify taxpayers when their taxes are overdue, to make arrangements for late payments, and to take formal collection actions, including conducting tax sales of the property, when necessary. Finally, it is the obligation of the collector of delinquent taxes to keep records of all delinquent accounts and to provide an accounting of these records to the locally elected auditors for inclusion in the annual report of the town.

This manual explains the statutory requirements of the position of collector of delinquent taxes and seeks to provide a realistic guide to some of the practical obligations of the office to help collectors of delinquent taxes perform their duties in a complete and effective manner. The appendices to this manual include sample letters and forms for your use.

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 ensure 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. Considering 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 improvement or additional material that you feel should be included in this manual.

# Chapter 1:

## Requirements of the Collector of Delinquent Taxes

### A. ELECTION/APPOINTMENT OF COLLECTOR

Every municipality in Vermont (including every town, village, city, and fire district) must have an official charged with collecting delinquent taxes. There are numerous ways in which such an official may be chosen.

#### 1. Seven Types of Collectors of Delinquent Taxes

- ▶ **Elected Collector of Delinquent Taxes.** The town may vote at an annual meeting to elect a collector of delinquent taxes for a one-year or three-year term from among its registered voters. 17 V.S.A. § 2646(9).
- ▶ **Appointed Collector of Delinquent Taxes.** The town may vote at an annual or special meeting to authorize selectboard to appoint a collector of delinquent taxes. The appointed person may be the town treasurer, or any other person, even if that person is not a registered voter of the town. 17 V.S.A. § 2651d(a).
- ▶ **Town, City, or Village Manager.** If a town has adopted the 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).
- ▶ **First Constable.** If a town fails to elect a collector of delinquent taxes at town meeting and does not provide any other method of collection (e.g. by the town manager), the first constable automatically becomes the collector of delinquent taxes. 24 V.S.A. § 1529.
- ▶ **Appointment Due to Disability.** If the collector of delinquent taxes is unable to discharge their duties because of sickness or other reason, the selectboard may appoint someone to collect delinquent taxes. 32 V.S.A. § 4674.
- ▶ **Hired Collector.** When a town is without a tax collector, the selectboard may hire a qualified person (regardless of the person's residency) to collect both current and delinquent taxes. 32 V.S.A. § 4799.
- ▶ **Charter Provision.** Some towns have specific governance charters that provide how the collector of delinquent taxes is chosen.

**2. Incompatible Offices.** A collector of delinquent taxes may not also be a member of the selectboard or the school board, or hold the position of locally elected auditor or be the spouse of the locally elected auditor. 17 V.S.A. § 2647. In a town that elects its officials by floor vote, an individual running for the office of collector of delinquent taxes may not also be an election official. In a town that elects its officials by Australian ballot, an individual running for the office of collector of delinquent taxes may not serve as an election official unless they are the only candidate for that office. 17 V.S.A. § 2456.

## B. BONDING

Every collector of delinquent taxes must obtain a bond as surety for performance of their duties regardless of whether they already have a bond for another town office. 24 V.S.A. § 832. This bond is designed to insure the town against losing money entrusted to the collector, so that if they embezzle the taxes collected, the town can recover the lost amounts from the bonding company.

The selectboard determines the amount of the bond, which is 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. It is the responsibility of the collector of delinquent taxes to obtain a bond, and if they do not do so within ten days after the selectboard demands it by written order, the office of collector of delinquent taxes 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 that may make the individual a poor risk). In such cases, the selectboard will notify the collector of delinquent taxes of the need to obtain a bond, and the desired amount of the bond, and it is the collector's obligation to obtain such bond within ten days of the request or lose their office.

In the unlikely event that a collector loses their office for failure to obtain a bond, the statutes are very specific about the collector's obligation to lodge with the town treasurer the warrants issued to them, 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 collector of delinquent taxes who unlawfully neglects to collect and/or pay over a tax that has been paid to them is accountable for such tax (or the arrears) to the treasurer or other person or body authorized to receive the tax monies. Those persons may cite the collector to appear before a justice of the peace of a neighboring town to show why they should not be liable for the arrears and the costs of the proceedings. The collector must be given six days' notice of the hearing, although the petition against them 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 the "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, they 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 they 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.

The statutory procedure provided in 32 V.S.A. §§ 4691, *et seq.* 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 collector of delinquent taxes who dies, is unable to perform their duties, or whose term expires, and who also fails to turn over the delinquent tax bill and monies collected on it, will be liable for the entire amount of the tax bill and does not have the authority to collect the unpaid taxes, nor does their 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 collector of delinquent taxes (or any town officer) who neglects their 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 their 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 collector of delinquent taxes will not be liable for the consequences of a mistake, mischarge, or overcharge in a tax bill committed to them 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 from the Performance of their Duties.** Because the collector of delinquent taxes is an elected or appointed official, any action brought against the collector must be brought in the name of the town. The town must assume all reasonable legal costs incurred by the collector of delinquent taxes in such cases, so long as the collector was acting in the performance of their duties and did not act with malicious intent. 24 V.S.A. § 901.

#### **D. INDEPENDENCE OF OFFICE**

The *elected* collector of delinquent taxes holds an independent office of local government. This means that, absent a charter provision to the contrary, the collector of delinquent taxes does not answer to any other town official. See generally *Bennington v. Booth*, 101 Vt. 24 (1927) (the selectboard has no authority over clerk since they are an independent officer of the local government).

Neither the selectboard nor the manager has the power to require the elected collector of delinquent taxes to perform their duties in any particular way. Therefore, the collector may set their own hours, establish their own procedures for collecting the delinquent taxes, adopt their own collection policies, set up their own bookkeeping method, etc. Although the elected 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, they cannot be fired from the position. The collector is answerable to the law, and to voters who may express their displeasure by declining to reelect. (See also Section C, above, which discusses liability for failure to act.)

The situation is different for a collector of delinquent taxes who has been *appointed* by the selectboard after a public vote to authorize the selectboard to make such appointment. This type of appointed collector may be removed by the selectboard for “just cause” after notice and hearing. 17 V.S.A. § 2651d(a).

## E. METHODS OF COMPENSATING THE COLLECTOR OF DELINQUENT TAXES

Collectors of delinquent taxes in Vermont are paid in a variety of ways. Consider the following:

- ▶ **Commission.** Most collectors of delinquent taxes in Vermont are paid by commission. This means that the collector gets paid by keeping the penalty or fee that may be collected on delinquent accounts. 32 V.S.A. § 1674. In such cases the collector of delinquent taxes usually pays for the expenses of the office, such as postage and stationery, from these fees. Some towns will cover these expenses so that the entire fee amount is the collector’s payment.
- ▶ **Salary.** If a town wishes to compensate the collector of delinquent taxes with a salary or hourly rate, it may vote to do so at an annual or special town meeting. Title 24 V.S.A. § 1530 states “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.
- ▶ **Fees Plus Salary.** In some towns the collector of delinquent taxes receives fees plus salary. Towns 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. If there is no public vote to compensate in lieu of fees, the collector will continue to have a right to all fees that are collected, regardless of whether an amount of compensation has been set.

## F. TAX STATUS OF COLLECTOR OF DELINQUENT TAXES

There is quite a bit of folklore that has developed around the topic of the tax status of collectors of delinquent taxes. Many collectors of delinquent taxes believe that they are “self-employed” or “contractors” for the town, and thus not subject to income tax withholding or Social Security (FICA). According to the IRS, however, individuals who serve as public officials (even elected ones) are government employees and must be treated as employees for the

purpose of federal income tax withholding and FICA. **No matter how the collector of delinquent taxes is compensated, they are considered an employee of the town and, accordingly, federal income tax and FICA (social security tax) must be withheld.** The collector of delinquent taxes is not otherwise considered an employee of the town, is not eligible for unemployment compensation, and is not entitled to employee benefits unless there is an agreement between the collector and the selectboard.

The Social Security rules clearly state 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 collector of delinquent taxes must also be covered. As a practical matter, this means that the collector of delinquent taxes must turn over to the treasurer all of their 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. A model letter requesting payment appears in [Appendix O](#).

O. Model Letter Requesting Payment of Services

Town \_\_\_\_\_

Selectboard  
Town of \_\_\_\_\_  
\_\_\_\_\_  
(town address)  
\_\_\_\_\_  
(town phone no.)

Please approve the payment of \$ \_\_\_\_\_ to \_\_\_\_\_ Collector of  
Delinquent Taxes, for services rendered from \_\_\_\_\_ to \_\_\_\_\_

Thank you.

Sincerely,

\_\_\_\_\_  
Collector of Delinquent Taxes  
Town of \_\_\_\_\_ Vermont

## Chapter 2: Statutory Framework for Collecting Taxes

### A. LEVYING CURRENT TAXES ON REAL PROPERTY

Before taxes can become delinquent, they must first be levied and due. Taxes are levied by the legislative body which, according to 24 V.S.A. § 1521, makes out and delivers a tax bill to the person charged with collecting current taxes, either the treasurer, town manager, or constable. This tax bill must include the amounts for state, county, town, school district, and highway taxes, with the name of each taxpayer and the amount of their 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. In addition, the selectboard must attach to the tax bill, when given to the person charged with collecting current taxes, warrant(s) for the collection of the taxes. 24 V.S.A. § 1521. The warrant commands the person charged with the collection of current taxes to collect the amount listed on the tax bill from the taxpayer(s) listed on the tax bill. Upon receipt of the warrant and tax bills, the town official collecting current taxes must give the selectboard a receipt to provide a record that they have 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.

Property taxes are both a personal obligation of the record owner on April 1, and an encumbrance on the title to the property that arises by operation of law on the date the grand list is lodged with the town clerk. The tax is the responsibility of “the last owner or possessor [of the property] 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). The debt follows the person(s) who owned or possessed the property on April 1, and they may be obligated to pay the debt, regardless of whether they presently own or possess the property. Additionally, the lien follows the property and the present property owner holds the property subject to the lien, regardless of whether the current owner owned or possessed the property on the date the grand list was lodged with the town clerk. 32 V.S.A. § 5061(a).

In most cases, the buyer and seller of a parcel of property, or their attorneys, come to an agreement regarding the proration (division) of taxes for the current year. This is a purely private agreement, and the town has no role or responsibility in the proration. As discussed below, if the buyer and seller fail to agree to proration of taxes, the town may seek to collect from both the buyer and the seller, though the town may only collect the debt once.

According to 32 V.S.A. §§ 4772 and 4792, the treasurer or other person charged with collecting current taxes must mail a notice stating the taxpayer's grand list amount, the tax rate, the amount of taxes, and the due date to each taxpayer at their last known address. If the town gives a prepayment discount, information about this discount must be included on the tax bill. Towns may, but are under no legal obligation to, send out a duplicate tax bill when a property has been sold or otherwise conveyed after the tax bills have been mailed.

The notice must be mailed to the taxpayer at least 30 days prior to the due date that has been established 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 state law establishes the due date as 30 days from the date of mailing of the notices to the taxpayers. 32 V.S.A. § 4772. 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, they should make some effort to determine the present whereabouts of the taxpayer and should document those efforts. 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.

### **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 (at a rate not to exceed 1% per month or fraction thereof for the first three months and thereafter 1.5% per month or fraction thereof) from the due date of the last installment or from the due date of each installment, if it so votes. 32 V.S.A. § 4873. For example, if the installment dates have been set for August 15 and November 15, the taxes due on August 15 may be subject to interest as of August 16. However, taxes are not delinquent – and subject to the penalty discussed below – until November 16.

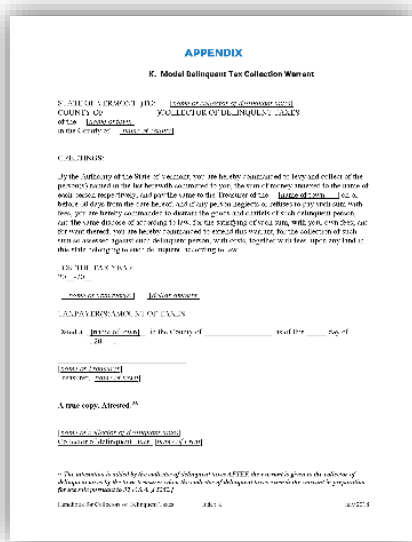
Questions sometimes arise as to whether a payment has been made on the due date if it was not received by the treasurer on that date, but was mailed on that date or sometime prior to it. A town may vote at a regular or special town meeting to fix the due date(s), time of acceptance, method of delivery, and whether a property tax payment postmarked on the due date is paid on time. A town 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 other person charged with collecting

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 clearly 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. The warrant is a document that commands the collector of delinquent taxes to collect those taxes and turn them over to the treasurer. A model warrant appears in [Appendix K](#).



This warrant remains in effect until all taxes on it are fully paid or otherwise discharged. It is within the treasurer's discretionary authority to determine when within this 15 days to issue a warrant. A town may vote to have the treasurer issue such warrants within *less than* the 15-day period. Such vote to shorten the time period for issuance of a warrant will remain in effect until the town votes otherwise. 32 V.S.A. § 4793. The effect of such vote is that the collector of delinquent taxes will be able to act on the warrant and collect delinquent taxes sooner. In any case, once the warrant is issued, the collector of delinquent taxes may then proceed to collect those taxes.<sup>1</sup>

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 unnecessary, the warrant must still be prepared and filed since it is part of the paper trail needed for tax collection. 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.

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).

---

<sup>1</sup> The issuance of a corrected new tax bill as a result of a late filing of a homestead declaration does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. 32 V.S.A. § 6066a(f)(1).

The treasurer or other person charged with collecting current taxes must accept, on behalf of the collector of delinquent taxes, full payment of overdue taxes paid after the due date but prior to the issuance of the warrant, so long as the payment includes any penalty and interest that are due. “Taxes, fees, and interest collected under this subsection shall be turned over to the collector of delinquent taxes when the list of delinquent taxpayers is delivered.” 32 V.S.A. § 5142(c). 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), (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. 24 V.S.A. §§ 3504, 3612, 3306, 3408.<sup>2</sup> This means that the collector of delinquent taxes can use any of the available tax collection methods to collect water and sewer delinquencies. In fact, many collectors simply add these charges to the delinquent taxes owed by the taxpayer so that they only need 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, and any interest on those charges, since these monies must be remitted to the treasurer for deposit into the water and/or 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. Towns may also vote to charge interest, but not penalties<sup>3</sup> in like manner, on overdue water and sewer charges. 24 V.S.A. § 5151(c). In both instances, the interest belongs to the town. 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.<sup>4</sup> 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.

