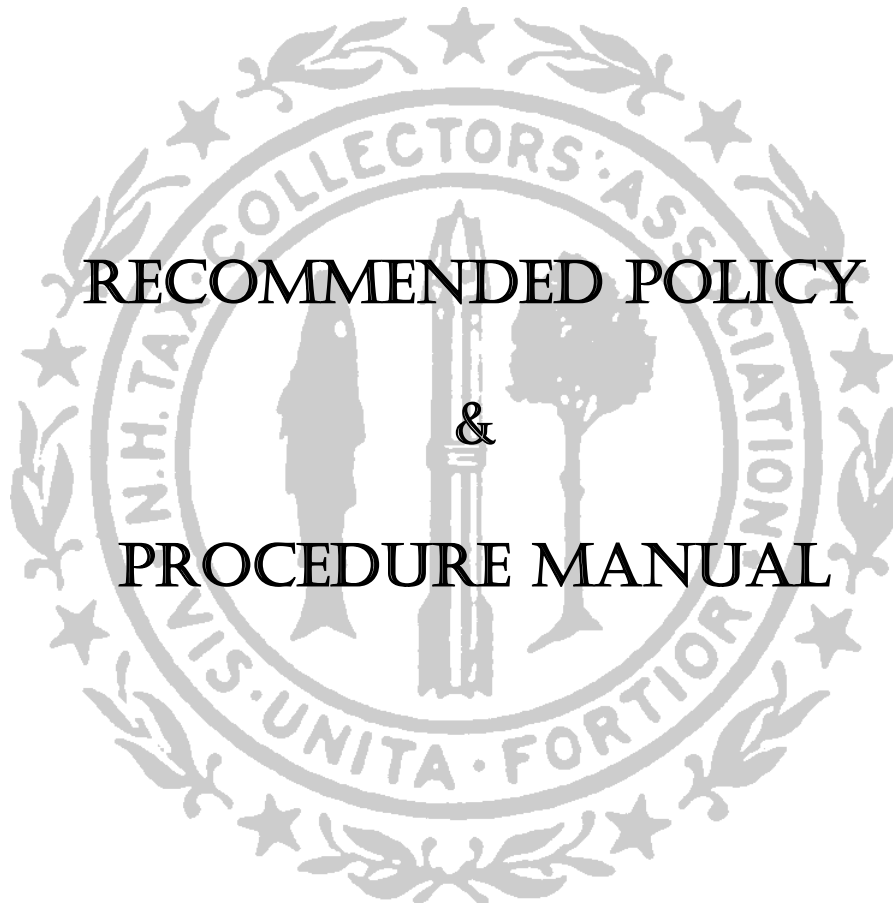


NEW HAMPSHIRE TAX COLLECTORS' ASSOCIATION



RECOMMENDED POLICY

&

PROCEDURE MANUAL

The mission of the New Hampshire Tax Collectors' Association is to collect and disseminate information necessary to enable tax collectors to successfully understand their responsibilities and to competently perform their duties in conformity with all pertinent laws.

We strive to work with diligence and cooperation and to encourage an atmosphere of mutual respect and assistance among tax collectors and all those with whom we come in contact.

**NEW HAMPSHIRE TAX COLLECTORS’
RECOMMENDED POLICY & PROCEDURE MANUAL**

-2012-

Revised 2017; 4/2019; 2/2022; 8/2022; 7/2024

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PREFACE

Please Note: In 2022, at the request of the Executive Board, a major update of this manual was completed by NHTCA Honorary members Chery-Ann Bolouk (Salem – retired 2020) and Kathy L. Seaver (Farmington – retired 2020).

This manual is a compilation of recommended policies and procedures that will assist the tax collector in performing his/her duties. The intent is that it will act as a **guide but not a substitute** for adherence to the New Hampshire Revised Statutes Annotated or guidance from retained legal counsel. The decision to employ any procedures outlined in this manual is the responsibility of the tax collector. Your municipality may already have a policy or procedure in place in which case that would be the policy/procedure that you should follow. You may want to add a chapter to this manual specifically for your own municipality; i.e. your own computer procedures or policies.

This manual was a five-year project that involved many individuals; without their input and dedication this manual would not have been completed. The Education Committee at that time assisted in drafting the outline of the manual. It is, and continues to be, a work in progress. It must be noted that Brenda LaPointe was instrumental in compiling the manual into its current format. Without her dedicated assistance this manual would not have come to fruition.

The following individuals served on the Manual Committee and were also contributors:

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All of the individuals who contributed to this manual volunteered their time, energy and effort to share their knowledge and experience in the area of tax collection.

Other contributors who offered their professional expertise by contributing to this manual are:

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As previously stated, this manual is a work in progress. If you notice any errors, corrections or omissions, please contact the NHTCA President.

Legal Notice to user/reader- Information, opinions, handouts and/or other features contained in this manual are being provided for general educational and informational purposes only, may not reflect changes in laws or the interpretation thereof, and are not a substitute for independent legal judgment, nor do they constitute case-specific legal advice in any way. Such information, opinions, handouts and/or features are not intended to serve as the primary basis for making personal or professional legal decisions, nor are they intended to be a substitute for professional legal advice. Always seek the advice of your town counsel/lawyer prior to making any legal conclusions. You should confirm any information obtained from these materials with other sources before undertaking any actions relating thereto. Any reliance on any information, handouts, services or other features contained in this manual is solely at your own risk.

Disclaimer: IRS rules and regulations are subject to change at any time and any changes could affect the contents in this manual. You will need to verify that you are working with the **current version of the IRS rules.**

Disclaimer: The New Hampshire Revised Statutes Annotated (RSA's) are subject to change. When in doubt refer to the pertinent RSA on-line and/or current legislative session laws to verify that it is **the most up-to-date version of the law.**

Definitions of Commonly Used Terms

Abatement – Abatement is a reduction in a tax bill which has not yet been paid by the taxpayer. A majority of the selectmen or assessors are the only ones authorized to issue a written abatement (RSA 76:16).

Abatement Refund – An abatement refund is a reduction in the tax obligation of a taxpayer who has already paid their bill. The selectmen or assessors may apply all or a portion of any taxes abated, including interest, to any outstanding taxes owed by the taxpayer to the municipality. The selectmen or assessors must notify the taxpayer of the amount credited against outstanding taxes and the date the credit was recorded (RSA 76:17-d).

Appropriate – To set apart from the public revenue of a municipality a certain sum for a specific purpose. The amount is usually established by town meeting or a vote by city council. In other words, the legislative body is granting permission to expend certain amounts of money for certain purposes (RSA 32:3,I).

Appropriation – An amount of money appropriated for a specified purpose by the legislative body.

Assessing Officials – Those individuals charged by law with the duty of assessing and abating taxes in a municipality (RSA 41:2-g).

Discount – An allowance or deduction from the total amount due on a particular tax levy, usually granted in exchange for prompt payment of a tax bill. Town meeting must vote to grant the authority to offer a discount (RSA 80:52).

DRA – State of New Hampshire Department of Revenue Administration.

Governing Body – The municipal officials who are responsible for managing the prudential affairs of the governmental entity. Some examples are as follows: the selectmen in a town; councilors or board of alderman in a city or town with a town council; the school board in a school district; or commissioners in a village district (RSA 21:48).

Legislative Body – The voters present at the annual or special town or district meeting (RSA 21:47).

Lien – A charge recorded against the property in order to satisfy a debt. NH law outlines this process whereby the owner of real estate who has not paid taxes (plus interest and costs), is notified and how the lien is recorded with the county (RSA 80:64).

Municipality – A county, unincorporated place, city, town, school district, village district or precinct or a regional solid waste district.

MS-61 – The financial records of the Tax Collector are summarized annually in the Tax Collector’s Report (MS-61).

Overlay – The purpose of overlay is to provide funding for all abatements granted against the current year tax levy. The amount of overlay cannot exceed 5% of the total tax commitment (RSA 76:6).

Notice of Arrearage – A notice which summarizes all unpaid taxes on a specific piece of property that is sent to the owner of that property. The owner of record is usually determined as of April 1st. This notice can be on the tax bill; sent with the tax bill; or sent within 90 days of the due date of the final tax bill (RSA 76:11-b).

RSA – Revised Statutes Annotated, New Hampshire laws.

Recommittal Warrant – This is a commitment of audited outstanding taxes to a successor collector following a vacancy in the office of tax collector. This warrant gives the new collector the authority to collect taxes (RSA 41:36).

Redemption – Payment or abatement of a property tax, plus interest and costs of “liened” property (RSA 80:69).

Refund – An amount of money returned to the taxpayer by the municipality for a tax already paid by the taxpayer.

Subsequent Tax – The property tax that is due for any year after the year of the tax lien. For example: If a piece of property was liened for non-payment of the 2007 levy, the 2008 levy is a subsequent tax (RSA 80:37 & 80:75).

Tax Rate – The tax rate is the dollar value of tax per thousand dollars of assessed value of a property. Taxes levied are equal to the tax rate multiplied by the assessed value of the property.

Uncollected Taxes – Tax amounts due before the lien process has occurred.

Unredeemed Taxes – Any tax amounts due on a property after the lien process has occurred.

Warrant – A document that contains names, lot numbers and amounts of tax due which the tax collector receives from the selectmen or assessors. This document authorizes the tax collector to collect property tax, yield tax (timber cut), excavation tax, land use change tax, water/sewer rents, betterment fees or resident tax.

NOTES

I. TAX COLLECTOR DUTIES & PROCEDURES

A. Oath of Office (RSA 42:1-3)

RSA 42:1 Every town officer shall make and subscribe the oath or declaration as prescribed by part 2, article 84 of the constitution of New Hampshire and any such person who violates said oath after taking the same shall be forthwith dismissed from the office involved. RSA 42:2 Before Whom RSA 42:3 Swearing in of Officer...

Oath - "Do you _____ solemnly swear that you will faithfully and impartially discharge and perform all the duties incumbent on you as _____ according to the best of your abilities, agreeably to the rules and regulations of the constitution and laws of the State of New Hampshire. So Help You God."

B. Duties (RSA 41:35)

I. Every collector of taxes shall keep in suitable books a fair and correct account in detail of the taxes due, collected, and abated, and of all property sold for nonpayment of taxes, which books shall be public records. A tax collector shall remit all money collected to the town treasurer, or to the town treasurer's designee as provided by RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$1,500 or more. The collector shall make final payment to the town treasurer of all moneys collected within 10 days after the close of the town's fiscal year. Failure to remit collections on a timely basis as required by this paragraph shall be cause for immediate removal from office under RSA 41:40. He or she shall submit the tax books and lists to the treasurer and selectmen for inspection and computation when requested so to do and if they discover any errors therein they shall immediately notify the town auditors thereof; and the auditors shall promptly examine the collector's records and make a written report to the selectmen and the department of revenue administration of their findings, conclusions and recommendations. The collector shall be at a usual place of business, or any other place, at least one day each month for at least 2 hours continuously for the transaction of tax business, which time and place shall be printed upon the tax bills sent out by the collector. The collector shall make a written report to the town at the end of each fiscal year which shall contain the amount of the taxes committed to him or her to collect; the amount of taxes collected, together with interest thereon; the amount of discounts allowed; the amount of taxes abated; the total amount of uncollected taxes; and an account of all sales of real estate by him to collect taxes. Upon written request therefor the collector shall provide the selectmen with an itemized list of the uncollected taxes at the end of the fiscal year.

II. A tax collector may use automatic or electronic data processing equipment in performing his duty to keep fair and correct tax accounts. The commissioner of

revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the use of such equipment and the form for such accounts.

C. Deputy (RSA 41:38)

- I. The tax collector shall appoint a deputy, with the approval of the selectmen, who shall be sworn, give bond, have the powers of tax collectors and may be removed at the pleasure of the tax collector. The deputy shall perform such duties as are assigned to him by the tax collector.
- II. Provided, however, if the tax collector is temporarily incapacitated before completing the collection of the taxes committed to him, or if any necessity may arise for such action, the deputy tax collector shall serve during such incapacity. Said deputy shall possess the powers, perform the duties and be paid as the selectmen or town meeting shall decide.

D. Purpose/Mission Statement

A mission statement defines the continuing purpose or reason for the existence of your office. It can be as simple as “Collect as much tax revenue as possible to help the municipality meet its financial obligations” or it can be as long as the Code of Ethics for Tax Collectors. The mission should coincide with the objectives of the Office.

E. Department Guidelines

These guidelines are specific to your department and cover many topics ranging from office hours, breaks, visitors, answering the telephone, collection reconciliation procedures and internal controls.

F. Tax Information - (Refer to detailed RSA’s - in miscellaneous. appendix)

Resident Tax	RSA 72:1
Resident Tax Penalty	RSA 76:13-a
Property Tax Year: April 1–March 31	RSA 76:2
Semi-Annual Collection of Taxes	RSA 76:15-a, RSA 76:13
Due Dates July 1; December 1 & Interest	
Delinquent Notices	RSA 76:11-b
Impending Lien Notice	RSA 80:60
Certified Mail	
Tax Lien Execution	RSA 80:61
Interest Rate changes from 8% to 14%	RSA 80:69
Notification to Mortgagee for Lien	RSA 80:65-67
Impending Tax Deed Notice	RSA 80:77
Notification to Mortgagee Tax Deed	RSA 80:77-a

G. Hours of Operation/Scheduling Personnel

Each tax collector is responsible for scheduling hours/personnel. Per RSA 41:35, “The collector shall be at his usual place of business . . . at least one day each month for 2 hours continuously . . .”.

H. Office Equipment Operation/Maintenance

Keep manuals for all office equipment in your procedure manual or an equipment file. Include model numbers, serial numbers, and service and supplies phone numbers with the manuals and/or in your rolodex.

I. Budget Preparation - RSA 32:4

All municipal officers, administrative officials and department heads, including officers of such self-sustaining departments as water, sewer, and electric departments, shall prepare statements of estimated expenditures and revenues for the ensuing fiscal year, and shall submit such statements to their respective governing bodies, at such times and in such detail as the governing body may require.

Check list for possible categories that may be included in a budget:

- Salaries & Benefits
- Postage
- Printing- special forms for bills, paper
- Mileage
- Recording Fees
- Title Search Fees
- Office Supplies
- Technical Services – for example lockbox processing fees
- Office Furniture & Equipment

Use a 3 year average to help calculate the expense

Call ahead to vendors/banks regarding a possible fee increase

Compile a worksheet for calculations of expenses

J. Sample Policies & Guidelines are on the next several pages.

SAMPLE DELEGATION OF DEPOSIT AUTHORITY

Pursuant to the provisions of RSA 41:29, II, the Town Treasurer has the responsibility to deposit all such monies received by the _____ (name of the municipality) in appropriate financial institutions as outlined in the statute.

RSA 41:29, VI allows the Treasurer to delegate deposit or other financial functions to other town officials or employees provided such delegation is in writing and includes written procedures acceptable to the _____ (governing body i.e. Board of Selectmen). Such delegation may only be to a town official or employee bonded in accordance with RSA 41:6.

The (name of the municipality) Treasurer hereby delegates deposit function authority to the (name of the municipality) Tax Collector and his/her respective Deputy of the funds collected in that role. These deposits shall be made on a weekly basis or daily, whenever receipts total \$1,500 or more.

In making these deposits, the (name of the municipality) Tax Collector and his/her respective Deputy shall provide the (name of the municipality) Treasurer with the deposit slip from the municipality's general fund financial institution, in addition to a detailed back-up report documenting the receipt of monies comprising the deposit made.

This authority shall remain in effect until rescinded by written notice of the (name of the municipality) Treasurer.

Name of Treasurer
Name of Municipality

Date

Approved by the (name of governing body; i.e. Board of Selectmen):

Date

SAMPLE TAX COLLECTOR MISSION STATEMENT

Mission:

Collect as much tax revenue as possible to help the Town meet its financial obligations each year.

Services:

Balance cash and all accounts collected on a daily basis and turn over to Town Treasurer.

Balance all accounts on a monthly and year end basis. Prepare year-end report for DRA and Town.

Process and mail property tax bills.

Prepare and mail delinquent notices for property taxes, water/sewer & betterment fees, current use and yield taxes. Notice includes all prior years' liens.

Coordinate and prepare all remaining unpaid accounts for impending lien notices to be mailed via certified mail. If the accounts are not paid by the due date, a tax lien is executed against the property, with a copy sent to the Registry of Deeds to be recorded. When the tax lien is paid in full, a redemption report is mailed to the Registry of Deeds so the lien can be released.

Prepare deeding notices for tax lien accounts that are approaching the due date. These are sent via certified mail. The property is deeded to the Town for non-payment of tax liens; deeds sent to the Registry of Deeds for recording.

Daily telephone calls from banks, mortgage companies, attorneys, real estate offices and the general public requesting tax information pay off figures and other information.

Prepare paperwork on bankruptcies and foreclosures in order to keep an accurate record of outstanding taxes due.

Prepare electronic files for banks and tax servicers for property tax payments.

Research old records for attorney's offices regarding property transfers and tax sales for accurate title transfers.

Goal:

To keep the office operating at a high level of accuracy and efficiency.

SAMPLE DEPARTMENTAL GUIDELINES
*(Note: This is a generalized format. Please seek HR or
legal counsel approval prior to implementation.)*

STANDARD OPERATING PROCEDURES
COLLECTIONS DEPARTMENT

Effective date of implementation

MISSION STATEMENT OF THE DEPARTMENT

The Collections Department is committed to provide the general public the most effective and efficient professional and courteous service at all times. It is the responsibility of the supervisors to provide leadership to their employees by setting and enforcing clear expectations for behavior and work performance. Teamwork is essential to accomplish this goal.

GENERAL STATEMENT

COLLECTION STAFF:

The primary responsibility of Collections staff is to ensure that ALL customers/residents of _____ shall be provided with an array of comprehensive services under the administrative authority of the elected Town Clerk and Tax Collector. It is understood by every Collection employee that they are responsible for collecting revenue owed to the Town and that this is an essential function of their job and municipal government.

All citizens will be assisted in the following services to include but not limited to: Paying bills; registering vehicles; obtaining titles; dog licenses; tax payment; obtaining vital records; and a myriad of other services.

Each employee shall commit to:

- Make a conscience effort to follow department protocol and procedures.
- Learn the intricacies of his/her position and when in doubt refer questions to the Town Clerk or Town Tax Collector, as necessary.

STANDARDS OF WORK FOR OPERATIONS:

In order to maintain effective relationships with the public and to provide taxpayer with precise information in a timely manner, the following **departmental operating standards** will be effective immediately:

A. WORKING HOURS

Working hours commence at 8:30 A.M. Employees are expected to open their respective work station to the public at 8:30 A.M-promptly. If for any reason an employee cannot be ready at that time, every effort should be made to give advance notice to the supervisors. Employees are discouraged from arriving at work excessively early without prior permission from a supervisor.

B. CUSTOMER COURTESY

It is important that the taxpayer be greeted in a friendly, professional and courteous manner at all times. Examples: When a customer is waiting in line and you are free to serve them, the customer representative should say, “May I help the next person in line, please.”

If a customer is not communicating effectively, it is acceptable to ask them to repeat their request or paraphrase the request so that their need is met. Use simple words so that the communication is clear and accurately reflects the customer’s request. (Example: use words like loan on an auto instead of lien.)

C. CUSTOMER WINDOWS

In servicing customers there will be at least two (2) customer service windows open at all times except during evening balancing. Employees are required to display their nameplates at all times when their window is open. Customer representatives will observe the above-referenced customer “courtesy” directives mentioned above.

D. NON-CUSTOMER WORK TIME

Non-Customer Work related time shall not include the use of personal cell phones to include texting; computer game playing (personal cell phone or Town’s); or other related electronic types of games or shopping. This type of activity is prohibited. In addition, the Collections Department shall comply with the Town’s IT Policy.

A. Examples of Non-Customer Work Time duties/functions which must be completed:

1. General filing;
2. Internal business-Email should be checked on a daily basis so that other departments may be able to communicate messages to you effectively. Total internal business Email usage should not exceed 20 minutes per day.
3. Completion of mail-in vehicle registrations;
4. Continuing to learn more about departmental operations, procedures and practices;
5. Other special projects as assigned by supervisors.

E. BREAK TIME /LUNCH TIME

Break time and lunch times are necessary to the health and well-being of every employee especially when dealing with the demands of the public. It is expected that break and lunch times will NOT be spent talking to co-workers who are **not** on break at the same time. The employee will not be allowed to stand at their workstation and chat with the other employees; eat snacks or their lunch at their respective stations. If reasonable accommodations are necessary to have snacks or lunch at your station, notification of a medical reason must be documented with your immediate supervisor(s).

Personal business should be allocated to lunchtime and breaks.

F. BREAK SCHEDULE

A fifteen (15) minute break is allowed in the AM and a fifteen (15) minute break is also allowed in the PM. Full time employees -Lunch time will be assigned to all customer service clerks on a one (1) hour basis.

G. LEAVE BENEFITS

1. VACATION LEAVE

All vacation leave usage will be based upon department staffing requirements and employee/departmental seniority. Every effort will be made to resolve conflicts in vacation use. **(Refer to attached Vacation Policy for further details).**

2. SICK LEAVE

Every effort should be utilized to call your supervisor when not coming into work due to sickness or illness. Please call _____ at _____ or _____ at _____ to notify them of your absence. This should be done before the start of your shift.

3. SICK LEAVE WHILE AT WORK

If you become ill while at work, you must notify _____ or _____ prior to leaving your work station or the building.

4. REQUEST FOR SCHEDULED TIME OFF

Employees must use the Request for Scheduled Time Off form in order to get approval.

H. VISITORS IN DEPARTMENT

On occasion, management realizes that family members or friends frequent Town Hall for

business matters. During their business transactions, your personal visits should be brief and not interfere with the performance of your duties.

I. PERSONAL CELL PHONE USAGE:

- Personal Cell Phones shall not to be allowed in your work station, desk or in the public view.
- All Cell phones shall be on vibrating control ONLY in the vicinity of the Collections area.
- According to the Cell Phone Policy of the Town of_____, personal use is permitted only if it complies with the below:
- All personal cell phone usage shall be incidental, short durations and occasional.
 - It does not interfere with your work productivity.
 - It does not pre-empt any business activity.
 - It does not constitute private business activity.
 - It does not create an ethical breach or conflict of interest.

COLLECTION RECONCILIATION PROCEDURE

The collection function of the Tax Collector and Town Clerk represents the primary source of monetary receipts for the Town. The ability to accurately collect and record these receipts is a fundamental requirement of the position. The management of the Town of has a duty of stewardship for the resources entrusted to its care. The citizens expect that managers of public-sector resources take every reasonable precaution to prevent the misuse or diversion of public funds whether intentional or merely careless in nature. The Town recognizes that anyone can make a mistake and has taken that into consideration in drafting this procedure. Although we expect every department employee to strive for perfection, it is not always achievable. However, management does expect that all representatives who are collecting funds on behalf of the Town exercise diligence and attention to detail.

The below internal control procedures became effective on date of implementation:

- Employees at collection windows will be required to verify and balance their daily cash/check receipts with the appropriate documentation (computer edit and supporting back-up).
- The employee shall notify the supervisors of any cash discrepancy before they leave for the day.
- Each incident of a discrepancy between cash and the documentation (either short or over) will be recorded on a form by the individual preparing the deposit on that day for transmittal to the Treasurer.

- All disciplinary actions and procedures will be progressive and in accordance with the SEA Collective Bargaining Agreement (CBA). Every effort will be made to help improve employees work performance that is having difficult balancing. Discipline will normally be initiated in a progressive manner according to the below steps, however depending upon the nature of the infraction, discipline may be initiated at the appropriate level:
 - No disciplinary action will be taken against an employee so long as the frequency of the imbalance is no more than once per 30 day period or the amount of the discrepancy does not exceed \$10.00.
 - Verbal Warning- will be necessary if an imbalance occurrence is more than once per 30 days and the amount exceeds \$10.00.
 - Written Warning- will be invoked if an imbalance is over \$ 25.00 regardless of the number of occurrences.
 - Suspension or Termination will be invoked in the event that an imbalance occurs more than twice in a 30 day period or the amount of the discrepancy exceeds \$10.00.

My signature signifies that I have read the General Orders- Standard Operating Procedures for the Collections Department and I understand my responsibilities as they relate to my job duties. Violations of any items in the Standard Operating Procedures shall be subject to the disciplinary procedures under the SEA Collective Bargaining Agreement.

Print Employee Name

Signature of Employee

Date

STEPS FOR HIRING A DEPUTY TAX COLLECTOR

The hiring process can be an intimidating experience for most people. It is helpful to have documented procedures in place to help guide you through this process.

PREPARING TO FILL THE POSITION

Initial Steps

1. Review/revise current job description; or create one.
The description should include: required knowledge/skills/abilities: essential functions of the job.
2. Determine where and how to let people know that a position is available.
3. What is the salary? Is the schedule for flexible hours?
4. Set a closing date for resumes/applications/interviews/background checks/offer/start date.

Define the Key Qualifications

1. Education.
2. Experience.
3. Personality traits and skills such as organizational skills, attention to detail, ability to multi- task and prioritize, customer service, initiative, good listener, ability to work in a confidential environment and team player to name a few.

Recruiting

Determine how to attract the best candidate by using different resources such as electronic postings (i.e. municipal website), print ads and networking in the community.

RESUME EVALUATION

1. Use a form which will list the items you are comparing for each resume.
2. Do not be the only person reviewing the resumes; ask someone else for input.
3. Take your time to review all areas; do not make a quick decision because you need someone immediately.

INTERVIEW PROCESS

Prior to the Interview

1. Research candidates using electronic resources such as Myspace , Google and Facebook.
2. Establish an interview panel comprised of 2-3 members and plan the interview with each person asking a different set of questions.
3. Use a rating form for each candidate that the interviewers can utilize to make notes about the interview.
4. Interviewers should not discuss any candidate with each other until all of the ratings have been completed.

The Interview

1. Prepare the job-related questions and assign each interviewer a set of questions.
2. Review purpose and intended results of the interview with the panel.
3. Provide candidate with a job description prior to the interview.
4. Questions that can be answered with one word should not be asked; the interviewer should not be doing all of the talking; do not ask questions not related to the job.
5. Questions to be asked: Focus on the job requirements; ask hypothetical questions which require a response to a certain situation; allow the candidate to do most of the talking; ask the same questions to all of the candidates.
6. If a second interview is held, ask questions that focus on any concerns that may have arisen from the first interview.
7. Determine if the candidate was prepared for the interview.
8. After the interview process is complete, send a letter to each candidate to let them know the outcome of the process.

Making an Offer

1. Make a conditional offer based on the outcome of the background check.
2. Check references furnished by the candidate; research using electronic resources such as Google and Myspace.
3. Do a Financial/credit check.
4. Criminal background check with appropriate authorization from the candidate- State police for Sex offender and Motor Vehicle.
5. Pre-employment medical physical and drug test; provided by employer.

SAMPLE INTERVIEW QUESTIONS

How does your background and experience fit the job description?

Why do you want to work for (name of the municipality)?

Describe a project that you worked on in the past that required you to be a part of a team.

What frustrations did you encounter working with other people?

What kind of person do you find it difficult to work with? How have you successfully worked with this type of person?

How would you handle it if you disagree with a direction given to you by the Tax Collector?

This position involves dealing with the public. What is your approach to customer service?

How do you handle customers who are angry, emotional or difficult? What methods have worked for you in the past?

What is your typical way of dealing with conflict? Give an example.

Describe a time when you were faced with a stressful situation at work and explain how you coped with it.

Attention to detail is a critical component to this job. Tell us about a time when you had to ensure strong attention to detail; despite being asked to balance multiple changing priorities. How would you go about ensuring this would happen in this position?

What personal or professional accomplishments are you most proud of?

What attributes or skills do you have that you think set you apart from other candidates?

Do you have any questions about the job or expectations?

AUTHORIZATION FOR RELEASE OF PERSONAL INFORMATION

I _____, in connection with my application for employment, hereby authorize a review of and full disclosure of all records concerning myself to any duly authorized agent of the MUNICIPALITY whether said records are of a public, private or confidential nature.

I understand that the MUNICIPALITY will assess information having a bearing on my job performance and agree that by signing this authorization I give my full and complete consent to release to the MUNICIPALITY:

1. All records in any way pertaining to me held by public and private sources, courts, references, government agencies, law enforcement agencies and educational institutions. These records include, but are not limited to, driving history, criminal records, educational records, credentials and identity wherever filed.
2. All employment records pertaining to me held by past or present employers. These records include, but are not limited to, pre-employment investigations and reports, background reports, efficiency ratings, complaints filed against me, and grievances filed by me.

I understand that any information obtained by a personal history background investigation which is developed directly or indirectly, in whole or in part, upon this authorized release will be considered in determining my suitability for employment by the MUNICIPALITY. I also certify that any persons, agencies, or businesses who may furnish such information concerning me shall not be held accountable for releasing said information, and I do hereby release said persons, agencies, or businesses from any and all liability which may be incurred as a result of furnishing such information.

A photocopy of this release form will be valid as an original, even though said photocopy does not contain an original signature.

Signature (Include maiden name)

Address

Phone: _____ DOB: _____

NEW HIRE CHECKLIST

Orientation starts immediately after the decision to hire a person and goes through the probation period. Please initial each line when the task is completed. If the item is not applicable, please write NA and initial it.

To do before first day at work:

- _____ Write letter confirming wage rate, time, date, and place to report, whom to report to, probation Period, pay date, etc. Include information the employee needs to bring for the first day such as Driver's license, birth certificate, identification for I-9 from, etc.
- _____ Send email announcing new employee's arrival date and encourage employees to welcome new Employee.
- _____ Prepare work area/desk etc. to welcome new employee including phone installation, computer/ email installation, etc. as appropriate. Consider cleaning, painting, replacement of any broken furniture, etc.
- _____ Remove signs of previous occupant.
- _____ Assign computer codes as appropriate.
- _____ Order supplies, name plate, business cards, etc.
- _____ Update internal phone lists.
- _____ Assign a "mentor" to help the person become a part of the organization.
- _____ Have a manageable, meaningful assignment planned to help get the person started in the workforce.
- _____ Schedule for appropriate training, including safety and risk management activities.

Employee Reports First to Human Resources

- _____ Complete W-4, I-9, EEO information questionnaire, etc.
- _____ Complete medical, dental, life, STD/LTD or other insurance related forms.
- _____ State retirement, including copy birth certificate.
- _____ Provide information on 457/403 plans.
- _____ Provide employee handout, flex benefit booklet, collective bargaining agreement, etc.
- _____ Review sexual harassment, email, Internet, cell phone, or other departmental policies.

_____ Discuss how to report absences, inclement weather policy.

_____ Provide holiday listing.

_____ Obtain ID card.

_____ Emphasize reporting work related injuries.

Employee Reports to New Department

_____ Welcome by Supervisor and coworkers.

_____ Discussion on why the job of this person is important.

_____ Show around facility and work area including location of rest rooms, mail room, other areas, etc.

_____ Give a tour of the department/building(s) and introduce to employees.

_____ Review departmental policies including discipline policy, salary increases, and performance review system.

_____ Review job description, including duties and expectations for performance review system.

_____ Schedule for training.

_____ Discuss safety procedures, injury reporting, and evacuation procedures.

_____ Review start and stop times, call back policy, lunch periods, break policy.

_____ Order uniforms, as appropriate.

_____ Discuss where to park, coffee procedure, local places where staff eats.

_____ Location of bulletin boards and who can post to them.

_____ Provide keys, locker assignment, if applicable.

_____ Learn how to obtain supplies.

_____ Give copy of purchasing policy.

_____ Preliminary training as needed on phone system, logging onto computer, passwords, etc.

_____ Payroll procedure (timecard, timesheet, on-line system, etc.) and frequency.

_____ Policy relating to personal use of the phone.

- _____ Proper method to answer the phones.
- _____ Smoking rules and places.
- _____ Rules relating to eating at desk, conference rooms, etc.
- _____ Explain dress code and appearance.
- _____ Emphasize importance of good attendance.
- _____ Review security procedures.
- _____ Review rules relating to use of facilities after hours.
- _____ Review expense report and reimbursement procedure.
- _____ Review Intranet and location of employment related forms.
- _____ Check in with new employee at end of Week 1 and establish a check-back system.

Sample Job Description - Town of Goffstown Deputy Tax Collector

Job Description: Performs moderately complex clerical work associated with tax collection, billing and accounting operations of the Tax Collector's office.

Accountability: Reports to Tax Collector.

Equipment used: Computer, typewriter, calculator, telephone, copy machine.

Environment: Inside: 100 % Outside: 0 %

Duties and Responsibilities:

Except as specifically noted, the following functions are considered essential to this position:

1. Accurately perform detailed work with numerical data and make arithmetic computations rapidly and easily.
2. Attend to many items simultaneously, and/or in sequence.
3. Prepare routine financial statements and reports associated with tax collection activities.
4. Maintain records of the organization in accordance with laws, regulations and generally accepted practices.
5. Maintain an appropriate level of confidentiality regarding records of the organization.
6. Interpret and apply statutes, rules, regulations and policies.
7. Follow oral and written instructions.
8. Speak clearly and effectively.
9. Respond to inquiries from the public, public and private organizations regarding tax records, practices and bills.
10. Maintain effective working relationships with other employees and the general public.
11. Administers the tax collection operation in the absence of the Tax Collector, when authorized.
12. Perform other duties as assigned.

Other Training, Skills and Experience Requirements:

High school diploma or GED. Knowledge of basic accounting practices. Operational knowledge of computer hardware and software. At least three years' experience in an office environment performing clerical and bookkeeping or accounting work. Demonstrated skills in accuracy and meeting deadlines. Ability to establish a working knowledge of statutes, rules, regulations, policies and procedures.

Other Considerations and Requirements: This is an on-call position, especially during tax collection times and in the absence of the Tax Collector. This position may require coverage of other departments, as needed, and the acquisition of other basic skills to cover these departments. Job often entails routine and repetitive tasks, that once learned, can be executed under general supervision. Work may be checked to insure accuracy and completeness of tasks. This is a relatively sedentary position and the employee is not required to do extensive physical exertion. Employee is rarely required to do any lifting. Job requires standing for moderate periods of time. Employee is typically able to sit and stand as needed. Person is expected to dress appropriately to represent the Town to the public.

**Sample Job Description – Town of Moultonborough
DEPUTY TAX COLLECTOR - JOB SUMMARY**

The Deputy Tax Collector performs a wide variety of accounting, secretarial and clerical functions as outlined by the New Hampshire's Revised Statutes Annotated (RSAs). The Deputy Tax Collector shall perform all of the duties of the Tax Collector in that individual's absence. The Deputy is, by extension, responsible to the same RSAs as the Tax Collector. (RSA 41:38)

SUPERVISION RECEIVED

The Deputy Tax Collector is supervised by and responsible to the Tax Collector. (RSA 41:38)

EXAMPLE OF DUTIES

1. Works closely with taxpayers in person, by telephone, by mail and/or e-mail. Provides research as needed, prepares appropriate responses and gives assistance and advice on a variety of matters while maintaining a friendly, service oriented atmosphere.
2. Receives, records, reconciles and deposits funds daily.
3. Prepares redemption reports and records same with the Registry of Deeds on a bi-monthly basis.
4. Assists in the tax lien and tax deeding process, which includes preparing reports, certified lien letters, notices to mortgagees and other letters as necessary.
5. Prepares and processes Abatements and Refunds.
6. Assists with the preparation of weekly, monthly and year-end reports for the Treasurer, the State and the auditors.
7. Assists with the proving, recording and billing of warrants for property, yield, and land use change tax, etc.
8. Processes and tracks the collection of bad checks.
9. Assists with tax records retention and preservation.
10. Other tasks as requested by Tax Collector.
11. Be prepared to fill in and perform all of the duties of the Tax Collector in his/her absence.

KNOWLEDGE, SKILLS AND ABILITIES

1. The Deputy Tax Collector must have the ability to read, interpret and follow technicalities and specifics of the RSAs.
2. Must have knowledge of accounting principles and procedures.
3. Must have the ability to plan and organize with an emphasis to detail, consistency, and accuracy.
4. Must be able to work well with the public, both in person and by telephone, including being able to handle difficult situations.
5. Other duties include typing, filing, collection of fees, cashiering and other general office procedures.
6. The Deputy must have general computer knowledge and be able to learn new programs as necessary,

MINIMUM QUALIFICATIONS REQUIRED

High School diploma or equivalent. Must have the ability to be bonded. Other skills include accounting, typing, office procedures and computer knowledge necessary to perform the required duties of the Deputy. Must be willing to attend Tax Collector's workshops, conferences and NHTCA Certification Programs. **MUST** be able to interact well with people.

**APPOINTMENT
Deputy Tax Collector**

To (Insert name of deputy), Town/City of _____ in the County of _____:

WHEREAS, there is a vacancy in the office of Deputy Tax Collector in said Town and WHEREAS, we, the subscribers, have confidence in your ability and integrity to perform the duties of said office, we do hereby appoint you the said _____; and upon taking oath of office, and having this appointment and the certificate of said oath of office recorded by the Town Clerk, you shall have the powers, perform the duties, and be subject to the liabilities of such office until the Board of Selectmen appoints someone else.

Given under our hands this _____ day of month, year.

Chairman

Vice Chairman

Board of Selectmen

I, _____, do solemnly swear that I will faithfully and impartially discharge and perform all the duties incumbent on me as Deputy Tax Collector according to the best of my abilities, agreeable to the rules and regulations of the constitution and laws of the State of New Hampshire.

SO HELP ME GOD

STATE OF NEW HAMPSHIRE
_____ COUNTY, SS.

Personally appeared the above named, _____ took and subscribed the foregoing oath. Before me,

Date: _____

Received and Recorded:



Town of Goffstown
PERFORMANCE EVALUATION
NON-EXEMPT STAFF

DATE OF EVALUATION _____ PERIOD OF EVALUATION _____
 EMPLOYEE _____ TITLE _____
 SUPERVISOR _____

RATING SCALE

Exemplary – This rating describes performance, which is **excellent**. Performance requirements far exceed expectations in all aspects of the job. The employee's performance is always outstanding.

Superior – This rating describes performance, which is **very good**. Performance requirements are clearly and consistently met and exceed expectations in many aspects of the job. There are relatively few ways in which the employee's performance could be improved upon.

Successful – This rating describes performance, which is **good**. Performance requirements are almost always met. There is no immediate need to improve performance.

Needs Development – This rating describes performance, which is **marginal**. While the employee has fulfilled most of the minimum requirements of the position, the level of performance clearly needs improvement.

