

COLLECTING DELINQUENT REAL ESTATE TAXES

You Have Options

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There are many instances where Pennsylvania boroughs are faced with one-size-fits-all mandates that dictate how they operate. Fortunately, the collection of delinquent real estate taxes is not one of them.

Pennsylvania boroughs have the ability to choose not only who will collect their delinquent taxes, but also the laws under which collections will be made.

There are only so many entities that can collect a borough's delinquent real estate taxes, including the county tax claim bureau, a private third-party collector, or the borough itself. In determining which entity will most effectively collect, it is important to understand under which statute each will collect the monies.

The most frequently used statutes to collect delinquent real estate taxes in PA are the Real Estate Tax Sale Law (RETSL) and the Municipal Claims and Tax Liens Act (MCTLA).

RETSL, used exclusively by county tax claim bureaus, has specific procedures for collecting delinquent taxes and selling properties through tax sales. These procedures under RETSL are rigid and protracted.

Initially, a boilerplate notice is sent to taxpayers explaining that the property will be sold unless the delinquent taxes are paid. This notice must be sent by July 31 of the year after the taxes first became due. No subsequent collection activity occurs until July of the following year.

Payment extensions are limited under RETSL and solely at the discretion of the county commissioners. The tax claim bureau is required to conduct one upset tax sale annually (typically during year two of the delinquency), with the ability to conduct a judicial sale in the event that properties do not sell (typically during year three of the delinquency). Under RETSL, the tax claim bureau is permitted to retain 5 percent of all taxes collected as a commission.

MCTLA has a different statutory framework that boroughs may use to collect delinquent real estate taxes.

One major benefit of collecting under MCTLA is that the borough retains full control over all aspects of the collection process. Unlike the long periods of inactivity under RETSL, the borough is permitted under MCTLA to make numerous contacts with the delinquent taxpayer during the first year of delinquency in order to incentivize payment.

The borough also can allow its residents to set up payment plans. This combination of multiple contacts with the ability to accept payment plans, often leads to the quick payment of delinquent accounts under MCTLA.

Private collectors hired under MCTLA will typically remit payments electronically, allowing for the immediate use of the money collected. Under RETSL, the tax claim bureau is only required to make quarterly payments to the borough.

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Many municipalities find that the biggest benefit of collecting under MCTLA is that the borough can charge all of its collection costs, including attorney's fees, to the delinquent taxpayer. This fee shifting not only creates strong incentive for taxpayers to pay off their delinquent accounts quickly, but it allows boroughs to hire a private collector at minimal cost to the borough.

By charging delinquent taxpayers the costs of collection, those residents who pay their bills on time will no longer be forced to shoulder the burden of the additional expenses created by taxpayers who choose not to pay.

In order to shift the collection charges to the delinquent taxpayer under MCTLA, the borough will need to adopt an ordinance that lays out the fees and costs that it intends to charge. Enacting this ordinance will put the public on notice that the borough is serious about collecting its delinquent accounts.

Shifting collection costs under MCTLA creates a strong incentive for taxpayers to pay both delinquent and current tax bills on time. Taxpayers who knowingly game the system will quickly learn that delaying payment is no longer a money-saving option.

The ability to fee shift under MCTLA frequently leads to higher current collection rates, as the lesson will be learned the



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first time the taxpayer is required to pay additional fees to satisfy a delinquent bill.

Whether through a private collector or municipal solicitor, boroughs are likely to see an increase in revenue by utilizing the procedures of MCTLA.

With local control over the collection process and the shifting of costs to the delinquent taxpayer, the borough can create incentives to spark quick payment of delinquent accounts and lower delinquency rates going forward. This will draw the praise

of constituents who pay their tax bills in a timely manner and catch the attention of those who do not.

About the author: Kevin H. Buraks, Esq., is a managing attorney of Portnoff Law Associates, Ltd., a law firm that represents over 140 boroughs and municipal clients throughout Pennsylvania in the collection of delinquent real estate taxes and municipal fees, such as sewer, water, trash, stormwater, and abatement of nuisance. He can be reached at kburaks@portnoffonline.com. 