---

<sup>2</sup> In most cases, however, towns use the Uniform Water and Sewer Disconnect authority found in 24 V.S.A. §§ 5141 *et seq.*, since this generally results in speedier 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 disconnection might create a health hazard.

<sup>3</sup> The authorizing statute, 24 V.S.A. § 5151, is silent as to the assessment of a penalty.

<sup>4</sup> Military limitation. Federal law caps the amount of interest that accrues on certain property owned by service members. Under 50 U.S.C. § 3991(d), the interest on taxes that fall due and remain unpaid before or during a period of military service on “real property occupied for dwelling, professional, business, or agricultural purposes by a service member or the service member’s dependents or employees before the service member’s entry into military service; and during the time the tax or assessment remains unpaid” is capped at 6% per year.

Interest that is assessed on overdue taxes is “simple” interest, rather than “compound” interest. Simple interest is calculated on the principal, or original amount of the taxes. Compound interest is calculated on the principal amount and the accumulated interest of previous periods (making it “interest on interest”). Below is a sample calculation of simple interest in a town that imposes 1% interest for each of the first three months past the due date and 1.5% for every month thereafter:

**End of Year 1: 1% for 3 months plus 1.5% for 9 months = 16.5% interest**

**End of Year 2: 16.5% for Year 1 + 18% interest for Year 2 = 34.5% interest**

**End of Year 3: 34.5% for Years 1 and 2 + 18% interest for Year 3 = 52.5% interest**

**End of Year 4: 52.5% for Years 1-3 + 18% interest for Year 4 = 70.5%**

**End of Year 5: 70.5% + 18% interest = 88.5%**

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 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 collector of delinquent taxes may charge interest on the overdue taxes beginning from the date that the payment became late. 32 V.S.A. §§ 4873, 5136. 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 by the collector.

- 2. Penalty.** The collector of delinquent taxes is authorized by law to 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.” Generally, an elected collector of delinquent taxes who is compensated in whole or in part by fees has discretion to charge a commission from zero up to a maximum of 8%. 32 V.S.A. § 1674(2). However, this commission can 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). An appointed collector of delinquent taxes may charge a penalty as agreed by the selectboard. When a town has voted to have its manager collect delinquent taxes, they may charge the same fees to be collected and paid into the town treasury. 24 V.S.A. § 1236(10).

As with interest, the penalty is due as soon as the taxes become delinquent. That means that the penalty and interest must be collected along with the delinquent taxes, even if payment is made before the issuance of the warrant. 32 V.S.A. § 5142. When taxes are paid in installments, no penalty may be assessed until after the final installment is due. This

contrasts with interest, which begins to accrue after each installment date.<sup>5</sup> 32 V.S.A. § 4873.

In certain instances, the collector of delinquent taxes may waive the commission, or portion of the commission, if the collector chooses to do so. However, if the town has voted to set the compensation of the collector at a set amount to be paid 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.

3. **Other Fees.** According to statute, except when taxes are collected through a tax sale, when the collector of delinquent taxes must act to “levy” (collect) on persons or their personal property, the collector of delinquent taxes 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). The fees paid to sheriffs on levy of execution are set out in 32 V.S.A. § 1591(1)(A).
4. **Military Exemption.** A town may vote to exempt the principal residence of full-time active duty military personnel from the payment of any delinquent tax penalty or interest, for the time such member is on active duty and for 180 days thereafter. Those seeking a military exemption must provide a copy of their military orders or other appropriate documentation to the town clerk to secure this benefit. 32 V.S.A. § 4609.

## G. SUMMARY OF DUTIES OF THE COLLECTOR OF DELINQUENT TAXES

- ▶ **Notify delinquent taxpayers.** Contact delinquent taxpayers to arrange for the payment of delinquent taxes plus penalties and interest. Try to work out a payment schedule. VLCT recommends that every collector of delinquent taxes establish a written policy on the collection of delinquent accounts and provide the policy 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. Payment to the treasurer must be made at least once every two months. 32 V.S.A. § 4646. The treasurer will then issue a paycheck in the amount of the penalties collected, minus payments for FICA and income tax withholding. If the collector of delinquent taxes receives compensation from the town in lieu of penalties, payment must be made at least once per month. 24 V.S.A. § 1530, 32 V.S.A. § 4646.

---

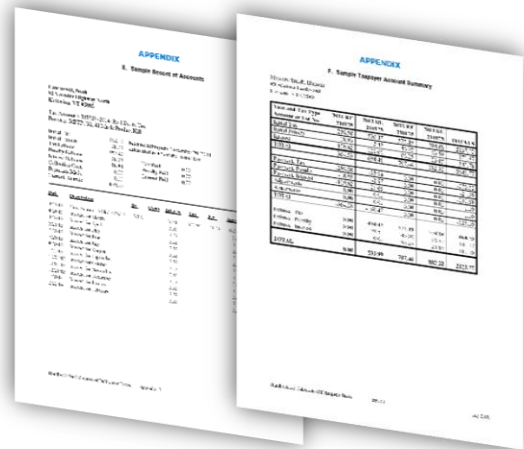
<sup>5</sup> Note that some charters specifically provide for acceleration of future installments upon any installment’s delinquency, with interest and penalty accruing retroactively to the date of delinquency.

- ▶ **Direct application of payments.** The collector of delinquent taxes must give the treasurer direction about the application of payments received by indicating which accounts should be credited, and how a particular payment from a taxpayer must be allocated between principal, interest, and penalty owed by the taxpayer.
- ▶ **Inform selectboard and/or treasurer.** At least quarterly, provide the selectboard or treasurer with a list of the taxpayers that have made payments, the amounts paid, when the taxes were due, and outstanding accounts.
- ▶ **Conduct tax sales.** When necessary for the collection of taxes, conduct tax sales of property or use other methods for collecting delinquent taxes.
- ▶ **Deliver tax bill to successor.** At the expiration of the elected term, or when a collector resigns, they must immediately lodge with the treasurer the tax bill committed to them which remains uncollected (in whole or in part), along with any money collected.

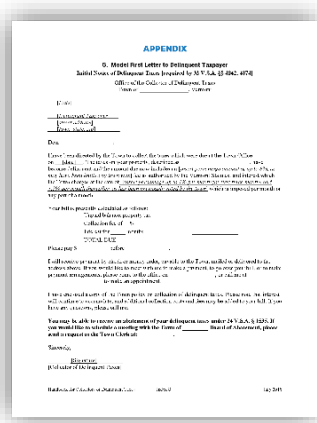
# Chapter 3: Collection of Delinquent Taxes

## A. SETTING UP RECORDS

The collector of delinquent taxes should set up a file for each delinquent taxpayer to track and record amounts due, payments made, and any communication between the taxpayer and the collector. Each file should contain a record of the taxpayer's account. Sample records appear in [Appendix E](#) and [Appendix F](#).



## B. NOTIFYING DELINQUENT TAXPAYERS



State law requires that a collector of delinquent taxes must give notice to a delinquent taxpayer before taking action to collect the delinquent amounts. Such notice must indicate the amount owed, including taxes, fees, interest, and when and where they should be paid. The notice must allow residents at least ten days and nonresidents at least twenty days (but not more than forty) to pay the amount due before the collector proceeds with a tax sale or other action. 32 V.S.A. §§ 4842, 4874. A model notice is included in [Appendix G](#).

**Many tax collectors find that it is easier for them to allow all taxpayers at least 20 days before taking formal collection action.**

Most collectors of delinquent taxes include in their initial notice to the delinquent taxpayer an explanation of how the commission, interest, and fees are added to the bill. In addition, collectors who have adopted a written collection policy (discussed in [Section G](#) of this chapter) should include a copy of that policy with the notice. The notice should include the collector's contact information and an invitation to the taxpayer to make contact to discuss arrangements for paying the outstanding amounts. In addition, the notice must provide a statement that the taxpayer has the

right to apply for an abatement of their taxes under 24 V.S.A. § 1535.<sup>6</sup> See *Fysh v. Town of Bristol*, Vt. No. S110-95Ac (Aug. 9, 1995).

There is no requirement that notice be provided to lien holders and mortgagees of a property of delinquencies this early in the process. By law, the lien holders and mortgagees must only be notified of an impending tax sale on that property. 32 V.S.A. § 5252.

### C. ACCEPTING PAYMENTS

- 1. Payments Made after the Due Date but before the Warrant is Issued.** Payments tendered to the town official responsible for the collection of current taxes<sup>7</sup> after the due date but before the issuance of the delinquent tax warrant must be accepted by that official if the payment includes the applicable interest and penalty. The taxes, interest, and penalty collected must be paid over to the collector of delinquent taxes once the warrant is issued. 32 V.S.A. § 5142.
- 2. Payments Made after the Warrant is Issued.** Once the treasurer issues a warrant, the responsibility for collection of delinquent taxes rests solely with the collector of delinquent taxes. 32 V.S.A. § 5142(b). After notifying the delinquent taxpayers, most collectors of delinquent taxes will receive phone calls from those who wish to pay part or all of the outstanding amounts. It is the responsibility of the collector of delinquent taxes to make prompt arrangements to accept those payments.

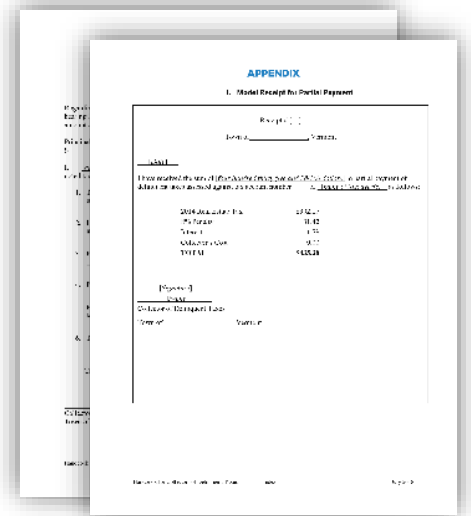
**Note that anyone can make a payment on a delinquent tax bill. This means that the collector of delinquent taxes must accept payment on a tax bill, even if the payment is being proffered by someone other than the delinquent taxpayer (e.g., mortgagee, lessee, relative).**

---

<sup>6</sup> Abatement is the forgiveness of taxes, water and sewer charges, interest, or penalty, or some combination of those elements, by the town board of abatement, pursuant to authority granted in 24 V.S.A. § 1535.

<sup>7</sup> As discussed in Chapter 1, towns must vote to have either the town treasurer or the town manager (if there is one) assume the duties of the collector of current taxes. 24 V.S.A. § 1236(10); 32 V.S.A. § 4791. If a town fails to vote either the treasurer or town manager as the collector of current taxes, then the constable automatically becomes the collector of taxes. 24 V.S.A. § 1529.

**3. Accepting Partial Payments.** In many cases delinquent taxpayers wish to make partial payments towards their overdue taxes. Each elected collector of delinquent taxes 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). Appointed collectors will need to consult with the selectboard for direction. Note, however, that there is no reason not to accept partial payments since such payments represent a real effort by the delinquent taxpayer to pay the money owed, and acceptance of partial payments reduces the delinquent accounts without waiving any of the rights regarding collection of the outstanding balances. 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). A sample receipt of partial payment is included in [Appendix I](#).



**4. Payments Over Time.** When a collector of delinquent taxes decides to accept partial payments from a delinquent taxpayer, they may 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 collector of delinquent taxes to draft a written agreement with the taxpayer. The agreement may require a monthly payment toward the outstanding taxes, and the interest and penalty owed, in exchange for the collector of delinquent taxes foregoing additional collection action. A Model Delinquent Tax Agreement is included in [Appendix H](#).

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 a payment is missed, the collector of delinquent taxes can proceed with other collection actions, including tax sale of the property.**

**5. Allocating Partial Payments.** State statute does not articulate how partial payments must be allocated between principal, interest, and penalty that is owed. As such, when a partial payment is received, the collector 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 the reduction of the

outstanding principal reduces the amount of interest and penalties that will continue to accrue. This is, of course, the very reason that the payment should not be directed solely at the principal. Once the principal is paid off, there is little incentive for the taxpayer to pay off the outstanding penalty and interest.<sup>8</sup>

Some collectors of delinquent taxes allocate partial payments first to their own fee, then to interest, and then to the principal. This system, while ensuring that the collector of delinquent taxes 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 successor collector of delinquent taxes that may get stuck with the task of collecting the principal and interest due on an account in which the commission has already been paid. The practice also invites the allegation of a tax collector putting their interest ahead of the town.

**APPENDIX**

**D. Sample Partial Payment Dunning Balance**

Delinquent Taxes  
 2019 Delinquent Taxes  
 Balance 1/1/2020

Balance 1/1/2020 \$10,000.00  
 Payments 1/1/2020 - 12/31/2020 \$1,000.00  
 Balance 12/31/2020 \$9,000.00

Date	Description	Pr	Int	Penalty	Comm	Tax	Balance
1/1/2020	Balance	10,000	0	0	0	0	10,000
1/1/2020	Payment	1,000	0	0	0	0	9,000
1/1/2020	Interest	0	100	0	0	0	9,100
1/1/2020	Penalty	0	0	100	0	0	9,200
1/1/2020	Commission	0	0	0	100	0	9,300
1/1/2020	Tax	0	0	0	0	100	9,400
1/1/2020	Balance	9,400	0	0	0	0	9,400
1/1/2020	Interest	0	100	0	0	0	9,500
1/1/2020	Penalty	0	0	100	0	0	9,600
1/1/2020	Commission	0	0	0	100	0	9,700
1/1/2020	Tax	0	0	0	0	100	9,800
1/1/2020	Balance	9,800	0	0	0	0	9,800
1/1/2020	Interest	0	100	0	0	0	9,900
1/1/2020	Penalty	0	0	100	0	0	10,000
1/1/2020	Commission	0	0	0	100	0	10,100
1/1/2020	Tax	0	0	0	0	100	10,200
1/1/2020	Balance	10,200	0	0	0	0	10,200

The best method for allocating a payment is to direct 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 collector of delinquent taxes to collect a fee that is related proportionately to the amount of the taxes they have actually collected for the town. A Sample Record of Partial Payment, reflecting the recommended proportional allocation, appears in [Appendix D](#).