Unacceptable – This rating describes performance, which is **inadequate**. Performance is sufficiently weak that the employee's work must be frequently checked to be certain that is done properly; the employee's inadequate performance limits the ability of employer to achieve its objectives; the supervisor or another employee must "cover" for inadequate performance; the employee's performance causes an excessive number of complaints from the persons the employee normally serves or from co-workers; or for similar reasons which can be described by the supervisor.

N/A – Not applicable

1. Work Skills

RATING _____

A. The work is delivered in the correct format, neatly with accuracy.

Comments: _____

B. The work is performed in a timely fashion, prior to deadlines, without constant supervisor follow-up.

Comments: _____

C. Satisfactory level of skill with the required office equipment and new technology.

Comments: _____

D. Employee's organizational skills.

Comments: _____

2. Work Habits and Work Relations

Rating _____

A. Professionalism (punctuality, attendance, appearance):

Comments: _____

B. Dependability, ability to perform with limited supervision.

Comments: _____

C. Ability to work with others; both support staff and professional staff.

Comments: _____

3. Work Attitudes

Rating _____

A. Acceptance of direction and constructive criticism:

Comments: _____

B. Willingly pitches in with group projects and times of work overload; works overtime willingly.

Comments: _____

C. Makes an effort to improve skills and work habits, takes an interest in work.

Comments: _____

4. Overall Evaluation

Rating _____

Comments: _____

My signature certifies that I have reviewed this evaluation with my supervisor.

_____ Employee's Signature	_____ Date
_____ Supervisor's Signature	_____ Date
_____ Dept. Head's Signature	_____ Date

Employee's Comments: _____

Goals & Objectives:

A. What job-related goals will you be striving for during the upcoming year? _____

B. Action Steps on part of Employee:	Action Steps on part of Supervisor:
_____	_____
_____	_____
_____	_____

_____ Employee's Signature	_____ Date
_____ Supervisor's Signature	_____ Date
_____ Dept. Head's Signature	_____ Date

**CITY OF NASHUA, NEW HAMPSHIRE
 EMPLOYEE ANNUAL PERFORMANCE EVALUATION
LIBRARY, UAW and MERIT**

Employee Name: _____
 Job Title: _____
 Evaluation Period: _____

Return to Human Resources by: _____
 Hire Date: _____
 Department: _____

From: _____ To: _____
 m: _____ - _____

Evaluator's Name & Position: _____

GOALS & OBJECTIVES FOR THIS EVALUATION PERIOD AND NEXT EVALUATION PERIOD MUST BE COMPLETED FOR ALL EMPLOYEES.
 _____ *For Supervisory and Managerial Employees, please complete categories 1 - 6*
 _____ *For Non-Supervisory Employees, complete categories 1, 2, 4, 5, and 6*

GOALS AND OBJECTIVES FOR THIS EVALUATION PERIOD:

SECTION A - PLEASE CHECK EACH FACTOR IN AN APPROPRIATE COLUMN.

Category 1 General Work Requirements	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS	N/A
1. Observance of work hours	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Accepts constructive criticism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4. Accepts change	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Effectiveness under stress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Compliance with City and Departmental safety rules and procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Confidentiality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Maintaining personal appearance appropriate to duties and work setting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Category 2 Job Skills	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS	N/A
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9. Knowledge of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Quality of work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Productivity Level	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Professionalism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. Establishing Priorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Category 3 Management/Supervisory Skills	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS	N/A
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14. Judgment skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15. Planning & organizing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16. Setting & meeting deadlines	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. Scheduling & Coordinating	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18. Decision-making skills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
19. Program implementation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20. Project management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Goal orientation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. Training, instructing & motivating staff and subordinates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
23. Evaluating Subordinates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
24. Leadership ability shown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25. Support of EEO/Affirmative Action programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Category 4 Interpersonal/Communication Skills	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS	N/A
26. Effectiveness in oral communications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Quality of written communications	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Ability to deal with the public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
29. Interaction with fellow employees	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30. Rapport with supervisors	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Category 5 Motivational Factors	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS
31. Initiative taken	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
32. Responsibility accepted	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. "Team Player"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
34. Attitude/Enthusiasm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

35. Setting & meeting deadlines

Category 6 Additional factors	UNACCEPTABLE	NEEDS IMPROVEMENT	MEETS EXPECTATIONS	EXCEEDS EXPECTATIONS
36. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
37. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
38. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
39. _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ALL "UNACCEPTABLE" AND "NEEDS IMPROVEMENT" CHECKS SHOULD BE ADDRESSED IN SECTION D-1 AND D-2

SECTION B: *(Describe general, overall performance.)*

SECTION C: *(Record job strengths, superior performance, progress achieved, etc.)*

SECTION D-1: *(Describe areas requiring improvement.)*

--

SECTION D-2: *(List suggested methods to achieve improvement results.)*

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RECOMMENDATIONS:

Approved for Step Increase:	YES	NO
If no, explain and identify follow up date: <i>(separate sheet can be attached)</i>		
GOALS AND OBJECTIVES FOR NEXT EVALUATION PERIOD:		

EMPLOYEE COMMENTS: *Employee is encouraged to comment on review, performance, strengths, weaknesses, goals or other topics related to this review: (separate sheet can be attached)*

Reviewing Supervisor:

(Signature)

(Title)

(Date)

Employee: *I certify that this report has been discussed with me. I understand that my signature does not necessarily indicate agreement.*

I wish to discuss this report with the department head.

(Employee's Signature)

(Date)

(Department Head)

(Date)

(Division Director)

(Date)

(Human Resources Director)

(Date)

Town of Salem
PERFORMANCE EVALUATION
 (Non-Supervisory)

EMPLOYEE NAME _____ DATE OF EVALUATION _____
 (Print or Type)

POSITION _____ EMPLOYMENT DATE _____

DEPARTMENT _____

PERFORMANCE REPORT COMPLETED BY _____ / _____
 (Print or Type) (Date)

TYPE OF EVALUATION: Check (X) one

Probationary Progress	<input type="checkbox"/>	Permanent	<input type="checkbox"/>
Conclusion of Probation	<input type="checkbox"/>	Permanent Part-Time	<input type="checkbox"/>
Annual Review	<input type="checkbox"/>	Other (Specify)	<input type="checkbox"/>

EMPLOYEE STATUS

INSTRUCTIONS:

1. Please Type or Use Ink.
2. This personnel evaluation report should be completed only by those who have directly observed the job performance of the employee being rated. The rater's supervisor may directly assist in the rating process where it is deemed necessary for purposed of training new raters, etc.
3. Before commencing the evaluation, review applicable Performance Evaluation Guidelines.
4. Annual Review or Conclusion of Probation Evaluations must be submitted to Human Resources Department at least 15 working days before anniversary date or conclusion of probation.
5. The completed personnel evaluation must be filed in the employee's personnel folder in the Human Resources Department.

PART I

Read each performance dimension and its definition. Review the description of performance and circle the number above the description which most nearly reflects the performance of the employee being evaluated. *Ratings of one (1) must be accompanied by an explanatory statement in Part III (Summary Comments). Ratings of five (5) must also be accompanied by such a statement which highlights exemplary performance.* These statements should identify the specific performance dimensions which either require correction or are being highly praised.

- Evaluations:*
- (5) *Consistently exceeds expectations*
 - (4) *Exceeds most expectations*
 - (3) *Meets expectations*
 - (2) *Meets Some Expectations*
 - (1) *Does not meet expectations*

1. **ACCURACY** is the correctness of the work duties being performed.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Makes frequent errors; thorough work review constantly required	Makes recurrent errors; Above normal work review required	Makes only average number of mistakes; normal work review required only	Is exact and precise most of the time; spot reviews required only	Is exact and precise; requires absolute minimum of review

2. **ALERTNESS** is the ability to grasp instructions, to meet changing conditions and to solve novel or problem situations.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Slow to "catch" on	Requires more than average instructions and explanation	Grasps instructions with average ability	Usually quick to understand and learn	Exceptionally keen and alert

3. **ATTENDANCE** relates to the degree of regularity in daily work attendance.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Attendance very undependable; seriously hinders department operations	Attendance is irregular; hinders department operations	Attendance is dependable; absences within normal limits	Attendance is dependable; seldom absent	Attendance is very dependable; rarely absent

4. **PUNCTUALITY** is faithfulness in conforming to work hours.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Very excessive time loss due to tardiness	Time loss due to tardiness is above acceptable limits	Time loss due to tardiness is within acceptable limits	Employee is punctual; Seldom tardy	Employee is invariably prompt and punctual

5. **COURTESY** is the polite attention an individual give other people (i.e., public, supervisors, fellow workers) within the work setting.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Blunt, discourteous; antagonistic	Sometimes abrasive or discourteous	Agreeable and pleasant	Always very polite and willing to help	Inspiring to others in being courteous and very pleasant

6. **DEPENDABILITY** is the ability to consistently do required jobs well, in a timely fashion, and with minimum supervision.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Requires close supervision; frequent prompting required to meet deadlines	Sometimes requires prompting to meet deadlines	Usually takes care of necessary tasks and completes and with reasonable promptness	Requires little supervision; is reliable	Requires absolute minimum of supervision; is a self starter

7. **DRIVE** is the desire to set and to attain goals, to achieve.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Level of effort unacceptable; little evidence of desire to achieve	Below average drive; puts forth minimal effort to achieve	Has average drive; usually puts forth effort to achieve	Strive hard; has high desire to achieve	Sets high goals and strives incessantly to achieve

8. **NEATNESS** is the degree to which an individual keeps work area (e.g., desk, storage areas, car or truck cab) clean and orderly.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Disorderly or untidy	Some tendency to be disorderly and untidy	Ordinarily appearance of work area is acceptable	Quite conscientious about neatness and clean	Always neat, clean, and orderly

9. **COMMITMENT TOWARD THE JOB** is the degree of interest demonstrated in the job.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Carries out tasks half-heartedly; reluctantly	Sometimes appears indifferent towards job	Show sufficient interest in the job	Shows great interest in the job	Exceptionally enthusiastic about the job

10. **JOB KNOWLEDGE** is the total knowledge and information possessed about all types of work which an employee should know to carry out work duties satisfactorily.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Very little knowledge and information about work duties; serious knowledge retention problem	Lacks knowledge and information of some phases of the job; some trouble with knowledge retention	Sufficient knowledge and information to perform job; answers most common questions	Very good knowledge and information to perform the job; understands nearly all phases of work	Has complete knowledge and understanding of all phases of job

11. **PERSONAL APPEARANCE** is the degree of appropriateness of an individual's overall appearance (e.g., grooming, dress, cleanliness) to the job being performed and to the job setting.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Appearance repeatedly and/or severely inappropriate	Appearance is inappropriate with frequency	Appearance typically in harmony with job expectations	Careful about personal appearance	Unusual attentiveness to personal appearance

12. **PHYSICAL PERFORMANCE** requirements of the job (e.g., physical alertness, dexterity, energy, stamina).

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Unable to satisfactorily perform major physical elements of the job	Has some difficulty in satisfactorily performing major physical elements of the job	Performs physical aspects of job satisfactorily	Performs physical aspects of job very well	Performs the physical elements of job exceptionally

13. **QUANTITY OF WORK** is the amount of satisfactory work output.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Unacceptable level of output	Level of output is marginal; inconsistent	Volume of work is satisfactory	Turns out more than is required; very industrious	Exceptionally high output

14. **STABILITY** is the ability to withstand pressure and to remain calm in crisis.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Low tolerance of crises; goes "to pieces" too easily	Below average tolerance for crises; is easily irritated	Has average tolerance for crises; usually remains calm	Tolerates most pressure; likes crises more than the average person	Thrives under pressure; really enjoys solving crises

15. **TEAMWORK** is extent to which the individual is able to work effectively with peers and supervisors in the accomplishment of work projects or goals.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Inclined to be quarrelsome, uncooperative, has negative attitude	Has some difficulty in working with others	Congenial and cooperative; works effectively with others	Relates to others well; above average ability to work with others	Works extremely well with others; demonstrates exceptional interpersonal skills

16. *ATTENTION TO SAFETY* is the adherence to rules and practices of safety in performing duties.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Often takes unnecessary risks or disregards usual safety practices; attention to safety unacceptable	Sometimes takes unnecessary risks or disregards usual safety practices	Is attentive to normal rules of safety	Is safety conscious; acts to correct unsafe conditions	Very safety conscious; promotes safety in the work place

17. *CUSTOMER SERVICE* is the extent to which the individual makes a favorable impression on behalf of the Town and him/herself in serving members of the public, a provides positive, prompt, and quality assistance.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Makes negative impression; substandard service delivery	Marginal impression; service delivery is below average	Generally makes favorable impression and service delivery is acceptable	Often exceeds expectations in providing services and presenting a favorable impression	Consistently makes favorable impression while providing exemplary service

PART II

OVERALL EVALUATION is the assessment of the employee's performance in all performance dimensions.

1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>
Unacceptable	Substandard; requires timely improvement	Is performing acceptably	Performing at above average level	Performance is outstanding

PART III

SUMMARY COMMENTS: Include any explanation required to clarify or expand on specific performance needing improvement or which is truly exemplary. *Each rating of one (1) and five (5) must be accompanied by a brief explanatory note.*

Performance Area (Give Item & Number)	Comment of Rater (Use addendum pages as needed)

PART IV

OBJECTIVES/FUTURE GOALS: Use this space to “look ahead” with the employee. Summarize any goals, objectives, or projects which were discussed together.

PART V

RECOMMENDATION: (Probationary Employees Only)

1. It is recommended that this probationary employee be:

Check (X) one.

- Advance to Permanent Status
- Release from Service
- Extended for _____ months
- Other (Specify below)

Comments: _____

Rater's Signature: _____

Date: _____

PART VI

EVALUATION REVIEW

EMPLOYEE REVIEW: I have reviewed this evaluation and have discussed it with my supervisor. My signature does not necessarily indicate my full agreement. I understand that I may indicate my reservations or disagreement with this rating in the space provide below or may request review by higher authority.

Comments: _____

Employee Signature: _____ Date: _____

DEPARTMENT HEAD: I have reviewed this evaluation and concur subject to comments shown below:

Comments: _____

Department Head Name: _____
(Print or Type)

Department Head Signature: _____ Date: _____

Human Resources Manager's Initials: _____ Date: _____

LEGAL RIGHTS as “APPOINTED OR ELECTED OFFICIALS”

A Presentation for the NH Tax Collector’s Association (NHTCA) Fall Convention - 2009 – Reviewed 2024 (No update with presentation August 2019)

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The above inquiry presumes a “fact not in evidence”, to wit, we first must conclude that tax collectors, both elected and appointed, are “officials”. Following that, we have to determine if there is any “legal relevance”, to wit; *Does it matter whether or not a collector is elected or appointed?*

Prior to 1979, the listing of “Town Officers” to be elected appeared in RSA 41:1. That Chapter is entitled “Choice and Duties of Town Officers”, and gives us some indication of the types of positions which fall into the category of “Town Officers”. This list of those officers which “shall” be elected by a Town is now found in RSA 669:15:

Selectmen
Moderators
Supervisors of Checklist
Town Clerk

The officers of Town Treasurer and Highway Agent can be elected or appointed. RSA 669:15.

The office of tax collector (aka collector of taxes) is described in at least two (2) places as an “optional officer” if elected. RSA 41:2; RSA 669:17. The clear implication of the statute is that the Town may decide to “elect” a tax collector, or the position may be filled by other means “as determined by... voters”. RSA 669:17. [NOTE: This language provides opportunity for significant impact on the role of the collector- see Page 9.] Reference to appointment by the Selectmen exists in state law. See, RSA 41:33. herefore, the tax collector may be appointed or elected. 13 N.H. Practice (Loughlin § 297). In either case, it appears that the tax collector is a municipal “official”.

According to Attorney Peter Loughlin, persons who serve in public positions and render service to local residents for and on behalf of municipalities are either “public officials” or “public employees”. 13 N.H. Practice, supra at § 342. Whether someone is characterized as a “public official” involves consideration of a number of factors, including (1) authority and manner of election or appointment, (2) time when the appointment or election is to take place, (3) the tenure of office, (4) the manner of filling vacancies, (5) the power and method of removal or suspension, (6) the law under which the position is created, (7) powers and functions of office, (8) qualifications of incumbent, (9) personal functions of the office, (10) requirements of bond and oath, and (11) compensation or salary and the source of payment. 13 N.H. Practice, supra, citing 3 E. McQuillen, Municipal Corporations § 12.28. The term public official generally refers to a person holding an office, which is a place of trust which exists even though it may be without an incumbent. Id.

The office at issue must have been created by law, that is by the Constitution or statutes or by local Charter enactment. Antiegu on Local Government Law [2nd Ed.] § 76.01 [1] citing, State vs. Hord, 141 S.E. 2nd 241, 264 N.C. 149 (1965). Generally, one who holds an elective or appointed position for which public duties are provided by law is a public officer. Id., citing, Mosby vs. Board of Commissioners, 186 N.E. 2nd 18, 134 Ind. App. 175 (1962).

In describing the distinction between public officials and public employees, an employee generally renders assistance under the direction of an officer or an official. 13 N.H. Practice, supra at § 343. The State Supreme Court has said that to determine whether an employee- employer relationship exists, one must consider many factors. Porter vs. City of Manchester, 155 N.H. 149 (2007). (City held liable for conduct of elected Welfare Commissioner). Often the dispositive factor is the right to control the work performance of the person in question. Swiezynski vs. Civiello, 126 N.H. 142 (1985).

Consideration of all of the above material suggests that the “tax collector”, whether elected or appointed is a “municipal official”. The duties of the office are set forth by statute. RSA 41:35. Unlike employees, the position exists even when there is no incumbent. There is a statutory authority given to the State of New Hampshire to supervise tax collectors which is inconsistent with the status of typical municipal employees. RSA 41:39.

Finally, the State Supreme Court, nearly sixty (60) years ago, considered the “offices” of town clerk and tax collector such that they were beyond the power of the community to merge or abolish. See, Eaton vs. Bragg, 96 N.H. 407 (1951). [NOTE: Laws were later amended to allow a combined “town clerk-tax collector”.]

Consequently, for the purpose of the discussion, we will presume that “tax collectors” whether elected or appointed, are to be considered “municipal officials” or “municipal officers”. Accord, Groton vs. City of Cambridge, 145 N.E. 453, 250 Mass. 317 (1924).

Having concluded that collectors, whether elected or appointed, are “municipal officials”, the next inquiry is the extent to which how one succeeds into this office affects how a person can perform their duty. In the sections which follow, I address some of the areas where this distinction between elected and appointed can affect the rights of the “office holder”.

Residency Requirement - Obviously, to be an elected official one must be a resident of the community. RSA 669.6. With regard to appointed officials, the state laws are silent on this subject and, in fact, there are many appointed collectors who are non-residents. In the absence of a statutory requirement, it is unclear that a municipality can mandate an appointed collector to be (or become) a resident of the community. In New Hampshire, the State Supreme Court has affirmed both a state and federal constitutional right for persons to live where they choose and travel freely. Donnelly vs. City of Manchester, 111 N.H. 50 (1971) (striking down requirement that teachers live within the city). This reliance on our state Constitution may mean that practice in other states which allow mandatory residency for officials (See, 3 McQuillen, Municipal Corporation [3rd Ed.] § 12.59) may not apply in New Hampshire. See, Angevin vs. City of Manchester, 118 N.H. 336 (1978) (affirming that state protections are broader than federal law).

The Supreme Court subsequently (by a 3-2 vote) upheld a Seabrook residency requirement for police officers. Seabrook Police Ass’n. vs. Town of Seabrook, 138 N.H. 177 (1993). In that case, the Court found the town had a “compelling interest” in infringing on the assumed constitutional right. Id at 179. Similar holdings have been made in other jurisdictions. See, Detroit Police Officers Ass’n. vs. City of Detroit, 424 U.S. 695 (1976). However, there is precedent to suggest that the office of tax collector would not fit this narrow exception to the

general prohibition on residency requirements. See, N.H. Practice, supra at § 346. Consequently, a requirement that an appointed tax collector be a resident may be beyond the power of the appointing authority.

Compensation – By statute, the compensation of the tax collector is fixed by the “town meeting”. RSA 41:33. This normally means it is done through the adoption of a warrant article, or by a line item in the budget. Cf., Kondrat vs. Freedom School District, 138 N.H. 683 (1994). Tax collectors can be compensated in a number of ways, including retention of statutory fees, a fixed compensation, or some combination thereof. Id. In the case of an appointed tax collector, there must be a written contract concerning fees, Id. This control over compensation can give the Selectmen a large measure of control over the performance of the tax collector duties by fixing compensation to some level of time/hours and place of performance of public duties.

Liability of the Town for Actions of the Collector - In the context of an employer- employee relationship, the “employer” can be held liable for the “torts” (primarily negligence actions, but also including intentional injuries or damages) caused by an employee in the course of their employment. This is known by the latin “*respondeat superior.*”

There is case law in New Hampshire for the proposition that Selectmen, when carrying out duties, are not “agents” of the municipality, and therefore the “municipality” itself cannot be financially liable when Selectmen negligently perform their duties. See, Felch vs. Town of Weare, 69 N.H. 617 (1899). A similar conclusion was reached in Massachusetts with respect to the “public officer” tax collector. See, Groton vs. City of Cambridge, supra.

On the other hand, in a more recent case, the municipality (in this case, the City of Manchester) was held liable for the alleged tortuous actions of the elected City Welfare Director. Porter vs. City of Manchester, supra. In that case, the Court effectively held that the “official” (regardless of how they came into office) would be classified as an “agent” or “employee” of the community for liability purposes notwithstanding their status as an “official”.

Regardless of whether the community itself will be liable, the collector should always confirm that they are covered under the municipality’s liability insurance policies so as to provide a defense and indemnity in the event a claim is brought against them in their capacity as

collector. A governing body of a municipality may vote to “indemnify” its officials under RSA 31:105. See, 13 N.H. Practice § 357.

Terms and Conditions of Employment (Direction of Work) - Tax collectors are subject to the statutory jurisdiction of the DRA. See, RSA 41:39. In addition, New Hampshire law sets out the barest of minimum duties of the tax collector. RSA 41:35. Most of the statutory requirements relate to recordkeeping and reporting, with little or no guidance as to how and when the work is done. See generally, 13 N.H. Practice, supra at § 297.

In the context of the elected collector, it is primarily political responsiveness which drives the scope of work, when and how it is performed. In extreme cases, the remedy of removal from office (see below) can be employed.

With an appointed collector, the governing body (i.e. Selectmen) can exercise a great deal of control. Through the mechanism of the appointive process, as well as the “compensation contract”, the appointing authority can exercise considerable control over the “terms and conditions” of employment, including:

- Number of hours to be worked;
- When hours will be worked;
- Where hours will be worked;
- The scope of authority over other municipal employees working in the collector’s office; and
- The type, timeliness and other conditions of reporting beyond that which may be set forth in the statute.

Even where such conditions may not be fully established at the time of appointment, the presumed “at-will” nature of this office (See, below) gives a broad range of control over the position by the appointing authority.

Regardless of whether the collector is elected or appointed, by far the largest “control” over the collector is through the allocation (or non-allocation) of support staff, facilities and resources to do the job of the tax collector.

Removal - The ability to “remove” a collector from office is, first of all, set forth by statute.

The Board of Selectmen is granted authority to remove a collector of taxes (along with Town Clerk or Treasurer) who has become insane or otherwise incapacitated to discharge the duties of office. RSA 41:12. There is authority to say that this removal process is governed by the procedural requirements of RSA Chapter 43. See, 13 N.H. Practice Series (Loughlin) § 557. These requirements include notice, rules for conduct of the hearing, issuance of a written decision (RSA 43:4) and filing of same with the Town Clerk. Id. The provisions of RSA Chapter 43 do not contain a specific appeal mechanism. Normally, appeals of this nature are handled by a Petition for *Certiorari* filed with the Superior Court. This is a limited review to determine whether the removal was illegal, based on improper jurisdiction, or was arbitrary or capricious. See, Sinkevich vs. Nashua, 97 N.H. 263 (1952); William vs. Dover, 130 N.H. 527 (1988).

In 1993, the legislature enacted comprehensive statutory changes in the removal process for several town officers, including, clerks, treasurers and tax collectors. See, Chapter 181, Laws of 1993. Under these provisions, the Selectmen may institute removal procedures whenever the DRA or the Town's own accountants discover "irregularities" or "material errors" in the records or find that deposits are not being made in a timely manner. RSA 41:40. Both the terms “irregularity” and “material error” are defined in the law. The statute sets out a procedure for removal providing:

- a) Notification to the collector (certified mail) and DRA of the possible commencement of removal proceedings also including a written outline of the reasons and a copy of the audit report.
- b) The requirement that the collector respond within twenty (20) days. Failure to respond, in and of itself, can be grounds for removal. See, RSA 41:40(II)(b).
- c) A determination if the removal process will go forward.
- d) A hearing must be held, following the procedures in RSA 43 and in accordance with RSA 91-A if requested by the collector, otherwise the Board may decide on the basis of the written record.
- e) A written Notice of Decision to all parties.
- f) A right to appeal to Superior Court for a *de novo* hearing.

Fortunately, there have been no Supreme Court cases interpreting this law since its enactment.

At this point, the removal process diverges depending on the status of the official. In the case of an elected official, the remaining removal process is through RSA 42:1-a. This statute applies in the case of removal of any elected official who is alleged to have violated their oath of office. A petition would be brought in the Superior Court. If such a proceeding is brought, and the removal is unsuccessful, it is likely that the person who was the subject of the removal proceeds would normally be awarded their attorney's fees. See, Silva vs. Botsch, 121 N.H. 1041 (1981).

With regard to appointed collectors, the normal presumption is that the power to appoint carries with it the power of removal. American Federation of State, County and Municipal Employees vs. City of Keene, 108 N.H. 68 (1967). According to the McQuillen treatise on municipal law:

“Appointed officers may be removed summarily, since they serve at the pleasure of the governing body and may be removed at any time by such authority...removal may be exercised at the pleasure of the appointing power without limitations of any character, particularly appointive officers without term.”

4 McQuillen, Municipal Corporations
(3rd Ed.) § 12.229.30.

In this regard, the powers of the appointive authority (Selectmen) is similar to the power of an employer in an “at-will” employment relationship. Under New Hampshire, an “at-will” employment contract can be terminated by either party, at any time, with or without cause. McDonald vs. Tandy Corp., 796 F. Supp. 623 (D. N.H. 1992) affirmed 983 F. 2nd 1046 (1st Cir. 1994). In the context of at-will employees, the limitations on discharge are related to matters of “public policy”, meaning that a person can be discharged for a good reason, or for no reason, but not for the wrong reason. Monge vs. Beebe Rubber Company, 114 N.H. 130 (1974).

This “public policy” exception requires a Plaintiff to prove, by a preponderance of the evidence, that:

- (1) The termination of employment was motivated by bad faith, retaliation or malice; and
- (2) That the person was terminated for performing an act that public policy would encourage or for refusing to do something that public policy would condemn.

Karch vs. BayBank, FSB, 147 N.H. 525,
536 (2002) citing, Wenners
vs. Great State Beverages, 140 N.H. 100 (1995).

The “public policy” violated by a wrongful discharge can be based on statutory or non-statutory policy. Cilley vs. New Hampshire Ball Bearing, 128 N.H. 401 (1986).

It would be difficult to summarize, in a short outline, all of the “public policy” reasons which can be raised as a claim in a wrongful discharge case. Some recurring themes would be:

- Claims arising from the alleged exercise of constitutional rights (e.g. free speech, right to support candidates for elective office, exercise of religious rights, etc.);
- Claims arising from the alleged exercise of rights to report illegal conduct (e.g. exercising Whistleblower Rights – RSA 275-E); and
- Claim of discrimination based on the so-called “suspect classification” (e.g. adverse employment action based on race, national origin, marital status, etc.).

Enhancing Rights of Appointed Collectors – Recall that under RSA 669:17, the tax collector may be elected, or the position may be filled by other means “as determined by ... voters” Id. This provides an opportunity to enhance (or diminish) the position of the tax collector.

Compare the following two (2) examples of warrant article language relative to the filling of the tax collector office:

A) To see if the Town will vote to have the tax collector appointed by the Selectmen, (alt- To see if the Town will vote to discontinue electing the tax collector and give the Selectmen authority to appoint a collector)

Versus

B) To see if the Town will vote to authorize the Selectmen to appoint the Tax Collector who shall serve for a term of three (3) years, and is eligible for re-appointment. (alt - To see if the Town will vote to discontinue electing the tax collector, and give the Board of Selectmen authority to fill said office for an appointed three (3) year term.)

Or how about

C) To see if the Town will vote to discontinue electing the Tax Collector and authorize the Selectmen to appoint a tax collector who shall hold office during good behavior, subject to removal as provided in state law? [NOTE: This language comes from Part 2, Art 73 of the State Constitution relating to Judges- Lifetime tenure anyone??]

The point is that “appointed” officers can serve “at the pleasure” of the appointing authority, or the appointing authority can be restricted. Most legal authorities conclude that if no definite term exists or the law does not otherwise provide, then the tenure of the appointed official is at the will of the authority that confers the office, and unless restrained by law, the power that appoints may remove. 3 McQuillen, supra at §12.112 and numerous cases cited. If a “term” of office exists, then removal from said term normally must be for “good cause” which may be set forth in law.

II. PROPERTY TAX OVERVIEW

PROPERTY TAX RATES

The property tax rate is established for a particular budgetary period in order to ensure that each local government raises enough revenue to provide the services that the legislative body approves.

In most municipalities in New Hampshire, the legislative body is comprised of the voters who attend the annual budgetary town meeting. The governing body, the selectmen of the municipality, or the school board in the school district, proposes and recommends a budget; only the voters can cause an appropriation to be made.

New Hampshire laws are very specific on what the municipalities may appropriate funds for and what procedures are used for this purpose. An example of this is the voters (legislative body) may authorize the governing body to borrow money for a project; but they may only do so by a two-thirds ballot vote (three-fifths for SB2). Any appropriations that are made with procedures inconsistent with the law or prohibited by law must be disallowed. This ensures that all municipalities are following the same procedural requirements when they adopt legal appropriations.

RSA 21-J:35, Setting of Tax Rates by Commissioner, governs the establishing of property tax rates. It states:

- I. The commissioner of revenue administration shall compute and establish the tax rate of each town, city, or unincorporated place. Any assessments report issued by the commissioner pursuant to RSA 21-J:11-a shall not delay or otherwise affect the setting of the tax rate for that municipality.
- II. To compute and establish the tax rates of towns, cities and unincorporated places under paragraph I, the commissioner shall examine the reports required under RSA 21-J:34 to ensure that:
 - (a) All appropriations have been made in a manner which is consistent with procedural requirements required by statute.
 - (b) No appropriations have been made which are prohibited by statute.
 - (c) All revenues have been estimated accurately and in a manner which is not prohibited by statute.
 - (d) All calculations are correct.
- III. If the commissioner finds that appropriations were made in a manner that is inconsistent with statute he shall delete the appropriation or that portion in question.
- IV. If the commissioner finds that the estimated revenues included are inaccurate or inappropriate he shall adjust the estimates in question.
- V. The commissioner shall notify in writing the governing body of each city or town of the rate he has established. This notification shall include a detailed explanation of all

changes made in the appropriations or revenue estimates submitted by the municipality or district in question.

- VI. Any town, city or unincorporated place which is dissatisfied with the tax rate set under this section may, within 10 days of notification, request an oral hearing on this matter before the commissioner of revenue administration. If such a request is made, the commissioner shall promptly schedule and conduct a hearing pursuant to rules he shall adopt under RSA 541-A. After the hearing, the decision of the commissioner shall be final.

The Municipal Services Division reviews all of the documents supplied by the municipalities to be sure that all votes were taken in accordance with state statute. It is important to send all required documents in a timely manner so that if something is wrong, there is ample time to correct the problem before the tax rate is set in the fall.

The formulas used to calculate the tax rates for the municipality, local education; state education, village district and county are as follows:

Municipal Tax Rate (per \$1,000 value):

Voted Appropriations less Revenues (including Surplus) plus Overlay plus War Service Credits less Shared Revenue divided by the Locally Assessed Property Valuation multiplied by 1000

Local Education Tax Rate (per \$1,000 value):

Net School Appropriations less Cost of Adequate Education divided by Locally Assessed Property Valuation multiplied by 1000

State Education Tax Rate (per \$1,000 value):

State Education Amount divided by Locally Assessed Property Valuation (Without Utilities) multiplied by 1000

County Tax Rate (per \$1,000 value):

Amount of County Budget Apportioned to Town less Shared Revenues divided by Locally Assessed Property Valuation multiplied by 1000

Village District Tax Rate (per \$1,000 value):

Net Village District Appropriation divided by Village District Locally Assessed Property Valuation multiplied by 1000

TAX COMMITMENT VERIFICATION

The Tax Commitment Verification Form is sent to the town along with numerous other forms after the governing body and the municipality's assigned advisor have discussed and tentatively set the estimated tax rate. It is tentative because per RSA 76:10, II,

“If the municipal tax collector finds a discrepancy of ½ percent or more between the amount of the warrant as committed to the tax collector of the municipality and the total property tax commitment calculated by the commissioner of revenue administration, based on the pertinent information provided by the municipality under RSA 21-J:34, the collector shall return the warrant to the municipality's assessing officials for correction. If a correction cannot be made to generate a warrant with less than ½ percent of one percent discrepancy, the assessing officials shall submit a revised property summary inventory of valuation form as required under RSA 21-J:34, I, for recalculation of the tax rate by the commissioner of revenue administration. The municipality shall not issue property tax bills until such discrepancy is resolved.”

What that means is the tax collector must verify, before the tax bills are printed and sent out, that the warrant falls within the ½% guidelines. The commitment verification form will indicate the high/low range that the commitment must fall within. If it doesn't then something, somewhere is causing a problem and must be discovered and fixed.

A few reasons why the warrant could be off are:

- The tax collection database might be different from the assessor's database
- MS-1 (Statement of Valuation) doesn't match database
- The Tax Increment Financing District – RSA Chapter 162-K
- Incorrect billing of utilities
- Exemptions/inventory penalties are off
- Rounding of tax amounts
- Negative rate due to a credit

As soon as the tax commitment is verified to fall within the ½% calculation, the form must be faxed or scanned and emailed with the tax collector's signature to the Department of Revenue. As soon as the tax bills are printed and the warrant is signed by the governing body, they need to be sent in to DRA allowing the municipal advisor to complete the verification process. It is also helpful if the summary page from the warrant is sent in with the above items.

RSA 76:6. OVERLAY

Statute text.

In assessing such taxes the selectmen may assess a sum not exceeding 5 percent more than the amount of such tax, to answer any abatements that may be made, which shall be paid into the town treasury for the use of the town. But if the selectmen shall assess a sum exceeding that which they have a right to assess, such assessment shall be thereby rendered invalid only as to such excess.

The following information regarding overlay was written by Barbara Reid, Government Finance Advisor for the NHMA in an article “Fall’s Final Four: The Last Four Decisions Needed to Set the Tax Rate” which appeared in the New Hampshire Town and City September 2005 issue.

“The purpose of overlay is to provide funding for all abatements granted against the current year tax levy. Per RSA 76:6, the amount of overlay cannot exceed 5 percent of the total tax commitment, which includes the municipal, school, state education, county and any village district property taxes to be assessed.”

The 5 percent overlay cannot be calculated until the Department of Revenue determines the total tax commitment. The municipal officials decide the amount to assess for overlay not to exceed the 5 percent cap. “The 5 percent statutory cap on the amount of overlay does not limit the amount that may be abated, it merely limits the amount that may be assessed and included in the tax rate to fund abatements.”

The entire amount raised for overlay appears in the municipal tax rate. “This is because overlay pays for abatements, which are a function of the assessing process, which is a municipal responsibility. Since overlay has a direct correlation to the municipal tax rate (as overlay increases, the municipal tax rate increases), city and town officials should give careful consideration to the amount of overlay being raised.”

The following reports are required to be sent to the Department of Revenue Administration in order to set a municipality tax rate per RSA 21-J:34.

The governing body of each city, town, unincorporated town, unorganized place, school district, and village district, and the clerk of each county convention shall submit to the commissioner of revenue administration the following reports necessary to compute and establish the tax rate for each city, town, unincorporated town, unorganized place, school district, village district and county.

FORM #	FORM NAME -MUNICIPALITIES	DUE DATE
MS-1	Inventory Valuation	September 1
MS-2	Report of Appropriations	20 days after meeting
MS-4	Revised Estimated Revenues	September 1
MS-5	Financial Report	April 1 or Sept 1 for FY
MS-6	Budget (Non-MBA)	20 days after meeting
MS-6c	City Proposed Budget	20 days after resolutions
MS-7	Budget (MBA)	20 days after meeting
MS-9	Report of Trust Funds	March 1 or Sept 1 for FY
MS-10	Report of Common Trust Investments	March 1 or Sept 1 for FY
MS-11	Report of Town Officers	20 days after election/appointment
MS-12	Report of City Officials	20 days after election/appointment
MS-50	Treasurer's Report of Borrowing	RSA 33:7 & RSA 33:8
MS-60	Auditor's Report	Within 10 days of acceptance
MS -60A	Auditor Opinion and Schedule	10 days after close of fiscal year
MS 60W	Auditor Waiver Request, if applicable	45 days before end of fiscal year
MS-61	Tax Collector's Report	March 1 or Sept 1 for FY
	Signed Posted Warrant	20 days after meeting
	Signed Minutes	20 days after meeting
	Annual Report	20 days after meeting
	Treasurer's Report	RSA 41:29, III
	CPA Audit, if applicable	RSA 41:31
FORM #	FORM NAME – SCHOOLS	DUE DATE
MS-22	Report of Appropriations	20 days after meeting
MS-24	Revised Estimated Revenues	September 1
MS-25	Financial Report	September 1
MS-26	Posted Budget (Non-MBA)	20 days after meeting
MS 26-c	Dependent School Budget	20 days after resolutions
MS-27	Posted Budget (MBA)	20 days after meeting
MS-60	Auditor's Report	Within 10 days of acceptance
MS-60A	Auditor Opinion and Schedule	10 days after close of fiscal year
MS-60W	Audit Waiver Request, if applicable	45 days before end of fiscal year
	Signed Posted Warrant	20 days after meeting
	Signed Minutes	20 days after meeting
	CPA Audit, if applicable	RSA 41:31

FORM #	FORM NAME – VILLAGE DISTRICTS	DUE DATE
MS 31	Village District Officials	20 days after meeting
MS 32	Report of Appropriations	20 days after meeting
MS 34	Revised Estimated Revenues	September 1*
MS 35	Financial Report	September 1*
MS 36	Posted Budget (Non-MBA)	20 days after meeting
MS 37	Posted Budget (MBA)	20 days after meeting
MS-60	Auditor's Report	Within 10 days of acceptance
MS-60A	Auditor Opinion and Schedule	10 days after close of fiscal year
MS-60W	Audit Waiver Request, if applicable	45 days before end of fiscal year
	Signed Posted Warrant	20 days after meeting
	Signed Minutes	20 days after meeting
	CPA Audit, if applicable	RSA 41:31

*Some village districts hold their annual meeting later in the year so the September 1st date may not be applicable.

For those municipalities that have adopted the official ballot referenda (SB2) per RSA 40:13 even more documentation is required to be sent to the department.

Minutes from Deliberative Session	20 days after meeting
Signed Official Ballot	20 days after meeting
Certified Counts on Each Question	20 days after meeting

The certified counts can either be on the official ballot (DRA refers to these results as ballot minutes) or be a separate document DRA refers to as certified results of voting.

All required documentation must be signed. In the case of the minutes and voting results, these are signed and certified by the town, school or village district recording clerk.

III. BILLING PROCESS

A. Selectmen's Lists and Warrant RSA 76:10

I. A list of all property taxes by them assessed shall be made by the selectmen under their hands, with a warrant under their hands and seal. The list shall be directed to the collector of such town, requiring the collector to collect the same and to pay to the town treasurer such sums and at such times as may therein be prescribed. The selectmen shall assess such taxes to the owner as of April 1, or to the current owner, if known. The selectmen of a town or the board of assessors of a city may round off to the nearest dollar the total tax due on each parcel appearing on the list.

II. If the municipal tax collector finds a discrepancy of $\frac{1}{2}$ of one percent or more between the amount of the warrant as committed to the tax collector of the municipality and the total property tax commitment calculated by the commissioner of revenue administration, based on the pertinent information provided by the municipality under RSA 21-J:34, the collector shall return the warrant to the municipality's assessing officials for correction. If a correction cannot be made to generate a warrant with less than $\frac{1}{2}$ of one percent discrepancy, the assessing officials shall submit a revised property summary inventory of valuation form as required under RSA 21-J:34,I, for recalculation of the tax rate by the commissioner of revenue administration. The municipality shall not issue property tax bills until such discrepancy is resolved.

B. Succession in Office - RSA 41:36

Whenever the term of office of a collector of taxes shall end, from whatever cause, his powers and authority shall cease and terminate and devolve upon his successor whenever he is elected or appointed. The selectmen shall cause an audit of his accounts to be made promptly and they shall make and commit to his successor new warrants directing him to collect the taxes therein committed to him. All books, records and papers of the outgoing collector shall be delivered to the selectmen by every person having possession thereof, and the selectmen shall deliver those needed for his work to the successor collector, and those not needed by the successor collector to the town clerk for care and preservation. The successor collector, whether appointed or elected, shall comply with all the requirements for a collector of taxes, and shall have full power and authority to perform all the acts and do all the things that his predecessor could have done had he remained in office, or that by law are given and granted to collectors of taxes.

The warrants referred to in this law are called Recommitment Warrants.

C. Correction of Omissions (Supplemental Billing) RSA 76:14

If the selectmen, before the expiration of the year for which a tax has been assessed, shall discover that the same has been taxed to a person not by law liable they may, upon abatement of such tax and upon notice to the person liable for such tax, impose the same upon the person so liable. And if it shall be found that any person or property shall have escaped taxation the selectmen, upon notice to the person, shall impose a tax upon the person or property liable.

The warrants referred to in this law are called Supplemental Warrants.

RECOMMITTAL WARRANT
PROPERTY TAXES
STATE OF NEW HAMPSHIRE

(County) ss:

To _____ Collector of Taxes for the _____ in said County:

In the name of the said state you are hereby directed to collect the taxes in the list herewith committed to you, the same being the uncollected balance of the warrant as committed to _____, Collector of Taxes for the year _____, and amounting in all to the sum of _____ with interest thereon at the rate of eight percent (8%) as appropriate, from the date that the original warrants were issued.

And you are further ordered and directed to accept payments in redemption from the tax lien(s) held on _____, for unpaid taxes of _____, said unredeemed accounts amounting in all to the sum of _____ with interest thereon at the rate of fourteen percent (14%) per year from date of said tax lien.

And we further order you to pay all monies collected to the Treasurer of said Town/City at least on a weekly basis when receipts exceed \$1,500.00, or oftener when directed by the Commissioner of Revenue Administration.

Given under our hands and seal at said _____, New Hampshire, this
day of _____, in the year _____.

(SEAL)

Selectmen of _____, New Hampshire

BILLING PROCESS OUTLINE

Billing Process

RSA 74:4 Taxpayer Inventory

RSA 76:11 Delivery of List; Notice to Taxpayer

Such list shall be delivered to the collector within 30 days from the receipt of information by the selectmen from the commissioner of revenue administration of the rate percent of taxation as provided in RSA 41:15, unless for good cause the time is extended by the commissioner of revenue administration.

A. Commitments

1. Prior year property tax commitments
 - a. March 31st is the last day to mail prior year tax bills (RSA 76:11)
 - b. Communicate with the assessing officials regarding any added bills and the tax lien date

2. Current year property taxes
 - a. May 15th deadline for semi-annual warrant to be delivered to collector (RSA 76:15-a,II)
 - b. June 15th deadline for mailing 1st billing (RSA 76:15-a,II)
 - c. Duplicate bills to multiple owners. Option to have assessing reach out to multiple owners to determine who gets the original tax bills
 - d. July 1st tax bill due date unless bills mailed after May 31st (RSA 76:15-a,II)
 - e. Tax rate set in October
 - f. Tax bills mailed and due 30 days later; 2nd billing usually due December 1st (RSA 76:15-a,II);
 - g. Interest (RSA 76:13)
 - h. Calendar days (RSA 80:54)
 - i. Timely mailing (RSA 80:55)

B. Certification of Appraisal of Taxable Property - RSA 75:7 Oath.

The selectmen and assessors shall take and subscribe upon the copies or original inventories and assessments of both resident and nonresident taxes, furnished to them by the town clerks in their respective towns, to be recorded in the clerk's records, the following oath, which may be subscribed before any justice of the peace or notary public: "We the selectmen and assessors of _____, certify under the penalty of perjury that in making the inventory for the purpose of assessing the foregoing taxes, all taxable property was appraised to the best of our knowledge and belief at its full value in accordance with state appraisal standards."

CHAPTER 29

HB 1224 – FINAL VERSION

22Feb2012... 0765h

2012 SESSION

12-2192

09/01

HOUSE BILL **1224**

AN ACT allowing municipalities to send tax, water, and sewer bills electronically.

SPONSORS: Rep. Rowe, Hills 6

COMMITTEE: Municipal and County Government

AMENDED ANALYSIS

This bill allows municipalities to send tax, water, and sewer bills electronically.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22Feb2012... 0765h

12-2192

09/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT allowing municipalities to send tax, water, and sewer bills electronically.

*Be it Enacted by the Senate and House of Representatives in General Court
convened:*

29:1 Delivery of List; Notice to Taxpayer; Other Bills. Amend RSA 76:11 to read as follows:

76:11 Delivery of List; Notice to Taxpayer; Other Bills.

I Such list shall be delivered to the collector within 30 days from the receipt of information by the selectmen from the commissioner of revenue administration of the rate percent of taxation as provided in RSA 41:15, unless for good cause the time is extended by the commissioner of revenue administration. The collector shall, within 30 days after the receipt of such list, send to every person taxed, a bill for such taxes by first class mail **or, with the approval of the governing body, by electronic means as provided in paragraph II**, unless for good cause the time is extended by the commissioner of revenue administration. Said bill shall be mailed separately and not included with mailing of other town or city bills, unless the governing body of the town or city votes to mail other town or city bills or information directly related to municipal business along with the tax bill. Under no circumstances shall a city or town mail statements of position on matters of public policy along with the tax bill. Upon written request of a mortgagee or its representative, the tax collector of a city or town shall mail **or transfer by electronic means as provided in paragraph II** a duplicate copy of the property tax bill, as it was sent to the property taxpayer, to the party making such request. Other form of notification of tax owed, acceptable to the mortgagee and the tax collector, may be substituted for the duplicate tax bill. A separate written request, with specific property identification, shall be required for each duplicate copy or form. The governing body of a city or town may establish a reasonable fee to be charged for each duplicate copy or form. Resident tax bills may be included with property tax bills when the inclusion of such resident tax bills will not unduly delay the mailing of either the resident or property tax bills.

II *The collector may issue bills or notices by electronic means only after the taxpayer requests such delivery. There shall be no charge for delivery of bills or notices by electronic means and there shall be no penalty for not choosing to elect delivery by electronic means. Any request for electronic delivery of tax bills or notices shall contain the physical signature of the taxpayer or an electronic signature conforming to the requirements of the federal Electronic Signatures Act or its successor. Any agreement executed by a taxpayer to receive tax bills by electronic means shall contain a description of the delivery system proposed to be used and shall contain clear instructions on the method for terminating such delivery.*

III. In the event that the collector has any reason to believe that bills or notices sent by electronic means have failed to be delivered, the collector shall promptly send a duplicate of the bills or notices by first class mail. A duplicate bill or notice mailed in compliance shall be at no cost to the taxpayer. Second and subsequent notices of payments due, or notices of tax delinquency shall be sent by first class mail. Sending a bill as provided in this paragraph shall not change the last date that taxes may be paid without penalty.

29:2 Effective Date. This act shall take effect 60 days after its passage.

Approved: May 2, 2012

Effective Date: July 1, 2012

CHAPTER 294-E

UNIFORM ELECTRONIC TRANSACTIONS ACT

Section 294-E:2

294-E:2 Definitions. – In this chapter:

V. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

VI. "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

VII. "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

VIII. "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

The following information was obtained from Ladas & Parry LLP, Intellectual Property Law via <http://www.ladas.com/BULLETINS2002/0202Bulletin/USElectronicSignature.html>

Electronic Signatures

An “electronic signature” is defined as “an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with intent to sign the record.” The model statute provides that:

1. A record or signature may not be denied legal effect or enforceability solely because it is in electronic form;
2. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
3. If a law requires a record to be in writing, an electronic record satisfies the law.
4. If a law requires a signature, an electronic signature satisfies the law.

Electronic Records

An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

The effect of an electronic record or electronic signature attributed to a person is determined from the context and surrounding circumstances at the time of its creation, execution or adoption, including the parties’ agreement, if any and otherwise as provided by law.

Formation of Contracts by Electronic Agents

A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or reviewed the electronic agent's actions or the resulting terms or agreements.

A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

Some states have, however, gone beyond the broad principles set out in UETA and set out particular additional requirements for electronic signatures, the most common being a requirement that for at least some situations, some form of encryption is required. Such statutes have come to be known as "digital signature" acts. Both the federal statute and UETA on the other hand remained technologically neutral in legitimizing electronic signatures. Provision is made in the federal statute (E-sign) for a limited exemption to federal preemption of state law so that a state law may modify, limit or supersede the above provisions if, subject to certain exceptions, that law is an enactment of UETA or if certain other specified circumstances apply. The question of whether the Federal statute preempts states digital signature legislation has been the subject of some debate among the cognoscenti and awaits some case law to resolve the issue. The Act, does, however, clearly preempt any state law requiring contracts or signatures to be in non-electronic form.

Electronic Billing – Process Recommendations

- It is highly recommended that outside vendors or resources be utilized to create and maintain data bases, etc. Web demonstrations are available through many vendors and this enables you to view and compare the third party vendors who offer this service.
- When a third-party vendor is involved, the most important thing to remember is that the taxpayer must sign themselves up directly with the processing company. They are responsible to maintain their own information through a link on the municipality's web site.
- The program is typically designed so that the taxpayer cannot proceed without checking off a block that states that they agree to the terms and conditions. In effect, this is the electronic signature.
- The tax collector must make sure that the taxpayer understands that they must maintain their e-mail address and internet provider so if they change either of them they need to go back into their account and update their account information.
- The municipality's legal department should review the disclaimer that accompanies the electronic signature.

Approval to Send Taxes by Electronic Means

We, the undersigned Board of Selectmen for the town of _____
do hereby approve of the delivery of tax bills by electronic means as per RSA 76:11.

Under our hands and seal this _____ day of _____, _____

TOWN OF NEWMARKET, NEW HAMPSHIRE

By the Newmarket Town Council

Resolution # _____

Relating to the Issuance of Tax, Water, and Sewer Bills by Electronic Means

WHEREAS, the State of New Hampshire amended NH RSA 76:11 to allow, with the approval of the governing body, the issuance of tax, water and sewer bills or notices by electronic means if the taxpayer requests such delivery; and

WHEREAS, the option of receiving tax, water, and sewer bills could provide an added convenience for taxpayers; and

WHEREAS, the electronic delivery of tax, water, and sewer bills could potentially generate a cost savings to the Town; and

WHEREAS, the electronic delivery of tax, water, and sewer bills could help promote Town of Newmarket 'go green' initiatives;

NOW THEREFORE BE IT RESOLVED, that the Newmarket Town Council does hereby authorize the issuance of tax, water and sewer bills by electronic means pursuant RSA 76:11.

Given at the Town Council Chambers this _____ day of _____ in the year of Our Lord, Two Thousand-Twelve.

Philip J. Nazzaro, Chairman

John A. Bentley, Vice Chair

Gary Levy

Michael LaBranche

Edward C. Carmichael

Al Zink

Daniel J. Wright

A True Copy Attest _____
Becky I. Benvenuti, Town Clerk

PROPERTY TAX BILL INFORMATION
(RSA 76:11-a)

What Information should appear on the property tax bills?

The DRA shall compute and furnish for each municipality the rates which are to appear on the property tax bills.

There are four rates on the bill as follows:

State School Rate
County Rate
Local School Rate
Municipal Rate

Exceptions:

If the bill is for a utility, the State School Rate is not applicable. Only three rates will appear on the bill.

Bills for properties located within precincts or village districts will have an additional rate unique to that entity; five or more rates will appear on these bills.

Assessed Valuation of all lands and buildings for which said person is being taxed, and the right to apply in writing to the selectmen or assessors for an abatement of the tax assessed as provided under RSA 76:16.

Taxpayer Relief Rights (RSA 76:11-a,II) The tax bill shall also contain a statement informing the taxpayer of the types of tax relief for which the taxpayer has the right to apply. The following statement shall be considered adequate: "If you are elderly, disabled, blind, a veteran, or veteran's spouse, or unable to pay taxes due to poverty or other good cause, you may be eligible for a tax exemption, credit, abatement or deferral. For details and application information, contact (insert title of local assessing officials or office to which application should be made)."

Interest Start Date

Option to add notice of arrearage (RSA 76:11 b).

Name & Address of Municipality

Tax Year
Property Tax Warrant

County of
STATE OF NH

To Collector of Taxes
For the municipality of

In the name of the State you are hereby directed to collect the taxes in the list herewith committed to you, amounting in all to the sum of \$ _____ and with interest at 8% per annum after _____, thereafter on all sums not paid on or before that day.

And we further order a tax collector shall remit all money collected to the town treasurer, or to the Town treasurer's designee as provided by RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$ 1,500.00 or more.

Given under our hands and seal at _____ on _____

Date Approved

Selectman

Selectman

Selectman

Selectman

Selectman

Board of Selectmen

Name & Address of Municipality

Tax Year

Property Tax Warrant (with Interest Waiver)

County of
STATE OF NH

To Collector of Taxes
For the municipality of

In the name of the State you are hereby directed to collect the taxes in the list herewith committed to you, amounting in all to the sum of \$ _____ and with interest at 8% per annum after _____, thereafter on all sums not paid on or before that day.

And we further order; a tax collector shall remit all money collected to the town treasurer, or to the town treasurer's designee as provided by RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$ 1,500.00 or more.

In accordance with RSA 76:13 we also grant you permission to waive interest amounts of less than (insert amount up to \$25.00) for property taxes issued for the _____ year when in your judgment the administrative and collection costs involved do not warrant collection.

Given under our hands and seal at _____ on _____

Date Approved

Selectman

Selectman

Selectman

Selectman

Selectman

Board of Selectmen

SUPPLEMENTAL PROPERTY TAX BILLING

There are a few different reasons why a tax collector would be issued a supplemental warrant. One reason would be that there was an error or omission in the assessment which needs to be corrected (RSA 76:14). The other reason would be RSA 155-B relative to hazardous and dilapidated buildings. A hazardous building is defined as.... “ any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.” Under RSA 155-B:9 I, Enforcement of Judgment.. “...the governing body may cause the building to be repaired, razed, or removed as set forth in the judgment. The cost of such repairs, razing, or removal shall be a lien against the real estate on which the building is located and may be levied and collected in the same manner as provided in RSA 80 for tax liens....”

Name & Address of Municipality

Tax Year

Supplemental Property Tax Warrant

County of
STATE OF NH

To Collector of Taxes
For the municipality of

In the name of the State you are hereby directed to collect the taxes in the list herewith committed to you, amounting in all to the sum of \$ and with interest at 8% per annum after , thereafter on all sums not paid on or before that day.

And we further order a tax collector shall remit all money collected to the town treasurer, or to the town treasurer's designee as provided by RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$1,500 or more.

Given under our hands and seal at on

Date Approved

Selectman

Selectman

Selectman

Selectman

Selectman

Board of Selectmen

IV. OTHER TAXES

YIELD TAXES (a.k.a TIMBER TAXES)

RSA Chapter 79 (RSA 79:3-79:11)

The Tax Collector begins to be involved when the land owner files a notice of intent. Under RSA 79:10, the assessing officials shall, within 30 days of signing a notice of intent, notify the Tax Collector that an intent has been filed. It then becomes important that the collector make a reference of this intent, either in the computer or on a manual listing. This reference is important when a property is being sold as it serves as a notice that the land is holden to taxes pursuant to RSA 79:6. The buyer needs to know that a yield tax bill will be issued. The Tax Collector may want to notify the assessor that the seller should be filing a report before the sale; the new owner can file a new intent to continue the cut if desired.

RSA 79:3 A normal yield tax at the rate of 10 percent on the stumpage value at the time of cutting shall be assessed by the assessing officials within 30 days after receipt of a report of wood or timber cut is filed with said assessors in the town in which said operation took place and a warrant issued to the tax collector.

The Tax Collector then bills the land owner. The due date must be specified on the bill. The information is then recorded in the computer and the warrant book.

Interest as provided in RSA 79:4-a shall be charged 30 days after the bills are mailed by the Tax Collector on any tax which is due, at the rate of 18 percent per year computed from the due date on any tax which is due and remains unpaid.

Any unpaid tax is subject to the tax lien process under RSA 80. On the date the cutting commences it creates a lien upon the lands on account of which they are made and against the owner of record of such land. The lien shall continue for a period of 18 months following the date upon which the local assessing officials receive the report of cut. This is the time to determine the window of putting on a tax lien. Take the date of the report and count forward 18 months. Remember the lien cannot be placed on unpaid taxes unless it is delinquent (unpaid after the interest date). It is a good idea to make a written note of this period, either on the warrant or in the warrant book. It is a good reference to make a note in the tax lien book of the amount of the yield tax lien, if it is lien with other taxes.

Doomage RSA 79:12

“If a property owner neglects or fails to file a report of cut pursuant to RSA 79:11, unless the time is extended by the assessing officials because of accident, mistake or misfortune to a date not later than the following June 1, or willfully makes any false statement in a notice of intent to cut, (etc)... the assessing officials shall assess to such owner, by way of dooimage 2 times as much as such wood and timber would have been taxed had such report been seasonably filed and truly reported. Such dooimage shall be collected by the tax collector in the usual manner and paid over to the town treasurer for use of the town.”

Name & Address of Municipality

Tax Year
Yield Tax

County of
STATE OF NH

To Collector of Taxes
For the municipality of

In the name of the State you are hereby directed to collect the yield taxes in the list herewith committed to you, amounting in all to the sum of \$ and with interest at 18% per annum after , thereafter on all sums not paid on or before that day.

And we further order you to pay all monies collected to the Treasurer of said town at least on a weekly basis when receipts exceed \$1,500.00 or more often when directed by the Commissioner of Revenue Administration.

Given under our hands and seal at on

Date Approved

Selectman

Selectman

Selectman

Selectman

Selectman

Board of Selectmen

CURRENT USE RSA 79-A:7

- A. Current Use value means the assessed valuation per acre of open space land based upon the income producing capability of the land in its current use, and not its real estate market value. This valuation shall be determined by the assessor in accordance with the range of current use values established in accordance with the class, type, grade and location of land. “Land Use Change Tax” means a tax that shall be levied when the land use changes from open space to a non-qualifying use. Refer to DRA Website for Current Use, Land Use Change Tax, Warrant and Form A-5.
- B. The local assessing officials fill out the current use- land use change tax lien release and give the original and two copies to the tax collector along with a special warrant authorizing the collector to collect the land use change tax assessed under the warrant. DRA’s new release form is a one page one copy form with the pertinent data, assessment of tax, tax bill and acknowledgement of payment. The original goes to the registry of deeds when the tax is paid, a copy goes to the owner as his bill and the collector and assessors retain a copy. It is a good idea to attach the collector’s copy to the warrant.
- C. The collector shall mail a copy of the bill to the owner responsible for the tax as the notice thereof. Some collectors choose to create a separate computer bill for the tax and send it along with the DRA form. Such bill shall be mailed, at the latest, within 18 months from the discovery date, the date that local assessing officials discover that there has been a change in use (RSA 79-A:7,II,c). The bill information needs to be put into the computer and the warrant book.
- D. Payment of the land use change tax, together with the recording fees due to the register of deeds shall be due not later than 30 days after the mailing of the tax bill. Interest at the rate of 18 percent per annum shall be due thereafter on any taxes not paid within the 30 day period.
- E. All land use change tax assessments levied under this section shall, on the date of the change in use, create a lien upon the lands on account of which they are made and against the owner of record of such land or against the responsible party pursuant to RSA 79-A:7, VI(e). The lien shall continue for a period of 24 months following the date of discovery and shall be subject to the tax lien process according to RSA 80. This is the time to determine your window of lien. Take the discovery date listed on your committed form and count the 24 months forward. Remember you cannot lien the bill until it is delinquent (30 days after the tax bill is mailed: RSA 79-A:7, II, d). It is a good idea to make a written note of this period, either on the warrant or in the warrant book. It is also a good idea to make a reference note in your tax lien book of the amount that was liened for the land use change tax, if other taxes were liened with it.
- F. Upon payment of the land use change tax, together with the recording fees due the register of deeds, the collector shall forward the original tax bill to the register of deeds of the county in which the land is located for the purpose of releasing the lien. The portion on the bill titled “Acknowledgment of Payment”, must be signed and dated by the collector.

CHANGES TO CURRENT USE ASSESSMENT PRACTICE AVOIDING A TRAP FOR THE UNWARY – Reviewed 2024

By: Bernard H. Campbell, Esquire
State Counsel to NHTCA
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September 18, 2012

NOTE: The following outline is prepared for the purposes of The N.H. Tax Collector's Ass'n 2012 Annual Conference.

The 2012 session of the New Hampshire General Court adopted Senate Bill 255, which became Chapter 104, Laws of 2012. This law makes a change to the process of assessing the “Land Use Change Tax” (LUCT) under the provisions of RSA Chapter 79-A, the so-called “Current Use” law. These changes may help communities avoid a potential loss of revenue due to delay in assessing and billing the LUCT.

Under RSA 79-A:7(I), when land enrolled in the State’s “current use” assessment program is changed to a use which does not qualify, a “Land Use Change Tax” (LUCT) of 10% of the property’s fair market value is imposed. This tax is assessed on the value of property in its condition as of the “change date” (not necessarily April 1st).

Under RSA 79-A:7(II)(c), the tax collector is required to mail a tax bill to the taxpayer “at the latest” within (a) 18 months of the date the property owner notifies the community that a use has changed, or (b) 18 months of the date that the assessing officials “actually discover” that the land has been changed and a tax is due and payable. Id. Because the 18 month period is calculated to the date the bill goes out, and because the bill cannot go out until the collector receives the “special tax warrant” to collect the tax (RSA 79-A:7(II)(b)), the assessing officials need to complete their work in advance of the 18 month deadline.

Under current law, all land use change tax assessments create a lien on the property on which the assessment arose, beginning with the date of change **and continuing for 18 months.** RSA 79-A:7(II)(e)). The problem with this language is that if the tax warrant is not sent to the collector until near the end of the 18 month period, the lien may “expire” before the tax is due or goes delinquent! The taxpayer has at least 30 days to pay the bill before it goes delinquent. RSA 79-A:7(II)(d). Therefore, under current law, although the assessing officials have the 18 months to make their assessment, if they waited that long, it could jeopardize the ability to collect the funds.

The provisions of Chapter 255, Laws of 2012 became effective on July 28, 2012. This laws changes the “lien period” (but not the assessment period) from 18 months to 24 months. See, RSA 79-A:7(II)(e) – effective July 28, 2012. See also, RSA 80:85. This effectively gives the

Tax Collector at least a six (6) month window to impose the tax lien IF the LUCT tax bill goes unpaid.

The Collector still must not “dawdle” with these bills. The Collector should inquire and should note in the file, the “change date” determined by the assessing officials (the date of notice or the date of discovery). Once a tax bill goes delinquent, the collector can move to the “Tax lien” procedure in RSA Chapter 80, but keep in mind there is another 30 day period associated with the “intent to lien” notice. RSA 80:60. Consequently, the time periods must be strictly monitored to avoid a possible invalid assessment or collection process.

While there are no Supreme Court cases on this subject, two (2) recent Superior Court cases highlight the issues associated with timely assessment/collection:

In Meadowcroft Development vs. Town of Windham (Rockingham County Superior Court #2010-CV-895), the property owner obtained Planning Board approval to develop a commercial industrial subdivision on a 45 acre parcel enrolled in current use. The property owner began work, including creation of a “staging area” on the parcel, and began a significant effort to install the road to serve the property. Then in early 2008, the Assessor sent the taxpayer a “preliminary letter” indicating his belief as to the amount of the area involved that would be subject to change. However shortly thereafter, the site became involved in litigation, including a suit by the abutters, who argued that the property owner’s actions were not lawful because they constituted an “excavation” under RSA 155-E which had not been permitted. The Town was added as a Defendant in the lawsuits. There is a provision in RSA 79-A:7(V)(a) which allows the delay of LUCT assessments if the property owner’s activities were undertaken in violation of permits or approvals.

Ultimately the Town prevailed, and the Court determined the original approvals were valid. BUT IN THE PROCESS, the LUCT assessments did not go out until after the litigation was resolved (February 2010), beyond the statutory deadline to mail LUCT bills. The Court ruled in favor of the taxpayer, effectively wiping out a \$60,000 LUCT tax that the community otherwise would have collected.

In another case currently on appeal to the State Supreme Court, (Maplevale vs. Town of Danville) the issue is one of timeliness of billings after a subdivision approval had been granted. This raises different issues which are beyond the scope of this outline. But again, the question of the time period between “discovery” of the change and the actual bill date is part of the discussion.

Tax Collectors will benefit from the additional length of time to collect the LUCT tax, but must continue to be mindful of their obligation to move promptly through the process.

EXCAVATION TAX RSA Chapter 72 – B

The Tax Collector begins to be involved when the landowner files a notice of intent to excavate. Under RSA 72-B:8, assessing officials shall, within 30 days of signing a notice of intent, notify the tax collector that an intent has been filed. It then becomes important that the collector make a reference of this intent, either in the computer or on a manual listing. This reference is important when a property is being sold as it serves as a notice that the land is holden to taxes. The buyer needs to know that an excavation tax will be issued. The collector may want to notify the assessors that the seller should be filing a report.

The excavation tax or “materials” shall be assessed by the local assessing officials within 30 days after receipt of a report of excavated material form. This tax is similar to the yield tax because it requires an intent and report to be filed. The officials shall commit a warrant to the collector.

The Tax Collector then bills the landowner. The due date must be specified on the tax bill (30 days from the mailing date; RSA 72-B:4,I). The information is then recorded in the computer and the warrant book.

The taxes which are not paid when due, shall bear interest at the rate of 18 percent per year computed from the due date.

Any unpaid tax is subject to the tax lien process under RSA 80. On the date the excavation commences, a lien is created upon the land on the account of which it is made and against the owner of record of such land and shall continue for a period of 18 months following the date of the assessment and is subject to the tax lien process under RSA 80. This is the time to determine your window for putting on your tax lien. Take the date of the assessment and count forward 18 months. Remember you cannot lien the tax unless it is delinquent. It is a good idea to make a written note of this period, either on the warrant or in the warrant book. It is a good reference to make a note in the tax lien book of the amount of the excavation tax lien; if it is lien with other taxes.

Doomage RSA 72-B

“If a property owner neglects or fails to file a report of excavated material pursuant to RSA 72- B-9; unless the time is extended by the assessing officials because of accident, mistake or misfortune to a date not later than the following May 1, or willfully makes any false statement in the notice of intent to excavate, (etc)... the assessing officials shall ascertain, in any such way as they may be able and as nearly as practicable, the volume of earth for which such owner should have been taxed and shall assess to such owner, by way of dooamage 2 times as much as such earth would have been taxed had such form been seasonably filed and truly reported. Such dooamage shall be collected by the tax collector in the usual manner and paid over to the town or city treasurer for use of the city/town.”

Name & Address of Municipality

Tax Year
Excavation Tax

County of
STATE OF NH

To Collector of Taxes
For the municipality of

In the name of the State you are hereby directed to collect the excavation taxes in the list herewith committed to you, amounting in all to the sum of \$ and with interest at 18% per annum after , thereafter on all sums not paid on or before that day.

And we further order you to pay all monies collected to the Treasurer of said town at least on a weekly basis when receipts exceed \$1,500.00 or more often when directed by the Commissioner of Revenue Administration.

Given under our hands and seal at on

Date Approved

Selectman

Selectman

Selectman

Selectman

Selectman

Board of Selectmen

JEOPARDY ASSESSMENTS

Jeopardy assessments are assessed against mobile homes which are being moved out of town during the tax year. Taxes are assessed as of April 1st for the full year regardless of when the mobile home is removed from the municipality and are due before the mobile home can be moved. The assessing office determines the tax due and will generate a warrant for collection.

RSA 80:2-a Relocation of Buildings or Structures

No building or structure that is taxed as real estate . . . shall be moved from the location where it was last taxed unless the owner thereof shall produce and deliver to the person moving the same a receipted tax bill for the tax assessed as of April 1, a certificate from the tax collector . . . that all property taxes owed have been paid in full, or a statement signed by a majority of the board of selectmen or assessors that the same may be relocated without the payment of the assessed taxes. The person or persons moving such building or structure shall hold the receipted tax bill, certificate or statement from the tax collector or selectmen during the period of transit of the building or structure, and upon arrival at its destination, deliver the same to the owner of the building or structure. Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanor.

RSA 72:7-a Manufactured Housing (limited exception)

Statute Text

I. Manufactured housing suitable for use for domestic, commercial or industrial purposes is taxable as real estate in the town in which it is located on April 1 in any year if it was brought into the state on or before April 1 and remains here after June 15 in any year; except that manufactured housing as determined by the commissioner of revenue administration, registered in this state for touring or pleasure and not remaining in any one town, city or unincorporated place for more than 45 days, except for storage only, shall be exempt from taxation. This paragraph shall not apply to manufactured housing held for sale or storage by an agent or dealer.

I-a. Manufactured housing suitable for use for domestic, commercial or industrial purposes is taxable as real estate in the town, city or unincorporated place to which it is brought and located after April 1 and before the following January 1, provided that said manufactured housing remains in said town, city or unincorporated place for more than 10 weeks, except for storage only, and further provided a tax has not been assessed on it elsewhere in the state for that year. The tax shall be for the pro rata part of the tax year remaining when said manufactured housing became located in the town, city or unincorporated place. The selectmen or assessors may so require and it shall be an obligation of the owner to file with the selectmen or assessors a true and correct inventory of the property subject to taxation under this paragraph within 15 days of the location of the manufactured housing in such form as the commissioner of revenue administration may prescribe.

II. There shall be a lien for uncollected taxes upon any manufactured housing suitable for use for domestic, commercial or industrial purposes that has been taxed pursuant to paragraphs I and I-a. Said lien shall take precedence over all other liens and encumbrances upon said manufactured housing and shall continue in force until 1 1/2 years from the assessment of the tax. Such taxes shall be subject to the collection procedures set forth in RSA 80 for real estate taxes.

76:10-a Jeopardy Assessment

Whenever it shall appear to the selectmen or assessors that it is necessary that the assessment of taxes assessed against any property be made as soon as possible in order to insure the payment of the taxes and to protect the public interest, they may, on or after April 1, make a reasonable jeopardy assessment of the taxes against the owner or person to whom such property is assessed and commit a warrant to the collector for the same, and the collector after making presentation of a bill for such taxes may immediately use any of the remedies provided by law to collect the taxes committed to him in such warrant. If it later appears that such jeopardy tax payment was in excess of the taxes due the over plus together with interest at the rate of 6 percent per annum from the time of payment to the time of refund shall be refunded to the person from whom the tax was collected. If such tax payment was insufficient to pay the actual tax later found to be due, then a further assessment may be made and may be collected in the same manner as the original assessment.

TAXES

I paid my taxes, I'm proud to say,
And I bought some civilization today.
I helped build a bridge and a highway, too;
I bought my three children a park and a zoo
When I paid my taxes.

I helped build a library, paid for more books;
Paid for having the streets cleaned, improving their looks.
Paid for drinking founts street corners to crown,
And paid for new street lights in the old town
When I paid my taxes.

I helped hire a free doctor and a firemen's crew;
I paid for a free nurse and some policemen, too.
I helped buy a young man a very fine job,
At a bathing beach for my Dorothy and Bob.
When I paid my taxes.

I helped build a school and hired teachers, too;
I helped buy a golf course for my son to play through.
I helped build a museum of music and art;
Now, friends, don't you think I really *was* smart
When I paid my taxes?

V. PROCESSING PAYMENTS

APPLICATION OF TAX PAYMENTS

The subject of applying tax payments to the oldest bill can be a confusing issue for some Tax Collectors. There is no RSA which directs us on what to do. However, the New Hampshire Supreme Court decision of the case Olson vs. Town of Fitzwilliam clarifies this issue. The court case was Elaine A. Olson, Executrix of the Estate of Michael C. Olson & a. vs Town of Fitzwilliam. The Tax Collector in this case was found to have refused to apply tax payments as instructed by the taxpayer. This resulted in an eventual tax deeding of the property. RSA 80 does not give the Tax Collector the authority to direct payment as he/she sees fit. The statute states only that an interested party may redeem the tax lien in order to avoid the issuance of a tax deed to the Town. RSA 80:76 does not direct the Tax Collector to apply funds to the oldest tax liability first when there are multiple outstanding liens on the property. Therefore, a taxpayer may direct payments as they see fit.

Policies (written or unwritten) which **mandate** the Tax Collector to apply all monies received to the oldest taxes due are not valid under law. The collector must apply the taxes in the fashion requested by the taxpayer. The collector can point out earlier unpaid taxes, but if the money comes in with a direction as to how they should be applied (for example, from a bank/mortgage company escrow check), they should be applied as directed.

Another issue addressed in this case involved multiple owners (tenants in common) where one tax bill was issued.

The names and addresses of both owners were listed on the deed to the property. Only one property owner received a notice of timber yield tax which was statutorily insufficient so the timber tax lien was invalid against him. While the statute directs that notices must be sent to the “current owner”, the purpose of this statute is to notice **all** named owners of an impending lien that may adversely affect their ownership rights. The statutory directive was not fulfilled when the Tax Collector sent notice to only one property owner at his home address.

This decision means that if you are aware that a property is co-owned by co-owners at different addresses, notices must go to both parties at the separate addresses. This may be critical in situations such as divorced/separated couples where one party has moved out. If you are aware of this situation, separate notices of bills, delinquencies, tax lien notices and tax deed notices must be sent to all owners of record.

**TAX COLLECTOR
Town of Goffstown
16 Main Street
Goffstown, NH 03045**

I instruct the Tax Collector to apply this payment to my current taxes. I do not wish for this payment to be applied to any prior property taxes or tax liens that I presently have with regard to this property.

Property Address

Signature of Property Owner

Date

***** Gail Lavalley, CTC, Goffstown uses this form when a taxpayer owes prior year taxes and they want the payment applied to the current taxes.

Types of Payments - Quick RSA References

80:52-b Checks Tendered in Payment of Taxes. –

I. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is returned to the tax collector as uncollectible for any reason, such taxes shall be deemed not paid and the person tendering such check shall be subject to applicable tax delinquency penalties, protest and collection charges.

II. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is drawn on a foreign bank, the person tendering such check shall be subject to all applicable foreign check bank fees.

Source. 1977, 26:1, eff. April 1, 1977. 2013, 90:4, eff. Aug. 19, 2013

80:52-c Electronic Payment. – The governing body may authorize the municipality's treasurer or other appropriate municipal official to accept payment of local taxes, charges generated by the sale of utility services, or other fees or charges by use of a credit card, debit card, or such other means of electronic transaction as approved by the governing body. Any municipality may add to the amount due, in addition to any penalties and interest payable, a service charge for the acceptance of the credit card, debit card, or such other means of electronic transaction as approved by the governing body. The municipality, at the time of billing, shall disclose the amount of the service charge.

Source. 1994, 2:2. 1995, 137:4, eff. May 24, 1995. 2001, 78:2, eff. Aug. 18, 2001. 2009, 37:1, eff. July 14, 2009.

80:71 Partial Payments in Redemption. – Any person with a legal interest in real estate upon which a real estate tax lien has been executed may make partial payments in redemption to the collector of taxes who shall receive the same and give a receipt therefor. The collector shall pay over such sums to the town treasurer. If complete redemption is not made before a deed of the real estate is given to the lienholder, the collector of taxes shall within 10 days direct the selectmen to issue an order upon the town treasurer to refund to the person making such partial payments or his heirs or assigns the sum so paid. The selectmen shall promptly issue such order. If the order is not issued within 30 days of the time the collector directs that the order be issued, the sum to be refunded shall draw interest at the rate of 6 percent per annum from the date the sum was directed to be paid to the date of actual payment.

Source. 1987, 322:1. 1991, 54:7, eff. April 1, 1992.