**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 of delinquent taxes will not end up with unpaid taxes to collect and no commission.**

The collector of delinquent taxes 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 collector of delinquent taxes 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

<sup>8</sup> 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.

taxpayer since failure to properly apply the tax payment will result in the surety (bonding company) of the collector of delinquent taxes having to pay the proper account for the money misapplied. *Ferrisburg v. Martin*, 60 Vt. 330 (1888); *Tunbridge v. Smith*, 48 Vt. 648 (1876).

#### **D. 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, such as NEMRC. 32 V.S.A. § 5137. If the town uses receipt books, they are to be purchased at the expense of the town and 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.**

According to 32 V.S.A. § 5137, the original receipt must be given immediately to the person making the payment. 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 possession of the collector of delinquent taxes. On or before February 5 of each year, the book(s) or other permanent record 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 collector of delinquent taxes. If the town has voted to eliminate the office of town auditor under 17 V.S.A. § 2651b, the book(s) should be submitted to the licensed public accountant hired by the selectboard.

Collectors of delinquent taxes 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.

- 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 should be updated monthly to reflect the new interest charges.

A growing number of collectors of delinquent taxes are doing this record keeping and the concurrent interest and penalty calculations on a computer spreadsheet. No matter how it is done, every collector of delinquent taxes 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 collectors of delinquent taxes tally the unpaid tax, the commission, and the interest in separate columns, as shown in the following sample:

<b>Sample Record of Delinquent Tax of \$100 with No Payments Made</b>					
<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>+1.50</u>		114.00
	<u>\$100</u>	<u>\$8.00</u>	<u>\$6.00</u>		

The records of an account become somewhat more complex when partial payments are made. Although applying partial payments proportionally between the principal amount of the tax, interest, and penalty fee is not required by state law, we recommend that you do so.

<b>Sample Record of Delinquent Tax of \$100 with Partial Payments of \$50</b>					
<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			<u>+1.50</u>		114.00
	<u>\$100.00</u>	<u>\$8.00</u>	<u>\$6.00</u>		
Mar. 7	<u>-\$44.00</u>	<u>-3.50</u>	<u>-\$2.50</u>	<u>\$50.00</u>	<u>-\$50.00</u>
	\$56.00	\$4.50	\$3.50	\$50.00	\$64.00

*In the above example, the tax collector applied the payment proportionally to interest, commission, and tax due. The applied amounts are calculated by dividing each amount due by the sum of the tax, fee, and interest and then multiplying the result by the payment amount. For example, of the \$50 partial payment, \$44 was applied to the tax through the following calculation:  $\$100/\$114=.88 \times \$50=\$44$ . Calculation for interest:  $(\$6/\$114) \times \$50=\$2.50$ ; and/or fee:  $(\$8/\$114) \times \$50=\$3.50$ .*

**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.**

**3. Other Records.** It is important to keep a permanent record of all correspondence and conversations with taxpayers. Any agreement or plan that the collector of delinquent taxes 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. In addition, such records fall within the definition of a “public record” under 1 V.S.A. § 317(b) and therefore must be retained according to the records schedules of the Vermont State Archivist.

## **E. THE MONEY**

State law requires that the collector of delinquent taxes 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.<sup>9</sup> 32 V.S.A. § 4646. However, if the town has voted to pay the collector a salary or other compensation in lieu of fees and commissions, the collector must, at least once per month, pay to the treasurer any commission that has been collected. 24 V.S.A. § 1530. Generally, collectors of delinquent taxes set up a special bank account in which the taxes collected are deposited until the bimonthly or monthly transfer to the town treasury. Since in almost all cases the collector of delinquent taxes is an employee of the town, and FICA and income tax must be withheld from their “commission,” collectors of delinquent taxes 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 their other fees, less the required FICA and income tax withholding.

Some collectors of delinquent taxes 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 tax money in this way is that the collector of delinquent taxes can get paid their commissions much sooner than if they waited for the monthly or bi-monthly payment to the town.

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

---

<sup>9</sup> Another “proper officer” might be the town treasurer, since the treasurer is responsible for the receipts of the town.

## F. REPORTING

- 1. Bi-monthly Reports.** The statutes require the collector of delinquent taxes to file a report with the treasurer every two months or when demanded by the legislative body. 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 collector of delinquent taxes 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 collector of delinquent taxes and delivered to the treasurer. 32 V.S.A. § 5162. The report is “certified under oath” by having the signature of the collector of delinquent taxes notarized by a notary public.<sup>10</sup> A sample annual report of a collector of delinquent taxes appears in [Appendix C](#).

**APPENDIX**

**U. Sample Annual Report of Collector of Delinquent Taxes**

**STATEMENT OF DELINQUENT TAXES**  
 For the Year Ending December 31, 2012  
 as a result of the audit for 2012

Year	Amount	Number of Taxpayers	Number of Delinquent Taxpayers	Total
2008	2,100.00	100	100	2,100.00
2009	3,100.00	100	100	3,100.00
2010	4,100.00	100	100	4,100.00
2011	5,100.00	100	100	5,100.00
2012	6,100.00	100	100	6,100.00
<b>Total</b>	<b>20,500.00</b>	<b>500</b>	<b>500</b>	<b>20,500.00</b>

Collector of Delinquent Taxes: \_\_\_\_\_  
 Treasurer: \_\_\_\_\_  
 Date: \_\_\_\_\_

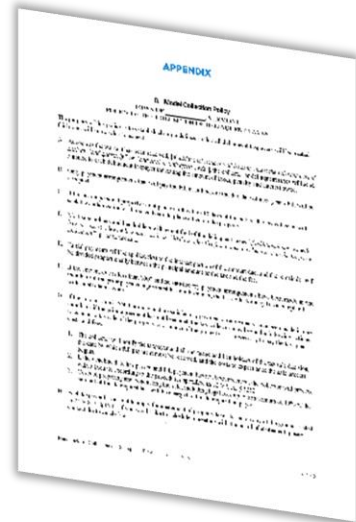
In addition to providing the annual report to the town treasurer, the collector of delinquent taxes must also furnish the annual report to the town auditors. 32 V.S.A. § 5163. However, if the town has voted to eliminate the office of elected auditor under authority of 17 V.S.A. § 2651b, the records should be submitted to the licensed public accountant hired by the selectboard. The auditors or accountant must verify the collector’s 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 condition of the tax collector’s accounts.

- 3. Failure to Report.** If a collector of delinquent taxes fails to make the required bi-monthly or annual reports, they may be subject to a fine of up to \$100. 32 V.S.A. § 5164.
- 4. Public Records Law.** The Access to Public Records Act states that all public records must be made available for public inspection and copying unless specifically exempt from disclosure. 1 V.S.A. § 316. Public records are defined very broadly and would certainly include all of the reports of the collectors of delinquent taxes. 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 whether a particular document must be disclosed, you should consult your town attorney or call the VLCT Municipal Assistance Center.

<sup>10</sup> 12 V.S.A. § 5854 lists additional officials who may administer oaths.

## G. COLLECTION POLICY

- 1. Generally.** VLCT recommends that every collector of delinquent taxes adopt a policy that explains how the collector collects delinquent taxes in the town. The adoption of a policy is considered necessary since the statutes provide collectors of delinquent taxes 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 collector of delinquent taxes. This helps the collector of delinquent taxes 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. A sample collection policy appears in Appendix B.



An elected collector of delinquent taxes has exclusive authority over their tax collection policy. The selectboard has no authority to approve or disapprove of such policy. However, it is advisable for the collector of delinquent taxes to present the policy to the members of the selectboard so that they understand and support it. On the other hand, when the collector of delinquent taxes is appointed, they are not a legally independent town officer and therefore the collection policy must be approved by the selectboard.

**Do not hesitate to ask the town attorney to review and suggest revisions to the proposed delinquent tax collection policy.**

- 2. Recommendations for a Tax Collection Policy.** Delinquent tax collection policies vary considerably from town to town, but most policies include the following information:
  - ▶ How the collector of delinquent taxes will initially notify delinquent taxpayers of their delinquency, and whether and how they will be notified of any outstanding balances.
  - ▶ When the collector of delinquent taxes will institute collection action. (How long will the taxes be delinquent before action is taken?)
  - ▶ Whether the collector of delinquent taxes will accept partial payments and how they will be allocated.
  - ▶ Whether the collector of delinquent taxes 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.

## H. DISPOSITION OF RECORDS WHEN LEAVING OFFICE

When a collector of delinquent taxes leaves office, they must *immediately* turn over all uncollected tax bills to the treasurer, along with any money collected. Such records and accounts must be audited and passed on to the new collector. When a collector of delinquent taxes 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.

All other 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 or other

permanent record. 32 V.S.A. § 5137. We therefore suggest that, 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, collectors of delinquent taxes 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 collector of delinquent taxes must take further action.

Following receipt of the list of unpaid taxes from the treasurer, the collector of delinquent taxes should provide written notice to each delinquent taxpayer of the time and place where payment of the taxes and fees may be made. Although it is not legally necessary to issue these notices right away, notice does have to be given to delinquent taxpayers prior to initiating any collection action. Residents must be given at least ten days' advance notice and non-residents must be given at least twenty days' advance notice of the time and place where payment of the taxes and fees may be made. 32 V.S.A. §§ 4842, 4874.

There are four methods for collecting delinquent taxes when voluntary agreement fails: **foreclosure, distraint, action at law, and tax sale**. Each is described below. 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, the choice of one method of collection will not bar the collector of delinquent taxes 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 certain debts. A foreclosure action can be brought to satisfy delinquent taxes because taxes are a lien on the taxpayer's property. State law provides that a statutory lien on real property is automatically created when the grand list is lodged with the town clerk. 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.<sup>11</sup> The statutes provide that a foreclosure action may only be brought after the taxes are overdue for two years. In addition, since tax liens are only good for fifteen years, a foreclosure action must be brought within fifteen years from the date the taxes were assessed.<sup>12</sup> 32 V.S.A. § 5061.

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. §§ 4931 et seq. The presiding superior court judge will appoint a commissioner to sell the real estate with the judge's approval after the time for redemption has expired. The period of redemption runs for one full year from the date of the decree. The commissioner is empowered to execute a conveyance to the purchaser. Proceeds are applied to outstanding taxes and costs due to the town, expenses of the sale, and attorney's fees. The residue is applied to satisfy any junior liens, and if any amount is left, it is paid to the taxpayer. The commissioner must report their actions to the judge, as directed, and the report must be accepted by the judge and judgment rendered before the commissioner is discharged from their duties. 32 V.S.A. § 5061(b).

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. Even after completion and entry of a foreclosure decree, there is a one-year period during which time the taxpayer may redeem the property. However, the judicial supervision involved in a foreclosure action will likely eliminate the Vermont Supreme Court's abiding objection to selling more of the taxpayer's property than is necessary to satisfy the delinquent account.

## C. DISTRAINT

**1. Generally.** Distraint, the act of seizing someone's property in order to obtain payment of money owed, is the oldest method for collecting delinquent taxes.<sup>13</sup> In modern times, it is used

---

<sup>11</sup> Note that the lien holders and mortgage holders can still go after the individual for payment owed to them, even though they can no longer foreclose on the property after tax sale or foreclosure action by the town. Because the interests of the lien holder and mortgage holder are 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.

<sup>12</sup> 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.

<sup>13</sup> 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.

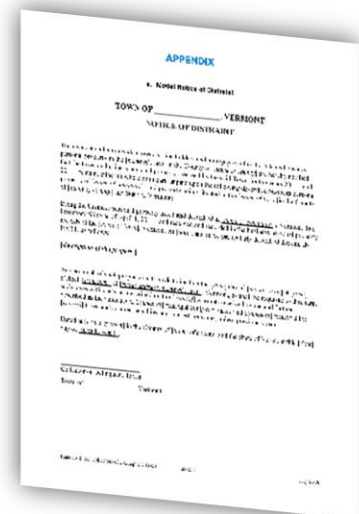
almost exclusively for the collection of personal property taxes. Pursuant to 32 V.S.A. § 5191, after the expiration of the tax due date (or sooner, in the case of a person whom the delinquent collector has reason to know is about to leave town), the collector of delinquent taxes may seize “the goods, chattels and capital stock in a corporation of a person whose tax is not paid.”

## 2. Property Subject to Distraint.

- a. **Person about to leave town.** If the collector of delinquent taxes has reason to believe that a person is about to “remove from town,” then they may distraint any of the goods, chattels, and capital stock of the person whose tax is not paid. 32 V.S.A. § 5191.
- b. **Delinquent real estate taxes.** When the delinquent tax is on the real estate (rather than delinquent personal property tax), the statutes provide that the collector of delinquent taxes may not distraint “apparel, bedding, household furniture necessary for supporting life, and one sewing machine not exceeding \$25.00 in value.” 32 V.S.A. § 5191.
- c. **Property subject to a lease.** Property subject to a lease may not be distrained. *Bartlett v. Wilson*, 60 Vt. 644 (1888).
- d. **Property not owned by taxpayer.** Property belonging to a third party cannot be distrained 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).
- e. **Exempt property.** The types of property listed in 12 V.S.A. § 2740 are exempt from attachment and execution under normal foreclosure law and should therefore be treated as exempt from distraint so as to avoid a constitutional challenge.

## 3. Process for Distraint.

- a. **Identifying and taking property.** The first step for the collector of delinquent taxes when using distraint is to identify property that will be taken. 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 collector of delinquent taxes was able to avoid the issue of trespass by distraining a vending machine that was located on city property and locking it up 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. A model notice of distraint is located in [Appendix AA](#).



**Be sure to consult with the town attorney and the town's insurance agent before property is distrained!**

- b. Notice of sale.** If the tax, costs, and charges are not paid within four days after seizing the property, the collector of delinquent taxes may sell the property at public auction. The collector must provide public notice of the sale at least six days prior to date of the sale. 32 V.S.A. § 5193. This means that the collector of delinquent taxes must allow at least ten days from seizure to sale of the property at public auction. The collector of delinquent taxes 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).
- c. 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).
- d. Passing title.** The title of the property will pass to the new owner “by law.” *Id.*
- e. 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 Distrainment.**

**Trespass.** Although the collector of delinquent taxes 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 collector of delinquent taxes who is able to use distraint without exposing themselves 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 possesses it, the town may be liable for the damages.