76:13 Interest. – Interest at 8 percent per annum shall be charged upon all taxes except resident taxes, except as otherwise provided by statute, not paid on or before December 1 after their assessment, which shall be collected from that date with the taxes as incident thereto, except in the case where a tax bill sent to the taxpayer on or after November 2 and before April 1 of the following year interest shall not be charged until 30 days after the bills are mailed. Interest due in an amount up to \$25 may be waived by the collector, with the approval and consent of the board of selectmen and the board of assessors, if in the collector's judgment the administrative and collection costs involved do not warrant collection of the amount due. The tax collector shall state on the tax bill the date from which interest will be charged and such date shall be determined by the day the collector sends out the last tax bill on the list. The collector shall notify the board of tax and land appeals in writing of the date on which the last tax bill was sent. **Source.** 1860, 2373. 1861, 2491. GS 53:9. 1872, 42:1. GL 57:9. PS 59:8. PL 64:11. RL 77:11. 1943, 55:1. 1949, 61:1. RSA 76:13. 1965, 81:1. 1969, 206:1. 1970, 30:1. 1973, 486:4; 544:8. 1977, 354:1. 1981, 465:14. 1989, 39:1. 1991, 54:1; 306:9. 2001, 63:1, eff. April 1, 2001, 2018, 282:1, eff. Apr. 1, 2019.

AUTHORIZATION TO PAY TAXES/REDEEM TAX LIEN

To: Tax Collector
City/Town of _____ (Municipality)

Re: Property Located at _____
Designated as Map _____ Lot _____ (the Premises)

Owned by: _____ (Taxpayer(s))

Under New Hampshire law (RSA 80:69), only a party with a legal interest in the Premises may redeem a tax lien. The undersigned Taxpayer(s) hereby designate the undersigned Party as their "agent" to pay the taxes to redeem a tax lien on his/her/their behalf. It is understood by the Municipality that any payments received by the Municipality from the Agent shall be considered a payment by the Taxpayer(s) and shall be reported as such regardless of the source of funds. The Agent acknowledges that the funds being delivered are, as of their tender to the Municipality, funds of the Taxpayer(s).

By their signature(s) below, the Taxpayer(s) and Agent acknowledge the foregoing and agree to the terms herein.

Taxpayer _____ Date _____

Taxpayer _____ Date _____

Taxpayer Mailing Address: _____

Agent _____ Date _____

Printed Name: _____

Agent Mailing Address: _____

HANDLING BOUNCED CHECKS

NH Tax Collectors' Association (NHTCA)
Spring 2009 Workshops (Revised August 2012 and March 2022)
Bernard H. Campbell, Esquire
NHTCA Legal Counsel
Beaumont & Campbell Prof. Ass'n
One Stiles Road Suite 107
Salem, NH 03079
Tel: (603)-898-2635
E-mail: bcampbell@beaumontandcampbell.com

In this economy, there is an increased risk that a tax payment check may be returned by the taxpayer's bank as "uncollectible". There are several statutory options available to the tax collector.

Under RSA 80:52-b

- I. "If any person tenders a check for the payment of any taxes levied by the tax collector and the check is returned to the tax collector as uncollectible for any reason, such taxes shall be deemed not paid and the person tendering such checks shall be subject to applicable tax delinquency penalties, protest and collection charges."
- II. "If any person tenders a check for the payment of any taxes levied by the tax collector and the check is drawn on a foreign bank, the person tendering such check shall be subject to all applicable foreign bank check fees. " Eff. Aug 19, 2013.

While this sounds simple, there are practical pitfalls that must be avoided:

Deadline Issues- If payment is made very close to the expiration of a "legal deadline"(i.e. the last date to impose a tax lien), you may discover the problem "too late". It may be "too late" to adhere to a statutory requirement. At best you may have to repeat work (schedule a new lien date) and, at worst, you may lose legal rights (i.e. right to impose a lien). For this reason, most communities insist on "bank checks" for payments near legal deadlines.

Public Relations- If the "seller" of real estate issues a check for insufficient funds, it may be the buyer who ends up having to deal with the problem. By law, the taxes may be deemed "unpaid", but what about the buyer? They are not "the person tendering such check" (RSA 80:52-b I & II), so are they subject to penalties, and collection charges? Perhaps not. And regardless, you will have a buyer who will say "*I paid those taxes at closing through a credit to the seller.*" In such circumstances, you must politely but firmly direct them back to their attorney/closing company/title insurer.

If you (the municipality) decide to "go after" the check issuer, suit is available to collect taxes under RSA 80:50. Under RSA 80:56, the town may charge a twenty-five (\$ 25) dollar fee plus all bank fees and legal fees. This statute has been in effect since 1977; amended August 30, 2021. However, one should look at, and probably employ, a newer statute, RSA 544-B "Civil Liability for Bad Checks". Under this statute, the holder of a check which has been

“dishonored” may collect the amount of the check, plus court costs, service costs and collection costs. RSA 544-B:1. The phrase “*collection costs*” would include the required legal fees. See. Leavitt vs Hamlin, 126 N.H. 670 (1985). You must first send a certified notice (RSA 544-B:2) to the issuer at their last known address or the address on the check, giving them ten (10) days to pay the amount of the check, plus bank fees and mailing costs. RSA 544-B:1 (b). This does involve an extra step in sending out a “notice” letter. The advantage of using this statute is that if you go to court, you can collect an additional civil penalty of ten (\$ 10) dollars per day, up to five hundred (\$ 500) dollars if the issuer does not pay the judgment ordered by the court. RSA 544-B:1 (II).

If suit is brought, the process to be followed will depend on the amount of the check involved. The “small claims” process in the District Division of the Circuit Court (formerly the District Court) is available for claims up to \$ 10,000.00 (RSA 503:1) amended July 1, 2015, although certain types of claims that large probably are not appropriate for “small claims” treatment. Keep in mind that the N.H. Constitution allows a jury trial on any claim over \$ 1,500.00, and a Defendant may “claim” that right, and force the matter to Superior Court. RSA 503:1 (III).

A small claims action is begun by completion of a simple one page complaint form which lists the Defendant, Plaintiff, the nature of the claim and the amount thereof. The Court will send notice of the complaint to the Defendant by first class mail, but if the mailing is returned undeliverable, or if the Defendant does not respond, the Plaintiff must serve the complaint as with other civil process (i.e. by Sheriff). RSA 503:6 (I), (II) and (III) changed and amended July 1, 2015. As a result, more Plaintiffs are choosing to serve the complaints by Sheriff initially. In the case of Tax Collectors, you apparently can serve the small claims complaint because you are statutorily vested with the powers of “constables in the serve of civil process.” RSA 80:4.

The Court will insert a “return date” by which the Defendant must request a hearing. If a hearing is requested, by statute, technical rules of evidence do not apply. RSA 503:7. You should bring to the Court the original returned check or the “substitute copy” as provided by your financial institution.

Once the municipality obtains a judgment, it can pursue all collection remedies available for collection of judgments generally. RSA 503:8. This can include execution on real estate, or a periodic payment hearing request.

**TOWN OF MOULTONBOROUGH
RETURNED CHECK POLICY**

RETURNED CHECKS

Payments - 80:52-b Checks Tendered in Payment of Taxes. –

I. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is returned to the tax collector as uncollectible for any reason, such taxes shall be deemed not paid and the person tendering such check shall be subject to applicable tax delinquency penalties, protest and collection charges.

II. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is drawn on a foreign bank, the person tendering such check shall be subject to all applicable foreign check bank fees.

Source. 1977, 26:1, eff. April 1, 1977. 2013, 90:4, eff. Aug. 19, 2013

80:56 Uncollectible Remittances. – Whenever any remittance, whether by check or electronic means, issued to a city or town for the payment of taxes, permit fees, licenses, special assessments, water or sewer bills, for any combination of these or for any other municipal services is returned to the city or town official as uncollectible, the city or town shall charge a fee of \$25 plus all protest, bank, and legal fees in addition to the amount of said remittance to the person who made such remittance to cover the cost of collecting the debt that the remittance was to pay. The \$25 fee together with any protest or legal fees collected shall be for the use of the city or town.

Source. 1977, 119:1. 1985, 312:5. 1996, 74:1, eff. July 12, 1996. 2021, 105:2, Pt. II, Sec. 1, eff. Aug. 30, 2021.

The payment is reversed from the property tax account and a letter is sent to the owner regarding the returned check and the fees associated with it.

Note: Every software system is different so reversing the payment from the account varies in each municipality.

Office of Tax Collector
P.O. Box 152
Moultonborough, NH 03254

Office: 603-476-2347

Fax: 603-476-5835

E-mail: taxcollector@moultonboroughnh.gov

Office Hours: M - F 9-4

July 6, 2012

Taxpayer

Re: Tax Account #

Dear :

Please be advised that our Treasurer has informed me that check #102 drawn on the Chase Bank for \$2,700 has been returned and marked "Insufficient Funds". There is a \$25.00 charge for the returned check in accordance with RSA 80:56.

Enclosed please find a Parcel Balance Report. The Report includes all balances due through July 13, 2012. Interest is accruing at the rate of \$.89 per day.

Please feel free to contact me if you have any questions.

Sincerely,

Susette M. Remson
Certified Tax Collector

Enc.

PROPERTY TAX PREPAYMENTS

A prepayment is any amount of money that is collected in advance of a property tax bill.

RSA 80:52-a Prepayment states: “Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing body may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property may, at any time before notice of the amount of taxes assessed against said property has been received, make payments on account of such taxes as will be due and the collector shall receive such payments and give a receipt therefor and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and the collector shall pay over all sums so received to the town treasurer under the provisions of RSA 41:35. No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the due date of taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.”

Sample Prepayment Policy...

TO: Board of Selectmen
FROM: , Tax Collector
DATE:
RE: Pre-payment Policy for Property Taxes

I am requesting that the Board of Selectmen adopt the following policy regarding the acceptance of tax prepayments pursuant to RSA 80:52-a.

Taxpayers shall be allowed to prepay taxes no more than 2 years in advance of the due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.

This policy is adopted with the approval and consent of the Board of Selectmen.

SIGNED:

OVERPAYMENTS vs. PREPAYMENTS **2011 NHTCA – Fall Education Conference**

Presented by: Cindy Torsey, CTC-Town of New Hampton and Diane Trippett, CTC- Town of Merrimack

Prepayments: Prepayments are authorized under RSA 80:52-a.

RSA 80:52-a Prepayment

Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing board may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property may, at any time before notice of the amount of taxes assessed against said property has been received, make payments on account of such taxes as will be due and the collector shall receive such payments and give a receipt therefore and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and the collector shall pay over all sums so received to the town treasurer under the provisions of RSA 41:35. No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.

Source. 1963, 36:1. 1973, 544:8. 1989, 155:1, eff. July 16, 1989. 1998, 241:1, eff. Aug. 4, 1998.

Overpayments are not automatically kept as “prepayments” or “credits” to the next billing cycle. If an overpayment is received and the customer wants it to be applied to their next bill as a prepayment/credit, it is advised that you get the authorization in writing before posting any overpayment as credit/prepayment.

Overpayments:

RSA 80:57 Refund of Overpayments

If any person tenders a payment for any taxes and/or interest, in excess of the taxes levied and interest incident thereto, the collector of taxes shall direct the selectmen to issue an order upon the town treasurer to refund to the person making such payment or his heirs or assigns the excess sum so paid; provided, however, that if the sum overpaid is \$ 5.00 or less, no refund shall be required unless the taxpayer in such case shall apply in writing to the tax collector for said refund within 60 days of actual payment.

Source. 1983, 285:9, eff. Aug. 17, 1983.

Refunds on overpayments:

The following is recommended when issuing a refund of an overpayment:

If a payment is received which creates an overpayment and there is no instruction as to what to do with the overpayment, the overpayment is refunded to the person/entity that created the overpayment. As noted above in the “prepayment” section, the overage is not automatically applied to the next bill. If the amount overpaid is less than the \$ 5.00, the amount is written off to interest and not refunded unless the customer requests a refund in writing.

If two parties make payment on an account, the second party making payment (creating an overpayment) should be refunded, unless they authorize the tax collector, in writing, to refund the first party.

It is recognized that these processes may vary from municipality to municipality, and advice of your legal counsel should always be taken in to consideration.

ABATEMENTS VERSUS ABATEMENT REFUNDS

An abatement is a reduction in a property tax bill which has not yet been paid by the taxpayer. An abatement refund is a reduction in the tax obligation of a taxpayer who has already paid their tax bill.

RSA 76:16 By Selectmen or Assessors states in part that “Selectmen or assessors, for good cause shown, may abate any tax assessed by them or their predecessors, including any portion of interest accrued on such tax.”

RSA 76:17-d Abatement Refund states that “the Selectmen or assessors may apply all or a portion of the amount of any taxes abated, along with interest computed according to this chapter, to any outstanding taxes owed by the taxpayer to the municipality. Taxes shall be considered outstanding if they are subject to interest pursuant to RSA 76:13. The selectmen or assessors shall send notice to the taxpayer of the amount credited against outstanding taxes and the date the credit was recorded.”

Usually, the abatement refunds are not recorded on the MS-61 form because the taxes have been cleared off the books once the initial payment was made. This may be an issue between the selectmen’s office and the taxpayer. The treasurer/bookkeeper would credit cash rather than the tax commitment. Some collectors want to show the complete history of the taxpayer’s account so they post the abatement refund to the account and it results in a credit balance (or overpayment) to the account. In order to remove the overpayment from the account, a refund transaction has to be applied to the taxpayer’s account to show a zero balance. Deciding whether or not to post the abatement refunds is a personal preference.

ABATEMENT - TOWN OF MERRIMACK, NH

To the Collector of Taxes,

Sir: By vote of the Board of {Councilors, Assessors}, upon the application of:

Name:

Mailing Address:

**We have abated the amount of \$
We have abated interest in the amount of \$
On (Map/Parcel No.): located at (Street & No.):
For Tax Year 2011**

Pursuant to RSA 76:17-d:

Any Outstanding Taxes Due? Yes No

Any Outstanding Taxes Due on other property owned in Town? Yes No

...

Cause of abatement:

NOTICE OF ABATEMENT REFUND & CREDIT APPLIED (RSA 76:17-d)

The abatement refund will be applied to your outstanding taxes pursuant to RDA 76:17-d as follows:

Amount of Payment Applied: \$ _____

Type & Year of Tax Credited: \$ _____

For Property Located at: _____

Remaining Amount For Refund \$ _____

Please contact the tax collector's office to determine any remaining outstanding balances of taxes due.

Per Order,
MERRIMACK TOWN COUNCIL

Finlay C. Rothhaus, Chairman (Sign in black ink) (Date)

William W. Boyd III, vice Chair (Sign in black ink) (Date)

Thomas P. Koenig (Sign in black ink) (Date)

Thomas Mahon (Sign in black ink) (Date)

Daniel Dwyer (Sign in black ink) (Date)

Jacqueline J. Flood (Sign in black ink) (Date)

Nancy Harrington (Sign in black ink) (Date)

Assessor reviewed date: _____

Reporting Tax Abatement Interest to the IRS

Judy A. Silva - Deputy Director for Legal Services and Government Affairs

Barbara T. Reid - Government Finance Advisor NHMA

Q: When a taxpayer receives a property tax abatement, must the municipality report the interest paid on that abatement to the Internal Revenue Service (IRS)?

A: Municipalities must report to the IRS interest of \$600 (six hundred dollars) or more paid on a property tax abatement. When a municipality abates taxes, New Hampshire law requires that interest at the rate of 4% per year must be paid on the amount abated from the date the taxes were paid to the date of the refund. RSA 76:17-a. This is true whether the municipality makes the abatement on its own decision or is ordered to do so by the Board of Tax and Land Appeals (BTLA) or the superior court.

The question of reporting that interest to the IRS is highlighted by the statute prescribing the BTLA abatement form, RSA 76:16, III which requires that the following statement be added to the abatement form:

If an abatement is granted and taxes have been paid, interest on the abatement shall be paid in accordance with RSA 76:17-a. *Any interest paid to the applicant must be reported by the municipality to the United States Internal Revenue Service, in accordance with federal law.* Prior to the payment of an abatement with interest, the taxpayer shall provide the municipality with the applicant's social security number or federal tax identification number. Municipalities shall treat the social security or federal tax identification information as confidential and exempt from a public information request under RSA 91-A. (Emphasis added.)

Q: Does that mean a municipality must report all interest paid on an abatement, regardless of the amount?

A: No. Note that the statute says "in accordance with federal law." This raises the question of what federal law requires. Some municipalities report interest of \$10 or more, but I believe that threshold applies only to interest paid by financial institutions and interest on publicly traded bonds and other securities. *See* IRC § 6049. You can report the payment of interest of less than \$600, but you are not required to do so.

The interest you pay on an abatement is considered income to the recipient. Section 6041 of the Internal Revenue Code states, in pertinent part, that "all persons engaged in a trade or business and making payment in the course of such trade or business to another person of...income...of \$600 or more in any taxable year" shall report it to the IRS. (Note that the IRS interprets the term "trade or business" very broadly to include charitable organizations, the federal government, states, and "any political subdivision thereof," so this requirement applies to municipalities. *See* 26 CFR §1.6041-1(b) & (i).)

Q: Who is responsible for reporting the payment?

A: The federal regulations provide that the report of interest paid (called an “information return”) made by a political subdivision of a state shall be made by the officer or employee of the subdivision having control of such payments or who is designated to make such returns.

Q: How is the payment reported?

A: The information return is to be made on a Form 1099-INT; a separate Form 1099-INT is created for each interest payment that must be reported for the calendar year. The Internal Revenue Code requires that the municipality provide the 1099-INT information (either a copy of the actual form or, with IRS approval, in a different format) to the individual taxpayer on or before January 31 of the year following the calendar year in which the interest was paid.

All Form 1099-INTs issued by the municipality must be filed with the IRS. For 2012, the instructions for the payer state that the form must be filed with the IRS by February 28, 2013, or by April 1, 2013 if filing electronically. Electronic filing is required as of January 1, 2012. See IRS *Publication 1220 – Revenue Procedure 2011-40* for specifications on the IRS Filing Information Returns Electronically (FIRE) system and procedures.

Q. What other information does the municipality need to file the report?

A. You need the taxpayer’s social security number or taxpayer identification number in order to report the interest paid. If you don’t have that number, there is an IRS form you can use to obtain it—Form W-9. If the interest on the abatement will be \$600 or more, you can provide a W-9 to the taxpayer when the abatement is granted, but before the check is sent. If you cannot get the taxpayer’s social security or tax ID number, then you will be required to do “backup withholding” of the federal tax on the interest payment at the rate of 28%. The new provision in RSA 76:16, III, however, provides that “prior to the payment of an abatement with interest,” the taxpayer must provide a social security or tax ID number. Given that language, the preferable route would be to simply refund the taxes abated as required and delay the payment of interest until you receive the necessary reporting numbers.

* * * *

Having said all that, keep in mind that you would have to abate taxes in the amount of \$10,000 and have held those taxes for one year in order to meet the \$600 interest requirement. It will hopefully be a rare event when you pay interest in excess of \$600 so that you will have to file an information return with the IRS.

ALSO NOTE: This information is good as of the date below. IRS regulations and other laws can and do change, so it is imperative that the latest version of each is consulted.

March 15, 2012 – updated 2022

DAILY & MONTHLY BALANCING PROCEDURES

END OF DAY:

Deposit daily or weekly per RSA 41:35.

Balance the receipts on a daily basis to the work for the corresponding day as follows:

The steps are:

1. Total all of the receipts (actual tax bills or computer printouts of receipts). It is beneficial to make notes on the bills (or in the computer) if the bill was paid by cash or check. It is also helpful to note who paid the taxes; for example, the property owner or the mortgage company.
2. Total all of the checks and cash collected.
3. Verify that the deposit (cash and checks received) and the receipts equal the total payments collected.
4. If the records are computerized, print out the computer totals of the day's work and compare it with the total receipts and money collected.
5. If all three items (the receipts, cash & check total and computer printout) are identical, prepare the deposit for the day. (This can be done the next day since the office may close after the banks are closed. However, make sure that the date used for the deposit corresponds to the actual date of the work so the receipt can be matched accordingly).
6. Prepare and sign the remittance slips to be given to the treasurer. (This may need to be done prior to making the deposit if the treasurer or treasurer's designee personally makes the deposit). If the tax collector makes the deposit, make a copy of the bank deposit ticket for the records and give the original deposit ticket to the treasurer along with the remittance slip.
7. File the following in the appropriate places: Receipts or computer printouts of receipts; computer totals of the day's work; copies of the deposit slips; copies of the signed remittance documents. It is critical to make sure that the money deposited equals the amount of money remitted to the treasurer. If there was an abatement or a refund issued, make sure that they are filed accordingly.

END OF MONTH:

Monthly reconciliation of the deposits/remittances made to the treasurer is an important responsibility of the tax collector. This needs to be done on a monthly basis and at the end of the year. At the end of every month, the total of all cash receipts collected for the month, summarized by tax levy type and year must equal the amount remitted to the treasurer.

Hint: When performing the monthly reconciliation of accounts, it is easier to focus on one type of tax levy at a time in order to easily identify any potential problem.

The following items will be needed in order to balance at the end of the month:

1. Prior month reconciliation; ending balance for the previous month and the beginning balance for the current month should be identical.
2. All signed warrants issued during the month.
3. A list of all the abatements granted and the corresponding abatement slips which have been approved (signed) by the Board of Selectmen or the Board of Assessors.
4. All refunds processed during the month.
5. A list of overpayments which occurred during the month, not yet refunded, with the corresponding payment request form used to apply for the refund.
6. A listing of payment transactions for the month, including principal, cost and interest which have already been reconciled and confirmed with the treasurer.
7. A listing of any credit balances as of the end of the month.
8. A listing of property taken by tax deed, if applicable.
9. A listing of discounts issued during the month, if applicable.
10. A listing of uncollected/unredeemed property, yield, land use, excavation and resident tax (if applicable) owed as of the last day of the month. Please note that this amount should not include the credit balance mentioned above.
11. If the records are computerized, a trial balance report will provide most of the information listed above.

Once this information has been compiled, complete an MS-61 for the month.

If a monthly MS-61 prints off your system compare the figures to the General Ledger and/or Treasurer to make sure that you both balance. This should be done on a monthly basis or more often if so desired. Put the totals from the reports onto an Excel spreadsheet or a manual form for balancing purposes. If you need to compile the figures manually or on a spreadsheet, proceed with the completion of the form. Once you have the totals for the month, compare these figures to the Treasurer or Finance office to make sure that the totals are the same. If a variance exists it needs to be identified because these amounts need to be in agreement. An example could be that a returned check has not been properly accounted for at the end of the month. Once everything is completed and you are in balance with the Treasurer or Finance office, open the next month by carrying forward the balances from the previous month.

**A LITTLE BIT OF HUMOR
JUST WHEN YOU THINK YOU'VE HEARD IT ALL
I DIDN'T PAY MY BILL BECAUSE.....**

- My Mother, Father & Sister were in the hospital.
- My house was robbed; they took all my money.
- I thought my mortgage company would pay you!
- I never got the bill; I shouldn't have to pay it now!
- The dog ate the bill.
- I get all my other bills, but for some reason I never get these green bills.
- It is not my bill; it's the previous owner's bill.
- I go to Florida for the winter.
- I went out of the Country.
- The letter said on or about.
- I paid what the bill/letter said.
- The letter is a bit much, couldn't you have called me instead?
- I had surgery.
- There was a death in the family.
- I bought another house and the taxes are lower; I feel I am entitled to a rebate from Nashua.
- Sorry I'm behind 2 years; I thought those property tax bills were water bills.
- I didn't know I was supposed to notify you when I moved, I send my on-line payments to the same account- the old owner must have my payments.
- What can ya do for me regarding the interest; can you get rid of it?
- I'm late and I know it, but hey whaddya say "Let's make a Deal!!!"

compiled by Ruth Raswyck, CDTC, Nashua:

VI. THE LIEN/DEED PROCESS

BASIC STEPS OF THE PROPERTY TAX LIEN PROCESS

- RSA 76:11-b Notice of Arrearage
- RSA 80:60 Notice of Lien (Impending)
- RSA 80:61 Affidavit of Execution of Real Estate Tax Lien
- RSA 80:64 Report of Tax Lien
- RSA 80:65 Notice by Lienholder to Mortgagee
- RSA 80:66 How Notice Shall Be Given
- RSA 80:69 Redemption
- RSA 80:70 Notice of Redemption
- RSA 80:71 Partial Payments in Redemption
- RSA 80:77 Notice to Current Owner (Impending Deed)
- RSA 80:77-a Notice to Mortgagees (Impending Deed)
- RSA 80:76 Tax Deed (After 2 Years)
- RSA 80:89 Notice to Former Owner and Opportunity for Repurchase
- RSA 80:88 Distribution of Proceeds from the Sale of Tax Deeded Property

PERFORMING THE TAX LIEN PROCESS

- A. Importance of following the tax lien process closely (RSA 80:58-RSA 80:91)
 - 1. Tax Year- April 1-March 31 (RSA 76:2).
 - 2. Purpose is to perfect the lien.
 - 3. Set a date for the tax lien and create a calendar/timeline (RSA 80:19).
 - 4. What can be liened? Bills need to be 30 days delinquent before you can lien; you need to know the window of the lien time.

- B. Notice of Arrearage (RSA 76:11b) (Notice of Tax Delinquencies and Unredeemed Tax Liens)
 - 1. Can be mailed with the tax bill.
 - 2. Must be mailed within 90 days of due date of second billing.
 - 3. Duplicate letters to multiple owners.
 - 4. Must be mailed prior to the certified letters being mailed.
 - 5. Balance all uncollected accounts prior to printing the letters.
 - 6. Bankruptcies- continue with the tax lien process using the language from the Doolan case.

- C. Notice of Lien (RSA 80:60)
 - 1. Mail to current owner/last known owner and address.
 - 2. Duplicate letters to multiple owners.
 - 3. Confirm fees and postage amounts using the NHTCA Schedule of Fees & Costs (RSA 80:81).
 - 4. Balance all uncollected accounts prior to printing the letters.
 - 5. Mail at least 30 clear days prior to the lien (RSA 80:60).

- D. Affidavit of Execution of Real Estate Tax Lien (RSA 80:61)
 - 1. Verify that all payments have been entered and posted prior to executing the lien.
 - 2. Balance the lien, add additional lien costs per the NHTCA Schedule of Fees and prepare the list for recording (RSA 80:64).
 - 3. Affidavit of Execution of Real Estate Tax Lien to the Governing Body the day following the lien with the tax lien list (RSA 80:61 & RSA 80:64).
 - 4. Checks issued from Finance to payoff accounts or a journal entry is done.
 - 5. Check for Registry of Deeds to record liens.
 - 6. Record lien within 30 days of the execution (RSA 80:64).

- E. Notice by Lienholder to Mortgagee (RSA 80:65)
 - 1. Responsibility of the Governing Body's office (RSA 80:65).
 - 2. May be delegated to the Tax Collector.
 - 3. It is recommended that the search be done by a third party.
 - 4. Add the costs to search and notification of mortgagees to the delinquent file (RSA 80:67).
 - 5. Notice to Mortgagee must be mailed within 60 days from tax lien execution (RSA 80:77-a).
 - 6. Notice to Commissioner of Health & Human Services (RSA 80:68).

- F. Courtesy letters to property owners regarding lien and balances due (optional).
- G. Redemptions
 - 1. Calculate interest, costs and record payments (RSA 80:69).
 - 2. Report of redemption to the Registry of Deeds within 30 days of full payment (RSA 80:70).
- H. Record of Notices
 - 1. Keep copies of all Notices of Delinquency and Unredeemed Tax Liens, Impending Lien letter, Mortgagee Notification letter and certified receipts in alphabetical order for easy access.
 - 2. Any additional correspondence regarding these processes should also be kept.

**NEW HAMPSHIRE TAX COLLECTORS' ASSOCIATION
TAX LIEN PROCEDURE SCHEDULE OF FEES AND COSTS**

Note: Updated schedule of fees and costs are available on the NH Tax Collectors' website.

**DOOLAN CASE LANGUAGE REQUIREMENTS
ON NOTICE OF TAX DELINQUENCIES & UNREDEEMED TAXES**

*** The new language requirement for the Notice of Tax Delinquencies and Unredeemed Tax Liens is a result of the Doolan Court case from 2011. If the language of the notice below cannot be incorporated into the Notice of Tax Delinquencies and Unredeemed Tax Liens because of lack of space, it should either be printed and attached to the Notice of Tax Delinquencies and Unredeemed Tax Liens or photocopied onto the back of the Notice of Tax Delinquencies and Unredeemed Tax Liens.

Date:

**IMPORTANT NOTICE TO ASSESSED PROPERTY OWNERS
CURRENTLY IN BANKRUPTCY**

PLEASE NOTE: If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362(a) of the Bankruptcy Code, then the language on this notice is hereby modified as follows:

- (a) By sending this notice, the Town is not attempting to collect any delinquent tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment. The notice is a requirement of New Hampshire law in order for the Town to perfect its statutory lien.
- (b) The Tax Collector or Town may not increase the rate of interest where the Court has set such rate without seeking appropriate Bankruptcy Court approval.
- (c) The provisions of the federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy. A tax collector's deed cannot and will not be issued without appropriate bankruptcy Court approval.

Please seek legal counsel if you have any questions concerning this bankruptcy section of the Notice of Tax Delinquencies and Unredeemed Tax Liens. The tax collector's office cannot provide legal advice.

Name of Municipal Collector

SAMPLE NOTICE OF TAX DELINQUENCIES AND UNREDEEMED TAXES

Name & address of municipality
Phone number of municipality

Statement date:

Name & address of property owner

Interest date:
Property ID:

Notice of Tax Delinquencies and Unredeemed Tax Liens

According to my records the following tax accounts/tax liens remain unpaid:

Year/Type	Due Date	Bill#	Tax Due	Costs Due	Interest Due	Per Diem	Total
Due this Bill							

(List all unpaid liens by year and current year bills as delinquent.)

If full payment for unpaid (year to be tax deeded) and older tax liens is not made by (insert deed date here) a tax deed will be issued to the purchaser of the lien pursuant to RSA 80:76.

In the event that the above items may have been overlooked, this notice is to remind you of any previous outstanding liens and the potential for any additional unpaid bills that may go to tax lien per RSA 76:11-b. The tax due amounts, together with interest, must be paid in full by (last day to pay before impending lien notice is run), to prevent further tax lien action and an additional cost of (impending lien fee cost). Interest is calculated through (last day to pay before impending lien notice is run).

Prior to final payment: Please call the tax collector at (phone number) for correct interest computation and/or costs due.

PLEASE NOTE: If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362(a) of the Bankruptcy Code, then the above language is hereby modified as follows: (a) By sending this notice, the Town is not attempting to collect any delinquent tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment. The notice is a requirement of New Hampshire law. (b) The Tax Collector or Town may not increase the rate of interest in cases where the Court has set such rate without seeking appropriate Bankruptcy Court approval. (c) The provisions of federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy. A tax collector’s deed cannot and will not be issued without appropriate Bankruptcy Court approval. A tax lien may be imposed, and the Town is required to give separate notice of that action. Please seek legal counsel if you have any questions concerning this bankruptcy section of the Notice of Delinquencies and Unredeemed Tax Liens. The tax collector’s office cannot provide legal advice.

**DOOLAN CASE LANGUAGE REQUIREMENTS
ON NOTICE OF IMPENDING TAX LIEN**

***The new language requirement for the Notice of Impending Tax Lien is a result of the Doolan Court case from 2011. If the language of the notice below cannot be incorporated into the Notice of Impending Tax Lien because of lack of space, it should either be printed and attached to the Notice of Impending Tax Lien or photocopied onto the back of the Notice of Impending Tax Lien.

Date:

**IMPORTANT NOTICE TO ASSESSED PROPERTY OWNERS
CURRENTLY IN BANKRUPTCY**

PLEASE NOTE: If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362(a) of the Bankruptcy Code, then the language on this notice is hereby modified as follows:

- (a) By sending this notice, the Town is not attempting to collect any delinquent tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment. The notice is a requirement of New Hampshire law in order for the Town to perfect its statutory lien.
- (b) The Tax Collector or Town may not increase the rate of interest where the Court has set such rate without seeking appropriate Bankruptcy Court approval.
- (c) The provisions of the federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy. A tax collector's deed cannot and will not be issued without appropriate bankruptcy Court approval.

Please seek legal counsel if you have any questions concerning this bankruptcy section of the Notice of Impending Tax Lien. The tax collector's office cannot provide legal advice.

Name of Municipal Collector

SAMPLE NOTICE OF IMPENDING LIEN

Name & Address of Municipality
Phone Number of Municipality

Statement date:

Name & Address of Property Owner

Notice of Impending Tax Lien

This letter is not a demand for payment, but a notice of our intent to perfect a lien against your property.

In accordance with RSA 80:60, you are hereby notified of the Impending Tax Lien against the following real estate which are taxed to you in the list committed to me as Tax Collector for the year (year of lien) as follows:

Map/Lot	Location	Balance on Bill	Costs	Interest	Amount Due
---------	----------	-----------------	-------	----------	------------

(List all unpaid bills for the current year)

If payment in full is not received on or before the (day of lien) of (month of lien) at (time), I shall execute a tax lien on said real estate which will be recorded in the (county registry). This tax lien will entitle the City/Town to a tax deed for a 100% interest in the property described above unless, within two years of the execution of the tax lien, the property is redeemed by payment of the above amount plus interest at 14% per annum and redemption costs.

Prior to final payment: Please call the tax collector at (phone number) for correct interest computation and/or costs due.

PLEASE NOTE: If you are currently in bankruptcy and subject to the protections of the Automatic Stay provisions of Section 362(a) of the Bankruptcy Code, then the above language is hereby modified as follows: (a) By sending this notice, the Town is not attempting to collect any delinquent tax debt from property owner(s) in bankruptcy and the notice should not be interpreted as requiring payment. The notice is a requirement of New Hampshire law. (b) The Tax Collector or Town may not increase the rate of interest in cases where the Court has set such rate without seeking appropriate Bankruptcy Court approval. (c) The provisions of federal bankruptcy law may affect the rights of the municipality under state law as long as the assessed property owner is in bankruptcy. A tax collector’s deed cannot and will not be issued without appropriate Bankruptcy Court approval. A tax lien may be imposed, and the Town is required to give separate notice of that action. Please seek legal counsel if you have any questions concerning this bankruptcy section of the Notice of Impending Lien. The tax collector’s office cannot provide legal advice.

Name of Municipal Tax Collector

AFFIDAVIT OF EXECUTION OF REAL ESTATE TAX LIEN

RSA 80: 61 Affidavit of Execution of Real Estate Tax Lien

Statute Text

An affidavit of the execution of the tax lien to the municipality, county or state shall be delivered to the municipality by the tax collector on the day following the last date for payment of taxes as stated in the notice given in RSA 80:60. The collector shall execute to the municipality, county or state only a 100 percent common and undivided interest in the property and no portion thereof shall be executed in severalty by metes and bounds; provided, however, that where distinct interests in the property have been separately assessed pursuant to RSA 75:2, the tax lien executed to the municipality, county, or state shall be for 100 percent of the separate distinct interest upon which the taxes have not been fully paid.

RSA 80:64 Report of Tax Lien

Statute Text

Each tax collector, within 30 days after executing the tax lien to the municipality, county or state, shall deliver or forward to the register of deeds for the county in which the real estate is situated a statement of the following facts relating to each parcel of real estate subject to lien, certified by him under oath to be true; the name of the person to whom the real estate was taxed and a description of the property as it appeared on the tax list committed to him; the total amount of each tax lien, including taxes, interest, fees and costs incident to the tax lien process and making reports thereof to the register of deeds, the date and place of the execution of the tax lien, all of which shall be recorded and indexed by the register of deeds in a book or books to be kept for that purpose as provided in RSA 80:74.

AFFIDAVIT OF EXECUTION OF REAL ESTATE TAX LIEN

Name of Municipality, New Hampshire

Date:

Date of Execution: _____

Levy of _____

I, _____, Tax Collector, certify that I gave notice of the Impending Lien on the ____ day of _____. Being at least 30 days prior to the execution of the lien.

Said notice was sent by certified mail return receipt requested to the last known post office address of the current owner, if known, or of the person against whom the tax was assessed.

In accordance with provisions of RSA 80:59 and 80:61, Real Estate Tax Liens were executed to the Town/City of _____.

_____ Tax Collector

State of New Hampshire County _____ ss. 20

On this _____ day of _____, 20_, personally appeared

_____,
Tax Collector who swore that the foregoing is true to the best of his/her knowledge and belief and acknowledged the foregoing instrument to be his/her free act and deed.

Justice of the Peace
Notary Public

**SAMPLE
NOTICE TO LIENHOLDER (MORTGAGEE NOTICE)
AFTER LIEN EXECUTION**

NOTICE TO LIENHOLDER

Name of Municipality

Date of Notice

The laws of the state of New Hampshire require that this notice be given to each lienholder in person, or left at his place of abode, or sent by registered/certified mail, return receipt requested, to his last known address within 60 days of the execution of real estate tax lien.

Name & Address of Lienholder

You are hereby notified that on (date of lien execution), I, (name of municipal tax collector), for the (name of your City/Town), New Hampshire, executed a real estate tax lien on the following real estate on which you hold a lien, according to the records of the register of deed and probate for the (name of your county). The execution of this lien was initiated because of nonpayment of (year of tax lien) Municipal Taxes.

Name of Property Owner Owed	Description: Book/Page Map/Lot or Property ID	Tax Amount/Costs	Total
--------------------------------	--	------------------	-------

Name of Municipality, Lienholder
Name of Municipal Tax Collector
Tax Collector

Please direct any inquiries to the Tax Collector whose office is at:
Mailing address and telephone number of municipal office

**SAMPLE OF LETTER SENT TO MORTGAGEE
WHO CHANGED NAME OR ADDRESS**

Town of Goffstown
Town Offices
16 Main Street
Goffstown, NH

Date

Name of Bank

Gentlemen:

Enclosed please find a copy of a "Notice to Lienholder of Impending Tax Lien (or Deed)" letter. If your company has an interest in this property(s), please accept this copy as your legal notification.

In compliance with New Hampshire State Statutes, names and addresses of all mortgagors/lienholders are established by researching said property(s) at the Registry of Deeds in the county that the property lies. A certified notification is then sent.

This particular notification was returned by the post office stating that the forwarding address expired. Through further research by our office, it was established that your company changed its mailing address and/or its name. To avoid further confusion and oversight, it would be to your advantage to notify the Hillsborough County Registry of Deeds in Nashua, New Hampshire, of your address change and/or name, should you have any interest in this property(s).

If you have any questions, please do not hesitate to call our office at (603)-497-3614. Thank you.

Sincerely,

Gail L. Lavallee
Tax Collector

SAMPLE

LIEN REDEMPTION LISTING

Municipality of _____ NH Address _____ Date : _____

Owner or person taxed	Book/	Lien	Total	Redeemed
Description of Property	Page of Lien	Execution	Price	By/Date
	Recording	Date		

Name of Owner _____ \$ _____ Owner
 Address of Owner _____ Date
 Redeemed
 Map: Lot:

PAGE: OF

TAX COLLECTOR

**TITLE V
TAXATION**

**CHAPTER 80
COLLECTION OF TAXES**

Miscellaneous Provisions

Section 80:50

80:50 Collection by Suit. – The selectmen of any town, or the tax collector, by action brought in the name of the collector, may cause any tax to be collected by suit at law or bill in equity, and may trustee wages or other moneys for any tax, and in such action there shall be no exemption from attachment of wages in any amount.

Source. 1881, 28:1. PS 60:17. 1925, 61:1. PL 66:42. RL 80:43.

Performing the Tax Deed Process

- A. Establish date of Tax Deed – 2 years from the date of the execution of the tax lien (RSA 80:76).
- B. Notices to Property Owners:
 - 1. Periodic reminders as to the status of tax liens from the date of lien to the Notice of the Impending Deed.
 - 2. Notice of Impending Deed should be mailed at least 30 days prior to the date of deeding; include interest and costs through the date of deeding (RSA 80:77).
 - 3. No Impending Deed Notices sent to property owners in Bankruptcy.
 - 4. Duplicate letters to multiple owners (RSA 80:73).
- C. Final mortgage search for mortgage holders (RSA 80:77-a).
- D. Notice of Impending Deed letters to the mortgagee should be mailed at least 30 days prior to tax deed (RSA 80:77-a).
- E. Notice to Governing Body regarding deeding:
 - 1. List of all impending deed properties.
 - 2. Request Governing Body notify the Tax Collector's office of those properties for which they will refuse deeds – Deed Waiver (RSA 80:76,II &II-a).
- F. Prepare Tax Deeds (RSA 80:76).
- G. At appointed time on the appointed date, sign and notarize tax deeds.
- H. Give deeds to Governing Body for recording unless Tax Collector is authorized to record deeds.
- I. Make accounting entries to tax lien accounts.
- J. Repay partial payments to previous owner for payments on tax lien year deeded (RSA 80:71).
- K. Courtesy notice to property owner notifying of transfer of deed to the municipality – may include the information on statutes regarding repurchase.
- L. The Governing Body can keep the property, sell it or re-impose its tax lien.

**SAMPLE
IMPENDING DEED NOTICE**

Name & Address of Municipality
Phone Number

Notice Date:

Name & Address of Property Owner

Billed Owner:

*******NOTICE OF IMPENDING TAX DEED *******

Pursuant to RSA 80:77, you are hereby notified that the (year of the deed) tax liens in your name will be deeded to the lienholder the (name of municipality) on (deed date) unless full redemption is made before this date..

Map/Lot/Unit Location Tax Amount Costs Interest Amount Due

Unredeemed tax lien total for the year of the deed; calculate interest through the deed date.

****Payment in full must be received before (time) on (deed date). If full redemption is not made by this date, you will be divested of ownership of this property.**

******If you have any questions regarding the payment of your tax bill or are paying earlier than the final date, please contact my office for the exact amount due.**

*******Municipal Office Hours: Time and Date
Office Telephone Number**

Name of Municipal Tax Collector

SAMPLE NOTICE TO LIENHOLDER IMPENDING TAX DEED

**NOTICE TO LIENHOLDER OF IMPENDING TAX DEED
FOR: Tax Year to be deeded**

Name of Municipality

Date of Notice

The laws of the state of New Hampshire require that this notice be given to each lienholder in person, or left at his place of abode, or sent by registered/certified mail, return receipt requested, to his last known address 30 days before the date of execution of Impending Tax Collectors Deed.

Name & Address of Lienholder

You are hereby notified that according to the records of the register of deeds and probate for the (name of your county) you hold a lien on the parcels of property listed below, and according to the enclosed redemption information, I, (name of municipal tax collector), for the (name of your City/Town), New Hampshire, will execute a Tax Collectors Deed if full redemption is not received before the deeding date and **YOUR RIGHT OF REDEMPTION WILL EXPIRE AND YOUR MORTGAGE WILL BE EXTINGUISHED. DEEDING DATE IS (date of deed).**

Name of Property Owner Owed	Description: Book/Page Map/Lot (Property ID)	Tax Amount/Costs	Total
--------------------------------	---	------------------	-------

(Name of Municipality), Lienholder
(Name of Municipal Tax Collector)
Tax Collector

Please direct any inquiries to the Tax Collector whose office is at:
(Mailing address and telephone number of municipal office)

Sample...

RETURN OF SERVICE LETTER

A Return of Service Letter can be used when a property owner who is on the deed list refuses to claim the certified Impending Deed Notice at the post office and does not respond to any other correspondence. In other words, there has been no contact with the property owner. The Town of Salem has the police department hand deliver the letter to the property owner’s residence. The letter is given to the police department as 2 originals signed by the Tax Collector; one original is signed by the owner and returned to the Tax Collector to serve as notification of the Impending Tax Deed. (It has been a very effective tool).

SAMPLE.....On Municipal Letterhead

Date

Name & Address of Owner

Dear Mr. & Mrs.

Sample language...history of the notices of the account...

The last day to pay the year 2008 property taxes is April 25, 2011. On January 13, 2011, a Delinquent Notice was sent to you by regular first class mail and the letter was not returned by the Post Office. On March 8, 2011, an Impending Deed Notice was sent to you by Certified Mail. The letter was returned to the Town of____. A reminder letter was sent to you by regular first class mail on April 11, 2011, and was not returned by the Post Office.

April 25, 2011, by 5:00 PM is the deadline to pay all of the year 2008 outstanding Property Taxes or the Town of____will take deed to your property. Payments can be made on this bill at any time; you do not have to wait until April 25, 2011. Please call me at 890-2109 from 8:30 AM- 5:00 PM. If you have to call after normal business hours please leave a message and a telephone number where we can reach you during the day. Enclosed is a copy of the taxes due for 2008 on the property as of April 25, 2011.

Very truly yours,
Town of_____, NH

Name of Tax Collector

Return of Service

I certify that on _____ day of _____ 2011, at _____ am/pm

I _____(Officer’s name) of the

_____ Police Department served this letter in hand to the above named individual.

Police Officer

SAMPLE DEED

KNOW ALL MEN BY THESE PRESENTS

That I, _____, Tax Collector of the Town/City of _____ in the County of _____, and State of New Hampshire, for the year _____, by the authority in me vested by the laws of the State, and in consideration of \$1.00 and other valuable consideration to me paid by the Town of _____, located at _____ do hereby sell and convey to the said Town of _____ successors/heirs and assigns a certain tract or parcel of land situated in the Town of _____, NH, aforesaid, to have and to hold with appurtenances forever, taxed by the Assessing Officials in _____ to _____, located at _____ and described in the Invoice Books as:

Description of Property

Deeded for 100% common and undivided interest.

Meaning and intending to describe and convey the same premises conveyed to _____ by deed dated _____, and recorded in the _____ County Registry of Deeds in Book _____, Page _____.

This deed is the result of the tax lien execution held at the _____ located at _____ in the Town of _____, New Hampshire on the _____ day of _____,

_____ and I hereby covenant with the said Town of _____ that in making this conveyance, I have in all things complied with the law, and that I have good right, so far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in the manner aforesaid.

In Witness Whereof, I have hereunto set my hand and seal, the _____ day of _____, in the year of our Lord _____.

(Name of Tax Collector), Tax Collector

State of New Hampshire _____ ss. _____, 20_

Personally appearing _____ above named and acknowledged the foregoing instrument to be his voluntary act and deed. Before me

Justice of the Peace
Notary Public

MORTGAGEE IDENTIFICATION CRITERIA

Pursuant to State of New Hampshire RSA 80:65 any mortgagees listed at the county registry of deeds shall be identified and notified within 60 days when a property tax lien is executed for non-payment of tax. Mortgagees are considered to include any and all creditors including, but not limited to, mortgages, income tax liens, attachments, mechanic's liens, judgments, etc.

The City/Town of _____ will provide the following information to facilitate the research of said mortgagees:

- An alphabetical list of owners in the form of an Excel spreadsheet of all properties liened, the date of execution, and any known mortgagees;
- Previously liened and searched property owners will be identified by a gray background – those accounts will only need to be updated from the previous year's execution date which will be provided;
- Deed reference information and date of original acquisition - if the party has not previously been searched then a run from acquisition is required.

The City/Town of _____ requires that the research and resulting identification report include the following information:

- Full name of any mortgagee or creditor connected to each account;
- The book and page numbers of any outstanding encumbrances, including assignments;
- The last known mailing address of each mortgagee or creditor;
- Any mergers or other name changes if known;
- Any ownership changes or discrepancies found during the term of the search;
- Update of previously identified mortgagees – if outstanding they should be brought forward and included on the report.

The title searches are to be conducted in the customary manner accepted by industry standards in New Hampshire. The starting point for a run from acquisition needs to be an arm's length transfer of ownership. Only encumbrances of a monetary nature need to be reported – previous property tax liens, easements, current use designation, etc., can be omitted. A list of all accounts and their encumbering creditors will be acceptable – separate reports for each property are not required; copies of supporting documents are not needed.

The final list of delinquent accounts to be searched will be available within 5 days of the date of lien execution. The searches must be completed within 21 days of that date. The tax collector will be responsible for generating and mailing the notices to all identified mortgagees.

LIST OF TITLE SEARCH COMPANIES

REFER TO NHTCA WEBSITE FOR UPDATED INFORMATION

If anyone has more detailed information or any other vendors to add to this list, please notify the Convention Coordinator of the NHTCA.

UCC SYSTEM ACCESS Updated 2022

When deed searches are done there will be Manufactured Housing units that will come back as “no mortgage of record”. If your mortgagee search company does not have access to the Secretary of State’s UCC System, then the Tax Collector should be setting themselves up with access to the system and doing UCC searches as part of their mortgagee notification process to capture liens on Manufactured housing units without traditional mortgages. The municipal Tax Collector can sign up for this process by:

1. Create a NH QuickStart account on the Secretary of State’s website.
 - a. Make sure the account is in the name of the Tax Collector – not the Municipality.
 - b. NH QuickStart can be found on the Secretary of State’s Home Page at the bottom.
2. Make note of the account ID number.
3. Send a letter to the UCC Division of the Secretary of State indicating the need for UCC search access.
 - a. Include official current Oath of Office.
4. The Secretary of State’s Office will place an electronic “Municipal Access Agreement” into your QuickStart account.
 - a. Fill out and sign the form electronically.
 - b. This will give the Tax Collector free UCC search access for a year so it will be necessary to repeat this process yearly.

Information for the Office of Secretary of State is as follows:

David M. Scanlan, Secretary of State

Send Mail to:

Uniform Commercial Code
N.H. Department of State
107 North Main Street
Concord, NH 03301-4989

Telephone Number:

Monday through Friday 8:00am - 4:30pm
603-271-3276
Contact person for UCC Division Joan.Stewartson@sos.nh.gov

WHAT IS A UCC?

A UCC-1 filing refers to the **UCC-1 Financing Statement**, which is a legal form that a creditor files to give notice that it has or might have an interest in the personal or business property of a debtor.

HOW LONG IS A UCC FILING GOOD FOR?

These liens are perfected by filing a UCC-1 Financing Statement showing the name and address of the debtor and the secured party along with a description of the collateral. These financing statements are effective for five years and may be continued for an additional five years.

WHERE IN NH IS A UCC FILED?

The New Hampshire office of Uniform Commercial Code (UCC) serves the commercial lending and banking community by acting as a repository for filed documents which perfect security interests in certain personal property used as collateral for loans. These filings help a secured creditor establish priority claims on assets in the event of debtor bankruptcy, insolvency, or default. The office is responsible for providing a universally accessible, secured transaction registry for users and beneficiaries of the UCC process, including accurate and current information about filings and attachments for commercial lenders and other interested parties with debtor filing history.

ADMINISTRATIVE CHECKLIST FOR TAX DEEDING

- Date of 2nd ½ property tax bill for oldest lien. _____
- Date of Notice of Arrearage (RSA 76:11-b). _____
- Date of Certified Notice of Tax Lien (RSA 80:60). _____
 - (attach copy of certified receipt).
- Date of Tax Lien (RSA 80:64). _____
- Date of Certified Notice to Mortgagee (RSA 80:65). _____
 - (attach copy of certified receipt, if applicable).
- Date of Certified Notice of Tax Deed to Owner.
(RSA 80:77) _____
 - (attach copy of certified receipt).
- Date of Certified Notice of Tax Deed to Mortgagee.
(RSA 80:77-a). _____
 - (attach copy of certified receipt, if applicable).

Steps to Keep You Out of Trouble When Tax Deeding Properties That Have Gone to Lien

When properties are about to be deeded, it is a good idea to collect all the paperwork that can help you prove that **you** properly handled every step of the notification and lien process. Property owners who failed to react to several years' worth of tax bills, telephone calls, late notices, and certified-mail lien notifications may suddenly come alive upon receiving warnings that their properties are about to be deeded. You may need to prove that you dotted every "i" and crossed every "t", and jumped through every hoop that was rolled across your path.

Here is a list of what you should gather together:

1. The original tax bill is rarely questioned, but it is not unheard of for a property owner's attorney to leave "no stone unturned" in an attempt to prove that the billing and/or lien process was defective. We recommend that you make note of the **date the last tax bill was mailed for the levy about to be deeded**. (In accordance with RSA 76:13, Tax Collectors have to notify the NH Board of Tax and Land Appeals of the date the final tax bill is mailed. These forms are provided to every Town on an annual basis. It is a good idea to make a copy of this notice before you mail it and file it with your warrant.)
2. A challenge may be based upon whether a particular **owner was notified**. While some collectors may have copies of the tax bills (or a computer generated list of the tax bills), many of the collectors only get the bills back with payments- which we obviously do not receive from non-paying property owners. It is very important to be able to state unequivocally that the names on the **printed Tax Warrant** are the same names that appear on the bills when they are mailed. Collectors who have computers should have no trouble with this since the computer generating the Warrant is the same computer generating the bills. Photocopying the printed bills of accounts likely to become problems could provide additional proof.

We recommend going one step further and asking the assessor's office for a **copy of the deed**. You may find that the owner of record entered on the Tax Warrant by the assessors may be an error. Therefore, before tax-deeding a property, it is strongly recommended that the owner of the property is verified.

A very challenging problem to us is that of **multiple owners of record**.

RSA 80:73 Part Owners addresses this issue. Each person having a legal interest with others in any taxable real estate may pay his proportion of the tax assessed thereon, provided that his share or interest therein shall have been definitely determined and recorded in the annual invoice and in the Warrant Book as committed to the collector. In case of tax delinquency he may pay the taxes upon his share or interest in the property and the residue only may be subject to the real estate tax lien. After the real estate tax lien has been executed by the tax collector, and at any time before a deed thereto is given by the collector, he may redeem his interest in the property by paying his assessed proportion of the taxes, accrued interest and costs incident to the real estate tax lien process.

3. Sample copies of the **Delinquent Notices**, also known as Notices of Arrearage, (RSA 76:11-b) which must be sent with the second issue tax bills or within 90 days of their due date. Again, this may not be questioned, but in any case it is good to be able to prove that they were mailed in a timely manner.

Delinquent Notices should have been sent to the delinquent property owner following **each** October billing. Once a property has already gone to lien, it is a good idea to keep a copy of the Delinquent Notice sent out in subsequent years. A desperate taxpayer could claim that the process was defective (as if this would actually happen) because one of the notices had been neglected.

4. If it is your usual practice to send out occasional “**reminder notices**” of unpaid taxes, it is a good idea to keep copies of these notices. These notices are not legally required, but they can deflate arguments that the Tax Collector has not made a good-faith attempt to keep property owners informed.
5. The **Certified or Registered Mail Receipt** for the **Notice of Impending Lien** (RSA 80:60) which was mailed to the delinquent property owner at least 30 days before imposition of the Tax Lien.
6. The **Report of Tax Lien** (RSA 80:64) filed with the Registry of Deeds within 30 days after the Tax Lien was held. (This report will also have the Registry’s stamped information on them).
7. The **Certified Mail Receipts of Notices to the Property Owner’s Mortgagees** (RSA 80:65) which had to be sent within 60 days from the date of the Tax Lien.

It is very important that a search of the Registry of Deeds’ records be conducted prior to sending out the Notice to Mortgagee. Missing a mortgagee can badly damage your lien.

8. **Certified or Registered Mail Receipts of Notice of Impending Deed.** (RSA 80:77 & 77-a) Two different notices must be sent 30 days prior to executing a tax deed. **Owners and mortgagees** must be warned of the Impending Deed. As in the original notification following Tax Lien or Tax Deed, it is imperative that a search be conducted at the Registry of Deeds so that no mortgagee gets missed.

Most municipalities hire a company to do their searches because the company has liability insurance which covers them in case of an error in the search/notification process.

It is a good idea to keep notes on the back of the certified copies that you retain for your records, if you try to reach the owner or mortgagee by telephone. Keep exact notes of conversations including date, time, who you spoke with and what was said for the homeowner or the mortgagee. Be sure to also make a note if you leave a message on an answering machine.

LIST OF INFORMATION FOR DEEDING FILE

When a property is deeded to the municipality by a Tax Collector's deed, it is important to collect copies of all of the supporting documents and retain them in a current file until the property is sold. The outside of the file should have the name of the owner whose property was deeded; property location; levy of the lien deeded; map/lot and/or account number of the property; date of the deeding; the volume/page of the recorded Tax Collector's Deed; and the date that the three year buy back option expires. Once the property has been sold, the file can be moved to a permanent file storage area or disposed of because it contains only copies; not the original documents. Some municipalities may choose to keep the file as a permanent record.

The file should contain at least the following items; others can be added if deemed necessary.

It is recommended that you make copies of the documents and leave the originals with the proper records.

Copy of the current assessing card for the property that is being deeded.

Copy of a statement with the amount of taxes and costs before the deed is issued so that the amount due on the property can be determined in case the municipality decides to sell it.

Copies of the tax bills; if available; to verify address and assessing data.

Copy of the Notice of Tax Delinquencies and Unredeemed Tax Liens.

Copy of the Certified Impending Tax Lien Notice; with a copy of the certified receipt.

Copy of the Impending Deed Notice; with a copy of the certified receipt.

Copy of the mortgage search for both the Impending Lien and the Impending Deed Notices; with the name and address of the mortgage search company used.

Copy of the recorded Tax Collector's Deed.

Copy of any correspondence with the owner; such as any courtesy notices sent.

Copy of any certified letters sent, with the copy of the certified receipt; copy of any final courtesy letter notifying the owner that the deed has been recorded and outlining the owner's right of repurchase; with a copy of RSA 80:89.

Copy of any data related to returned mail along with any written verification of attempts to find a current mailing address; if applicable.

If available; include copies of notices and certified letters from subsequent years; from the levy of deeding to the current year.

Documentation that the municipality has been notified to insure the property and if necessary to secure any buildings.

The file should be kept in an alphabetical file in the Tax Collector's office until it is sold by the municipality. Once the property is sold, that information should be noted on the outside of the file, with the new owner's name and the date of the sale. Inside the file there should be a copy of the Purchase & Sales Agreement; copy of the check used to purchase the property; and a copy of the new deed. Once the file has been completed it can be moved to storage but needs to be retained for the contestability period of at least 10 years.

If the municipality sells the property, a copy of all of the information in the file should be given to the new property owner.

If the need arises for this information; for example, the deeding is contested; having the file with all of the pertinent information available in one place makes research easier.

This information originated from the Newport Tax Collector's office.

PAYMENT AGREEMENTS

Payment agreements are handled differently from municipality to municipality. However, the one consistency should be that the agreement is between the Board of Selectmen and the taxpayer. In many municipalities the Board of Selectmen may request the Tax Collector to deal directly with the taxpayer and many Tax Collectors' do arrange for the payment agreements to be drawn up and monitor them. In some cases, these agreements require just the signature of the taxpayer. In other cases the signature of the Board of Selectmen is also required and some go even further to require a notarized signature of the taxpayer. If requiring a signature of the Board of Selectmen, there could also be a section serving as the deed waiver form which will be discussed later.

Items that should be included on the payment agreement which make future contact with the taxpayer easier are phone numbers and/or e-mail addresses. The plan should be specific as to whether there will be weekly, monthly or lump sum payments. There should be a start date and that should be tied into an anticipated end date. Most often the end date would require the oldest year to be paid before the next oldest year is up for deeding.

Communication with the Board of Selectmen during the deeding process is crucial. Typically the Tax Collector should meet with the Board at the beginning of the tax deed process. When the deeding date is imminent, another meeting is required. At the second meeting deed waivers should be discussed and decisions made on which properties should be waived and which should be deeded. This is typically done in a non-public session under RSA 91-A:3,II (c). Some municipalities are given copies of the sealed minutes or a letter from the Board of Selectmen listing those properties to waive. Some are given individual deed waivers for each property that they chose to waive. Either way, there should be reference to the reason the properties are being waived from the deeding process. Examples of reasons would include that the deeding would create liability risks for the municipality that the deeding would create undesirable obligations to the municipality, or that ownership would subject the municipality to potential liability under any federal or state environmental statute which imposes strict liability on owners for environmental impairment.

If a deed waiver is issued and a payment agreement put into place, it is important for the Tax Collector to keep their board informed when the agreement is not being adhered to. Language on the agreement and deed waiver should be included that clearly states that the deeding process will be reinstated should timely payments not be made.



October 14, 2011

**New Hampshire Tax Collectors Association
Annual Meeting
October 17, 2011**

Payment Plans for Delinquent Taxpayers – Reviewed 2024

This short paper is written to serve in addition to materials prepared by Bernard H. Campbell, Esq., as counsel for your organization. While we are in substantial agreement with the information he provided, we have a different perspective on some points, which may lead to some productive discussion at the session.

Rule #1 and Home Rule:

First, we absolutely concur with his statement of Rule #1- The Tax Collector performs a ministerial role set forth by statute. The Tax Collector is given no discretion to make local variations in the performance of the property tax collection process. We would also add that the Board of Selectmen (or other governing body of the municipality) is not granted such discretion either, except in very limited circumstances and based upon specific findings of fact.

In addition to this first rule, we always emphasize the lack of home rule powers in New Hampshire,

“Towns only have such powers as are expressly granted to them by the legislature and such as are necessarily implied or incidental thereto. *Girard v. Allenstown, 121 N.H. 268 (1981)*”

Thus, unless we can find some direct indication of authority to take an action in the language of a statute, or in the language of a case from the New Hampshire Supreme Court, we are forced to conclude that there is no legal authority to act in that manner. This is discussed in some detail in the “Knowing the Territory” publication which we make available to each municipal office.

With these two principles in mind, let’s examine statutory authority, or the absence of such authority in the area of dealing with delinquent property taxpayers.

NH Municipal Association
Fax: 603.224.5406

Workers’ Compensation Trust
Fax: 603.226.2322

Property-Liability Trust
Fax: 603.226.2322

HealthTrust
Fax: 603.226.2988

PO Box 617 • Concord, NH 03302-0617 • Tel. 603.224.7447 • NH Toll Free 800.852.3358 • E-mail: info@nhlgc.org • Web site: www.nhlgc.org

The Period of Initial Delinquency:

If property tax remains unpaid when due, a lien arises, which is in favor of the municipality if the municipality has adopted the optional or alternative tax lien procedure in accordance with RSA 80:57-87. The lien is then executed and perfected by recording in the Registry, with notices to any mortgagee. The questions we receive relate to acceptance of partial payments. RSA 80:69-71 make it clear that partial payments can be accepted up to the date that the property is deeded to the municipality. Several New Hampshire municipalities have statements upon their internet websites that payment arrangements may be made during this period, so long as statutory interests and costs are added to the amounts due.

However, the statute only allows payments to be received from a “person with a legal interest in land subject to a real estate tax lien...” If the payment is received from a friend, parent, or other relative of the taxpayer, how is that functionally different from the *original* tax lien procedure found in RSA 80:20, where the municipality could sell the lien to any person? Also note that pursuant to RSA 80:20-a, tax sales to private individuals are prohibited once the alternative tax lien procedure has been adopted in the municipality. Thus, it is important to assure that the source of the payment is the taxpayer or some other person with a recorded interest in the realty, such as a mortgagee. If a family member is attempting to help the taxpayer, the funds should be first channeled through the taxpayer. A check from any person or entity that does not have a legally recognized interest in the realty should not be accepted. If the taxpayer does not have a bank account, the family member can assist by purchasing a bank check or a money order made out in favor of the municipality, noting the taxpayer as the remitter.

This problem may also be seen when the date of deeding arrives. RSA 80:71 requires that if the property has not been completely redeemed by this date, the partial payments must be refunded “...to the person making such partial payments...”. If payments are accepted from any person other than the taxpayer, it becomes very difficult or impossible to comply with the requirements of this statute since the collector would be forced to keep a copy of every check received and negotiated to determine who is entitled to the refund. It raises the possibility of competing claims to the money to be refunded, and it raises the possibility that either the person who paid the money, or the taxpayer, or both, will claim that the entire lien process is defective since the tax lien has been effectively “sold” to a party other than the municipality in violation of RSA 80:20-a.

We often hear of fact situations where the taxpayer is close to paying the required amounts when the date for deeding arrives, but is not fully paid. If the collector’s deed is issued and accepted, the amounts statutorily required to redeem the property increase significantly due to the penalty provisions of RSA 80:90, I. It will often appear that the taxpayer has a good prospect of being able to finish payments required to redeem the property within a 60-90 day period of the date of deeding, but if the additional penalties required after issuance and recording of a deed are applied, it will be impossible for the taxpayer to succeed.

When faced with these facts, the tax collector must apply Rule #1. While many governing bodies will use the provisions of RSA 80:76, II-a in these cases, and simply delay the deeding for a period of time, this is a judgment call given statutorily to the governing body, and not to the

collector. The collector should prepare a deed of the property, and offer it to the governing body. It is perfectly appropriate for the collector to call the statutory provisions and the payment history of the taxpayer to the attention of the governing body, but the discretionary decision belongs to the governing body. The collector must not promise the taxpayer anything other than to bring the entire set of facts to the attention of the governing body.

This is a time when the collector and governing body could review the entire situation of the taxpayer to determine if the person qualifies for an exemption that has not been applied for, a credit which has not been applied for, or qualifies for a general assistance welfare payment of some or all of the amounts due. Similarly, the governing body has the authority, but not the legal duty, to consider the possibility of an abatement of a past tax in accordance with RSA 76:16, even if the normal time to seek an abatement has passed.

When the Date of Deeding Arrives. Refusal to Accept the Deed

We concur with the information provided by Attorney Campbell with regard to RSA 80:76, II-a and the discretion that is involved in refusing to accept a deed from the collector when there are environmental considerations or other issues which make acceptance of a tax deed an obligation which they are unwilling to assume.

Respectfully, we disagree that a delay in recording a collector's deed in consideration of a forbearance agreement is an option that is available for governing bodies. First and foremost, there is no statute which authorizes the procedure. As we stated before, the lack of home rule authority for New Hampshire municipalities generally leads to a legal opinion that actions not expressly authorized by statute are beyond the authority of the applicable municipal officials.

We agree that it is possible for a governing body to decide to grant terms for a conveyance of tax deeded property back to the former owner which are less onerous than the terms imposed by RSA 80:90. See the last sentence of RSA 80:91 which reads: "Nothing in RSA 80:88 or 80:89 shall be construed to preclude a municipality from granting more favorable terms to a former owner pursuant to RSA 80:80, VI." and the language in that section which reads:

"VI. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the selectmen or mayor to convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the registry of deeds. This paragraph shall not be construed to obligate any municipality to make any such conveyance or agreement."

This language suggests that the legislature has only authorized governing bodies to relax the statutory terms for an agreement with a taxpayer after the collector's deed has been recorded at the Registry of Deeds, and only by means of a written agreement that is also recorded at the

Registry. Given this language, it would appear that any agreement to simply hold a collector's deed without recording it at the Registry of Deeds is not an option authorized by statute.

In addition to this statutory argument, there are prudential concerns which suggest that entering into a forbearance agreement that delays the recording of a collector's deed involves risk to the municipality.

When the governing body accepts and records a deed to the property, they are under no duty whatsoever to the former owner to manage the property in any certain way, or for the amount of consideration received if the property is sold to a third party. See RSA 80:91. The execution of a "forbearance agreement" means that the governing body is taking upon itself duties which they are not by statute required to undertake. The general rules of tort liability impose responsibility upon parties who fail to adhere to the duties they have undertaken, and by that failure become the proximate cause of harm to another party. Thus, one of the strategies used by municipalities to avoid exposure to potential liability is to avoid assuming duties that are not imposed by law.

For purposes of real estate title, New Hampshire is what is called a "race-notice" state, meaning that for the purpose of resolving competing claims to real estate, the interest described in the deed which is placed on record first has priority, and entitles bona fide purchasers for value to rely upon that instrument as notice of that interest. See RSA 477:3-a. The best way for a real estate owner to protect their title is to *race* to the Registry and record the instrument as soon as it is received to provide *notice* of their interest. This is why many real estate closings occur at the Registry offices across the state, so that the examiner may review recorded documents up to the time of closing, and once again at the time of recording before disbursing proceeds to sellers. Therefore, if a collector's deed is not recorded, and some other competing real estate interest is recorded before that collector's deed is finally recorded, the competing interest could defeat the title of the collector's deed.

Given that taxpayers seeking this type of relief are short of funds, there is a real risk that their other creditors could take action, whether by means of a real estate attachment, or foreclosure of a mortgage, or even a bankruptcy without advance notice to the municipality. The municipality would be forced to argue that it retained the original super priority of its tax lien, and that any person filing in the gap between deeding and completion of the terms of the forbearance agreement is still junior to that tax lien. The creditor would respond that no such forbearance agreement is authorized by statute, and that under RSA 80:76, III any collector's tax deed that is refused cannot be recorded until notice has been provided to the current owner and any mortgagee under RSA 80:77 and 77-a. There are no NH Supreme Court cases dealing with this fact situation, and hopefully there will not be, since the dispute could have been avoided by the immediate recording of the collector's deed. Any benefit which the governing body feels should be given to the taxpayer can be authorized in accordance with RSA 80:80, VI.

When the Date of Deeding Arrives, Persons in Residence

We often receive questions with regard to mobile homes and manufactured housing, or other properties where the taxpayer or a tenant of the taxpayer is likely to remain a resident after the date of deeding.

When the collector offers a deed, and the deed is accepted and recorded at the Registry of Deeds, the governing body takes legal title to the real estate, and subordinate interests in the property are legally extinguished. There are exceptions to this principle, such that a collector's deed does not extinguish easements, or schemes of restrictive covenants, or the declaration of a condominium, or conditions placed upon a property by approval of a subdivision or site review, or conditions placed upon the property as a result of state permits such as a driveway permit or a subsurface waste disposal permit. However, one thing that will occur is that the governing body will take the property subject to the rights, if any, of the actual occupants of the realty.

This obligation towards those in residence is not something to be taken lightly. The governing body should carefully review the provisions of RSA 540 and RSA 540-A, which are the statutes governing landlord-tenant actions and responsibilities, prior to agreeing to acceptance of a collector's deed of a property with a person in residence. Errors in the management of the relationship may be very expensive, especially if there is liability under the provisions of RSA 540-A:4. Such liability may include the payment of costs, attorney's fees, and damages for violating the rights of a tenant. If there is liability under the statute, the court has no authority to waive or alter the statutory penalty. The specifics of landlord tenant law are beyond the scope of this session, but these laws do apply, and they are stringently applied against landlords.

Therefore, we strongly recommend that any governing body that is not familiar with landlord tenant obligations either decline acceptance of the collector's deed, or consult with town counsel for the purpose of creating a valid and enforceable tenancy, or lawfully bringing an end to the tenancy and regaining unencumbered possession of the real estate.

PAYMENT PLANS IN LIEU OF DEEDING – Reviewed 2024

NHTCA Annual Conference, October 2011

By:

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Rule #1 - The Tax Collector performs a ministerial role set forth by statute! You are given no discretion in the collection process (except perhaps to write off small amounts of interest).

Rule #2 - Don't forget Rule #1!

Rule #3 - Time marches on!

When the taxpayer comes to you and asks you if there is any "flexibility" in payment deadlines, your answer should always be - You have no ability to extend legal deadlines, and that they must approach the governing body of your community.

The governing body has essentially two (2) options it can pursue:

- 1) Delay the deeding in some fashion as part of an agreement to make payments on some type of schedule.
- 2) Let the deeding go forward, but delay the recording of the deed based on an agreement with the taxpayer.

Prior to 1997, there is an argument that option #1 did not exist at all. The provisions of RSA 80:76 provide that the Tax Collector "shall execute" the tax deed to the lienholder, and there is no apparent power of the Tax Collector to do anything other than carry out that responsibility. Consequently, unless the taxes were paid (or abated), the deed would issue. In 1997 the Legislature added RSA 80:76 (II-a) which provides that:

II-a. In addition to the circumstances described in paragraph II, the governing body of the municipality may refuse to accept a tax deed on behalf of the municipality, and may so notify the collector, whenever in its judgment acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks, including obligations under real estate covenants or obligations to tenants, or for any other reason would be contrary to the public interest. Such a decision shall not be made solely for the private benefit of a taxpayer.

This now allows a Board of Selectmen to direct that the Tax Collector not issue a tax collector's deed. If such a directive is given (in writing, signed by a majority of the Board of Selectmen), the property remains under the tax lien, and ostensibly, the collector can continue to accept payments. The governing body can then reach an agreement with the property owners on a schedule of payments, and the terms on which payment can be made. The governing body can direct the resumption of the deeding process if the payments are not made as directed:

III. When a governing body has, under paragraph II or II-a, served notice upon the collector it shall not accept the deed, the tax lien shall remain in effect indefinitely, retaining its priority) over other liens. The taxpayer's right of redemption as provided by RSA 80:69 shall likewise be extended indefinitely, with interest continuing to accrue as provided in that section. The tax lien may be enforced by the municipality by suit as provided under RSA 80:50, and through any remedy provided by law for the enforcement of other types of liens and attachments, If at any time, in the judgment of the municipal governing body, the reasons for refusing the tax deed no longer apply, and the tax lien has not been satisfied, the governing body may instruct the collector to issue the tax deed, and the collector shall do so after giving the notices required by RSA 80:77 and 80;77-a.

The biggest problem with utilizing this statute in this fashion is the very last sentence of RSA 80:76(II-a):

Such a decision shall not be made solely for the private benefit of a taxpayer.

In order to utilize this statute, the Selectmen must determine that the tax deeding represents the potential of "undesirable obligations or liability risks". Now perhaps the fact that the property owners could turn up homeless and wards of the Town could be a sufficient basis to exercise their powers under this statute - there have been no Court cases interpreting this clause. Taxpayers who believe the Selectmen have inappropriately exercised their powers under this clause would likely

have recourse to the Court system, with potential results of removal from office or personal liability.

In the case where the Selectmen utilize this statute to structure a payment plan, the debt remains a "tax debt" and the collector continues to process bills and collect payments in the customary fashion. The governing body would likely expect to receive reports from the collector as to whether or not the payment schedule as negotiated has been adhered to.

The alternative procedure is the so called "forbearance from recording" process. This is now less common, but still an option, particularly if it is felt that a "payment plan" represents a "private benefit" to the taxpayer. As noted below, this also provides a much shorter "rope" (lifeline?) to the taxpayer. Under this scenario, the tax deed is issued to the municipality. The municipality reaches an agreement with the taxpayer not to record the deed pending performance of a series of "post deeding" payments. A copy of a sample of such an agreement is attached.

Any such agreement must include several key terms:

- Some type of liability indemnity, because technically, the Town could be viewed as the owner, and needs protection from possible landowner liability.
- A tax assessment clause, otherwise the property could "fall off" the tax rolls as municipally owned property.
- Description of exactly the schedule of payments, and include provisions for payment of the ongoing taxes.
- A default clause, including any notice of default before the deed is sent for recording.

The taxpayer has much less room for error under this scenario, because the failure to pay can result in the deed being sent off for recording at any time. Default in the prior scenario necessarily requires the re-starting of the deeding process, and at least 30 days must pass before the deed can be issued.

Under this type of arrangement, the Tax Collector falls" out of the loop" once the deed is issued. The taxes for the year in question have been satisfied by the deeding. The "payments" made under such an agreement would come to the municipal Treasurer through the Administrative office (as if a piece of property is being sold). The Tax Collector has no ability to process the payments.



A Bicentennial Community
1798-1998

Town of Farmington
Office of the Selectmen
356 Main Street
Farmington, NH 03835
Phone: (603) 755-2208 . Fax: (603) 755-9934

PAYMENT AGREEMENT

Property Owner(s): _____

Property Address: _____

Mailing Address: _____

Phone Home: _____ Cell: _____

I (We) agree to make weekly/monthly payments of \$ _____ on or about the _____ day of
each month/week. The first payment of \$ _____ will be made on _____.

I (We) understand that the failure to make timely payments may result in the taking of this property by
Tax Collector's Deed.

Notes:

Agreed upon this _____ day of _____, 20____.

Signature

Print Name

Signature

Print Name

The Town of Farmington prohibits discrimination on the basis of race, color, national origin, sex, sexual orientation, religion, age, and disability, marital or family status. The Town of Farmington is an equal opportunity employer.



**TOWN OF CHARLESTOWN
TAX COLLECTOR'S DEED EXTENSION REQUEST &
PAYMENT AGREEMENT**

Property Owners: _____
(As Listed on Tax Card)

Mailing Address: _____ **Phone No.:** _____

Property Address: _____

Tax Map#: _____ **Lot#** _____ **Tax Deed Year:** _____

Tax Collector's Deed Amount \$ _____ **Total Taxes Owed** \$ _____

Have You Requested an Extension in the Past? _____ **If so, when?** _____

Reason for this Request: _____

Proposed Payment Schedule: _____

The undersigned hereby requests an extension to pay past due taxes to forestall taking of the property by Tax Collector's Deed. I understand that failure to keep the terms of this payment agreement may result in the taking of the property by Tax Collector's Deed. After tax deed amount, interest and costs are paid, I understand that regular payments must continue toward the remaining past due balance. Failure to continue regular payments may result in denial of any future extension requests.