#### **D. ACTION AT LAW**

- 1. Generally.** The collector of delinquent taxes may choose to collect taxes by an “action at law.” An action at law occurs when the town sues the delinquent taxpayer for the payment of the overdue taxes. 32 V.S.A. §§ 5221 *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.

**As a practical matter, towns often use an action at law when the property involved has no value, such as a run-down mobile home or property that may be environmentally contaminated. In such cases, a tax sale cannot satisfy the debt owed to the town. See [Chapter 6](#) for a discussion of the court process specific to abandoned mobile homes.**

In addition, some collectors will pursue an action at law if the taxpayer fails to abide by a payment arrangement previously agreed to with the collector of delinquent taxes. 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.

- 2. Small Claims Court.** Small claims court is a distinct part of the Vermont Superior Court. Upon request, small claims court will send the collector of delinquent taxes forms to fill out to start an action against a delinquent taxpayer. Such forms should be filled out clearly and explicitly. Many small claims court 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 end up reimbursing the town for 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 legal 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 their 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.

Note that small claims court will only consider matters that involve \$5,000 or less. Actions on tax bills that involve more than \$5,000 must be brought in superior court. 12 V.S.A. Chapter 187.

- 3. Superior Court.** If the collector of delinquent taxes decides not to bring an action in small claims court, and instead decides to pursue an action in superior court, the collector must get permission from the selectboard to hire an attorney and pay the filing fee for initiating the superior court action.

It may take a year or more to get an order from the court granting judgment to the town. Once judgment is obtained, the superior court can allow the town to use the remedy of trustee process<sup>14</sup> 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, they 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 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. §§ 2901 *et seq.*

When a collector of delinquent taxes 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). 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.

---

<sup>14</sup> 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.

*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 collector of delinquent taxes “shall be *prima facie* evidence that the taxes therein standing against the name of the defendant were lawfully assessed against him.”

## 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. Once the warrant has been extended, it generally takes 40 days or more to bring a particular property to tax sale.

Because the tax sale of a person’s property deprives that person of a constitutionally protected property interest, the collector of delinquent taxes must closely follow the provisions of state statutes to ensure that the delinquent taxpayer is afforded the necessary due process. Failure to abide by statutory requirements may void the sale. 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 their tax obligations. Regularly held tax sales can reduce delinquencies and ultimately the need to conduct more sales. **As discussed in Chapter 3, all collectors of delinquent taxes should have a written collection policy to provide guidance as to when a particular property will be put up for sale.**

2. **Legal Assistance.** While there is no requirement that an attorney is used to assist in a tax sale, the collector who undertakes a tax sale without professional assistance does so at significant risk. **Taking and selling property to recover delinquent taxes is one of the most potent authorities exercised by town government and is not something that should be undertaken lightly.** The collector, however, does not have the authority to commit town funds to pay an attorney without permission from the selectboard. Therefore, the collector should specifically seek permission. Thankfully, state law allows that attorney fees may be paid with proceeds from the tax sale. Specifically, 32 V.S.A. § 5258 states that the allowable costs of the sale include legal expenses actually and reasonably incurred, up to a maximum of fifteen percent of the uncollected tax, when those expenses are authorized by the selectboard. If the anticipated legal fees exceed that amount, the collector should consult with the selectboard before allowing the expense.

**Under federal law, property belonging to a person on active duty with the military enjoys special protection and can be sold at tax sale only by permission of a court. If such property is sold at tax sale, the owner has a right of redemption up until 180**

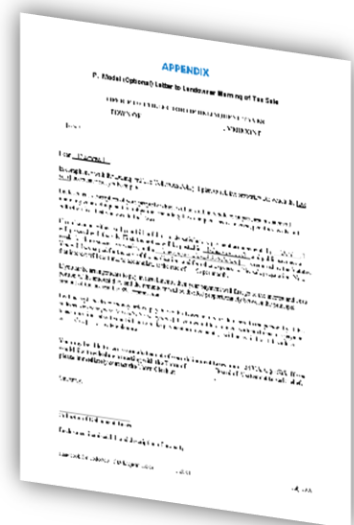
days after termination of or release from military service. Interest on the overdue tax on such property accrues at a rate limited to six percent per year, and no other penalties or interest may be charged. 50 U.S.C. § 3991(b).

**3. Vermont Homeowner Assistance Program Notification Requirement 2022 – 2025.**

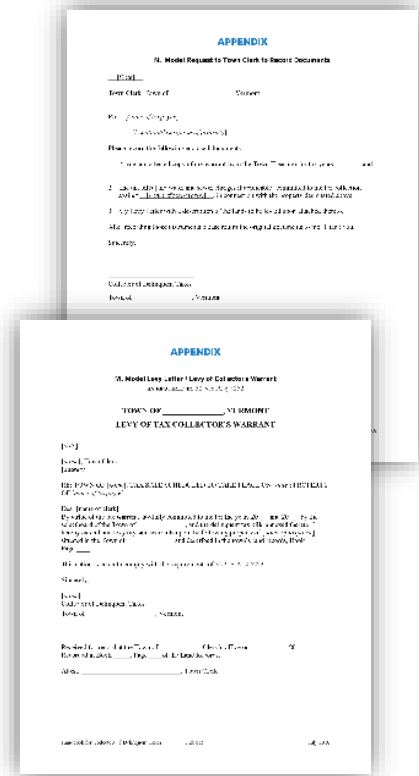
Enacted June 7, 2022, Act 182 addresses tax sales for non-payment of property tax or utility fees. Though the law is set to expire on September 30, 2025, its obligations cease to be required after the program’s funds are exhausted. The funds were exhausted in or around June 2023, so a municipality has no obligation under the law unless the legislature provides additional funding to the program.

- 4. Demand Letter.** Some collectors of delinquent taxes send a final demand letter warning the taxpayer of the plan to sell the property at tax sale. This letter serves as a last-chance warning before formal tax sale proceedings are started. Whether to give notice to these parties before then is up to the discretion of the collector of delinquent taxes. Some collectors send lien holders and mortgagees a copy of any notice that is sent to the delinquent taxpayer whose property is burdened by such lien or mortgage. There is, however, some disagreement about whether it makes sense to provide such notice since the receipt of notice may instigate a foreclosure action by the lien holder or mortgagee. Under the terms of most mortgages, the failure to pay property taxes owed on the property secured by the mortgage constitutes default of that mortgage. A lien holder or mortgagee receiving notice of delinquent taxes may therefore institute foreclosure proceedings. As such, a demand letter sent to a delinquent taxpayer can be an incentive to pay delinquent taxes so as to avoid foreclosure proceedings. On the other hand, some take the opinion that it is good practice to notify lien holders and mortgagees about delinquent taxes early since lien holders want and need to protect their interest in the property.

We do not recommend sending a copy of the demand letter to any mortgagees or other lien holders. It’s not required under the law, and, under the terms of many mortgages, the failure to pay property tax constitutes default. Thus, receipt of the demand letter by a bank may instigate a premature foreclosure action. Also, such letters could result in a legal claim being brought against the town for tortious interference in the contractual relationship between the bank and the taxpayer. If the practice of providing early notice to lien holders and mortgagees is undertaken, it should be done uniformly. A model (optional) letter to landowner Warning of Tax Sale can be found in [Appendix P](#).



**5. Extending the Warrant.** The legal term for proceeding to tax sale is “extending the warrant.” Before the warrant may be extended, the treasurer, within 15 days after the expiration of the date for timely payments of taxes, will issue a warrant for the collection of the delinquent taxes. 32 V.S.A. §§ 4793(a), 4874(a), and 4913. The warrant provides the collector of delinquent taxes the authority to collect the delinquent taxes. If the delinquent taxes remain unpaid after 60 days, the collector may “extend the warrant” and initiate tax sale proceedings. 32 V.S.A. §§ 4913, 5252. Section 5252 provides that the tax sale process starts when the collector of delinquent taxes files at the town clerk’s office “a true and attested copy of the warrant and so much of the tax bill committed to the collector for collection as relates to the tax against the delinquent taxpayer, a sufficient description of the land so levied upon, and a statement in writing that by virtue of the original tax warrant and tax bill committed to the collector for collection, the collector has levied upon the described land.” The collector of delinquent taxes complies with this law by submitting the following documents to the town clerk for recording in the land records: (1) an attested<sup>15</sup> copy of the warrant (see [Appendix K](#) for a model warrant) issued by the town treasurer; (2) so much of the tax bill that relates to the particular property; and (3) a letter that provides a legal description of the property and states that the collector has levied upon the property (this document is often referred to as the “Levy Letter” or the “Levy of Collector’s Warrant”). A model levy letter appears in [Appendix M](#). As with other documents that are required by statute for the assessment and collection taxes, these documents must be drafted and filed for recording regardless of whether the collector of delinquent taxes and town clerk are the same person. Once the warrant is recorded the town can proceed with noticing of the tax sale. A model request to Town Clerk to Record Documents is in [Appendix N](#).



**6. Securing a Property against Illegal Activity and Fire Hazard.** Sometimes a property that is brought to tax sale has been abandoned or neglected by the owner of that property. As such, it may be left open to illegal activity and/or subject to fire hazards. Thirty-two V.S.A. § 5258(a)(4) allows a town to recoup expenses “actually and reasonably incurred by the town in securing a property ... against illegal activity and fire hazard.” There are several limitations to note here. First, the expenses must be incurred after the warrant and levy for delinquent taxes has been recorded. Second, the amount that the town may recoup is limited to 20 percent of the total uncollected delinquent taxes on the property.

<sup>15</sup> The warrant is attested when the collector of delinquent taxes adds to the bottom of the warrant the words “A True Copy. Attested.” and signs their name.

## 7. Preparing for Tax Sale.

- a. **Determine whether the town will bid.** A town is not required by law to bid on a property at tax sale even if no other bid is received. 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.) The decision of whether to bid rests with the town's selectboard, though it may only do so when no minimum bids have been made. 32 V.S.A. § 5259. As such, the collector of delinquent taxes should be sure to give the selectboard advance notice of all upcoming sales so that the issue of bidding on a property can be included on the agenda of a regular or special selectboard meeting. 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 collector's records. 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 them. *Chandler v. Moulton*, 33 Vt. 245 (1860).

The selectboard should not issue a blanket policy authorizing bidding at all tax sales in which there are no other bidders 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 on a case-by-case basis whether or not the town should bid at tax sale and keep in mind other tax collection methods described in this chapter.

- b. **Title search of property to identify lien holders.** The collector of delinquent taxes or the town attorney should perform a quick title search of the property to identify all mortgage holders and lien holders with a current 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 else risk losing the property in a foreclosure action. **When adequate notice is provided, town property tax liens may 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.**
- c. **Prepare an accounting for the sale.** To prepare for the sale, the collector of delinquent taxes must prepare a final accounting which sets forth the amount of taxes due, interest to the date of sale, the fee of the collector of delinquent taxes (up to eight percent unless a different percentage has been set by the voters), and other expenses authorized pursuant to 32 V.S.A. § 5258 (see below). The total amount of taxes, interest, and fees establishes a minimum acceptable bid at sale. 32 V.S.A. § 5254.

## Tax Sale Fees and Expenses

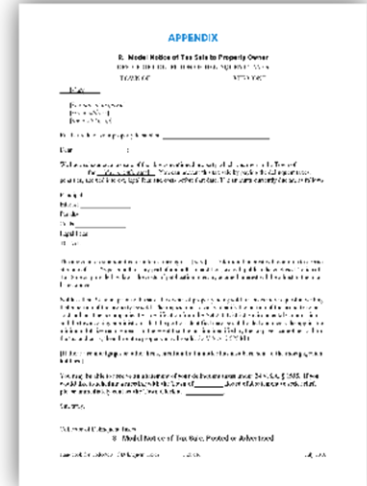
**The following are the fees and expenses that may be recouped as part of a tax sale, pursuant to 32 V.S.A. § 5258.**

Levy and extending of warrant .....	\$10.00
Recording levy and extending of warrant.....	\$15.00 (to be paid to town clerk)
Notices.....	Actual cost incurred
Publication.....	Actual cost incurred
Travel.....	At state employee rate
Attending and holding sale.....	\$10.00
Making and recording return (report of sale).....	\$15.00 per page (to be paid to town clerk)
Collector’s deed.....	\$15.00 per page
Collector’s fee .....	(as established in the town pursuant to 32 V.S.A. § 1674, which may be up to 8%)
Expenses incurred in securing the property .....	Actual cost incurred, not to exceed 20% of the uncollected tax (to be paid to town clerk)
Legal Assistance .....	Legal expenses actually and reasonably incurred and authorized by the selectboard, up to a maximum of 15% of the uncollected tax.

**8. Providing Notice of Tax Sale.**

- a. Notice to taxpayer.** Thirty-two V.S.A. § 5252(a)(3) requires that notice of an impending tax sale be given to the delinquent taxpayer “by certified mail” requiring a return receipt directed to the last known address of the delinquent of the date and place of such sale at least 10 days prior [thereto] if the delinquent is a resident of the town, and 20 days prior [thereto] if the delinquent is a nonresident of the town. If the certified mailing is returned unclaimed, it must be resent by first-class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure. A Model Notice of Tax Sale to Property Owner is located in [Appendix R](#).

It is not the responsibility of the collector of delinquent taxes to ensure that the delinquent taxpayer actually receives the notice. A taxpayer’s refusal to accept a mailed notice will not prevent the collector of delinquent taxes from proceeding with the tax sale. However, state law does require that if notice by certified mail is returned unclaimed, it must be resent by first class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure. 32 V.S.A. § 5252(a)(3). In instances in which notices are returned as “undeliverable,” the collector of delinquent taxes must also take “additional reasonable steps” above the statutory minimum to ensure that, whenever possible, the taxpayer receives actual notice of the sale. *Hogoboom v. Jenkins v. Town of Milton*, 2014 VT 11. Many collectors of delinquent taxes send a copy of the notice in an unmarked envelope, via first class mail, at the same time the certified mail is sent.