Signature(s) of Property Owner(s)

Approved by Selectboard:

Date:

For Office Use Only:

Previous Extensions Granted:

Previous Extension Compliance:

Water & Sewer Liens:

Zoning Compliance:

NOW COME _____(taxpayer(s)) of _____ and the Board of Selectmen of the Town of Littleton, and agree as follows:

1. The taxpayer has failed to timely pay his/her real estate taxes, and as of the date of the Agreement there is owed a total of _____, including principal, interest and costs calculated through the tax years _____.
2. Because of the taxpayer’s delinquency, the town is in a position to validly issue and record a tax deed transferring to the town all of the taxpayer’s interest in the property.
3. The taxpayer has requested the town delay the issuance and recording of the tax deed with the purpose of giving the taxpayer a further opportunity to bring his/her tax payments current.
4. For this purpose the town agrees that it will not record the tax deed provided the taxpayer fully complies with the following requirements:
 - A. Taxpayer shall make monthly payments to the town in the amount of _____, which payments shall be made on or before the first of each month beginning on _____, 20 .
 - B. These payments shall be made for a period of _____ months.
 - C. If all payments are fully and timely made, these payments will fully satisfy the taxpayers obligation through the tax year _____.
5. In addition to the above payments, taxpayer(s) agree(s) that he/she will also make timely payments on obligations for the current and future tax year(s).
6. If the terms and conditions listed above are not fully complied with, the taxpayer(s) acknowledge(s) that the town will have the right to proceed with the issuance and recording of the tax deed and, at that time, the taxpayer(s) agree that he/she will promptly vacate the premises.

Page 2 of 2
Taxpayer Repayment Agreement

7. The taxpayer(s) also agree that in consideration the town's agreements herein, they waive and release any rights that they may have had to challenge the validity of the tax sale procedure.

Taxpayer

Date

Taxpayer

Date

Witness

Date

Witness

Date

FORBEARANCE AGREEMENT

AGREEMENT made this day of _____, 20 by and between _____ of Road, Backwoods, New Hampshire (hereinafter the "Taxpayer), and the Town of Backwoods, New Hampshire, a New Hampshire municipal corporation with a principal place of business at 3 Town Hall Road, Backwoods, New Hampshire (hereinafter the "Town")

WHEREAS, as a result of the Taxpayer's failure to pay real estate taxes for the tax year 20_, the Tax Collector for the Town of Backwoods, on _____, 20_, executed and delivered to the Town a Tax Collector's deed pursuant to RSA 80:76(1) for the premises at Road, Backwoods, New Hampshire, Map _ - _ - on the Backwoods Tax Maps (the Subject Premises);

and

WHEREAS the Town, acting through its Board of Selectmen, has elected not to record said deed, but instead, has offered the Taxpayer an opportunity to pay the taxes before said deed could be recorded,

and

WHEREAS, the Taxpayer has agreed to pay to the Town a sum of money representing the taxes for the tax year 20__ as well as certain other taxes and sums of money required to be paid as part of the Town's agreement to withhold recording of the deed,

and

WHEREAS the Town also requires that certain agreements and representations by the Taxpayer be reduced to writing,

NOWHEREFORE, the Parties agree as follows:

- 1) As of the date hereof, the Town has not recorded the Tax Collector's deed, and will not do so, provided the Taxpayer fulfills all his obligations hereunder.

- 2) That the Taxpayer hereby agrees to pay the Town of Backwoods the sum of \$_____, which is intended to be payment in full of all taxes assessed prior to April , 20 and owing as of the date payment was made, together with other sums payable as a result of this agreement.

- 3) The Taxpayer shall pay said sum to the Town according to the following schedule:
 - i) \$_____to be paid within 30 days hereof
 - ii) \$_____to be paid within 60 days hereof
 - iii) \$_____to be paid within 90 days hereofTaxpayer shall make such payments without further notice or demand from the Town. Payments shall be made payable to the Town of Backwoods and delivered to the Selectmen's office.

- 4) That in the event the Taxpayer fails to make the payments as noted above, the Town of Backwoods may, without further notice, record the Tax Collector's deed. Taxpayer shall have all rights for reconveyance granted under RSA 80:88, et seq.

- 5) That in the event the Taxpayer makes all the payments as called for herein, the Town agrees to return to the Taxpayer the unrecorded Tax Collector's deed which the taxpayer agrees to destroy.
- 6) The Taxpayer agrees and acknowledges that the process which resulted in the issuance of the deed was in accordance with state law. The Taxpayer, for himself, his heirs, executors, administrators and assigns hereby waives and releases any claim whatsoever against the Town, its Tax Collector or other employees with respect to the taxation of the Subject Premises, and the resulting issuance of a tax deed.
- 7) That notwithstanding the issuance of the Tax Collector's deed, the Taxpayer agrees to be assessed for the 20_ tax year for the Subject Property at _____ Road, the taxpayer being in physical possession thereof and hereby agreeing to be taxed. Taxpayer, as a condition of this agreement, shall pay all subsequent tax bills as and when due.
- 8) The Taxpayer agrees to indemnify and hold harmless the Town from any loss, cost, damage or injury resulting from the Taxpayer's continued occupancy of the property. The Taxpayer shall place and maintain property and liability insurance in amounts satisfactory to the Town, and shall name the Town as additional insured on such insurance, and provide a certificate thereof to the Town.

(Signatures follow)

WITNESS this _____ day of _____, 20_.

_____ Taxpayer

STATE OF NEW HAMPSHIRE

_____, SS. _____, 20_

Then personally appeared the above named _____ and acknowledged the foregoing to be his free act and deed, before me,

Notary Public
My Commission Expires: _____

Town of Backwoods

By _____

By _____

By _____

STATE OF NEW HAMPSHIRE

_____, SS. _____, 20_

Then personally appeared the above named _____ and acknowledged the foregoing to be their free act and deed on behalf of the Town of Backwoods, in their capacity as aforesaid, before me,

Notary Public
My Commission Expires: _____

-SAMPLE-1

OFFICE OF THE TAX COLLECTOR

Date:

ACKNOWLEDGEMENT UNDER FORBEARANCE
OF TAX COLLECTOR'S DEED

- A. The undersigned taxpayer of the Town of _____, acknowledges that:
- 1. They are in default of their _____ taxes which as of the above date, total _____ including interest and redemption fees for PARCEL ID _____ ("The Real Estate"); and
 - 2. Under New Hampshire RSA 80:76, the Town of _____ Tax Collector is by law, required as soon after _____ as is all practical to execute and deliver a Tax Collector's Deed to the Town, thereby divesting the undersigned of all rights, title and interest in the Real Estate; and
 - 3. The Town of _____ is by law entitled to a Tax Collector's Deed to the Real Estate any time after _____.

- B. The undersigned taxpayer (s) hereby agrees:
- 1. To pay all real estate taxes due the Town of Derry for the tax year(s) plus all interest and other fees and costs due in the following payments to be paid on or before the respective dates set opposite said payment(s):

Date of Payment	Amount of Payment

- 2. That all payments and all dates are "of the essence", and must be fully and promptly met;

3. That in the event the _____ Tax Collector should fail to execute and deliver a Tax Collector's Deed of the Real Estate prior to the date of the last payment and the Real Estate be, thereby redeemed under New Hampshire RSA 80:69; or (b) in the event the above payments are not promptly and timely made the Tax collector should issue a Tax Collector's Deed of the Real Estate. The undersigned shall hold said _____ Tax Collector, The Town of _____ and all of its officers, employees, agents and servants harmless and shall indemnify them from and against any and all losses, costs and expenses including reasonable attorney fees which accrue as a result of or arise out of (c) the failure to execute and deliver or (d) the execution and delivery of a Tax Collector's Deed to the Real Estate after _____.

4. Any forbearance after _____ in the execution and delivery to the Town of _____ Town Council of a Tax Collector's Deed of the Real Estate shall be at the sufferance of the Town of _____ and its Town Council.

Tax Payers Signature

Day Time Phone

Tax Payers Signature

State of New Hampshire

County of _____

Signed or attested before me on _____ by _____ and _____.

Signature of notarial official
(seal)

Notary Public

My Commission expires:

TOWN OF FARMINGTON

Deed Waiver

The property located at **7 Peaceful Circle** and known as **R19-006-3** and owned by **Happy Hal** is due to be deeded to the Town of Farmington for non-payment of tax lien for 2008. The Town of Farmington hereby notifies Kathy L. Seaver, Town Clerk Tax Collector that they will not accept the Tax Collector's Deed because "in its judgment, acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks" per RSA 80:38, II-a.

BOARD OF SELECTMEN

Note: Taxpayer has payment agreement on file and is up to date with the agreement

Dated: 10/20/2011

SAMPLE RE-PURCHASE LETTER

To the Taxpayer

Sent via Certified Mail and U.S. Mail

Dear

On November 15, 2011, a Tax deed for your property located at _____ was issued to the Town of _____, NH for nonpayment of 2008 property taxes. This deed conveys 100% ownership to the Town of _____, NH.

For your information, a copy of the deed to the Town of _____ and copies of the New Hampshire State Statutes regarding the sale of tax deeded properties and your right to repurchase are also enclosed. At this time, you are no longer allowed access to the property without prior approval from the Town of _____. You have 60 days from the date of this letter to contact the Town of _____ to make arrangements to remove any personal belongings from the property.

If the Town decides to sell the property within the next three years, you will be notified at least 30 days prior to the offering for sale and given the opportunity to repurchase the property. If the Town does not exercise its option to sell by November 15, 2014, you may at any time prior to that date give notice to the Town, by certified mail, return receipt requested, of your intent to repurchase the property from the municipality, stating that you are ready, willing, and able to pay all back taxes, interest, costs and penalty, as defined in RSA 80:90. If all such back taxes, interest, costs and penalty have not been actually tendered within 30 days of such notice of intent to repurchase, the municipality may proceed with its offering and dispose of the property without any interest by you (RSA 80:89).

If you have questions regarding the process to repurchase your property, please contact the Town Manager's office.

Sincerely,
Town Manager

Tax Deeded Property: You Own It; NOW WHAT?

By: Bernard H. Campbell, Esq.
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Note: This material was originally presented at the 2006 LGC Annual Conference. It was updated and revised for presentation at the 2016 New Hampshire Municipal Association Annual Conference. It has been updated primarily to address the effects of the Supreme Court Opinions in the matter of Polonsky vs. Town of Bedford.

The acquisition of property by Tax Deed by a community is often necessary to protect the financial interest of the community and to convert the property back to a revenue producing (and maybe job creating) asset. However, it carries with it responsibilities and challenges that need to be weighed.

The following is offered as guidance to communities as they work their way through the process:

I. THE PREQUEL- What if we don't want it?

Under New Hampshire law (RSA 80:77), the Tax Collector must send "intent to deed" notices to property owners at least 30 days before a deed can be issued. This is the "starting line" for the final decision making process:

- There should be a reporting process by which this "hit list" gets to the governing body as soon as the notices go out.
- The governing body should arrange for the properties to be "inspected" physically by Code Enforcement; Building Inspector(s); Fire Marshall or other municipal representative to evaluate any immediate visible concerns as to conditions of liability (e.g. environmental issues; junk & debris, "hazardous and dilapidated" conditions). In residential properties, note presence or absence of occupants. For commercial occupancies, consider running a "name check" with the New Hampshire Secretary of State to ascertain the legal status and contact information for any operating businesses.
- If needed (or suggested by inspection) check building department records and/or NH Dept. of Environmental Services files on the site. Information may be available through the DES "One Stop" data site at <http://des.nh.gov/onestop/index.htm> .

- If deemed necessary, and voluntary cooperation is not available, consider obtaining an “Administrative Inspection Warrant” to conduct an inspection of the interior of buildings or structures:

595-B:1 Definition. – An inspection warrant shall be a written order in the name of the state, signed by a justice, associate justice or special justice of any municipal, district or superior court, directed to an official or employee of a state agency, municipality, or other political subdivision, commanding him to conduct any inspection, testing or sampling required or specifically authorized by state law or administrative rule, or municipal ordinance, code or regulation.

Finally, in the days immediately prior to the deed deadline, the “decision maker” (Board of Selectmen; Town Manager; Mayor) needs to decide whether the Municipality does not want the Tax Collector to issue a Tax Deed to the community.

There are two (2) statutory grounds for refusing to accept a tax deed; one is environmental concerns:

“...the collector shall not execute a deed of the real estate to a municipality when the governing body of the municipality has notified the collector that it shall not accept the deed because acceptance would subject the municipality to potential liability as an owner of property under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. section 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 et seq., RSA 147-A and 147-B, and any other federal or state environmental statute which imposes strict liability on owners for environmental impairment of the real estate involved.

RSA 80:76(II)

the other relates to avoiding liabilities or obligations:

“...the governing body of the municipality may refuse to accept a tax deed on behalf of the municipality, and may so notify the collector, whenever in its judgment acceptance and ownership of the real estate would subject the municipality to undesirable obligations or liability risks, including obligations under real estate covenants or obligations to tenants, or for any other reason would be contrary to the public interest. Such a decision shall not be made solely for the private benefit of a taxpayer.

RSA 80:76(II-a)

This is the usual basis for refusing to accept such things as mobile homes (liability for lot rent commences as of ownership date), condominium units subject to assessments (See, Buchholz vs Waterville Estates Associates, 156 N.H. 172 (2007) (tax deed does not eliminate pre-existing covenants which include obligation to pay assessments); multi-family structures with numerous tenants, etc. The instruction to the Tax Collector must be in writing. The NH Tax Collectors’ Association has developed a “deed waiver” form for instructing the collector not to issue a deed.

Finally, don’t “ignore” the last sentence of the above statute. The decision not to deed a property should be made only when documented risks of liability exist. Be careful to avoid charges of “selective” decision making in taking some properties but not others similarly situated (owned by family, friends, political supporters, etc.).

If the municipality decides not to have a property deeded, then the tax lien remains in effect, and interest continues to accrue. RSA 80:76(III). At some later point in time, the governing body can vote to resume the deeding process if the delay circumstances change. Bringing a direct lawsuit for the taxes due remains an option. RSA 80:50.

II. THE IMMEDIATE STEPS ON DEEDING

If the community has not directed the Tax Collector to “not execute” the deed, then the deed “shall issue” in the normal course. The immediate actions would be classified as following:

- Arrange to record the deed! Technically not a statutory duty of the Tax Collector, it is the responsibility of the "lienholder" (read- municipality). This can be done by administrative staff OR by delegating the Tax Collector to act on behalf of the Municipality to record the deed. This delegation should be in the form of a writing.
- Notify your insurance carrier. Most policies have language to provide some level of immediate insurance coverage for newly acquired property, but often there is a “notice requirement” included. Immediately after deed recording, the carrier should be informed to assure liability and casualty coverage for the municipality.
- Notify your public safety folks of the list of properties; the “loss” of property by tax deed could impact owners and residents of such properties in a way which may not be positive and actually could heighten the “threat” to first responders. For undeveloped and vacant property, the police need to be aware of trespassing activities.
- Re-inspect the property for any changes in condition since the pre-deeding inspection. Note any immediate actions that need to be taken. This may depend on the type of property (occupied vs unoccupied structure vs undeveloped land). Take photographs of conditions of any structures. Create an “inspection report” for possible future use in litigation involving the former owner or mortgage holder(s).
- On undeveloped property, consider “posting” the property for “No Trespassing”

635:4 Prescribed Manner of Posting. – *A person may post his land to prohibit criminal trespass and physical activities by posting signs of durable material with any words describing the physical activity prohibited, such as "No Hunting or Trespassing", printed with block letters no less than 2 inches in height, and with the name and address of the owner or lessee of such land. Such signs shall be posted not more than 100 yards apart on all sides and shall also be posted at gates, bars and commonly used entrances. This section shall not prevent any owner from adding to the language required by this section.*

- In the case of unoccupied structures, **first confirm they are unoccupied**. You don't want to "board up" a home where someone is on vacation or in the hospital. Thereafter, secure the property by changing locks and boarding up if necessary. Depending on season and immediate plans, consider turning off utilities and winterizing properties which may have re-sale value, but which could be subject to freeze-up damage.
- Arrange removal of any debris which constitutes a health hazard or code violation. Remember that if the prior owner does re-purchase later, the municipality is granted immunity for actions by the community while it is the owner:

"...if the municipality has complied with the provisions of this chapter, it shall not have any liability whatsoever to any former owner or lienholder in connection with its management of the property or for the amount of consideration received upon disposition of the property. After the execution of a tax deed, the municipality may treat the property in all respects as the fee owner thereof, including leasing or encumbering all or any portion of the property, without any accountability to former owners, except that the proceeds of any sale must be accounted for as provided in RSA 80:88.

RSA 80:91.

- If any structure is truly beyond salvage or creates a threat to public safety or first responders, consider demolishing the building using the same statute for protection against claims. Utilize the definition found in RSA 155-B:1:

II. "Hazardous building" means any building which, because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard or a hazard to public safety or health.

- Occupied buildings present a whole host of different challenges. Legal counsel involvement is absolutely essential. Don't try and "free-lance." Avoid the temptation to "lock-out" or cut off services to force removal. Penalties in RSA 540-A:4 can be expensive. See, e.g., Simpson vs Young, 153 N.H. (2006) (Penalty of \$34,000 assessed for wrongful lock-out of tenant). The choices of the municipality are either (i) negotiate some type of lease agreement OR (ii) begin a statutory eviction process with an eviction notice that provides a minimum of 30 days' notice (just like a foreclosing mortgage holder).

III. FUTURE DISPOSITION OF PROPERTY- SALE OR RETENTION

Once a property has been acquired by tax deed, the community must decide how it will manage the property and what the plan is for the property's future. As a practical matter, the options are (i) sell it to get it back on the tax rolls, or (ii) keep it for future community use.

A) In the area of tax deeded properties, there are only two mechanisms to authorize the disposal (sale) of tax deeded property:

Authority Authorized under RSA 80:80*

Authority Authorized under RSA 80:89

* This is the provision relating to property acquired through the *alternative tax lien* process. The comparable statute for tax sale real estate is RSA 80:42. Because there are no communities currently known to be using the tax sale method of collection, the references will be to RSA 80:80.

It is important to think about these two (2) statutes as;

1. RSA 80:80 is when the Community wants to sell. The process may be affected by provisions in RSA 80:88 et seq.
2. RSA 80:89 is when the request initiates from the outside (i.e. the former owner, or a former mortgage holder).

B. RSA 80:80 – The Requirements

The statutory language reinforces the need to have legislative body authority:

80:80 Transfer of Tax Lien. –

I. No transfer of any tax lien upon real estate acquired by a town or city as a result of the execution of the real estate tax lien by the tax collector for nonpayment of taxes thereon shall be made to any person by the municipality during the 2-year period allowed for redemption, nor shall title to any real estate taken by a town or city in default of redemption be conveyed to any person, unless the town, by majority vote at the annual meeting, or city council by vote, shall authorize the governing body to transfer such lien or to convey such property by deed.

The Town can choose to insert such an article on an annual basis, or it may choose to grant such authority “indefinitely, until rescinded”. RSA 80:80 (IV). Most communities have adopted “until rescinded” authority. If so, it would be wise to keep a note of the “when and what” of that adoption as it fades into history. You can also check with DRA Municipal and Property Division, who may also track that type of information.

C. RSA 80:80 – The Available Options

There are three (3) available sale options under RSA 80:80. Two of them specifically contemplate a competitive bid process:

80:80 Transfer of Tax Lien –

II. If the governing body is so authorized to convey such property by deed, either a

public auction shall be held, or the property may be sold by advertised sealed bids. The governing body shall have the power to establish a minimum amount for which the property is to be sold and the terms and conditions of the sale.

Note that this process is not really well suited to those circumstances where the governing body wants to “direct” a sale, such as to a former owner, or perhaps to an abutter as part of a lot consolidation. This also does not allow property to be “listed” in the traditional mode of private sales.

Apart from sealed bids and public auction, the statute provides a third option:

80:80 Transfer of Tax Lien –

III. The governing body may, by a specific article in the town warrant, or by ordinance, be authorized to dispose of liens or tax-deeded properties in a manner other than as provided in this section, as justice may require. Before proceeding under this provision, the governing body shall make an affirmative finding that disposal by a method other than sealed bid or public auction is in the public interest.

This language had raised questions in practitioners’ minds as to what “a specific article” means. One school of thought was that this required a specific warrant article on every transaction which is other than a sealed bid or public auction. A broader interpretation was that the “as justice may require” authority could be given in blanket form. A 2018 amendment to this section (Chapter 149, Laws of 2018) put the issue to rest by converting the words (lien; property) to plural, thereby making it clear that a single warrant article gives authority to dispose of any tax-deeded property. Such an interpretation is also consistent with a careful reading of RSA 80:80(IV), which clearly implies that the “as justice may require” authority can be granted “indefinitely” or “until rescinded”.

The 2018 amendment also added the last sentence of the statute, which was prompted by a Carroll County Superior Court ruling. The language now requires that when the municipality is not going to use advertised seal bids or public auction, there must be a “finding” that justifies the use of another method. This “finding” should be documented in the minutes of the body at the time the decision is made to dispose of a property.

If your community has not previously voted an “as justice may require” authority, the only options are sealed bids or public auction.

In 1997 the Legislature added RSA 80:80(VI), which made clear that an “as justice may require” disposition could include reconveyance to a former owner. The 2018 amendment also specifically added two (2) additional categories (i) sale through real estate agents, (ii) sale to abutting property owners. Those were “presumed” before under the “as justice may require” language but are now explicit. The current statute

reads:

80:80 Transfer of Tax Lien. –

VI. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the governing body to:

(a) Engage a real estate agent or broker to list and sell the property, including a sale conditional on the buyer's obtaining development approvals;

(b) Sell undeveloped parcels to abutters for consolidation into adjoining lots for the purpose of affordable housing development, preserving open space, or reducing development density; or

(c) Convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the registry of deeds. This paragraph shall not be construed to obligate any municipality to make any such conveyance or agreement.

D – The Retention Statute

Under RSA 80:80(V), municipalities may “hold for public uses” property which has been acquired by tax deed. The statute requires a town meeting vote. One may ask, why do we need a vote, if we never sell the property. The short answer is “once tax-deeded property, always tax-deeded property” unless a retention vote is taken. The retention vote essentially converts the property to municipally owned, meaning that it cannot be disposed of by the governing body under general disposition statutes.

The statute does not define “public uses” but a quick recourse to the powers and authority of Towns under *old versions* RSA 31:3 would be a good place to start.

It must be kept in mind that a decision to “retain” a piece of property would likely be considered a “purchase” of the property, which may trigger the repurchase provisions of RSA 80:88, et seq. infra in light of the language of the Polonsky v. Town of Bedford decision discussed below. The decision to “retain” a tax deeded property could trigger a requirement to institute a “taking” procedure under State law, with the property owner receiving the “equivalent” of “excess proceeds” as required under the repurchase provisions.

E – Repurchase Rights Under RSA 80:89

(a) Background

In the late summer of 2000, the Supreme Court issued its decision in the case of Thomas Tool Co. vs Town of Croydon, 145 N.H. 218 (2000). This case held that the alternative tax lien statute was unconstitutional because it violated the New Hampshire Constitution’s prohibition on unconstitutional taking. This was because the municipality could recover a windfall of value for a modest amount of unpaid taxes.

After various motions for reconsideration and modification, including efforts of NHTCA counsel, the Supreme Court amended the decision to state that the determination of unconstitutionality applied only to the law which was under review in that case. While Thomas Tool was pending in the lower courts, the Legislature enacted new provisions for disposing of tax deeded property. These new provisions provided that a municipality must offer additional opportunities to allow re-purchase of the property, and/or the turning over of “excess proceeds” when a tax deeded property is sold. These provisions were enacted as Chapter 238, Laws of 1998 and became effective for any property deeded on or after June 25, 1998. The provisions are found in RSA 80:88-91.

In 2020, the statutory scheme for disposing of tax deeded property again came under scrutiny, and again was found deficient under Part I, Article 12 of the New Hampshire Constitution. In Polonsky vs. Town of Bedford, 173 N.H. 226(2020) the rights of a municipality to retain all proceeds from a tax deeded property after three (3) years was deemed to be a “taking” prohibited under law. As a result, municipalities disposing of tax deeded properties (other than by return to the former owners) are limited in the amount of proceeds they can retain on any sale.

The current provisions on disposal of tax deeded property are as follows:

(b) Recovery Limited

The central concept of the current statute, and a necessary constitutional requirement under the Polonsky decision, is that after a municipality acquires a parcel of land, it may only recover (or retain) “back taxes, interest, costs and penalty”. See, RSA 80:88(I); RSA 80:89(II). This phrase is statutorily defined in RSA 80:90 and includes

- (i) all taxes unpaid as of the deeding and all taxes that would have been assessed but for the deeding
- (ii) all interest that was due at time of deeding, plus all interest that would have accrued, including that which would have accrued on taxes that did not get assessed.
- (iii) notice fees and recording costs
- (iv) legal costs
- (v) incidental and consequential costs, including maintenance, repairs or insurance
- (vi) a statutory penalty equal to 10% of the equalized assessed value

The “statutory penalty” amount was previously 15% but was changed by Chapter 37, Laws of 2016, effective July 2, 2016. The same law also eliminated the penalty altogether if the property was the owner’s principal residence at the time of the

deeding.

(c) Selling Acquired property – The Impact on RSA 80:80 Sales-

If a municipality wishes to dispose of tax deeded property (under authority granted in RSA 80:80) within three (3) years of acquisition (See, RSA 80:89 (VII)), it must first give notice, by certified mail, address service requested, return receipt requested, to the last known address of the owner at the time the property was taken, and/or to whom the notice of impending deeding was given. RSA 80:89(I). This includes any mortgage holders at the time of deeding. Id. This notice must be sent at least 90 days prior to offering the property for sale. The notice must specify that the property is being sold, and that such person has a right of repurchase:

80:89 Notice to Former Owner and Opportunity for Repurchase –

I. At least 90 days prior to the offering for sale or conveyance by a municipality of property which is acquired by tax deed on or after the effective date of this section, the municipal governing body or its designee shall send notice by certified mail, address service requested, return receipt requested, to the last known post office address of the owner of the property at the time of the tax deed, if known, or to the person to whom notice of the impending tax deed was given under RSA 80:77. The notice shall set forth the terms of the offering and the right of the former owner or owners to repurchase the property, as set forth in paragraph II. Copies of any such notice shall also be sent by certified mail, return receipt requested, to any mortgagee to whom notice of the impending tax deed was sent under RSA 80:77-a. For any notice sent pursuant to this paragraph, \$10 may be added to the municipality's "costs" as defined in RSA 80:90. In this section, an "offering for sale" means the authorization by the municipality's governing body to its designee to sell the property.

The statutory reference to “terms of the offering” might include notice of intent to sell by auction or sealed bid (including any stated “reserve” amounts). If the sale is via a listing with a broker, the “terms” would be the terms of the listing agreement, which, by statute, must not become effective until 90 days after the notice has gone out.

With regard to the Notices sent, keep in mind the US Supreme Court case of Jones vs Flowers, 547 U.S. 220 (2006) may require additional steps if a notice is returned to the municipality refused or unclaimed.

(c) Right to Repurchase

Central to the protections given by the revised statute are the former owner’s rights to repurchase. Within 30 days of receiving a notice of the municipality’s intent to sell, or anytime within 3 years from the deeding, a former owner or mortgage holder may notify the municipality of the intent to repurchase. The repurchase must be consummated within 30 days after intent notice is delivered. The purchase price is

fixed as the “back taxes, interest, costs and penalty as defined in RSA 80:90”. RSA 80:89 (II). If the property is reconveyed, it is to be returned to the same owners, in the same proportions as existed prior to the deeding. RSA 80:89 (III). In addition, all liens or encumbrances which existed, are presumed to re-attach to the property. RSA 80:89(IV). The deeding is exempt from the state transfer tax. RSA 80:89 (VI).

80:89 Notice to Former Owner and Opportunity for Repurchase. –

II. Within 30 days after the notice required by paragraph I, or if no such notice is received, at any time within 3 years after the date of recording the tax deed, any former owner of the property may give notice by certified mail, return receipt requested, of intent to repurchase the property from the municipality, and stating that such owner is ready, willing, and able to pay all back taxes, interest, costs and penalty, as defined in RSA 80:90, except that if the property is the former owner's principal residence, or was the former owner's principal residence at the time of execution of the tax deed under RSA 80:76, the additional penalty under RSA 80:90, I(f) shall not apply. If all such back taxes, interest, costs and penalty have not been actually tendered within 30 days of such notice of intent to repurchase, the municipality may proceed with its offering and dispose of the property without any interest by the former owner.

III. The deed from the municipality upon such repurchase shall convey the municipality's interest in the property, or such portion as has not been previously disposed of by the municipality, to all record former owners in the same proportional undivided interests as the former owners of record.

IV. The former owners' title upon repurchase shall be subject to any liens of record against the property as of the time of the tax deed to the municipality, and subject to any leases, easements, or other encumbrances as may have been granted or placed on the property by the municipality. In the case of multiple former owners, any owner paying more than a proportional share of the purchase price to the municipality shall have a lien against the other owners for the amount of the excess paid.

V. A notice of intent to repurchase under this section may also be filed by the holder of any recorded mortgage interest in the property which was unredeemed as of the date of the tax deed. Upon payment the property shall be deeded as provided in paragraph III, but the mortgagee shall be entitled to add the amount paid to the municipality to the amount due under the mortgage.

The repurchase right may flow to co-owners and heirs, successors and assigns of the former owner, provided that the assignee cannot be a person who is “assigned” the interest in this particular parcel:

80:90 Definitions. –

II. For purposes of RSA 80:88 and 80:89, "former owner" shall mean any person in whom title to the property, or partial interest therein, was vested at the time of the tax deed, and shall include any heir, successor, or assign of any former owner, provided, however, that any person to whom a former owner has attempted to convey or assign any interest, lien, or expectancy in the property subsequent to the date of the tax deed shall not be deemed a former owner.

(e) Subsequent Sale Proceeds

If the former owner elects not to repurchase, the municipality may elect to go forward with the sale. Once the sale is completed, the municipality is entitled to 'retain' the recovery allowed by statute, i.e. the defined "back taxes interest, costs and penalty". While the obligation to return any excess proceeds was originally statutorily limited to three (3) years, the Polonsky decision held that provision unconstitutional. Consequently, there is apparently no limit on the obligation to return "excess proceeds" if they exist. This requires the municipality to follow the provisions governing distribution of excess proceeds which must be turned over to the former owner(s) if there was only one (or joint) former owners, easily identified, available and there are no other lienholders, (RSA 80:88(III)), otherwise the municipality must file an Interpleader in Superior Court. RSA 80:80 (II).

80:88 Distribution of Proceeds From the Sale of Tax-Deeded Property –

I. Notwithstanding any other provision of law, for any sale by a municipality of property which is acquired by tax deed on or after the effective date of this section, the municipality's recovery of proceeds from the sale shall be limited to back taxes, interest, costs and penalty, as defined in RSA 80:90.

II. If there are excess proceeds over and above the amount of municipal recovery permitted under paragraph I:

(a) Within 60 days of settlement by the purchaser or purchasers of the property sold, the municipality shall file a bill of interpleader with the superior court for the county in which the property is located, naming the former owner or owners, and all persons having a recorded interest in the property as defendants, and paying to the court all amounts over and above those entitled to be retained.

(b) The municipality shall also be entitled to retain its reasonable costs and attorneys' fees for the preparation and filing of the petition.

(c) The court shall issue such orders of notice as are necessary and shall make such disposition of the funds as it finds appropriate, based upon ownership and lienholder interests at the time of the tax deed.

(d) The municipality shall be deemed to have a continuing interest in said funds, and in default of valid claims made by other parties, such funds shall be decreed to be the property of the municipality, free and clear of any remaining liability.

III. No bill of interpleader shall be necessary under subparagraph II(a) if, at the time of the tax deed execution, there were no record lienholders, and only one record

owner or joint owners, and such former owner or owners are easily identified and located, in which case the excess proceeds shall be paid to such owner or owners.

Note that the municipality may still claim all the sale proceeds if no parties come forward during the Interpleader process (e.g. the former owner has gone into hiding in South America to avoid Indictment).

(f) Three-year period – Still Relevant

The statutory language provides that the right to repurchase and/or the right of a former owner to excess proceeds expires in three (3) years from the date the deed is recorded. This is important because if there has been any delay in recording the deed, the repurchase right is extended.

80:89 Notice to Former Owner and Opportunity for Repurchase –

VII. The duty of the municipality to notify former owners and to distribute proceeds pursuant to RSA 80:88, and the former owners' right of repurchase under this section shall terminate 3 years after the date of recording of the deed.

This particular language was the focus of the Polonsky decision. The statutory limit on the obligation to return proceeds was specifically found to be unconstitutional. Polonsky at 240. Curiously, the Court did not strike down the notice provisions, or the limit on repurchase rights. Polonsky at 238. As a result, after three (3) years, a municipality apparently is not under an obligation to provide notice of disposition or a right of the former owner to repurchase. Polonsky only addresses the fact that in any later sale, the municipality must account for and return “excess proceeds” to the extent there are any resulting from the sale.

(g) Limited Liability

The legislature has attempted to give the municipality the broadest possible protection from liability with respect to use or management of tax deeded properties. This is found in RSA 80:91. The municipality need not account for rents and profits during its ownership.

80:91 Liability and Obligations Limited. – *With respect to actions of a municipality under RSA 80:88 and 80:89, if the municipality has complied with the provisions of this chapter, it shall not have any liability whatsoever to any former owner or lienholder in connection with its management of the property or for the amount of consideration received upon disposition of the property. After the execution of a tax deed, the municipality may treat the property in all respects as the fee owner thereof, including leasing or encumbering all or any portion of the property, without any accountability to former owners, except that the proceeds of any sale must be accounted for as provided in RSA 80:88*

Recall that under RSA 80:89(IV) if the Town reconveys the property to the former owner, it can be subject to “leases, easements or other encumbrances” which the municipality may have placed while it owned the property.

(h) Don’t Mix and Match –

Remember that the authority to reconvey to former owners derived under RSA 80:89 does not allow the governing body to “waive” any of its provisions, including the 10% penalty. The only option to avoid that is to go back to some type of voted authority under RSA 80:80(IV).

80:91 Liability and Obligations Limited –

.... Nothing in this chapter shall obligate a municipality to dispose of property acquired by tax deed, except as provided in RSA 80:89. Nothing in RSA 80:88 or 80:89 shall be construed to preclude a municipality from granting more favorable terms to a former owner pursuant to RSA 80:80, VI.

IV. THE SEQUEL - We want to sell it... but can’t!

With improvements to tax assessment practices, and documented tax taking procedures, a municipality should find that selling a parcel taken by tax deed should be no more complicated than a resident selling their home. However, this is sometimes not the case. Issues related to either the assessment of the property, or defects in the taking process, can leave a community holding a parcel which is not “marketable” for sale, meaning a Buyer will “refuse to take delivery” at a closing. This is particularly true for parcels a community may have been holding as vacant land, which may have been assessed to:

- “Owner Unknown” – the classic case of defective title
- “Heirs of John Doe” where John Doe’s estate was not probated
- “Widget, Inc.” where the corporation was dissolved prior to the taking.

In all of these cases, and in others, the municipality may find itself with a parcel no Buyer will take!

Being forewarned is being forearmed! Depending on the circumstances (particularly in cases noted above), you may want to engage municipal counsel to address the title problems before you start the sale process. Ask for a title search before you go to auction or list it for sale. There may be “fixes” available, including:

- Release deeds from former owners
- Probate documents from other jurisdictions that can be obtained and filed
- Curative Affidavits that can be obtained.

There are some statutes which can help. If the problem is related to some defect in the

tax taking process, keep in mind RSA 80:78:

80:78 Incontestability – *No action, suit or other proceeding shall be brought to contest the validity of an execution of the real estate tax lien or any collector's deed based thereon after 10 years from the date of record of the collector's deed.*

This will not “fix” all problems, as our Supreme Court has ruled this will not “cure” a problem with assessing the wrong owner. In BHC Development vs Town of Plaistow, 146 N.H. 500 (2001) the Court held that the incontestability statute did not bar a challenge to the tax deed where it was determined that the notices of tax sale and the tax deed listed the wrong persons as owners.

In the end, it may be necessary to “fix” the title problem by bringing a “Petition to Quiet Title” in the Superior Court:

498:5-a Real and Personal Property; Disputed Titles. – *An action may be brought in the superior court by any person claiming title to, or any interest in, real or personal property, or both, against any person who may claim to own the same, either in fee, for years, for life or in reversion or remainder, or to have any interest in the same, or any lien or encumbrance thereon, adverse to the plaintiff, or in whom the land records disclose any interest, lien, claim or title conflicting with the plaintiff's claim, title or interest, whether or not the plaintiff is entitled to the immediate or exclusive possession of such property, for the purpose of determining such adverse estate, interest or claim, and to clear up all doubts and disputes and to quiet and settle the title to the same,*

The result of the process is a “decree” which quiets the title in the Petitioner-

498:5-d Decrees. –

I. The court in any action brought under the provisions of RSA 498:5-a shall hear the several claims and determine the rights of the parties, whether derived from deeds, wills or other instruments or courses of title, and may determine the construction of the same, and may render judgment determining the questions and disputes and quieting and settling the title to such property. In any case in which a tax sale is adjudged invalid, the court, as a condition precedent to the entry of a decree setting aside such sale, shall require the claimant of the property in question to pay to the purchaser a sum of money equal to the amount paid by such purchaser at the tax sale in question, including fees prescribed by law and the amounts paid by such purchaser to satisfy any taxes assessed against the property in question subsequent to such tax sale, with interest thereon at the legal rate from the date of such sale or date of payment of such subsequent taxes to the date of the decree.

II. If the provisions of RSA 80:58-86 are adopted by a municipality as provided in RSA 80:87, the provisions of paragraph I relative to tax sales shall not apply.

The last sentence was added in 1997, but I am not sure it does what was intended! A legislative “fix” perhaps???

FREQUENTLY ASKED QUESTIONS REGARDING LIENS & DEEDS

The following questions and answers are provided as basic technical assistance for tax collectors regarding the property tax lien and deed process.

Can a lien be released as soon as a check is received?

The Tax Collector should wait for the check to clear prior to releasing a lien, unless the check was a certified check.

Last year a 100 acre parcel was assessed as one piece. The taxes were not paid and a tax lien was executed on the parcel. This year, the owner has subdivided the parcel and plans to sell lots. Can the collector release the liens on individual lots?

The Tax Collector cannot release the lien on just one lot. The lien was placed on the entire 100 acres so the collector cannot release the full lien and place another lien on a smaller parcel.

What is the significance of the “Barrington Notice” or the Notice of Arrearage?

According to RSA 76:II-b, the tax collector shall provide to the owner as of April 1 or current owner, if known, a summary of all uncollected and unredeemed taxes on the property. This summary may be included on or with the tax bill, or may be sent by separate mailing within 90 days of the due date of the final tax bill.

What happens if the lien is not executed within 18 months?

Per RSA 80:50, delinquent taxes may be collected by a suit at law or bill in equity against the taxpayer brought by either the selectmen or the tax collector in the name of the tax collector. This is a more cumbersome and expensive procedure than the tax lien process.

What is a subsequent tax payment?

Refer to RSA 80:75. A subsequent tax is the property tax due for any year after the year of the tax lien. Tax liens may be transferred in accordance with RSA 80:80, II,(a). The transferee may pay the subsequent taxes; interest accrues at the rate of 14%.

How are partial payments handled?

Refer to RSA 80:71. Partial payments should be handled in the same manner as full payments. Best business practices suggest that payments should be applied against interest due before the lien amount due. The receipt given must be dated, should show the amount paid, how it was credited and the amount still owed. It is vital to post the correct amounts and keep records of payment dates and amounts in order to ensure that the correct amount of interest is received if full redemption is made.

If full redemption is not made before the final date prior to deeding, the tax collector shall, within 10 days, direct the selectmen to issue an order upon the town treasurer to refund to the person making such partial payments, or his heirs or assigns, the sum so paid. If the order is not issued within 30 days of the date of the collector’s directive, interest at 6% per year shall be paid from the date of the directive.

What information is required on the report of tax lien that is sent to the Registry?

Per RSA 80:64, the report of tax lien to the Register of Deeds will include the following information relating to each parcel of real estate subject to lien:

- a. Name of the current owner, if known, or the person against whom the tax was assessed.
- b. Description of the property as it appeared on the tax list committed to the tax collector.
- c. Total amount of each tax lien.
- d. Date and place of the execution of the tax lien.

It is crucial that the entire name correctly appears on the report so the lien can be properly indexed. Abbreviations or truncated names are not acceptable to the county registers. Eliminating names and using the abbreviation “et al” is not acceptable. Verify that the names reported on the computer generated reports are not cut off because the name column is not wide enough. Verify that reports are legible and are printed dark enough so that any reproduction of the document will be clear.

When should a notice of redemption be sent to the Register of Deeds?

Per RSA 80:70, when full redemption is made, the tax collector shall within 30 days after redemption notify the register of deeds of the act, giving the name of the person redeeming, the date when redemption was made, the date of the execution of the tax lien and a brief description of the real estate in question, together with the name of the person or persons against whom the tax was levied.

What happens if a notice of redemption is not sent to the Register of Deeds?

The lien would show up under any future title search even many years after the payment was made. If this occurs, it is possible, or even likely, that a different tax collector is in office. The present tax collector must research to determine whether the lien was redeemed and if so, when the payment was made. If the lien was paid in full, a notice should be sent to the register to release the lien.

How many years after the date of recording of a Tax Collector’s deed does someone have to contest the validity of the execution of the tax/lien deed?

Per RSA 80:78, no action, suit or other proceeding shall be brought to contest the validity of an execution of the real estate tax lien or any collector’s deed based thereon after 10 years from the date of the recording of the collector’s deed.

Who has a right to acquire a tax lien?

Per RSA 80:63, except under the provisions of RSA 80:80,II-a, only a municipality or county where the property is located or the state may acquire a tax lien against land and buildings for unpaid taxes.

When does the duty of the municipality to notify a former owner and to distribute proceeds from the sale of tax-deeded property terminate?

Per RSA 80:89,VIII, the duty of the municipality to notify former owners and to distribute proceeds pursuant to RSA 80:88, and the former owners’ right of repurchase under this section shall terminate 3 years after the date of the recording of the deed.

The bank has foreclosed on a property on which the tax collector is about to execute a lien. What should the tax collector do?

The tax collector should notify the bank of the impending lien process. In many cases, the bank will pay the taxes to protect its' interest. A foreclosure does not impair the municipality's ability to place a preferential lien on the property.

What happens when an unpaid tax account is in bankruptcy?

When the owner of a parcel of land is in bankruptcy, a lien can still be executed on that parcel. A notice of impending deed should not be sent nor a deed issued until release of the bankruptcy. The tax collector should contact the selectmen or the municipality's legal department for additional information.

**VII. THE MS-61
MS-61 SUMMARY OUTLINE
NHTCA CONVENTION- OCTOBER 2009
UPDATED SEPTEMBER, 2017 REVIEWED 2024**

Summary compiled by Kathy Seaver- Town Clerk-Tax Collector, Farmington and
Patricia Woolsey- Avitar Support, Deputy Town Clerk-Tax Collector, Bristol

1. Immediately verify all warrants from the Board of Selectmen/Assessor.
 - a. Property Tax Verification Form for DRA (at the second bill).
 - b. Foot all pages in the warrant book (if applicable).
2. Warrants that are issued between January 1- March 31 are for **the prior** fiscal year.
 - a. For example, a warrant issued on 2/2/2023 is for the 2022 tax year.
3. Beginning balances **must** be the same as the uncollected balances from the prior year (or prior month if doing a monthly reconciliation).
4. Interest total on the debit side **has to be the same** as on the Credit side.
5. Current levy deeded is the principal amount only.
6. The discount amount is the difference between what was billed and what was paid.
7. Ending balances **should NOT** include overpayments (credit balances).
 - a. Credit balances should be listed as “prepayments” for next billing if RSA 80:52-a is adopted.
 - b. If RSA 80:52-a is not adopted then the end of the year should be free of all credit balances; in other words all overpayments must be refunded by 12/31 or 6/30.
8. Document all abatements/warrants/refunds at least on a monthly basis.
 - a. Physically add and verify to all computer reports.
9. Verify all ending balances, etc, with finance/bookkeeper/Treasurer at least monthly.
10. The tax lien performed in 2022 is the 2021 Tax Lien.
 - a. It is the levy year of the tax, not the year you perform the tax lien.
 - b. If your computer system calls it a 2022 lien, you need to remember to put it on the MS-61 under the year of levy 2021.
11. The redemption amount is the principal of the lien that was collected.
12. DRA would like us to remember the following:
 - a. Proper account numbers.
 - b. Fill in the name of the municipality at the top of the form.
 - c. Signature of the collector.
 - d. Upload MS-61 to DRA portal.

HELPFUL HINTS FOR MS-61 RECONCILIATION

In order to perform the reconciliation, start at the debit section on the top of the form and work your way down. The first item you enter is the property tax warrant on the debit side of the form where it says, "Property Tax Warrants". Next, review the documentation and verify if there are any prior year credit balances or overpayment refunds. Then enter the "Interest & Penalties Collected" from the payment transaction listings or the remittance reports. The amount of interest will need to be posted on both the debit and credit sides of the report because the interest on both sides must always agree.

Next, proceed to the credit section of the reconciliation and enter payment received during the month (double check to verify that the tax collector's remittances agree with the remittances reported by the treasurer/bookkeeper). If these amounts do not agree, the difference will need to be determined as to why it exists so both sides will be in agreement. Finally, enter in the amount of the uncollected property taxes at month end.

Helpful hint for finding discrepancy when MS-61 Debits/Credits don't balance:

(Courtesy of Diane Trippett – Town Clerk/Tax Collector, Merrimack)

Break down each levy year and category separately instead of trying to balance the entire sheet – i.e. category: property taxes, utilities, land use change tax.

The basic formula to check for discrepancies is: uncollected/beginning balance + taxes committed – overpayments + interest and penalties – remitted to treasurer – abatements – tax liens/deeds = uncollected.

If this equals your ending uncollected then that category balances. If it does not, then you know which bill type has the discrepancy and where you should be looking to find where you are off.

The MS-61
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INTRODUCTION

The office of the Tax Collector is an integral part of the Municipality's finances because it is responsible for the collection of the largest revenue source to the Municipality. It is important because of the related volume of transactions and it is essential that the records are kept up to date and reconciled at least on a monthly basis.

As described in the New Hampshire state statute **RSA 41:35** *Duties of the collector*,

“ I. Every collector of taxes shall keep in suitable books a fair and correct account in detail of the taxes due, collected, and abated, and of all property sold for nonpayment of taxes, which books shall be public records. A tax collector shall remit all money collected to the town treasurer, or to the town treasurer's designee as provided by RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$1,500 or more. The collector shall make final payment to the town treasurer of all moneys collected within 10 days after the close of the town's fiscal year. Failure to remit collections on a timely basis as required by this paragraph shall be cause for immediate removal from office under RSA 41:40. He or she shall submit the tax books and lists to the treasurer and selectmen for inspection and computation when requested so to do and if they discover any errors therein they shall immediately notify the town auditors thereof; and the auditors shall promptly examine the collector's records and make a written report to the selectmen and the department of revenue administration of their findings, conclusions and recommendations. The collector shall be at a usual place of business, or any other place, at least one day each month for at least 2 hours continuously for the transaction of tax business, which time and place shall be printed upon the tax bills sent out by the collector. The collector shall make a written report to the town at the end of each fiscal year which shall contain the amount of the taxes committed to him or her to collect; the amount of taxes collected, together with interest thereon; the amount of discounts allowed; the amount of taxes abated; the total amount of uncollected taxes; and an account of all sales of real estate to collect taxes. Upon written request therefor the collector shall provide the selectmen with an itemized list of the uncollected taxes at the end of the fiscal year.

II. A tax collector may use automatic or electronic data processing equipment in performing his duty to keep fair and correct tax accounts. The commissioner of revenue administration shall adopt rules, pursuant to RSA 541-A, relative to the use of such equipment and the form for such accounts.

The financial records of the tax collector are summarized annually in the Tax Collector's Report (MS61). The areas to be addressed are areas that tax collectors have had problems with in the past.

Rev Rule 1905.10 Annual Reports

(c) Form MS-61 shall be filed by:

- 1) March 1 by municipalities reporting on a fiscal year basis (RSA 31:94):
- 2) September 1 by municipalities reporting on an optional fiscal year basis (RSA 31:94-1)

MONTHLY RECONCILIATION

Reconciliation of accounts is a very important responsibility of the tax collector and should be done on a monthly basis. When performing the monthly reconciliation, it will be easier if you focus on one levy and one type of tax (ie; yield, property, etc) at a time so that if there are any problems, they can be readily identified.

Part of the duties of the tax collector is the monthly reconciliation of the deposits/remittances made to the town treasurer. This is an extremely important function in the reconciliation of the MS-61 form. At the end of every month, you need to total all of the cash receipts collected for the month, summarized by tax levy type and year and compare this amount to the amount the town treasurer is reporting.

When you are ready to begin the reconciliation process, be sure that you have printed off the computer system all of the applicable month end reports and corresponding supporting documentation, which will make the reconciliation process easier.

The print outs and corresponding documents would include as follows:

1. Prior month reconciliation.
2. Any warrants issued during the month.
3. A listing of overpayments during the month, with the corresponding payment request forms used to apply for the refund.
4. A listing of any credit balances as of the end of the month.
5. A listing of payment transactions for the month, which have been already reconciled and confirmed with the town treasurer.
6. A listing of any abatements granted and corresponding abatement slips which have been approved by the Board of Selectmen or Board of Assessors.
7. A listing of discounts issued during the month, if applicable.
8. A listing of property taken by tax deed, if applicable.
9. A listing of uncollected/unredeemed property, yield, land use, excavation and resident tax owed as of the last day of the month. Please note that this amount should not include the credit balance mentioned in number 4.

Once all of this information has been compiled, you are now ready to start the reconciliation process which can either be done on the MS-61 form or a modified version of the form shown on the next page. This modified version breaks down the reconciliation by levy and type of tax as follows:

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Property Taxes Current Year Levy of**

Year to Date for the month ending _____

-DR-

Property Tax Warrant	_____
Prior Year Prepayments*	_____ < > _____
Supplemental Warrants	_____
Add: Overpayments Refunded	_____
Interest & Penalties Collected	_____
Total Debits	_____

-CR-

Total Remitted to Treasurer**	_____
Interest & Penalties	_____
Abatements	_____
Current Levy Deeded	_____
Uncollected Property Taxes Receivable	_____
Credit Balance (Prepayments)	_____ < > _____
Total Credits	_____

*This is your prior year prepayments (Credit Balances) This is a **Negative** amount

**Includes Prepayments

PREPARED BY: _____

DATE PREPARED: _____

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Property Taxes Prior year Levy of**

Year to date for the month ending _____

-DR-

Beginning Uncollected Property Taxes Receivable	_____
Supplemental Warrants	_____
Add: Overpayment Refunds	_____
Interest & Penalties Collected (include Tax Lien Interest)	_____
Total Debits	=====

-CR-

Total Remitted to Treasurer	_____
Transferred to current year levy*	<u> < ></u>
Interest & Penalties (include Tax Lien conversion Interest)	_____
Conversion to Tax Lien (Principal Only)	_____
Abatements	_____
Current Levy Deeded	_____
Ending Uncollected Property Taxes Receivable	_____
Credit Balance (Prepayments)	<u> < ></u>
Total Credits	=====

*Move these amounts to current year levy with their corresponding remittances to treasurer amounts after warrant is issued.

PREPARED BY: _____

DATE PREPARED: _____

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
 Tax Lien**

Year to date for the month ending _____

-DR-

Unredeemed Taxes Receivable	
Add: Overpayments Refunded	
Tax Lien During the year	
Interest & Penalties Collected	

Total Debits

-CR-

Total Remitted to Treasurer	
Interest & Penalties	
Abatements	
Deeded to Town	
Ending Unredeemed Tax Lien Receivable	

Total Credits

PREPARED BY: _____

DATE PREPARED: _____

THERE SHOULD NEVER BE CREDIT BALANCES – ALL OVER PAYMENTS SHOULD BE APPLIED TO THE NEXT LEVY YEAR OR REFUNDED

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Yield Taxes**

Year to date for the month ending _____

-DR-

Yield Tax Warrant _____

Add: Overpayments Refunded _____

Interest & Penalties Collected _____

Total Debits _____

-CR-

Total Remitted to Treasurer _____

Interest & Penalties _____

Add: Abatements _____

Conversion to Tax Lien (Principal Only) _____

Current Levy Deeded _____

Uncollected Yield Taxes Receivable _____

Total Credits _____

PREPARED BY: _____

DATE PREPARED: _____

To illustrate the use of the monthly reconciliation form, we will reconcile the 2021 Property Taxes for the month of June. The following information has been obtained:

1. A copy of the property tax warrant issued in June.
2. A listing of overpayments received in June.
3. A listing of remittances for the month of June.
4. A copy of the tax deed taken in June on a property.
5. A listing of the uncollected property taxes at June 30, 2021.

Note: The Town has a fiscal year end of December 31, 2021.

Follow along with the blank reconciliation form on the next page so that you can participate in the reconciliation process.

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Property Taxes Current Year Levy of**

Year to date for the month ending _____

-DR-

Property Tax Warrant	_____	
Prior Year Credit Balances*	_____	
Supplement Warrants	_____	
Add: Overpayments Refunded	_____	
Interest & Penalties Collected	_____	

Total Debits =====

-CR-

Total Remitted to Treasurer**	_____	
Interest & Penalties	_____	
Abatements	_____	
Current Levy Deeded	_____	
Uncollected Property Taxes Receivable	_____	
Credit Balance (Prepayments)	_____ < > _____	

Total Credits =====

*This is your prior year prepayments (Credit Balances) This is a **Negative** amount
 **Includes Prepayments

PREPARED BY: _____
DATE PREPARED: _____

**TAX COLLECTOR'S WARRANT
STATE OF NEW HAMPSHIRE**

_____, SS:

To _____, Collector of Taxes for the Town/City of _____
in said County:

In the name of the said state, you are hereby directed to collect the taxes in the list herewith committed to you, amounting in all to the sum of twelve thousand and 85/100 dollars (\$12,000.85) with interest at eight percent (8%) as appropriate, from the date that the original warrant was issued.

And we further order to you to pay all monies collected to the Treasurer of said Town/City at least on a weekly basis, or daily when receipts exceed \$ 1,500.00, or more often when directed by the Commissioner of Revenue Administration.

Given under our hands and seal at said Town/City of _____, New Hampshire, this first day of June 2021.

Board of Selectmen/Assessors

**Town of West Georgetown
2021 Property Tax Commitment
For the Period Ending June 30, 2021**

Tax Payer Name	Invoice Type	First Issue	Second Issue	Total Tax Bill
Adams, Raymond & Catherine	Property 01	\$ 330.73		\$ 330.73
Baker, Patricia & Mark	Property 01	\$ 2,299.74		\$ 2,299.74
Brown, David	Property 01	\$ 821.20		\$ 821.20
Dahlinger, Mary	Property 01	\$ 894.66		\$ 894.66
Foote, Thomas & Gladys	Property 01	\$ 737.55		\$ 737.55
Janes, Larry	Property 01	\$ 53.05		\$ 53.05
Martel, Peter	Property 01	\$ 31.90		\$ 31.90
Perkins, Edith	Property 01	\$ 414.25		\$ 414.25
Russell, John & Jerri	Property 01	\$ 1,037.66		\$ 1,037.66
Sylvia, John & Susan	Property 01	\$ 1,814.52		\$ 1,814.52
Turgeon, Rudy & Nancy	Property 01	\$ 1,170.79		\$ 1,170.79
West, George	Property 01	\$ 15.30		\$ 15.30
Wood & Duhaime	Property 01	\$ 1,342.21		\$ 1,342.21
Young, David & Rosemary	Property 01	\$ 1,037.29		\$ 1,037.29

TOTAL		\$12,000.85	\$	-	\$ 12,000.85
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**Town of West Georgetown
2021 Property Taxes
Payment Transaction Listing
For the Period Ending June 30, 2021**

Tax Payer Name	Invoice Type	Principal Paid	Interest Paid	Total Paid
Adams, Raymond & Catherine	Property 01	\$ 330.73	\$ 6.75	\$ 337.48
Baker, Patricia & Mark	Property 01	\$ 2,299.74		\$ 2,299.74
Brown, David	Property 01	\$ 821.20	\$ 6.76	\$ 827.96
Jones, Larry	Property 01	\$ 53.05		\$ 53.05
Perkins, Edith	Property 01	\$ 414.25		\$ 414.25
Martel, Peter	Property 01	\$ 50.00		\$ 50.00
Turgeon, Rudy & Nancy	Property 01	\$ 1,170.79		\$ 1,170.79
West, George	Property 01	\$ 15.30		\$ 15.30
Wood & Duhaime	Property 01	\$ 1,342.21		\$ 1,342.21
Young, David & Rosemary	Property 01	\$ 1,037.29		\$ 1,037.29

TOTAL		\$ 7,534.56	\$ 13.51	\$ 7,548.07
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Town of West Georgetown
Listing of Tax Deeded Property for the 2021 Property Taxes
For the Period Ending June 30, 2021

<u>Tax Payer Name</u>	<u>Amount Deeded</u>
Dahlinger, Mary	\$ 894.66

Town of West Georgetown
Listing of 2021 Uncollected Property Taxes
For the Period Ending June 30, 2021

<u>Tax Payer Name</u>	<u>Invoice Type</u>	<u>Unpaid Balance</u>
Foote, Thomas & Gladys	Property 01	\$ 737.55
Martel, Peter	Property 01	\$ (18.10)
Russell, John & Jeri	Property 01	\$1,037.66
Sylvia, Jon & Susan	Property 01	<u>\$1,814.52</u>
TOTAL		<u><u>\$3,571.63</u></u>

To perform the reconciliation, start at the top of the form and work your way down. The first thing you enter is the property tax warrant on the debit side of the reconciliation where it says “Property Tax Warrants”. Next you review your documentation and find no prior year credit balances or overpayment refunds. Then you enter the “Interest & Penalties Collected” from your payment transaction listings or remittance reports. This amount of interest is posted on both the debit and credit sides of the report since the interest on both sides must always agree.

Now go to the credit section of the reconciliation and enter in payments received during the month, (double check to see that the tax collector’s remittances agree with the remittances reported by the town treasurer/bookkeeper). If they do not agree, you need to determine what the difference is and why it exists so that you can be in agreement.

In this instance, property tax remittances to the treasurer should be \$7,534.56. There are no abatements, but there is a deed. The amount of the unpaid 2021 taxes related to this property needs to be entered on the “Current Levy Deeded” line. Finally, you can enter in the amount of the uncollected property taxes at month-end.

Upon examination of the listing, it was noted that a credit balance of \$18.10 is posted. When looking back at the taxes committed and the payment transactions, we see that Peter Martel paid \$50.00 when his tax bill only came to \$31.90, thus he overpaid \$18.10. Upon a telephone conversation with Mr. Martel, he decided that he did not want a refund, but for the balance to be applied towards his second half tax bill. *Remember, you can only accept prepayments if you have authorization from your Selectmen to do so.*

If you do not have authorization to accept prepayments, then complete a refund request for \$18.10 and give it to the bookkeeper/accountant to process. You must then perform the refund transaction in your computer/books and list the refund under the overpayments section with the notation “refunded”.

If you do have the authority to accept prepayments, you need to enter this prepayment on the MS-61 as such, at the same time increasing the “Uncollected Property Taxes” balance since this credit balance is artificially deflating the total listing of uncollected taxes. The true “Uncollected Property Taxes” balance now becomes \$3,589.73 and not the \$3,571.63 as noted on the listing. Following is what the completed month end reconciliation should look like:

PREPARED BY: West Georgetown Tax Collector

DATE PREPARED: July 5, 2021

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Property Taxes Levy 2021**

Year to date for the month of June, 2021

-DR-

Property Tax Warrant	\$ <u>12,000.85</u>
Prior Year Prepayments*	<u> </u>
Supplement Warrants	<u> </u>
Add: Overpayments Refunded	<u> </u>
Interest & Penalties Collected	\$ <u>13.51</u>

Total Debits \$ 12,014.36

-CR-

Total Remitted to Treasurer**	\$ <u>7,534.56</u>
Interest & Penalties	\$ <u>13.51</u>
Abatements	<u> </u>
Current Levy Deeded	\$ <u>894.66</u>
Uncollected Property Taxes Receivable	\$ <u>3,589.73</u>
Credit balance (Prepayments)	\$ <u>(18.10)</u>

Total Credits \$ 12,014.36

*This is your prior year prepayments (Credit Balances) **Includes Prepayments

Once these amounts have been entered on the reconciliation form, both sides of the form should be added and they should both be in agreement. This exercise should be performed for every tax levy, by year and type of tax (Property, LUCT, Yield, Excavation, etc.) and for every tax lien year. It is recommended that the reconciliations be done on an accumulated basis. Once done the information should all be kept in an orderly fashion in a folder or three ring binder. Below is an example of how you carry forward, on an accumulated basis, the above given the fact that in July Thomas & Gladys Foote paid their outstanding tax amount of \$737.55 and you received an abatement for Jon & Susan Sylvia in the amount of \$500.00.

The amount paid by Thomas & Gladys Foote is added to the Remitted to the Treasurer section and the abatement for Jon & Susan Sylvia is added to the abatement section. Both amounts are then subtracted from the property tax amounts to be collected at the end of the month. Make sure you ascertain that your balances report amount to be collected equals your reconciliation report balance to be collected monthly also.

PREPARED BY: West Georgetown Tax Collector

DATE PREPARED: Aug. 3, 2021

**Monthly Reconciliation– Accumulated Totals
Tax Collector’s Accounts
Property Taxes Levy 2021**

Year to date for the month of July, 2021

-DR-

Property Tax Warrant	\$ <u>12,000.85</u>
Prior Year Prepayments*	<u> </u>
Supplement Warrants	<u> </u>
Add: Overpayments Refunded	<u> </u>
Interest & Penalties Collected	\$ <u>13.51</u>

Total Debits \$ 12,014.36

-CR-

Total Remitted to Treasurer**	\$ <u>8,272.11</u>
Interest & Penalties	\$ <u>13.51</u>
Abatements	<u>500.00</u>
Current Levy Deeded	\$ <u>894.66</u>
Uncollected Property Taxes Receivable	\$ <u>2,352.18</u>
Credit balance (Prepayments)	\$ <u>(18.10)</u>

Total Credits \$ 12,014.36

*This is your prior year prepayments (Credit Balances) **Includes Prepayments

PREPAYMENTS

Prepayments are money that is collected in advance of a tax bill. **RSA 80:52-a** “Prepayment” states that “Any town by vote at a town meeting under a proper article in the warrant or by vote of the board of selectmen or the town council and any city by vote of its governing board may authorize the prepayment of taxes and authorize the collector of taxes to accept payments in prepayment of taxes. If a town or city so votes, any person, firm or corporation owning taxable property may, at any time before notice of the amount of taxes assessed against said property has been received, make payments on account of such taxes as will be due and the collector shall receive such payments and give a receipt therefor and credit the amounts paid toward the amount of the taxes eventually assessed against said property. In any town or city which shall vote to authorize the prepayment of taxes, the collector of taxes shall give such bond in the form and amount which the commissioner of revenue administration shall require, and the collector shall pay over all sums so received to the town treasurer under the provisions of **RSA 41:35**. No taxpayer shall be allowed to prepay taxes more than 2 years in advance of the due date of the taxes. No interest shall accrue to the taxpayer on any prepayment, nor shall any interest be paid to the taxpayer on any prepayment which is later subject to rebate or refund.”

For example, Jim Smith received a 2021 second half tax bill from the town and it totaled \$1,500.00. Jim had some extra money so he decided to use this money to pay extra toward his tax bill. The town received payment from Jim in the amount of \$2000.00, which created a prepayment of \$500.00. This payment would be posted to Jim’s account and it now reflects a \$500.00 credit balance. This credit balance will remain until the next tax bill is issued when it would be applied to that bill. This transaction will now be illustrated as to how it would be reflected on the MS-61 form.

TAX COLLECTORS REPORT
For the Municipality of West Georgetown Year Ending 2021

DEBITS

UNCOLLECTED TAXES - BEG. OF YEAR*		Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXXXXXX			
Resident Taxes	#3180	XXXXXXXXXX			
Land Use Change	#3120	XXXXXXXXXX			
Yield Taxes	#3185	XXXXXXXXXX			
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189	XXXXXXXXXX			
Property Tax Credit Balances**					
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110	\$1,500.00			
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes- Refunded	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Interest-Late Tax	#3190				
Resident Tax Penalty	#3190				
TOTAL DEBITS		\$1,500.00			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes	\$2,000.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)				
Penalties				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	< 500.00>			
TOTAL CREDITS	\$1500.00			

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in the Property Taxes actually remitted to the Treasurer)

The credit balance at year end should have been reported on the MS-61 as a separate entry as illustrated above. Now to further illustrate, you are ready to carry over all of the ending balances so they become beginning balances for the new year. Be sure to carry over the \$500.00 prepayment so that it can be applied towards the next bill. When you carry it forward it will be treated like a credit balance in the uncollected balances at the beginning of the year as illustrated below:

TAX COLLECTORS REPORT					
For the Municipality of <u>West Georgetown</u> Year Ending <u>2021</u>					
DEBITS					
UNCOLLECTED TAXES - BEG. OF YEAR*		Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXXXXXX			
Resident Taxes	#3180	XXXXXXXXXX			
Land Use Change	#3120	XXXXXXXXXX			
Yield Taxes	#3185	XXXXXXXXXX			
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189	XXXXXXXXXX			
Property Tax Credit Balances**		(\$500.00)			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes- Refunded	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Interest-Late Tax	#3190				
Resident Tax Penalty	#3190				
TOTAL DEBITS		\$(500.00)			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

REFUND OF OVERPAYMENTS

RSA 80:57 Refund of Overpayments states “if any person tenders a payment for any taxes and/or interest, in excess of the taxes levied and interest incident thereto, the collector of taxes shall direct the selectmen to issue an order upon the town treasurer to refund to the person making such payment or his heirs or assigns the excess sum so paid; provided, however, that if the sum overpaid is \$5.00 or less, no refund shall be required unless the taxpayer in such case shall apply in writing to the tax collector for said refund within 60 days of actual payment.”

If the overpayment received is \$5.00 or less and is not being refunded, then this amount should be posted as interest in your computer/books and on both the debit and credit sides of the MS-61.

RECONCILIATION WITH THE TOWN TREASURER/BOOKKEEPER

Part of the duties of the tax collector is the monthly reconciliation of the deposits/remittances made to the town treasurer. This needs to be done on a monthly basis and again on an annual basis. This is an extremely important function in the reconciliation process. At the end of every month, you will need to total up the cash receipts collected, summarized by the tax type and levy year and compare this amount to what the town treasurer is reporting. These amounts should be the same.

If a variance exists, you need to find out why. Perhaps one of you is using the wrong cutoff date for deposits or one of you has not accounted for a bounced check or a deposit in transit. In any event, these amounts need to be in agreement. Once you have reconciled with the town treasurer, you need to reconcile with the town accountant/bookkeeper which should include the reconciliation of balances left to be collected. If a variance exists you again need to find out why. In this case it could be that one of you is not taking into consideration an abatement, refund or bounced check transaction. What follows is a sample of a reconciliation with the town treasurer.

Town of West Georgetown
Town Treasurer
Summary of Cash Remittance From Tax Collector
For the month ending August 31, 2021

		<u>Total</u>
Property Taxes	2021	\$ 56,250.50
	2020	\$ 25,450.00
Tax Liens	2020	\$ 2,560.00
	2019	\$ 34,210.00
	2018	\$ 8,965.00
Yield Taxes	2021	\$ 2,500.00
Land Use Change Ta	2021	\$ 1,200.00
Interest & Penalties	2021	\$ -
	2020	\$ 3,540.00
	2020 Lien	\$ 25.50
	2019 Lien	\$ 1,490.00
	2018 Lien	\$ 450.00
TOTAL REMITTANCE FROM TAX COLLECTOR		\$ 136,641.00

Respectfully submitted per request of the Board of
Selectmen,
Treasurer

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes	\$ 56,250.50	\$ 25,450.00		
Resident Taxes				
Land Use Change	\$ 1,200.00			
Yield Taxes	\$ 2,500.00			
Interest(including lien conversion)		\$ 3,540.00		
Penalties				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	< >			
TOTAL CREDITS	\$ 59,950.50	\$ 28,990.00		

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in the Property Taxes actually remitted to the Treasurer)

TAX COLLECTOR'S REPORT
For the Municipality of West Georgetown Year Ending 12/31/2021

DEBITS

	Last Years Levy	PRIOR LEVIES (Please Specify Years)		
	2020	2019	2018	
Unredeemed Lien Balances at Beg. of Fiscal Year				
Liens executed During Fiscal Year				
Interest & Costs collected				
TOTAL DEBITS				

CREDITS

		Last Years Levy	PRIOR LEVIES (Please Specify Years)		
Redemptions		\$ 2,560.00	\$ 34,210.00	\$ 8,965.00	
Interest & Costs Collected (after lien execution)	#3190	\$ 25.50	\$ 1,490.00	\$ 450.00	
Abatements of unredeemed taxes					
Liens Deeded to Municipality					
Unredeemed Lien Balances End of Year	#1110				
TOTAL CREDITS		\$ 2,585.50	\$ 35,700.00	\$ 9,415.00	

UNCOLLECTIBLE OR BOUNCED CHECKS

80:52-b Checks Tendered in Payment of Taxes. –

I. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is returned to the tax collector as uncollectible for any reason, such taxes shall be deemed not paid and the person tendering such check shall be subject to applicable tax delinquency penalties, protest and collection charges.

II. If any person tenders a check for the payment of any taxes levied by the tax collector and the check is drawn on a foreign bank, the person tendering such check shall be subject to all applicable foreign check bank fees.

80:56 Uncollectible Remittances. – Whenever any remittance, whether by check or electronic means, issued to a city or town for the payment of taxes, permit fees, licenses, special assessments, water or sewer bills, for any combination of these or for any other municipal services is returned to the city or town official as uncollectible, the city or town shall charge a fee of \$25 plus all protest, bank, and legal fees in addition to the amount of said remittance to the person who made such remittance to cover the cost of collecting the debt that the remittance was to pay. The \$25 fee together with any protest or legal fees collected shall be for the use of the city or town.

To illustrate how to handle a bounced check, we have the following example:

Jane Wyatt paid her second half tax bill on October 10, 2021 totaling \$1,000.00. Then on October 13, 2021, the bank notified the town treasurer, who in turn notified the tax collector, that Jane's check had bounced and the bank has assessed the town a \$15.00 bounced check fee. The town treasurer has asked the tax collector to seek collection of the funds. When the original payment was received from Jane and the tax collector posted her payment to Jane's account it would have been reflected on the MS-61 as follows:

TAX COLLECTOR'S REPORT					
For the Municipality of <u>West Georgetown</u> Year Ending <u>12/31/2021</u>					
DEBITS					
UNCOLLECTED TAXES - BEG. OF YEAR*		Levy For 2021 of this report	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXX			
Resident Tax	#3180	XXXXXX			
Land Use Change	#3120	XXXXXX			
Yield Taxes	#3185	XXXXXX			
Excavation Tax @ \$.02/yd	#3187	XXXXXX			
Utility Charges	#3189	XXXXXX			
Property Tax Credit Balance**		< >			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110	\$ 1,000.00			
Resident Tax	#3180				
Land Use Change	#3120				
Yeild Taxes	#3185				
Excavation Tax @ \$.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @ \$.02/yd	#3187				
Interest - Late Tax	#3190				
Resident Tax - Penalty	#3190				
TOTAL DEBITS		\$ 1,000.00			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT
For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
		2020		
Property Taxes	\$1,000.00			
Resident Tax				
Land Use Change				
Yield Taxes				
Interest (include lien conversion)				
Penalties				
Excavation Tax @.02/yd				
Utility Charges				
Conversion to lien (principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Tax				
Land Use Change				
Yield Taxes				
Excavation Tax @.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Property Tax Credit Balance*	< >			
Land Use Change				
Yield Taxes				
Excavation Tax @.02/yd				
Utility Charges				
TOTAL CREDITS	\$ \$1000.00 -			

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in the Property Taxes actually remitted to the treasurer).

Once notification of a bounced check from the town treasurer is obtained, the amount paid needs to be added back to the uncollected list and removed from the remittances to the treasurer totals. In addition, based on the 2 RSA's noted above, the tax collector will assess a \$25.00 fee plus the \$15.00 fee charged by the bank to Jane's account. Thus instead of her now owing \$1,000.00 she now owes \$1,040.00. These fees are not warranted amounts to the tax collector. Therefore, until collected, they are not reported on the MS-61.

Once Jane has made good on the check, the tax collector re-deposits the money. Then it is re-entered on the MS-61 as if it were a first time deposit. It is also at this point that the fees collected are entered onto the MS-61 form. Once collected, the money is once again remitted to the treasurer and the fees are posted under the interest lines in the computer/books and on both the debit/credit sides of the MS-61 form.

Please note: If you do not remove the payment from your computer/books and from the remittance section of the MS-61 form, you will NOT list it as a remittance to the Treasurer again. In this case you would redeposit the money separately from other monies collected, clearly marking the deposit as a redeposit of the funds previously collected and remitted. Since you reported the original collection as a remittance to the treasurer and did not negate that remittance, you will not report it as an amount collected again. By depositing it separately and clearly marking it as a redeposit, you are simply replacing the money that was removed from the town's account by the bank. If you collected the \$40.00 protest fees, you will, however need to put the protest fees through your computer/books as interest/penalties and deposit /remit that amount with your next remittance.

The following illustrates the reporting on the MS-61 when the money that was removed from your collection/remittances is again collected together with bounced check fees totaling \$40.00:

TAX COLLECTOR'S REPORT
For the Municipality of _____ Year Ending 12/31/2021

DEBITS

UNCOLLECTED TAXES - BEG. OF YEAR*		Levy For 2021 of this report	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXX			
Resident Tax	#3180	XXXXXX			
Land Use Change	#3120	XXXXXX			
Yield Taxes	#3185	XXXXXX			
Excavation Tax @ \$.02/yd	#3187	XXXXXX			
Utility Charges	#3189	XXXXXX			
Property Tax Credit Balance**		< >			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110	\$ 1,000.00	FOR DRA USE ONLY		
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @ \$.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @ \$.02/yd	#3187				
Interest - Late Tax	#3190	\$ 40.00			
Resident Tax - Penalty	#3190				
TOTAL DEBITS		\$ 1,040.00			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes	\$1,000.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)				
Penalties	\$40.00			
Excavation Tax @\$\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	< >			
TOTAL CREDITS	\$1040.00			

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in the Property Taxes actually remitted to the Treasurer).

ABATEMENTS vs. ABATEMENT REFUNDS

RSA 76:16 By Selectmen or Assessors states in part that “Selectmen or assessors, for good cause shown, may abate any tax assessed by them or their predecessors, including any portion of interest accrued on such tax.”

RSA 76:17-d Abatement Refund states that “the Selectmen or assessors may apply all or a portion of the amount of any taxes abated, along with interest computed according to this chapter, to any outstanding taxes owed by the taxpayer to the municipality. Taxes shall be considered outstanding if they are subject to interest pursuant to RSA 76:13. The selectmen or assessors shall send notice to the taxpayer of the amount credited against outstanding taxes and the date the credit was recorded.”

In simpler terms, abatement is a reduction in a tax bill which has not yet been paid by the taxpayer. An abatement refund is a reduction in the tax obligation of a taxpayer who has already paid their tax bill.

Often times the abatement refunds are not recorded on the MS-61 form since the taxes have been cleared off the books once the initial payment was made. At this point, it is seen as an issue between the selectmen’s office and the taxpayer. The treasurer/bookkeeper would credit cash rather than the tax commitment. Some may argue that in order to show the complete history of the taxpayer’s account, the abatement refund should be posted to the account and subsequently to the MS-61 form. If the abatement is posted to the account it will result in a credit balance (overpayment) to the account that now requires the refund transaction to put the taxpayer’s account back to a zero balance left to collect. Whether or not to post these abatement refunds is a personal preference.

Let’s illustrate how to treat both situations on the MS-61 form.

For an abatement, Jeff Kennerson, a property owner in town, applied for an abatement on an over-assessment of his property. Upon investigation of his claim, the town assessor agreed that, Mr. Kennerson was assessed for a 3 car detached garage when in fact it was a 2 car attached garage. Therefore he would be granted an abatement on his taxes in the amount of \$750.00. As of the date of the approval of the abatement by the Board of Selectmen, Jeff had not yet paid any of the taxes for the year. The total tax bill for the year was \$7,750.00. When the abatement is applied it will lower the uncollected property taxes to \$7,000.00 as follows:

TAX COLLECTOR'S REPORT
For the Municipality of West Georgetown Year Ending 12/31/2021

DEBITS

UNCOLLECTED TAXES - BEG. OF YEAR*		Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXXXXXX			
Resident Tax	#3180	XXXXXXXXXX			
Land Use Change	#3120	XXXXXXXXXX			
Yield Taxes	#3185	XXXXXXXXXX			
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189	XXXXXXXXXX			
Property Tax Credit Balance**		< >			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110	\$ 7,750.00	FOR DRA USE ONLY		
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Interest-Late Tax	#3190				
Resident Tax Penalty	#3190				
TOTA DEBITS		\$ 7,750.00			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2021				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)				
Penalties				
Excavation Tax @\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes	\$750.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes	\$7000.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	< >			
TOTAL CREDITS	\$7750.00			

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in Property Taxes actually remitted to the Treasurer).