Other options include sending a copy to “occupant” at the property owner’s last known address and to the property, if the two addresses differ; re-sending the notice by regular mail; having the sheriff serve the notice; and posting the notice on the front door of the property or some other readily visible location on the property. Of course, posting on the property should only be done in such a way as to ensure that the peace will not be breached and that your safety will not be jeopardized. In all instances, the collector of delinquent taxes should keep a good record of the efforts undertaken to notify the taxpayer of a sale. While these additional steps cannot guarantee that the taxpayer will receive actual notice of a tax sale, they will help demonstrate that the collector of delinquent taxes afforded the taxpayer due process by taking additional reasonable steps to notify the taxpayer of the impending tax sale.

If the taxpayer has not already been informed of the right to ask for tax abatement and the process by which an abatement request is made, they must be given this information within the Notice of Tax Sale.<sup>16</sup> Even if the information has already been given to the taxpayer, it is good practice to include within the tax sale notice information about how, where, and when the taxpayer can apply for an abatement.

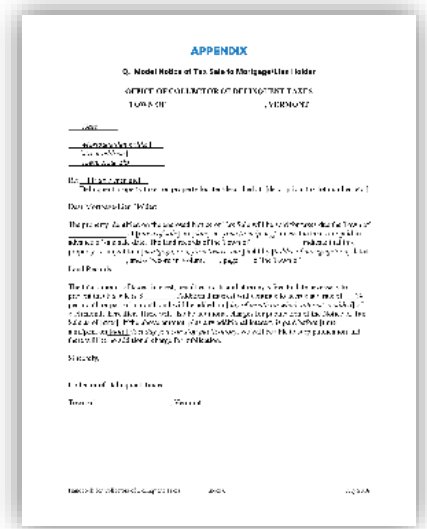
Taxpayers must also be given notice that, pursuant to 32 V.S.A. § 5254, if the value of the property exceeds the amount of tax due, they have a right to designate what portion of the property shall be offered at tax sale. In doing so, they must provide certification that the portion identified for sale meets zoning and Act 250 criteria for

<sup>16</sup> The failure to notify a taxpayer of the right to apply for abatement and the means by which to make the application is grounds for vacating a tax sale. See, for example, *Town of Windsor v. Blanchard*, Windsor Sup. Ct. Dkt No. S528-11-99 Wrev (2000).

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 applicable statute, 32 V.S.A. § 5254(b).

In order to take advantage of the right conveyed by 32 V.S.A. § 5254(b), the owner of property being sold for taxes must request in writing that a portion of the property be sold (rather than the entire parcel). The request must be received at least 24 hours before the sale and must clearly identify the portion of the property to be sold. It must be accompanied by a certification from the Act 250 District Environmental Commission and the town zoning administrator that the portion identified may be subdivided and meets the applicable minimum lot size requirements.<sup>17</sup> This “certification” merely answers the question of whether a property can theoretically be subdivided in accordance with local and state regulations and laws. The certification in no way serves as an approval of a subdivision, and any future intent to subdivide such a property will need to go through the normal subdivision review processes addressed in state law and in local subdivision regulations. 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).

- b. Notice to lien holders and mortgagees.** Notice of the impending tax sale must be sent to all lien holders and mortgagees by certified mail requiring a return receipt directed to the last known address of such person or entity at least 10 days prior to the sale if the lien holder or mortgagee is a resident of the town, and 20 days prior if a nonresident. As with the notice sent to delinquent taxpayers, if notice by certified mail is returned unclaimed, it must be resent by first class mail or by personal service pursuant to Rule 4 of the Vermont Rules of Civil Procedure. Research in the land records, which may be conducted by the town’s attorney, will identify and locate mortgagees and other lien holders. These parties must be notified of an impending tax sale so that they have an opportunity to pay the outstanding taxes in order to avoid the sale and the attendant costs associated with redemption of the property. 32 V.S.A. § 5252(a)(4). A model notice appears in [Appendix Q](#).

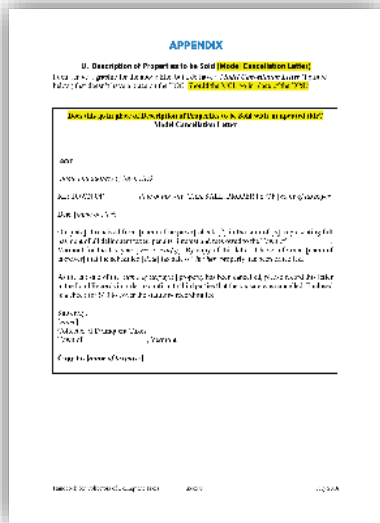
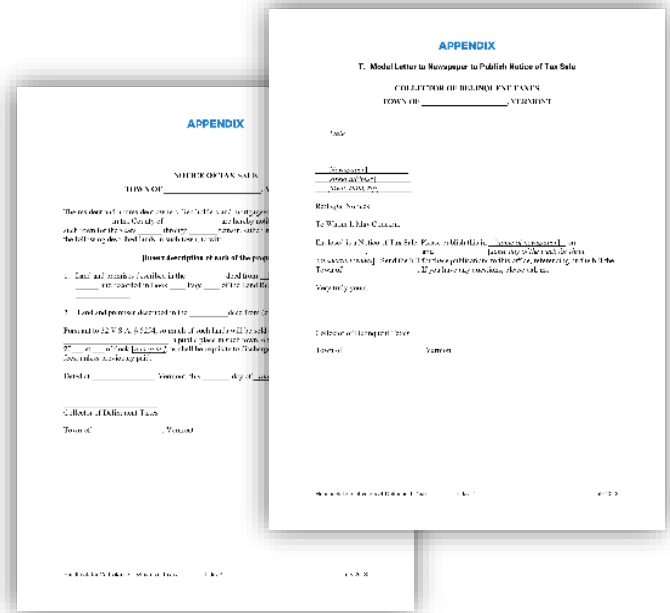


<sup>17</sup> The “certification” that is required is not an actual subdivision permit and is not a guarantee that the property will be issued a subdivision permit.

c. **Notice to public.** The collector of delinquent taxes must post notice in “some public place in the town” 32 V.S.A. § 5252(5) and advertise the sale for three consecutive 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 dictated by 32 V.S.A. § 5253. A model notice appears in [Appendix S](#), and a model letter to a newspaper to publish notice of tax sale appears in [Appendix T](#). When calculating the 10-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.

## 8. 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 of settlement, including costs of publication and legal fees, to the bill. 32 V.S.A. § 5142(a).



Some collectors send a cancellation letter when there is a settlement before a tax sale. A model appears in [Appendix U](#).

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 collectors of delinquent taxes 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 sometimes take the position that, since they are the assignee of the original mortgage, their liability extends only to the net tax due. In accepting account payments from FDIC either before tax sale or during the

redemption period, the tax collector should insist on payment of the *entire* account balance.

## 9. Conducting the Tax Sale.

- a. **Location of sale.** Vermont statutes refer to the tax sale as a “public auction” that takes place in “a public place” within the town where the property is located. 32 V.S.A. §§ 5252, 5253. Practically, a tax sale can take place on public or private property, so long as it is open to the public (and not unreasonably difficult to find or get to). The actual conduct of the sale can be a very lonely experience, as often there is no one present to bid except perhaps a representative of the town. In a few instances, however, there may be a number of bidders and bystanders at a tax sale.
- b. **Informing bidders.** Prior to commencing bidding on the property, the collector must determine the exact amount owed as of the date of sale. If appropriate, potential bidders should be informed that the town may bid this amount if no third party does so at the sale. 32 V.S.A. § 5259. Bidders should also be informed that the taxpayer, mortgagees and lien holders have a year after the tax sale to redeem the property by paying the purchase price paid at the sale, plus interest; and that if the property is not redeemed within that time, the winning bidder will receive whatever title the delinquent taxpayer had at the time of sale, less any liens and mortgages acquired during the delinquent’s ownership. 32 V.S.A. § 5260. Finally, bidders should be made aware that current taxes will continue to be assessed against the property during the one-year redemption period. Although the delinquent taxpayer remains personally liable for property taxes during the redemption period, if the property is not redeemed, the winning bidder is very likely to take the property subject to a lien for delinquent taxes, penalty, and interest that accrued during the redemption period. In practical terms, this usually means that the winning bidder ends up paying the taxes and fees that have accrued during the redemption period.
- c. **Accepting bids.** The collector of delinquent taxes, 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 (by 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 total of all delinquent taxes, interest, fees, and costs that have accrued to that date). Once bidding has ended and a final price and bidder are identified, that information should be recorded by the collector of delinquent taxes. The auction is then final and no more bids can be accepted.
- d. **Tender of payment.** Most collectors of delinquent taxes 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 nothing in statute, however, that prohibits a collector of delinquent taxes from accepting personal checks, assurances, or letters of credit. No matter what kind of

payment the tax collector chooses to allow, it should be explicitly stated in the written delinquent tax collection policy to prevent unequal treatment of bidders.

- e. **Municipal bids.** As stated earlier, a town may buy a property that's up for tax sale for the statutory minimum bid amount (the amount of taxes, interest, fees, and costs due), but only under certain circumstances. A town may purchase a property at tax sale only if no other minimum bid is received. If there are any other acceptable bids on a property, a town is prohibited from bidding. Furthermore, if a town submits a bid and a subsequent acceptable bid is received, the town must withdraw its bid.<sup>18</sup> 32 V.S.A. § 5259.



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 delinquent 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 “distrainted” (sold) to pay outstanding taxes on the property, subject to the existence of the lease. 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 collector of delinquent taxes must send a notice of the sale not only to the owner, the lien holders, and mortgagees, but also to the lessee of the property.

A copy of the warrant – along with the report of sale giving a description of the taxes, the property, and the lessor’s interests – must be delivered to the lessor and the lessee after the sale is complete. 32 V.S.A. § 5256.

- g. **How to proceed if no one purchases a property.** Many collectors of delinquent taxes 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 collector of delinquent taxes 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 (either distraint, foreclosure, or an action at law).

---

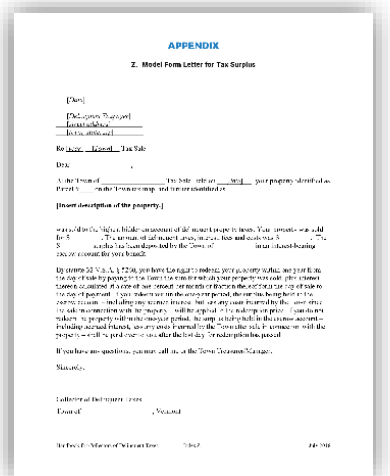
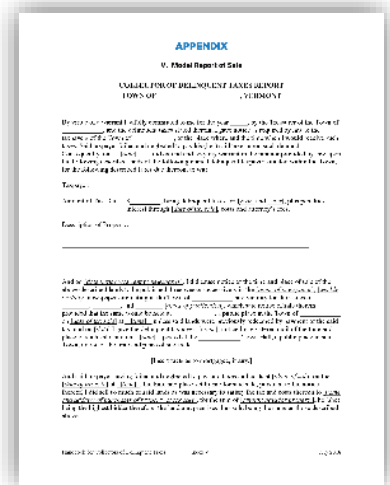
<sup>18</sup> A town’s authority to bid at a tax sale is its ultimate recourse to protect itself against any conspired attempts to avoid sale by discouraging all bidding. However, the town is not permitted to retain the proceeds of a resale greater than the amount of delinquent taxes, interest, fees, and costs. The object is to recover taxes and costs incurred in the collection process, not to operate a for-profit real estate business. *Bogie v. Town of Barnet*, 129 Vt. 46 (1970).

**h. FDIC property.** Federal law protects property of the Federal Deposit Insurance Corporation (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 town 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.

**10. Report of Sale.** Within 30 days after a tax sale has been completed, the collector of delinquent taxes 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 in [Appendix V](#). The collector of delinquent taxes 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). A copy of the report should be sent to the delinquent taxpayer as well as any mortgagees or lien holders, along with a copy of 32 V.S.A. § 5260 which explains the rights of redemption.

**11. Treatment of Sale Proceeds.** When the collector of delinquent taxes receives payment from the successful bidder at the tax sale, they should first make a payment to the town of all taxes, interest, fees, and costs owed by the taxpayer. The town treasurer should then write a check to pay the collector their 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.

Any excess proceeds from the purchase price can either be given to the delinquent taxpayer<sup>19</sup> or placed into an escrow account for the one-year redemption period. *Ran-Mar, Inc. v. Town of Berlin*, 181 Vt. 26 (2006). Though the economic benefit of the excess proceeds must go to the delinquent taxpayer, they have no right to these funds until either the property is redeemed or a tax deed has been conveyed. If money is placed in an escrow account, notice should be given to the taxpayer as such. The account may (but not must) be one that earns interest at the current market rate. A model form letter for tax surplus appears in the back (Appendix Z).



<sup>19</sup> Towns should not release the proceeds to the delinquent taxpayer prior to the passing of the redemption period without the consent of the mortgagee(s).

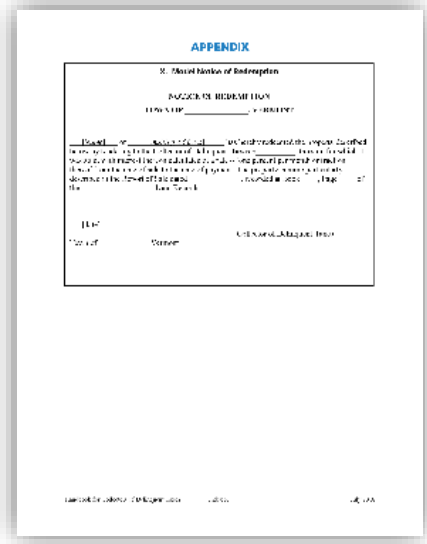
The money in the escrow account is held so that if the taxpayer wishes to redeem their property, this money can be applied to the amount of money required for redemption. On the other hand, if the delinquent taxpayer does not intend to redeem the property, the collector of delinquent taxes can release 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 they fail to redeem.

## 12. Redemption.

- a. **How a taxpayer/mortgagee redeems.** The delinquent taxpayer or the mortgagee of the lands, or their 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 180 days after leaving the military to redeem property sold at tax sale. 50 U.S.C. § 3991(b).

The payment must be made to the collector of delinquent taxes. **The collector of delinquent taxes has no discretion to accept less than full payment in order for a taxpayer to redeem the property. In other words, a taxpayer can only redeem the property by paying over to the collector of delinquent taxes the entirety of the winning bid at tax sale, plus interest of 1% per month or fraction thereof from the day of sale to the day of payment. 32 V.S.A. § 5260.** While the collector may accept partial payments towards redemption, no redemption can take place without full payment being made in the time allowed. *Westine v. Whitcomb*, 150 Vt. 9 (1988).

When a taxpayer redeems the property, 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. However, notice of redemption should be given to the town clerk for recording in the land records. A model notice of redemption appears in [Appendix X](#).



- b. **IRS Lien.** There are specific notice requirements when the IRS is a lien holder. The IRS must be provided with a 25-day Notice of Sale. If the notice requirements are not satisfied, the IRS's tax lien will survive the tax sale, and the purchaser will take the property subject to the tax lien. 26 U.S.C. § 7425(c).

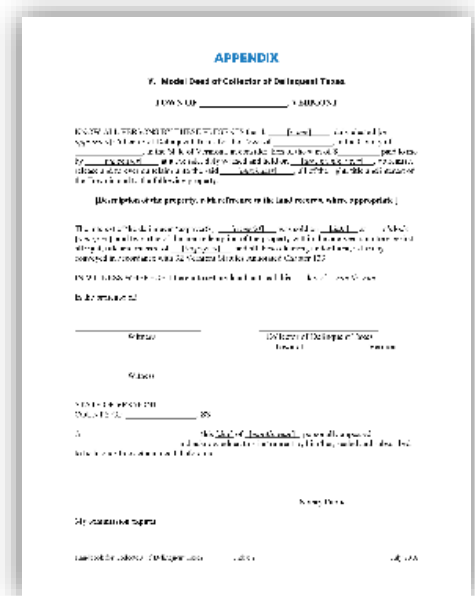
Moreover, the federal government gets an additional 120 days to redeem the property, beyond the year afforded the delinquent taxpayer. “In the case of a sale of real property to which subsection (b) applies to satisfy a lien prior to that of the United States, the Secretary may redeem such property within the period of 120 days from the date of such sale or the period allowable for redemption under local law, whichever is longer.” 26 U.S.C. § 7425(d)(1). Consequently, if the IRS has a tax lien, the redemption period for the federal government will be extended an additional 120 days beyond the one-year redemption period as this is the longer of the two periods.

The additional 120 days granted the IRS for redemption of a property sold at tax sale does not somehow extend the period of time during which the taxpayer has a right to the property. Once the one-year redemption period has run, the taxpayer's right to the property is totally foreclosed (ceases to exist), and the buyer at tax sale has full right to the property subject only to the IRS's right to redeem for an additional 120 days.

- c. **Repaying the purchaser.** Upon redemption, the town must repay the purchaser the money paid by the delinquent taxpayer, which includes the sales price, plus interest of 1% per month or fraction thereof from the day of sale to the day of payment.
- d. **Current taxes during the redemption period.** During the one-year redemption period, the delinquent taxpayer retains title to the land. Because title has not yet passed from the delinquent taxpayer to the highest bidder, the delinquent taxpayer continues to be responsible for the tax bill. Once the redemption period ends and title passes to the highest bidder, the purchaser takes the property subject to any taxes that have accrued after the date of the tax sale, and any interest or penalties that might have resulted; if these are not paid, the purchaser risks sale of the property.

Unpaid property taxes are both 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. The debt follows the person who owned or possessed the property on April 1<sup>st</sup>. That person may be obligated to pay the debt, regardless of whether they presently own or possess the property. 32 V.S.A. § 3651. The lien also follows the property and, as such, the present property owner holds the property subject to the lien regardless of whether they owned or possessed the property on the date the grand list was lodged with the town clerk. 32 V.S.A. § 5061. Therefore, both parties would potentially be responsible for the delinquent taxes on a property. **The treatment of current taxes during the redemption period is troubling to many people, and we recommend that you inform potential purchasers carefully so that they are not surprised when they receive a notice of overdue taxes along with the collector’s deed.**<sup>20</sup>

**13. Collector’s Deed and Property Transfer Tax.** If the delinquent taxpayer or mortgagees fail to redeem the property during the one-year period, the collector of delinquent taxes 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 model deed appears in [Appendix Y](#).

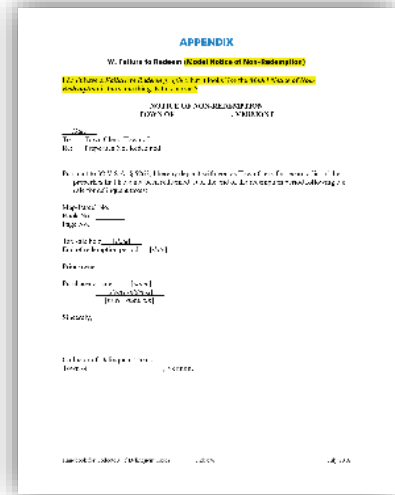


Generally, a property transfer tax based on the value of the property is imposed by the state when real property title changes. 32 V.S.A. § 9602. However, when property is transferred to the United States, the State of Vermont, or any instrumentality, agency or subdivision thereof, no tax is due. 32 V.S.A. § 9603. When property is transferred to the purchaser by collector’s deed after the redemption period has expired, it is the

<sup>20</sup> 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.

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.

**14. Report to Clerk.** Within 30 days from the expiration of the redemption period, the collector of delinquent taxes must provide the town clerk with a “list of the lands which 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. A model notice of non-redemption appears in [Appendix W](#).



**15. Accounting to Taxpayer.** After a tax deed has been made out transferring the property to the purchaser, the collector of delinquent taxes should remit any amounts remaining in the tax sale proceeds escrow account to the delinquent taxpayer. If that person cannot be found, the remaining proceeds should be turned over to the State of Vermont Unclaimed Property Division. Property held by a municipality is presumed abandoned one year after it becomes distributable, which in the case of a tax sale would be one year after the redemption period (i.e. two years from the tax sale). 27 V.S.A. § 1461(10).

## 16. Challenges to Deed.

- a. Burden of proof.** If a tax sale is challenged, the purchaser at that sale has the burden of proving every act necessary to the validity of the tax, levy, and sale of the property for which their title is being challenged. *Peterson v. Moulton*, 120 Vt. 439 (1958). The collector’s report of sale (the report filed with the town clerk after the tax sale) creates a presumption that the facts contained therein are true, so a properly filed report will greatly ease the purchaser’s burden of proof.
- b. Statutes of limitations.** Thirty-two V.S.A. § 5263 states “any plaintiff or those under whom he or she claims” may bring an action under section 5263 for the “recovery of lands, or possession thereof” against the grantee of the tax collector’s deed. (Note that this law doesn’t limit the action to taxpayers.) Section 5263 limits the period of time in which a tax collector’s deed may be challenged against the new owner (the grantee) to one year 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 one-year limitation apply, the new owner must be in possession of the property, indicating their ownership by paying the property taxes for the one year. Thus, case law has indicated that when the purchaser does not take possession of the property (by evicting the delinquent taxpayer), the purchaser’s claim to title may be challenged after the one-year period has elapsed. *Downer v. Tarbell*, 61 Vt. 530 (1889).

**Under** a separate provision of law, a “taxpayer” has one year from distraint or from the date of levy of the tax sale to bring a suit questioning the actions of a treasurer with respect to the tax assessed, the tax bill, or the warrant or the acts of the collector of delinquent taxes relating to the collection of the tax. 24 V.S.A. §§ 5294, 5295.

- 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. Town of Victory*, 35 Vt. 351 (1862).
- d. Taxpayer’s defenses.** There are a few specific defenses that a taxpayer can use to invalidate the sale of their 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.7](#) 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 the year in which 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 tax levy, including making the appraisal and setting the grand list, this defense must be asserted within six months from the date that the tax may first be collected against them (or one year for non-residents). 32 V.S.A. § 5293.

## Chapter 5: Business Personal Property Tax

### A. GENERALLY

A town may vote at an annual or special town meeting to exempt inventory or business personal property from local taxation. 32 V.S.A. §§ 3848, 3849. If the town does not vote to exempt inventory, then it will be added to the grand list and taxed as outlined in 32 V.S.A. Chapter 129. Likewise, without a vote to exempt, business personal property may be taxed according to the provisions of 32 V.S.A. § 3618.

“Inventory” is defined in 32 V.S.A. § 3848(b) as any tangible, non-depreciable property held for consumption, sale, resale, or leasing, and raw materials, work in process, semi-finished or finished goods and stock-in-trade of wholesalers and retailers. It includes such things as cars on a dealer’s lot waiting to be sold or leased, the items for sale in your local grocery store or pharmacy, or materials that will be used up in the production of some product.

The term “business personal property,” defined in 32 V.S.A. § 3618(c)(1), means any tangible, depreciable, non-real estate property used in a commercial enterprise, such as books, furniture, tools, and machines. It does not include inventory, or items “so affixed to real property as to have become part thereof ...,” or “poles, lines and fixtures which are taxable under Sections 3620 and 3659 [of Title 32].”

Collection of delinquent inventory or business personal property taxes poses a significant challenge to collectors of delinquent taxes. 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 obligations of the collector of delinquent taxes when dealing with delinquent inventory or business personal property taxes.

### B. THE LIEN ON BUSINESS PERSONAL PROPERTY

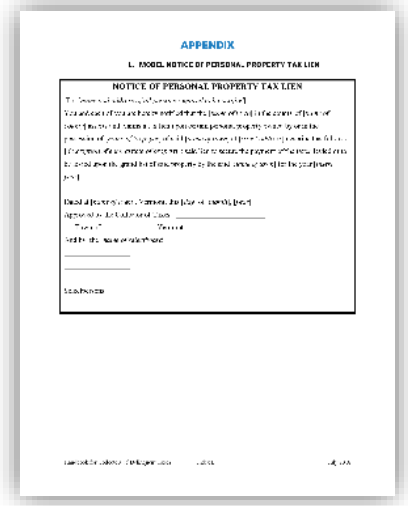
Although the tax lien on real property is automatic, a lien on business personal property or inventory does not exist until the tax collector exercises discretionary authority to act with respect to a particular taxpayer, and files a notice of tax lien. *In re Summit Ventures*, 135 B.R. 483 (Bankruptcy D. Vt. 1991).

- 1. Filing the Lien.** When a tax is due on business personal property or inventory, the tax collector, with the approval of the selectboard, 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.<sup>21</sup>

---

<sup>21</sup> The clerk should keep a separate book for recording personal property liens, a brief statement of the substance of the lien, index the record book alphabetically, and file the notice chronologically in a

**2. 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. The form for a personal property lien is found in 32 V.S.A. § 5073 and is in [Appendix L](#).



**3. Notice.** Notice of the lien must be given to the taxpayer, or to the owner of the property if the taxpayer is not the owner, and to all persons having a duly recorded lien on the property. 32 V.S.A. § 5073. The notice must be sent to the last known post office address of each person by registered or certified mail, return receipt requested.<sup>22</sup> Failure to comply with statutory notice requirements will result in the property being unencumbered by the tax lien. 32 V.S.A. § 5071.

**4. Costs.** In addition to the taxes, interest, and fees, the collector of delinquent taxes may add any costs of collection that are just and reasonable. *Montpelier v. Central Vermont R.R.*, 89 Vt. 36 (1915). This includes a \$0.50 collection fee 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. 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 abatement). Personal property that is subject to a tax lien may not be sold, mortgaged, exchanged, or pledged.<sup>23</sup>

**6. 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 they buy a property subject to the tax lien without knowing of the lien's

---

separate file. Tax liens that affect title to real property should be noted in the grantor/grantee index. 1974 Op. Att. Gen 214.

<sup>22</sup> If the taxpayer, 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. 32 V.S.A. § 5071.

<sup>23</sup> 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.

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 in 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 collectors of delinquent taxes simply include the delinquent personal property amounts in a tax sale or other collection action taken against the taxpayer for nonpayment of their 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 town. 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, collectors of delinquent taxes 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.<sup>24</sup> See [Chapter 4, Section D](#), for more information about using an action at law for the collection of delinquent taxes.
- 3. 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 collector of delinquent taxes must discharge the record of lien upon payment of the amounts due to the town.<sup>25</sup> 32 V.S.A. § 5076.
- 4. Notice of Collection.** Under 32 V.S.A. § 5075, the collector of delinquent taxes must give notice that a distraint action or an action at 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. Thirty-two V.S.A. § 5071 specifies how to send notice to a corporation and partnership.

---

<sup>24</sup> 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.

<sup>25</sup> Payments of \$3.00 each to the town clerk and collector of delinquent taxes for the filing of the lien and discharge shall be paid by the town if ordered by the selectboard.

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 them, but only if it is certain they won't move the property out of the 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.

- 5. Abatement of Personal Property Taxes.** Many collectors of delinquent taxes 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 their 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. The collector may initiate the abatement process by requesting an abatement hearing.

## 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 the 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.
- 2. Type of Property.** A mobile home is considered personal property if it is not affixed to land and is not financed as real estate. A mobile home is taxed as real property when it is either affixed to land or when it is financed as real estate. Factors that indicate that a mobile home is affixed to land, and thus taxed as real property, include when the mobile home is on blocks or stabilized by something other than its wheels; the mobile home is connected to utilities; skirting has been installed; axels or wheels have been removed; or the mobile home has been situated in a place that makes removal unlikely. 9 V.S.A. §§ 2601 *et seq.*; 32 V.S.A. § 3692(b).

A mobile home *purchased* from a mobile home dealer on or after July 1, 2008, is required to be transferred by warranty deed if the purchase is financed as residential real estate. 9 V.S.A. § 2604(a). When a mobile home that has been financed as real estate is *transferred*, the transfer must be by warranty or quitclaim deed. 9 V.S.A. § 2604(b).

- 3. Mobile Homes on Rented Lots.** The treatment of a mobile home as real property is complicated for the collector of delinquent taxes 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 their rental payments to a mobile home park owner. A mobile home park owner must comply with the provisions of 10 V.S.A. § 6237 prior to the eviction of a mobile home resident.

### B. UNIFORM BILL OF SALE

Prior to the sale or transfer of ownership of a mobile home, the seller or transferor must provide a copy of a completed, executed mobile home bill of sale to the town clerk for endorsement. Additionally, in the case of a mobile home being sold or transferred separately from the real property where it is located, the seller or transferor must mail a copy to the

record owner of the real property where the mobile home is located by certified mail, return receipt requested, at least 21 days prior to the transfer or sale. A clerk may not endorse a mobile home uniform bill of sale unless all property taxes due and payable on the



mobile home, but not the real property on which the mobile home is located if separately owned, have been paid in full.<sup>26</sup> Additionally, a clerk may not endorse a bill of sale in the case of removal of a mobile home from the town, or of a sale, trade, or transfer that will result in the removal of the mobile home from the town, unless all property taxes assessed to the mobile home itself have been paid in full.

At the time of sale or transfer, the seller or transferor must execute and provide the endorsed bill of sale to the buyer or transferee. Within 10 days of executing the bill of sale, the buyer must file the executed bill of sale with the town clerk. If the mobile home is to be moved to land that is not owned by the mobile home buyer, the buyer must provide a copy of the bill of sale to the record owner of the real property at least 21 days prior to the sale or transfer of the mobile home. Within 14 days of the filing of the bill of sale with the town clerk, the clerk must mail a copy of the bill of sale to each buyer, seller, and owner of real property for whom a mailing address is provided in the bill of sale. 9 V.S.A. § 2602(b).

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 collector of delinquent taxes, 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 collector of delinquent taxes. 32 V.S.A. § 5079(d). However, a mobile home may only be taken without court order if it can be done without a breach of peace.<sup>27</sup> 32 V.S.A. § 5079(d). Most collectors of delinquent taxes 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.

---

<sup>26</sup> Property taxes due are measured as of the most recent assessment or, if the town collects taxes in installments pursuant to 32 V.S.A. § 4872, as of the most recent installment.

<sup>27</sup> The statutes discussing breach of the peace can be found in 13 V.S.A. Chapter 19, and include riots, assaults, drunkenness, etc.

### **C. MOBILE HOMES THAT HAVE DISAPPEARED**

It is not uncommon for a mobile home to disappear from a town without having the bill of sale endorsed by the town clerk. If the collector of delinquent taxes does not know where the mobile home has gone, the collector should notify the director of Property Valuation and Review of its removal and provide all information that might aid in the mobile home's identification, such as a serial number. If the director discovers that the mobile home has appeared in another town, they will notify the collector of delinquent taxes 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 their records.

### **D. ABANDONED MOBILE HOMES**

If a mobile home has been abandoned, 9 V.S.A. § 2608 allows the selectboard to initiate an action in superior court to sell that abandoned mobile home at public auction. The process starts when the town files a complaint, verified under oath, in the civil division of the superior court for the county in which the town is located. The town must also satisfy certain publication and notice requirements. A hearing is scheduled from 15 to 30 days after the filing of the complaint.

At the court hearing, the town must prove ownership of the mobile home, the amount of taxes, fees, and other charges due to the town, and the amount of attorney's fees claimed. The town must also prove that notice and publication requirements have been met, and that the mobile home has actually been "abandoned." Whether a mobile home is abandoned is a question of fact determined by the court. If the court finds that the town has complied with the above criteria, the court approves the sale of the mobile home at a public auction.

The court order will include the minimum bid, terms of sale, and notice and publication requirements of the sale. The minimum bid must be sufficient to cover the total costs of paying the person conducting the sale, the town's court costs, attorneys' fees, publication and mailing costs, delinquent taxes including interest and penalties, and reimbursement for the landowner for unpaid rent if the mobile home is located on leased land.

In the case of an abandoned mobile home that is unfit for human habitation, a town can file a verified complaint requesting the court approve transfer of the mobile home to the town without public sale. A court will approve such a request if it finds that the town meets the requirements listed above and also proves that the mobile home is "unfit for human habitation." In deciding whether the mobile home is unfit for human habitation, the court must consider the functionality of appliances, plumbing, electrical fixtures, wiring, heating systems, and whether the mobile home is structurally sound, weather-tight, and free of trash, debris, filth, and pests.

## Chapter 7: Bankruptcy

### A. GENERALLY

The bankruptcy of a delinquent taxpayer poses an interesting challenge for collectors of delinquent taxes, primarily because the rules and procedures of the bankruptcy process are confusing, and because there is a great deal of variation as to what can be expected at the outcome of the proceedings. A brief discussion of the effect of bankruptcy on collection of taxes follows.

**The best overall advice we can provide is to consult an attorney knowledgeable about bankruptcy when questions arise; not only are there 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 debts which the petitioner had accrued prior to filing. **This means that once a delinquent taxpayer has filed for bankruptcy, the collector of delinquent taxes must stop all of their collection actions against the taxpayer.** A creditor (someone the taxpayer owes money to) 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 town receives notice of the bankruptcy (regardless of the source of the notice), the collector of delinquent taxes must not contact the taxpayer about the taxes owed before the petition was filed. If it is necessary to communicate with the taxpayer, the town should contact the taxpayer's 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.

The automatic stay does not affect debt that accrues after the bankruptcy is filed. As such, it is legal and acceptable for the town to send out a bill for current taxes to a person that has filed for bankruptcy.

### C. PROOF OF CLAIM

When the taxpayer files a petition for bankruptcy, the town will generally receive a formal "Notice of Bankruptcy" that includes the name of the town as a creditor. The bankruptcy court will send a "Proof of Claim" form to the town clerk that sometimes serves as the first notice

that a bankruptcy petition has been filed.<sup>28</sup> It is important for the collector of delinquent taxes to ask the town clerk to notify them in the event that a Proof of Claim or Notice of Bankruptcy is received by the clerk. This will prevent the collector of delinquent taxes from inadvertently violating the stay because they were never notified that the town received the Notice of Bankruptcy.

The Proof of Claim form requires the town 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, towns may wish to annually file a notice of address with the bankruptcy court. 11 U.S.C. § 342(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 town claim will be paid, it is important to determine the type of claim the town has.

There are two types of municipal tax claims in bankruptcy. First, current taxes are treated as administrative expenses of the bankruptcy estates and are paid in the ordinary course of a bankruptcy proceeding. 11 U.S.C. § 503(b)(1)(B)(i). A town is not required to file a request for 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, by 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 1<sup>st</sup> of each year.<sup>29</sup> 32 V.S.A. § 5061. This lien is, by statute, senior to all other liens and mortgages on the property. Delinquent property taxes are secured claims even when a petition is filed before the grand list is lodged, but after the tax status day of April 1<sup>st</sup>. 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 1<sup>st</sup> date. In this case, the court allowed the town to recover the delinquent taxes and interest, but no penalties. **Because the**

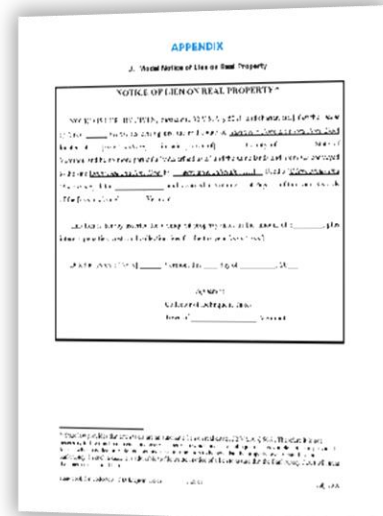
---

<sup>28</sup> 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.

<sup>29</sup> 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.

bankruptcy court is sometimes confused as to the proper treatment of liens for delinquent real property taxes, to maximize the town's likelihood of recovery, the collector of delinquent taxes should record real property tax liens whenever the collector of delinquent taxes 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.<sup>30</sup> A model notice appears in [Appendix J](#).

Note that delinquent personal property taxes will not be a secured lien unless the lien has been recorded in the town's land records 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, 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 the taxes 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 delayed 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 (for the remaining nine months) only after the bankruptcy proceeding is completed.** *In Re L.H. & A. Realty Co., Inc.*, 57 B.R. 265 (Bankr. D. Vt. 1986).

---

<sup>30</sup> 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, the amount of delinquent taxes including penalties and interest, the statutory authority for the lien, and the signature of the collector of delinquent taxes. 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(s) of the land record(s) in which it appears.

## Conclusion

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

- ▶ Remember that the collector of delinquent taxes 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 collector of delinquent taxes will do to collect the tax, and what options are available to them.
- ▶ The collector of delinquent taxes should adopt a uniform policy to ensure that all taxpayers are treated fairly. A copy of this policy should be given to each delinquent taxpayer.
- ▶ Collectors of delinquent taxes 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 collector of delinquent taxes holds the ultimate authority to determine whether and how to accommodate a taxpayer. Therefore, when more congenial methods of collection fail, the collector of delinquent taxes 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 collector of delinquent taxes 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, water and sewer charges, interest or collection fees, or any combination of those (24 V.S.A. § 1535) and of the exceptions for people on active military duty regarding tax sales and redemption (50 U.S.C. 3991).

**The problems facing Vermont's collectors of delinquent taxes are ever changing. When questions arise that are not covered in this manual, remember that the VLCT Municipal Assistance Center is here to help! Contact us at 800-649-7915 or [info@vlct.org](mailto:info@vlct.org).**





## Appendices

### APPENDIX A: SCHEDULE FOR COLLECTOR OF DELINQUENT TAXES

#### After annual 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 they have 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.
4. Maintain contact with each delinquent taxpayer, by phone or by letter, each month. Document the date, manner of contact (phone, letter, email, 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 transaction.

## APPENDIX B: MODEL COLLECTION POLICY

### TOWN OF \_\_\_\_\_, VERMONT POLICY OF THE COLLECTOR 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, *[if additional notices will be sent, insert the relevant period such as “and quarterly” or “and each month afterwards”]*, the collector of delinquent taxes 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 *[if additional notices will be sent, insert relevant language such as “30 days after the first notice has been sent to the taxpayer and again”]* prior to tax sale.
- E. Partial payments will be applied proportionally between the principal amount of the tax, interest, and penalty 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 may 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 may 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. If you would like to schedule a meeting with the board of abatement, please contact the town clerk at \_\_\_\_\_.
- I. If no one purchases the property at tax sale, or if, in the judgment of the collector, proceeding with the tax sale is inadvisable, the collector shall collect the delinquent taxes using any or all of the methods permitted by law.

- J. If a property is being sold for taxes, the owner may request in writing, not less than 24 hours prior to the tax sale, that a portion of the property be sold. Such request must clearly identify the portion of the property to be sold and must be accompanied by a certification from the Vermont District Environmental Commission and the town zoning administrative officer that the portion identified may be subdivided and meets 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 to pay such tax and costs.

\_\_\_\_\_  
Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

**APPENDIX C: SAMPLE ANNUAL REPORT OF COLLECTOR OF DELINQUENT TAXES**

**STATEMENT OF DELINQUENT TAXES**  
**Pursuant to 32 V.S.A. §§ 5162, 5163**  
**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>
2005	61.95			61.95
2006	51.35			51.35
2007	56.75			56.75
2008				
2009	222.40	184.80		37.60
2010	545.51			545.51
2011	2,843.66	2,087.22		756.44
2012	5,440.88	2,259.00	313.75	2,868.13
2013	17,462.97	11,041.54	436.00	5,985.43
2014	77,975.22	55,951.38		22,023.84
2015	<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 ..... 8,160.68  
 Remitted to Treasurer ..... \$119,385.11

By: \_\_\_\_\_  
 Collector of Delinquent Taxes

State of Vermont        )  
 County of \_\_\_\_\_)

Certified and sworn under oath before me, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
 \_\_\_\_\_, Notary Public. My commission expires \_\_\_\_\_, 20\_\_.

**APPENDIX D: SAMPLE RECORD OF PARTIAL PAYMENT**

**Klondike, Warren  
240 Vista View  
Fair Lawn, VT 05880**

Tax Account # 358571 (2014) Real Estate Tax  
Property: Flotsam Center, Lot and House

Initial Tax	969.60	became delinquent November 21, 2014
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>Amount</u>	<u>By</u> <u>Balance</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>	
4/23/13	New Account Added* 1085.97	BTA		0.00	38.80	38.80	969.60	969.60	77.57	77.57	1085.97
4/26/13	Interest for March 1095.67			0.00	9.70	48.50		969.60		77.57	9.70
4/26/13	Interest for April 1105.37			0.00	9.70	58.20		969.60		77.57	9.70
5/21/13	Interest for May 1115.07			0.00	9.70	67.90		969.60		77.57	9.70
6/21/13	Interest for June 1124.77			0.00	9.70	77.60		969.60		77.57	9.70
7/09/13	Payment 624.77	LPG		0.00	-77.60	0.00	-391.11	578.49	-31.29	46.28	-500.00
7/20/13	Interest for July 630.55			0.00	5.78	5.78		578.49		46.28	5.78
8/20/13	Interest for August 636.33			0.00	5.78	11.56		578.49		46.28	5.78
8/22/13	Interest for September 642.11			0.00	5.78	17.34		578.49		46.28	5.78
10/21/13	Interest for October 647.89			0.00	5.78	23.12		578.49		46.28	5.78
11/19/13	Payment 5.78	LPG		0.00	-23.12	0.00	-573.14	5.35	-45.85	0.43	-642.11
12/01/13	Interest for November 5.83			0.00	0.05	0.05		5.35		0.43	0.05
12/28/13	Interest for December 5.88			0.00	0.05	0.10		5.35		0.43	0.05
1/20/14	Interest for January 5.93			0.00	0.05	0.15		5.35		0.43	0.05
1/21/14	Payment -5.93	BTA 0.00		0.00	-0.15	0.00	-5.35	0.00	-0.43	0.00	

\* on 4/23/13

## APPENDIX E: SAMPLE RECORD OF ACCOUNTS

**Lambert, Noah**  
**82 Rural Road**  
**Kettering, VT 05882**

Tax Account # 585713 (2014) Real Estate Tax  
 Property: MPTP #32, 41 Maple Product Hill

Initial Tax	352.92	became delinquent November 20, 2014	
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>
4/23/13	New Account Added 4/23/06	BTA		56.48	352.92	28.23	437.63	437.63
4/26/13	Interest for March			3.53			3.53	441.16
4/26/13	Interest for April			3.53			3.53	444.69
5/21/13	Interest for May			3.53			3.53	448.22
6/21/13	Interest for June			3.53			3.53	451.75
7/20/13	Interest for July			3.53			3.53	455.28
8/20/13	Interest for August			3.53			3.53	458.81
8/22/13	Interest for September			3.53			3.53	462.34
10/21/13	Interest for October			3.53			3.53	465.87
12/01/13	Interest for November			3.53			3.53	469.40
12/28/13	Interest for December			3.53			3.53	472.93
1/20/14	Interest for January			3.53			3.53	476.46
2/22/14	Interest for February			3.53			3.53	479.99

**APPENDIX F: SAMPLE RECORD OF ACCOUNTS SUMMARY**

Masters, Hannah  
 89 Western Boulevard  
 Boyden Bay, VT 05884

<b>Year and Tax Type Account or Lot No.</b>	<b>2011 RE 210175</b>	<b>2012 RE 210175</b>	<b>2013 RE 210175</b>	<b>2014 RE 210175</b>	<b>TOTALS</b>
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
<b>TOTAL</b>	<b>364.53</b>	<b>694.46</b>	<b>707.46</b>	<b>882.32</b>	<b>2648.77</b>
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
<b>TOTAL</b>	<b>-364.53</b>	<b>-160.47</b>	<b>0.00</b>	<b>0.00</b>	<b>-525.00</b>
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
<b>TOTAL</b>	<b>0.00</b>	<b>533.99</b>	<b>707.46</b>	<b>882.32</b>	<b>2123.77</b>

**APPENDIX G: MODEL NOTICE TO DELINQUENT TAXPAYER**

**Initial Notice of Delinquent Taxes [required by 32 V.S.A. §§ 4842, 4874]**

Office of the Collector of Delinquent Taxes  
Town of \_\_\_\_\_, Vermont

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Delinquent Taxpayer]  
\_\_\_\_\_  
[street address]  
\_\_\_\_\_  
[town, 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 *[insert percentage amount of up to 8%, as may have been limited by town vote]* fee as authorized by the Vermont Statutes, and interest which the Town charges at the rate of *[insert percentage up to 1% per month for first three months and 1.5% per month thereafter, as has been previously voted by the town]* which is imposed per month or any part of a month.

Your bill is presently calculated as follows:

Unpaid balance, property tax	_____
Collection fee of ___%	_____
Interest for _____ months	_____
<b>TOTAL DUE</b>	_____

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: MODEL DELINQUENT TAX AGREEMENT**

**LETTER OF AGREEMENT  
BY AND BETWEEN THE [name of town], VERMONT  
AND [name of taxpayer]**

Regarding property located at: \_\_\_\_\_,  
bearing Parcel Number: \_\_\_\_\_, and having delinquent taxes in the following  
amounts:

Principal: \$ \_\_\_\_\_, plus interest to date of this agreement: \$ \_\_\_\_\_, plus  
penalty: \$ \_\_\_\_\_.

I, [name of taxpayer] agree to the following terms relative to the payment of the  
above noted tax balance due to the [name of town]:

1. The balance of all delinquent taxes will be paid, including tax, interest, penalty, and all other costs and fees allowed by law by [date].
2. Interest will continue to accrue at the rate of 1% per month for the first 90 days, and 1½% per month thereafter until all taxes are paid in full.
3. Payments of \$ \_\_\_\_\_ will be made on the following dates: \_\_\_\_\_.  
Additional payments are acceptable at any time.
4. Payments will be applied proportionally between the principal amount of the tax, interest, and penalty fee.
5. Failure 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.
6. This agreement is void if any new taxes become delinquent during the repayment period.

\_\_\_\_\_  
Taxpayer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Collector of Delinquent Taxes  
Town of \_\_\_\_\_, Vermont

\_\_\_\_\_  
Date



**APPENDIX J: MODEL NOTICE OF LIEN ON REAL PROPERTY**

**Notice of Lien on Real Property<sup>31</sup>**

NOTICE IS HEREBY GIVEN, pursuant to 32 V.S.A. § 5061 [and charter, etc.], that the [name of town] \_\_\_\_\_ asserts its lien against the real estate of [taxpayer: *John Doe and Jane Doe*] located at \_\_\_\_\_ [street address] in said [Town 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 [name of town] \_\_\_\_\_, 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 [insert year].

Dated at [name of town] \_\_\_\_\_, Vermont this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_ [Signature]

Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

---

<sup>31</sup> State law provides that town taxes are an automatic lien on real estate. 32 V.S.A. § 5061. Therefore, it is not necessary to file this lien on each and every property on which taxes are delinquent. This sample notice is provided for use when a collector of delinquent taxes has information to believe that the property owner may file for bankruptcy. In such a case, it is advisable to file written notice of a lien to assure that the Bankruptcy Court will treat the taxes as a secured lien.

**APPENDIX K: MODEL DELINQUENT TAX COLLECTION WARRANT**

STATE OF VERMONT )TO:  [name of collector of delinquent taxes]   
COUNTY OF \_\_\_\_\_)COLLECTOR OF DELINQUENT TAXES  
of the  [name of town]   
in the County of  [name of county]

GREETINGS:

By the Authority of the State of Vermont, you are hereby commanded to levy and collect of the person(s) named in the list herewith committed to you, the sum of money annexed to the name of each person respectively, and pay the same to the Treasurer of the  [name of town]  on or before 60 days from the date hereof; and if any person neglects or refuses to pay such sum with fees, you are hereby commanded to distrain the goods and chattels of such delinquent person, and the same dispose of according to law, for the satisfying of such sum, with your own fees; and for want thereof, you are hereby commanded to extend this warrant, for the collection of such sum so assessed against such delinquent person, with costs, together with fees, upon any land in this state belonging to such delinquent, according to law.

FOR THE TAX YEAR  
20\_\_-20\_\_

[ name of taxpayer(s)] [dollar amount]

TAXPAYER(S)AMOUNT OF TAXES

Dated at  [name of town] , in the County of \_\_\_\_\_, as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
 [name of Treasurer]   
Treasurer,  [name of town]

**A true copy. Attested.<sup>32</sup>**

\_\_\_\_\_  
 [name of collector of delinquent taxes]   
Collector of Delinquent Taxes,  [name of town]

<sup>32</sup> *The attestation is added by the collector of delinquent taxes AFTER the warrant is given to the collector of delinquent taxes by the town treasurer when the collector of delinquent taxes extends the warrant in preparation for tax sale pursuant to 32 V.S.A. § 5252.*

**APPENDIX L: MODEL NOTICE OF PERSONAL PROPERTY TAX LIEN**

**NOTICE OF PERSONAL PROPERTY TAX LIEN**

To: *[name and address of all persons required to be notified]*:

You and each of you are hereby notified that the *[name of town]* in the county of *[name of county]* asserts and claims a tax lien upon certain personal property owned by or in the possession of *[name of taxpayer]* of said *[name of town]* at *[street address]* described as follows: *[description of each article of property]*; said lien to secure the payment of the taxes levied or to be levied upon the grand list of said property by the said *[name of town]* for the year *[insert year]*.

Dated at *[name of town]*, Vermont, this *[day]* of *[month]*, *[year]*.

Approved by the Collector of Taxes: \_\_\_\_\_

Town of \_\_\_\_\_, Vermont

And by: the *[name of selectboard]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Selectpersons

**APPENDIX M: MODEL LEVY LETTER / LEVY OF COLLECTOR'S WARRANT**

AS REQUIRED BY 32 V.S.A. § 5252

**TOWN OF \_\_\_\_\_, VERMONT  
LEVY OF TAX COLLECTOR'S WARRANT**

[date]

[name], Town Clerk

[address]

RE: TOWN OF [name], TAX SALE SCHEDULED TO TAKE PLACE ON [date]; PROPERTY OF [name of taxpayer]

Dear [name of clerk],

By virtue of the 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 of taxpayer], situated in the Town of \_\_\_\_\_, and described in the town's land records, Book \_\_\_\_\_, Page \_\_\_\_\_.

This action is taken to comply with the requirements of 32 V.S.A. § 5252.

Sincerely,

[name]

Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

Received for record at the Town of \_\_\_\_\_ Clerk's office on \_\_\_\_\_, 20\_\_.

Recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ of the Land Records.

Attest, \_\_\_\_\_, Town Clerk

**APPENDIX N: MODEL REQUEST TO TOWN CLERK TO RECORD DOCUMENTS**

    [Date]    

Town Clerk, Town of \_\_\_\_\_, Vermont

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     [name of taxpayer(s)]    , in connection with the property designated above.
3. My Levy Letter 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 \_\_\_\_\_, Vermont

Enclosures







**APPENDIX Q: MODEL NOTICE OF TAX SALE TO MORTGAGE/LIEN HOLDER**

**OFFICE OF COLLECTOR OF DELINQUENT TAXES  
TOWN OF \_\_\_\_\_, VERMONT**

          [Date]          

          [Mortgage/lien holder]          

          [street address]          

          [town, 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 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 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 of \_\_\_\_\_ Land Records.

The total amount of taxes, interest, penalties, costs and attorney's 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

Town of \_\_\_\_\_, Vermont

**APPENDIX R: MODEL NOTICE OF TAX SALE TO PROPERTY OWNER**

**OFFICE OF COLLECTOR OF DELINQUENT TAXES**

**TOWN OF \_\_\_\_\_, VERMONT**

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Delinquent taxpayer]

\_\_\_\_\_  
[street address]

\_\_\_\_\_  
[town, 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 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.

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 Environmental 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).

**[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 to seek relief, please immediately contact the Town Clerk at: \_\_\_\_\_.**

Sincerely,

\_\_\_\_\_  
Collector of Delinquent Taxes

**APPENDIX S: MODEL NOTICE OF TAX SALE, POSTED OR ADVERTISED**

**NOTICE OF TAX SALE**

**TOWN OF \_\_\_\_\_, VERMONT**

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.) ...

Pursuant to 32 V.S.A. § 5254, 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 \_\_\_\_\_, Vermont

**APPENDIX T: MODEL LETTER TO NEWSPAPER TO PUBLISH NOTICE OF TAX SALE**

**COLLECTOR OF DELINQUENT TAXES**

**TOWN OF \_\_\_\_\_, VERMONT**

\_\_\_\_\_  
[Date]

\_\_\_\_\_  
[Newspaper]  
\_\_\_\_\_  
[street address]  
\_\_\_\_\_  
[town, 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 of \_\_\_\_\_. If you have any questions, please call me.

Very truly yours,

\_\_\_\_\_  
Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

## APPENDIX U: MODEL TAX SALE CANCELLATION LETTER

### Model Tax Sale Cancellation Letter

[date]

[name and address of town clerk]

RE: TOWN OF \_\_\_\_\_ [date of tax sale] TAX SALE; PROPERTY OF [name of taxpayer]

Dear [name of clerk]

On [date], I received from [name of taxpayer] check [#] in the sum of [\$], representing full payment of all delinquent taxes, penalty, interest and fees owed to the Town of \_\_\_\_\_, Vermont for the tax year [insert year(s)]. By copy of this letter, I have informed [name of taxpayer] that the scheduled [date] tax sale of [his/her] property has been cancelled.

As the tax sale of the [name of taxpayer] property has been cancelled, please record this letter in the Land Records in order to confirm to third parties that the tax sale was cancelled. Enclosed is a check for \$10 to cover the statutory recording fee.

Sincerely,

[name]

Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

**Copy to: [name of taxpayer]**

**APPENDIX V: MODEL REPORT OF SALE**

**COLLECTOR OF DELINQUENT TAXES REPORT  
TOWN OF \_\_\_\_\_, VERMONT**

By virtue of a warrant lawfully committed to me for the year \_\_\_\_\_, by the Treasurer of the Town of \_\_\_\_\_, and the delinquent taxes stated therein, I gave notice as required by law to the taxpayers of the Town 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, 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 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 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 certified mail of the time and place of such sale, and on \_\_\_\_\_ [date] posted at the \_\_\_\_\_ Town Hall, a public place in said Town, 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 of \_\_\_\_\_ the sum of \$ \_\_\_\_\_, in full satisfaction of the delinquent taxes, penalties and interest due said Town on said premises thus sold.

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 Clerk of the Town of \_\_\_\_\_ for record as provided by law.

Attest,

\_\_\_\_\_  
Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont

**APPENDIX W: FAILURE TO REDEEM (MODEL NOTICE OF NON-REDEMPTION)**

**NOTICE OF NON-REDEMPTION  
TOWN OF \_\_\_\_\_, VERMONT**

  [Date]  

To: Town Clerk, Town of \_\_\_\_\_

Re: Properties Not Redeemed

Pursuant to 32 V.S.A. § 5262, I hereby deposit with you as Town Clerk for record 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]  

  [town, state, zip]  

Sincerely,

\_\_\_\_\_  
Collector of Delinquent Taxes  
Town of \_\_\_\_\_, Vermont

**APPENDIX X: MODEL NOTICE OF REDEMPTION**

**NOTICE OF REDEMPTION**  
**TOWN OF \_\_\_\_\_, VERMONT**

      [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]      

Town of                     , Vermont

\_\_\_\_\_  
Collector of Delinquent Taxes

**APPENDIX Y: MODEL DEED OF COLLECTOR OF DELINQUENT TAXES**

**TOWN OF \_\_\_\_\_, VERMONT**

KNOW ALL PERSONS BY THESE PRESENTS that I,       [name]      , duly elected [*or appointed*] Collector of Delinquent Taxes for the Town 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 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 Z: MODEL FORM LETTER FOR TAX SURPLUS**

    [Date]    

    [Delinquent Taxpayer]    

    [street address]    

    [town, 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 interest thereon calculated at a rate of one percent per month or fraction thereof from the day of sale to the day of payment. 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

Town of \_\_\_\_\_, Vermont

**APPENDIX AA: MODEL NOTICE OF DISTRAINT**

**TOWN OF \_\_\_\_\_, VERMONT**

**NOTICE OF DISTRAINT**

The resident and non-resident owners, lien holders and mortgagees of real estate and business personal property in the *[name of town]* in the County of *[name of county]* 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 *[name of company]*, said property being situated in the *[name of town]* in the County of *[name of county]* and State of Vermont:

Being the business personal property listed and described in *[name of company]*'s Vermont Tax Inventory filing as of April 1, 20\_\_ and received and recorded in the business personal property records of the *[name of town]*, Vermont on *[date]*, and more particularly described therein, IN PART, as follows:

***[description of the property]***

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

Dated at *[name of town]* in the County of *[name of county]* and the State of Vermont this *[date]* day of *[month, year]*.

\_\_\_\_\_  
Collector of Delinquent Taxes

Town of \_\_\_\_\_, Vermont