Now, Jeff Kennerson has been granted the abatement of \$750.00 on his taxes and as of the date of the approval of the abatement by the Board of Selectmen, Jeff has already paid in full the total tax bill of \$7,750.00. In this example the treasurer/bookkeeper would pay Jeff \$750.00 out of the overlay account established by **RSA 76:6** to answer any abatements made. There would be no postings to be made by the tax collector – **UNLESS** – personal preference has established that all abatements will be posted. In this case, the posting of the abatement will create a credit balance (overpayment) of \$750.00 which needs to be refunded in the tax collector’s computer/books, a check written out of the appropriate property tax account and MS-61 entries as shown below:

TAX COLLECTOR'S REPORT					
For the Municipality of <u>West Georgetown</u> Year Ending <u>12/31/2021</u>					
DEBITS					
UNCOLLECTED TAXES - BEG. OF YEAR*		Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
Property Taxes	#3110	XXXXXXXXXX			
Resident Tax	#3180	XXXXXXXXXX			
Land Use Change	#3120	XXXXXXXXXX			
Yield Taxes	#3185	XXXXXXXXXX			
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189	XXXXXXXXXX			
Property Tax Credit Balance		< >			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110	\$ 7,750.00	FOR DRA USE ONLY		
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes	#3110	\$ 750.00			
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Interest-Late Tax	#3190				
Resident Tax Penalty	#3190				
TOTAL DEBITS		\$ 8,500.00			

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes	\$7,750.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)				
Penalties				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes	\$750.00			
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	< >			
TOTAL CREDITS	\$8,500.00			

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in Property Taxes actually remitted to the Treasurer).

CLEARING THE TAX LIEN FROM THE PROPERTY TAX COLUMN

There are two ways to move the executed tax lien amounts from the first pages of the MS-61 to the last page. The first way would be when the tax collector obtains a check from the municipality for the total amount of the tax lien. When this check is issued, the tax collector deposits it into the treasurer's account giving the treasurer/bookkeeper a remittance slip clearly showing the types of taxes, interest and costs as posted to the property/yard/Land Use Change and excavation tax accounts. On the MS-61 form, this is reported on page 2 as a property tax remittance for the principal amount of the various taxes and the interest and costs are posted accordingly. There should be no balances remaining for the levy year that was taken to tax lien.

When a check is not issued to the tax collector, an entry is made on the MS-61 form after the necessary postings have been made on the tax collector's warrants. This posting is done in the same manner as when a check has been issued except that the principal of the lien is posted to the line entitled "Conversion to lien" instead of the property tax line. Then on both pages 1 and 2 the interest and costs associated with the tax lien are added to the interest lines as both a debit and a credit.

The purpose of these entries is to remove the remaining unpaid property taxes from "uncollected" and move them, together with their associated interest and cost amounts to "Liens Executed During Fiscal Year".

TAX COLLECTOR'S REPORT
For the Municipality of West Georgetown Year Ending 12/31/2021

DEBITS

UNCOLLECTED TAXES - BEG. OF YEAR*		Levy for this Year 2021	PRIOR LEVIES (Please Specify Years)		
			2020	2019	2018
Property Taxes	#3110	XXXXXXXX	\$55,000		
Resident Tax	#3180	XXXXXXXX			
Land Use Change	#3120	XXXXXXXX			
Yield Taxes	#3185	XXXXXXXX			
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189	XXXXXXXX			
Property Tax Credit Balance		< >			
TAXES COMMITTED THIS YEAR					
Property Taxes	#3110		FOR DRA USE ONLY		
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Utility Charges	#3189				
OVERPAYMENT REFUNDS					
Property Taxes	#3110				
Resident Tax	#3180				
Land Use Change	#3120				
Yield Taxes	#3185				
Excavation Tax @.02/yd	#3187				
Interest-Late Tax	#3190		\$3,300		
Resident Tax Penalty	#3190				
TOTAL DEBITS			\$58,300		

*This amount should be the same as the last year's ending balance. If not, please explain. ** Enter as a negative. This is the amount of this year's taxes pre-paid last year as authorized by RSA 80:52-a. The amount is already included in the warrant & therefore in line #3110 as positive amount for this year's levy.

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes		\$55,000.00		
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)		3,300.00		
Penalties				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
CURRENT LEVY DEEDED				
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$\$.02/yd				
Utility Charges				
Property Tax Credit Balance*	<	>		
TOTAL CREDITS		\$58,300.00		

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in Property Taxes actually remitted to the Treasurer).

In the above illustration, the tax lien check is added to the payments received on property taxes to the date of the lien so it does not stand out on its own. The MS-61 form shows that those 2020 property taxes have been paid in full at end of the year.

TAX DEEDED PROPERTY

RSA 80:76 Tax Deed states in part that “I, the collector, after 2 years from the execution of the real estate tax lien, shall execute to the lien holder a deed of the land subject to the real estate tax lien and not redeemed.”

“Notwithstanding the provisions of paragraph I, the collector shall not execute a deed of the real estate to a municipality when the governing body of the municipality has notified the collector that it shall not accept the deed because acceptance would subject the municipality to potential liability...”

§ 80:76. Tax Deed.

- I. The collector, after 2 years from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed. The deed shall be substantially as follows:

Know all men by these presents, That I, _____, collector of taxes for the Town of _____, in the County of _____ and State of New Hampshire, for the year 20_____, by the authority in me vested by the laws of the state, and in consideration of _____ to me paid by _____, do hereby sell and convey to _____, the said _____, (here describe the land sold), to have and to hold the said premises with the appurtenances to _____, forever. And I do hereby covenant with said _____, that in making this conveyance I have in all things complied with the law, and that I have a good right, so far as the right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid. In witness whereof I have hereunto set my hand and seal the _____ day of _____, _____.

State of New Hampshire, County of _____, Date _____

Personally appearing (tax collector) above named acknowledged the foregoing instrument to be his/her voluntary act and deed before me

Notary Public/Justice of the Peace

When a tax deed has been taken and recorded at the registry of deeds, the corresponding property taxes and associated tax liens are removed from the tax collector’s records. This information for the property subject to resale by the town, should be given to the town accountant or bookkeeper so that it can be reported on the town’s financial statements and tracked until it is sold.

When removing the tax deeded property from the tax collector’s records, you must remember to remove all of the uncollected/unredeemed taxes for all tax levies. The tax deed was taken for the whole property and not only on the individual tax levy that caused the property to go to tax deed. It is very important to note that when the tax deeded property is removed from the tax collector’s records, an abatement slip is NOT obtained as a way of clearing the deeded property. Most computer software programs have a method for removing these properties. If doing this process manually, simply making a journal entry is all that is required. Be sure to share this information with your accountant/bookkeeper if they track balances left to collect!

The following information will be used to illustrate how to record the tax deeded amounts on the MS-61:

Robert & Carmen Baroody	
2021 Property Taxes	\$1,250.00
2020 Tax Lien	\$1,830.00
2019 Tax Lien	<u>\$1,900.00</u>
Total Deeded Taxes	\$4,980.00
Michael & Thelma Wilkins	
2021 Property Taxes	\$ 950.00
2020 Tax Lien	\$1,100.00
2019 Tax Lien	\$1,150.00
2018 Tax Lien	<u>\$ 700.00</u>
Total Deeded Taxes	\$3,900.00
Total Tax Deeded Property by Levy	
2021 Property Taxes	\$2,200.00
2020 Tax Lien	\$2,930.00
2019 Tax Lien	\$3,050.00
2018 Tax Lien	<u>\$ 700.00</u>
Total Deeded Taxes	\$8,880.00

Posting the tax deeded taxes to the “Current Levy Deeded” and “Liens Deeded to Municipality” will clear out those taxes that have been committed in the current year and balances that remain in the beginning unredeemed balances for the appropriate levy years as follows:

TAX COLLECTOR'S REPORT

For the Municipality of West Georgetown Year Ending 12/31/2021

CREDITS

REMITTED TO TREASURER	Levy for Current Year 2021	PRIOR LEVIES (Please Specify Years)		
2020				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Interest(including lien conversion)				
Penalties				
Excavation Tax @\$0.02/yd				
Utility Charges				
Conversion to Lien(principal only)				
DISCOUNTS ALLOWED				
ABATEMENTS MADE				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$0.02/yd				
Utility Charges				
CURRENT LEVY DEEDED		\$2,200.00		
UNCOLLECTED TAXES - END OF YEAR #1080				
Property Taxes				
Resident Taxes				
Land Use Change				
Yield Taxes				
Excavation Tax @\$0.02/yd				
Utility Charges				
Property Tax Credit Balance* < >				
TOTAL CREDITS		\$2,200.00		

*Enter as a negative. This is the amount of taxes pre-paid for next year as authorized by RSA 80:52-a. (Be sure to include a positive amount in Property Taxes actually remitted to the Treasurer).

TAX COLLECTOR'S REPORT
 For the Municipality of West Georgetown Year Ending 12/31/2021

DEBITS

	LAST YEARS LEVY 2020	PRIOR LEVIES (Please Specify Years)		
		2019	2018-Prior	
Unredeemed liens balance at beg. of Fiscal Year	\$2,930.00	\$3,050.00	\$700.00	
Liens executed during Fiscal Year				
Interest & costs collected(AFTER LIEN EXECUTION)				
TOTAL DEBITS	\$2,930.00	\$3,050.00	\$700.00	

CREDITS

REMITTED TO TREASURER		LAST YEARS LEVY 2020	PRIOR LEVIES (Please Specify Years)		
			2019	2018-Prior	
REDEMPTIONS					
Interest & costs collected					
Interest & costs collected(AFTER LIEN EXECUTION)	#3190				
ABATEMENTS OF UNREDEEMED TAXES					
Liens Deeded to Municipality		\$2,930.00	\$3,050.00	\$700.00	
Unredeemed Lien balances	#1110				
End of Year					
TOTAL CREDITS		\$ 2,930.00	\$3,050.00	\$700.00	

ADJUSTMENTS

Many of the software packages used today for tax collection have a function available to the tax collector for “Adjustments”. This function should only be used to reclassify a posting from one property owner to another or from one levy to another, and, in some instances for handling bounced checks. When moving a posting from one levy to another, be sure to notify your treasurer/bookkeeper that money you have remitted to them as one levy is now being moved to another.

It is important that when this function is used, it is for the purpose for which it was intended. This means that, at year-end any transactions posted through this function should net to zero. Another way to say this is that for every debit adjustment there MUST be credit adjustments of the same amount. Do not adjust tax amounts warranted to you to collect because exemptions or tax credits were left off. This requires either an abatement or abatement refund as discussed earlier. Your tax warrant is your obligation to collect. The only money you do not collect is the amounts that are abated by the assessors/selectmen.

The current electronic version of the MS-61 is found on the Website of the Department of Revenue Administration for your use. Don't forget to upload to the portal when completed!

VIII.

SECURITY

Workplace Security

There are three areas that comprise workplace security. They are Personal Safety, Cash Security and Record Security.

Personal Safety can be addressed in terms of office space and design, dealing with the public, and contact with the police. It is advisable to try to have your work area arranged so that when someone wants to make a payment you have to go to them. The counter should be chest high and wide enough so the resident cannot reach over the counter into your workspace. If that is not available discuss the physical layout of the office with the selectmen. It is not always necessary to be behind a glass panel or wall in order to be safe. Sometimes this effort can create a hostile environment and make an unpleasant person even more so. A natural surveillance can be created by windows or opening up your view. If there is a space those who enter your office can see you and they know you can see them. Use signage to direct people where they should go. If you can maintain at least one arm length over a counter from the public you should be in a comfortably safe position.

If there is a cash register, it should be in a location so the customer cannot reach over the counter and pull money from the drawer. By placing key items in strategic locations, it discourages someone from reaching over the counter and helping themselves. Keep the stapler and scotch tape holder out of reach or secured to the counter so an angry or desperate taxpayer will have nothing to pick up and toss.

If possible, have panic buttons installed on the desks, at the counter or any other accessible place. These should be a direct link to the police department or to another individual that would be of assistance in an emergency. Avoid false alarms; check to see if the buttons say "panic" or "robbery". It is a good idea to speak to the police department about any individual that has caused you concern. If you are in the building alone after hours it is a good idea to notify the police that you are alone so they will be on alert if there is a problem or the panic button is used.

One of the best ways to stay safe is to learn how to deal with difficult people. Anyone can snap when they are provoked. You must have patience, understanding and a sense of humor in order to deal with the public. Some things to remember when dealing with volatile people are: approach in a friendly manner; be a good listener; try to avoid an argument; show respect and listen to their opinions; do not tell them they are wrong; if **you** are wrong admit it; tell them you understand how they feel; get them to agree with you on something; do not interrupt them when they are talking; see the situation from the other point of view; use a non-threatening posture; become their friend and control your temper. Your temper is one of your most valuable possessions; do not lose control of it.

Try to recognize what could become a crisis; speech patterns are a good indication. If a person is confident and open his speech pattern should be clear, firm, direct, show no contempt and be non-judgmental as well as expressive.

If the person's speech pattern demonstrates fear, hesitancy, anxiety, throat clearing, impatience, sarcasm, or just plain rudeness, extra care should be taken. This situation could quickly escalate into something more serious. Work out a code word or name to use with other employees to signal help is needed. An example would be "Jane called in sick this morning". This would signal the person in the office to call the police department. Remember: use common sense every minute of the day.

Cash Security is a vital responsibility. After accepting payments, put the cash away or set it aside before answering any questions. When the person leaves, the transaction can be completed without interruption. Verify that the check is made out correctly and that the correct amount of cash was received before the person leaves the office. It is very easy to get distracted and forget to complete the basics. If a computer is used to enter the payments, make sure that the payment is entered prior to filing the bill away. Place the checks and bills in the same place so they can be verified. If cash is paid note on the paperwork that cash was received. This will be helpful when balancing at the end of the day. It is advisable to balance each day even if you only remit to the treasurer on a weekly basis. It is also recommended that you balance at least monthly with your treasurer or finance department. It is much easier to find a problem and make the correction on a monthly basis rather than waiting until the end of the year.

RSA 41:35, Duties of the Collector, mandates a collector to remit receipts at least on a weekly basis or on a daily basis at the discretion of the commissioner of revenue administration. The deposit may be deferred until the total is \$1,500. Failure to remit on a timely basis shall be cause for immediate removal from office.

Verify that all of the day's transactions are included in your deposit. Complete the deposit and record all of the transactions. Check to see that all of the transactions have posted correctly to the appropriate accounts. If you are not making a bank deposit that day, store the cash in a secure, lockable place **where only you have access to it**.

If you bring the deposit to the bank remember the following: do not be predictable; change your routine; vary the time of day you go to the bank; vary the bank route; have a police escort; park as close to the bank entrance as possible; let someone in the office know that you are leaving to make the deposit **and when you expect to return**.

In the event of a robbery, here are some useful tips: make eye contact; be patient and courteous; be observant; practice identification techniques; have a plan of action worked out ahead as to when to use the panic button; stay as calm as possible; obey instructions; do not try to be a hero; keep anything that might be evidence (do not return a note) and ask for identification.

Ask the selectmen if the office is bonded (surety); RSA 41:6. A surety bond protects the municipality, not the tax collector. The surety company may go after the collector, especially in the case of fraud or any dishonest act.

The Tax Collector has the responsibility to secure and protect tax records which are listed in RSA-33. Once the tax collector has accepted the warrant from the selectmen, no changes can be made to it. No one should have access to the tax records except the deputy. It is advisable to keep additional warrants such as Yield Tax, Current Use (etc) with the bills and file according to the year issued. It keeps them safe and accessible in the event they are needed. Abatement slips are necessary since they act as a credit on the warrant; it reduces the amount to collect. Never abate without an abatement slip signed by the majority of the board of selectmen. Keep these slips together by year because the total is needed in order to balance the books. The auditor will also need them to verify the amounts shown as credits on the warrant.

Keep all records of payments in a safe and available place. These records will be needed to verify postings and balancing. Make a copy of the deposit slip and attach it to the remittance slip for that deposit. It should be kept separate from other records in a safe place so if the records do not balance the deposit slip is available to verify the total deposited and remitted to the treasurer.

Copies of all impending lien and deed notices that are sent by certified mail need to be kept along with the return receipts or any letters returned to the municipality. This will verify that the appropriate notices were sent in a timely manner. Keep all recorded liens in a safe and protected place. All of the released liens that have the book and page stamped on them should also be kept in a safe place. These are needed to prove the liens were correctly released. Always keep a copy of anything sent to the registry of deeds for recording until the recorded instrument is returned to the municipality.

Tax collectors who have access to the Internet need to be keenly aware of viruses that can affect their hard drive. Verify that there is adequate virus protection on your computer so critical records are not lost. It is crucial that daily back-ups be done in case data needs to be restored. It is easier to restore from a back-up than manually recreating days of work.

How to Segregate Financial Duties in a Small Municipal Office

By Barbara Reid (retired)

Government Finance Advisor for NHMA

2022

This is a condensed version of an article that first appeared in New Hampshire Town and City in March 2006.

One of the most important internal controls for any organization to establish is the segregation of incompatible duties. The purpose of segregating incompatible duties is to insure that no one individual is in a position that allows such an individual to both commit an irregularity and then conceal that irregularity. Certainly in a large community with multiple employees within a department, there is ample opportunity to segregate functions so that employees, performing their routine duties, serve as a check on one another. But how can such a system of checks and balances be implemented when there are less than a handful of people to perform all the financial functions for a small municipality, or a small department within a municipality, such as a water or sewer department? Even in these situations, internal controls must be implemented to insure that adequate checks and balances continually occur.

Segregation of incompatible duties involves separating job functions so that ideally no one individual is able to 1) *authorize* a transaction, 2) *record* the transaction in the accounting records and 3) maintain *custody* of the asset resulting from that transaction. For example, to properly segregate duties in a transaction involving the purchase of a computer, one person (i.e. a supervisor or department head) should *authorize* the purchase via a purchase order, another person (i.e. bookkeeper) should pay the invoice and *record* the asset in the accounting records; and finally a third person (i.e. the employee responsible for the new computer) should maintain *custody* of the asset. In the case of receipts, one person (i.e. town clerk) should receive the payment and issue a receipt; another person (i.e. the bookkeeper) should record the revenue in the cash receipt journal; and a third person (i.e. treasurer) should deposit the money into the bank. In both of these examples the authorization, recording and custody functions are each performed by different individuals.

As previously mentioned, the purpose of segregating incompatible duties is to avoid the opportunity for an individual to both commit and conceal an irregularity. An “irregularity” is defined as a theft of assets or an intentional misstatement of the financial statements. An irregularity is significantly different from a mistake or an error in that an irregularity always involves a *deliberate* act that is then covered up.

State law addresses segregation of incompatible duties by specifically prohibiting one individual from simultaneously holding certain positions that could potentially compromise a municipality’s fiscal integrity. Under RSA 669:7, the same person, for example, cannot concurrently hold the positions of selectman and trustee of trust funds, the positions of treasurer and town clerk, or the positions of tax collector and auditor, as well as other combinations of elected and appointed positions. This law however, only establishes a minimum requirement for segregating incompatible duties. Municipal

officials should review their own organizational structure with an eye towards identifying job responsibilities that may be incompatible in terms of authorization, recording and custody functions. If segregating those functions is not possible, then other compensating internal controls should be implemented.

What are some internal controls that can effectively compensate for the inability to segregate job functions? To answer that question, consider the following situation: a small village district in New Hampshire operates with three commissioners, a moderator and a treasurer. The newly elected treasurer contacted NHMA expressing concern with the lack of oversight over the expected job duties. Evidently the previous treasurer “did everything”: approved invoices, prepared checks, signed checks, recorded transactions, deposited funds, reconciled bank accounts and prepared revenue/expense reports. Although the newly elected treasurer was probably unfamiliar with the concept of “segregation of duties”, nevertheless the person was instinctively uncomfortable performing all of the functions without anyone else’s review or approval. And rightfully so!

The following are some internal control procedures that could help alleviate the inability to adequately segregate job functions in a situation such as the one just described:

- *Every disbursement should require prior written approval from at least two of the three commissioners.

- *Every check should require signatures of both the treasurer and at least one, preferably two, of the commissioners.

- *The treasurer should reconcile monthly to both the bank statement and to the general ledger accounts. These reconciliations should be presented to the board of commissioners for their review and acceptance. The commissioners should immediately investigate any discrepancies.

- *A deputy treasurer should be appointed to assist in performing certain functions such as the deposit function, reconciliation function or record keeping function to provide further segregation of duties.

These procedures attempt to compensate for the lack of the number of individuals by involving more than just one person in the various financial functions that must occur.

In addition to requiring multiple approvals, dual signatures and close scrutiny of reconciliations, other procedures can be implemented to compensate for the inability to segregate duties. As previously indicated, having a deputy for key financial positions, such as the treasurer, town clerk and tax collector, is imperative.

Deputies should be adequately trained to perform the essential functions of the job. In fact, *every* person in any type of financial position should have someone else trained as a “backup” to cover during times of planned or unplanned absences.

Finally, for non-elected positions, there is no substitution for a thorough screening of any candidate for a financial position, whether that position is a part-time payroll clerk or a chief financial officer. A credit check, a criminal check and a reference check (all with

the applicant's prior permission), should be part of the routine hiring practices when considering a candidate to fill any position involving municipal finances.

What can happen when there is no segregation of duties, with a single individual possessing too much control over too many functions? In one New Hampshire municipality, an employee was able to issue a payroll advance to herself. Using information obtained from the municipality's bank statement, she created a dummy repayment check, then manipulated transactions in the cash receipts journal and altered the payroll computer system to give the appearance that the advance had been repaid. As illustrated by this case, a lack of segregation of duties, as well as a lack of other compensating controls, contributes to both the commitment and concealment of irregularity.

CASH CONTROLS & PROCEDURES

Who is the custodian of Cash/Checks in each department handling money?

Are there checks & balances in place regarding the handling of cash?

How timely are your deposits being made – think of all municipal deposits?

Is there a Cash Control Policy in place?

Does your municipality allow personal checks to be cashed or making change out of the cash drawer used for daily transactions?

Do you have a separate petty cash drawer to cash department checks?

Are there cash procedures each department follows?

Are there signs posted – customers paying with cash must receive a receipt?

How do you account for the duplicate copy fee?

Do you use a 3-part pre-numbered receipt book? 1 remains in book as a permanent record, 1 is for the customer and 1 is for your daily deposit.

Does the Department head monitor receipts and are they compared to computer generated reports in sequential data?

Does anyone monitor the frequency of departmental deposits?

Does anyone open another department's deposit to see how old the checks are?

Do any departments hold checks while waiting for an outcome such as a planning board meeting or impact fees? Are they kept in a file folder getting older and older because they have been forgotten?

How often are retiree insurance checks deposited? (These are checks that retirees pay for their portion of medical benefits).

Is everyone who handles cash bonded and are you insured for theft?

Where is the money kept at night? Do you have a secure location?

Sample: Questionnaire
Cash Control Manual
Cash Control Policy
Cash Control Procedures
Signs – Spanish/English
Receipt Books

Is there segregation of duties with respect to cash handling in each department?

Have you considered a no cash policy in certain departments with lots of activity such as recreation or school lunch programs?

EXAMPLE CASH RECEIPTS POLICY

TOWN OF AMHERST

July 22, 2002

SECTION 1. PURPOSE

Municipalities deposit substantial sums of money each year carrying out the many functions and services that they provide. Taxpayers have a right to expect that the municipality's operations be carried out efficiently and expeditiously with adequate financial control and accountability.

The objective of this policy is to attempt to strike a balance between the need for department operating efficiency and flexibility, and the need for financial control and accountability. It is also the purpose of this policy to implement uniform procedures for depositing funds that will provide quality and operational efficiency.

This policy shall be known as the "Town of Amherst Deposit Policy" and may be cited as such.

SECTION 2. REGULAR DEPOSIT PROCEDURE

21 Department heads or their designated employee, the Town Clerk, all other departments, and volunteer representatives to appointed committees, must physically bring all deposits to the Tax Collector's Office at the Town Hall for verification. The Deputy Tax Collector may receive deposits if the Tax Collector is unavailable.

22 All revenue must be deposited with the Tax Collector's Office no later than 3:00 PM on the day following when it was received. For Friday, weekend or holiday revenue, the deposit must be turned in on the next available business day by 3:00 PM. For weekly revenue totaling less than fifty dollars (\$50.00), the deposit can be consolidated and the deposit will be made no later than 3:00 PM on the first business day of the following week.

23 Each department or committee must complete a deposit slip, account detail journal, as well as a four-part deposit receipt form for each deposit in pen and legible through all copies. When possible, band one dollar bills in stacks of twenty-five. In addition, (with the exception of the Town Clerk and Tax Collector) each depositor shall photocopy each check and submit a spreadsheet or adding machine tape of the checks in the same sequential order and totaled with each deposit. A copy of the adding machine tape and deposit slip must also be included.

24 Each Department or committee shall send a designee to the Tax Collector's Office for deposit verification. Verification will consist of the department or committee designee being physically present while the Tax Collector counts and verifies the amount to be deposited. For Tax Collector deposits, the Deputy Tax Collector will verify the deposit in the presence of the Tax Collector.

25 The Tax Collector will immediately notify the Finance Director of any discrepancies. The Finance Director will review the deposit and the discrepancy. The Finance Director will determine if the deposit must be returned to the department or committee for correction or be resolved immediately. The Finance Director will initial and provide a brief explanation of any changes made for immediate resolution. In the event that the Finance Director is unavailable, the Town Administrator and/or Department Head will be notified.

26 The Tax Collector shall assign each deposit a sequential number and records each deposit into the deposit log, once the amount has been verified. If amount verified is consistent, both the Tax Collector and Department Representative sign the four part Deposit Receipt Form. The deposit is placed in an envelope, sealed, and initialed by both the Tax Collector and Department Representative across the seal. The deposit slip is clipped to the sealed envelope before the deposit is placed in the drop safe. All back up information accompanying the deposit and the pink copy of the receipt form are set aside for the Treasurer. The Yellow Copy of the Deposit Receipt form is retained by the Department, The Gold Copy will be submitted to finance with the backup information, and Tax Collector retains the White Copy.

27 Only the Treasurer or Deputy Treasurer shall have the combination to the drop safe, and a sealed copy of the combination will be kept in the Town's safe deposit box.

28 The Treasurer or Deputy Treasurer shall perform daily deposits as needed and will come to the Town Hall, open the drop safe, and verify the deposits against the Tax Collector deposit log and Deposit Receipt Form, and sign and date the log before each deposit is taken to the bank.

29 The Treasurer will take the deposits to the bank and provide copies (attached to the journal) of all deposit statements issued by the bank to the Finance Director with the corresponding deposit back up information after the deposit is made. The Treasurer will also provide a copy of the deposit statement to the depositing department. All Concentration accounts will be brought to the office of the Administrative Assistant where 'Regular Deposit Procedures' will be followed.

2.10 Each Department shall receive from the Town Treasurer a monthly list of deposits that have been verified through the bank statement. Any discrepancies shall be reported to the Finance Director and Treasurer.

2.11 Under **no** circumstance will the Department utilize personal funds to compensate shortages. All shortages must be brought to the attention of the Finance Director prior to submission.

SECTION 3. CONCENTRATION ACCOUNT DEPOSIT PROCEDURE

3.1 The Administrative Assistant to the Town Administrator will prepare the bank distribution transmittal form and fax such form to the bank.

32 The Administrative Assistant will contact the bank should a new sub-account need to be established.

33 The Administrative Assistant will complete all necessary journal entry forms.

SECTION 4. COIN DEPOSITING

4.1 All coins must be included with each deposit and correctly reported on the coin line of the deposit slip

4.2 A calculator tape summarizing the coin portion of the deposit must be provided. All coins must be rolled by denominations -50 pennies, 40 nickels, 50 dimes, 40 quarters. Only full rolls will be accepted by the bank. Place additional coins not rolled loose in the deposit bag.

SECTION 5. PETTY CASH PROCEDURES

5.1 No department is to establish a petty cash system without consent from the Town Administrator and start up instructions from the Finance Director.

5.2 A base petty cash amount must be determined by the Department Head and the Finance Director.

5.3 A locked cash box will be used to store petty cash and must be locked at all times. The key will be kept in a secure location. Only the Department Head and the Administrative Assistant will have access to the locked petty cash box and key.

5.4 A pre-numbered, two part receipt will be issued by the Department Head or the Administrative Assistant for each payment made out of petty cash. This receipt is to be signed by the Department Head or Administrative Assistant and the employee receiving the petty cash.

5.5 Payments out of petty cash will be made only when a valid receipt is presented. Should prepayments out of petty cash be necessary, a memo explaining the purpose of the prepayment must be signed by the Department Head or Administrative Assistant and employee and place in the petty cash box or drawer.

5.6 At **all** times the total of receipts added to the cash remaining in the petty cash box must equal the predetermined petty cash amount.

5.7 Under **no** circumstance will the Department Head, Administrative Assistant or employee utilize personal funds to compensate shortages. All shortages must be brought to the attention of the Finance Director immediately upon discovery.

5.8 Random audits of each department's petty cash will be performed by the Finance Director.

5.9 Any discrepancies found must be explained in writing and in detail to the Finance Director and Town Administrator.

SECTION 6. RETURN CHECK PROCEDURE

6.1 Copies of returned checks and bank documentation must be submitted to the Finance Director. Returned checks will be recorded in the accounting system against the revenue in which it was originally posted. Effective June 13, 2005, all returned checks will be recorded against account number 01-1040-10-1003 – Bad Checks with the department in the description.

6.2 First time returned checks are to be re-deposited. The Administrative Assistant to The Town Administrator will prepare the deposit slip and detail journal then notify the appropriate department. The Administrative Assistant will then follow ‘Regular Deposit Procedures.’

6.3 Effective June 13, 2005, written notification will be sent to the issuer of the returned check with a copy of the information sent to the appropriate department.

6.4. Payment of a returned check that cannot be re-deposited must be either in the form of cash, money order, or bank certified check. Effective June 13, 2005, all payments of returned checks must be made at the Town Hall in the Administrative Office. The Administrative office will notify the appropriate department of payment and provide a copy of the deposit information. Information as to whom and the purpose of the payment should be documented and placed with the daily deposits. Returned check charges should be noted as a separate revenue item.

SECTION 7. IMPLEMENTATION

7.1 To facilitate conduct in accordance with this policy, a copy of this policy shall be made available to department heads, employees, volunteers, board and commissions upon hiring, appointment or election to office and at such other times as may be necessary.

Adopted by vote of the Board of Selectmen on this date, the_____.

Chairman

Received and Recorded: _____, 200X

Town Clerk

***DISCLAIMER:** All example policies are for illustrative purposes only. None of these example policies have been reviewed by our legal staff for enforceability or compliance with applicable laws. LGC makes no express or implied endorsement or recommendation of any example policy, nor does it make any express or implied guarantee of the legal enforceability, legal compliance, or quality of any particular policy. Likewise, we do not represent that any particular policy or portion of a policy is appropriate for any particular municipality. Legal counsel should review any proposed financial policy before a municipality adopts it.*

EXAMPLE CASH RECEIPTS POLICY

CITY OF DOVER

Effective June 06, 2002

1.0 PURPOSE

To establish the Policy and Procedures for efficient handling and timely deposit of city moneys collected by departments or divisions.

2.0 ORGANIZATIONS AFFECTED

All departments and divisions of the City.

3.0 DEFINITIONS

Petty Cash - An amount of money assigned to a department or division, to be used for small purchases and/or as a cash drawer for collection of moneys and making change for customers. The Petty Cash amount remains constant and is represented by cash, checks, coin or receipts for purchases.

Departmental Deposit Control form (DDC) – The form used by Departments to submit a deposit to the Tax Collector on behalf of the Treasurer, one of which is returned as a receipt after numbering by the Tax Collector.

4.0 POLICY

4.1 Petty Cash

Petty Cash is for official business only, specifically the making of change to a customer or reimbursement of small amounts for items purchased by employees for business. Such reimbursement will be made only upon presentation of the appropriate paid receipts. All small departmental purchases will be paid for through Petty Cash and not reimbursed to the employee on Field Purchase Orders. No employee shall use Petty Cash for any personal business, even if the intent is to reimburse Petty Cash. There shall be no cashing of personal, third party or Dover payroll checks through Petty Cash. Violation of any portion of these policies may lead to disciplinary action, including termination of employment.

4.2 Deposits

When a department has collections in cash, coin, checks or other negotiable instruments totaling \$100 or more above their Petty Cash level, all moneys, excluding Petty Cash, should be deposited with the Tax Collector by 10 AM the next business day. If a department has on hand, collections less than \$100.00, the moneys shall be deposited, at a minimum, once a week. No employee involved in an invoicing function may be involved in the collection of moneys related to such invoices.

5.0 PROCEDURES:

5.1 Petty Cash

5.1.1 Departments shall keep Petty Cash secure from public access and non-authorized employees.

5.1.2 Only one employee at a time shall be assigned responsibility by a department for access to Petty Cash. A cash register may be used by more than one employee for collection purposes where the register can report the activity of each individual using the register. Departments shall take steps that minimize the number of employees that have access to a cash register.

5.1.3 Cash out procedures shall occur when the transfer of responsibility for the Petty Cash to another employee takes place (re: 5.3)

5.1.4 All employees that have responsibility for Petty Cash shall sign a Petty Cash Policy Statement. These forms will be forwarded and held on file in the Accounting Division.

5.1.5 All reimbursements from Petty Cash for small purchases will be made to employees authorized by the department to make such purchases upon presentation to the department by the employee of the appropriate receipts and a description of the purchases.

5.1.6 Departments should limit the amount of reimbursements made from Petty Cash to \$20.00 or less, though exceptions may be made.

5.1.7 Replenishment to departmental Petty Cash for purchases made shall occur by use of a Field Purchase Order (FPO) made out to the department or division name, including the term Petty Cash, e.g. Arena Division Petty Cash, and submitted to the Accounting Division. All receipts or other documents supporting the charges shall accompany the FPO. Accounting will cut a check for the reimbursement during its normal processing.

5.1.8 Departments shall submit for Petty Cash reimbursement once a month, at a minimum, for any purchase receipts being held.

5.1.9 Departments may cash their Petty Cash reimbursement checks at the Tax Collection Office.

5.2 Collection of Moneys

5.2.1 Customer Receipts - Departments should insure that all customers are issued a sequentially numbered receipt at the time of collection of moneys from a customer. Customers should be encouraged by appropriately placed signs to request a receipt.

5.2.2 Departments shall insure that the documentation from the receipting process allows for proper final accounting of the moneys, i.e. the revenue or receivable account to be credited.

523 Refusal of Customer Checks - Departments shall refuse checks from customers appearing on the latest bad check listing issued by the Finance Department.

5.3 Cash Out

53.1 All departments, on a daily basis at a minimum, shall make an accounting of their Petty Cash to assess if the Petty Cash balance is correct and to determine whether a deposit is required.

53.2 The employee responsible for the Petty Cash shall fill out a reconciliation sheet proving to the Petty Cash amount.

53.3 The department head or designated division employee shall review the reconciliation and initial, signifying his review.

53.4 Any deposit amount under or over the collection amount should be charged or credited to the collecting function - account 3595 Variances, e.g., 5500-45149-3730-0000-00-35 Arena Division Variance. If the variance is later identified, Accounting will process a Journal Entry to correct the accounting.

5.4 Departmental Deposits to the Tax Collector

54.1 When it is ascertained that a deposit is required, the appropriate Departmental Deposit Control form should be filled out identifying the various revenue accounts to be credited and the cash, coin, checks and other negotiable instruments shall be forwarded to the Tax Collector by 10:00 a.m. of the day following the close of business.

54.2 When a deposit is made, all moneys for the related collections shall be deposited. No cash items from collections shall remain as part of the Petty Cash balance.

54.3 Departments shall submit two copies of the Department Deposit Control form to the Tax Collector.

54.4 Departments shall submit two adding machine tapes of checks included in the deposit. All checks should be stamped "For Deposit Only" and indicate the department or division name depositing the check. There should not be any stapling of cash or checks.

54.5 The Tax Collector, upon receipt of a departmental deposit shall issue and forward a DDC for the department. The Tax Collector shall forward a copy of the DDC form to the Accounting Division for posting to the accounts.

54.6 The Tax Collector shall report any variance from the deposit procedures to the Finance Director.

5.5 Audit

Departmental Petty Cash, related daily reconciliation sheets or other Petty Cash or deposit related documents shall be available for audit upon demand by the Finance Department or its agents.

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City of Nashua Cash Controls & Handling Policy

201:01 Statement of Policy

The stewardship of financial assets for the City of Nashua is shared by authorized employees throughout the City. The central cashing function is performed by the City Treasurer/Tax Office although many departments receive cash and checks for charges or services and in some instances are responsible for their own bank deposit or otherwise control cash or revenue producing assets.

A series of cash controls and handling policies have been adopted by the Board of Aldermen for uniform application in all City Divisions in recognition of the need to safeguard public funds. These policies recognize the decentralized nature of the receipting and depositing process while providing for standardized training and an annual review of the fees charged for services throughout the City.

All references to cash throughout this policy are understood to include cash, checks, and any other negotiable instruments.

201:02 General Cash Controls

1. All employees with access to cash shall be bonded. The amount of the bond shall be prescribed by the Risk Manager.
2. Each cash drawer shall have a custodian who is responsible for its contents. All department managers responsible for multiple shifts shall designate a custodian for each shift. Each custodian shall be provided with a separate locked drawer whenever possible.
3. The number of employees with access to the cash drawer shall be limited to assure internal control.
4. The physical separation of duties from the function of custodian of the cash drawer and the accounting and recordkeeping of the same shall be maintained.
5. Physical protection of cash through the use of bank facilities, vaults, and locked cash boxes or drawers shall be practiced at all times. Armored car service will be made available to those departments with an appropriate need.
6. Cash on the premises will be held to an absolute minimum to insure safety and maximize return on investments. This shall be accomplished by frequent bank deposits and the monitoring of the dollar amount considered necessary for cash drawers.
7. Periodic examination, count, or other review of all cash drawers shall be conducted at least semi-annually. These examinations shall be announced and unannounced. They will be performed by authorized personnel not assigned the custodial responsibility.

8. No checks shall be cashed from any City cash drawer with the exception of the Treasurer/Tax Office drawer established specifically for this purpose.
9. The Treasurer/Tax Office in conjunction with the Chief Financial Officer (CFO) shall publish and update as necessary a cash-handling manual that will serve as procedural documentation and a training tool for departmental cash handlers.

201:03 Cash Reporting

The Treasurer/Tax Office performs the central cashing function. Therefore all evidence of any deposit shall be forwarded to the Treasurer/Tax Office as soon as possible to assure timely and proper credit in the receipting process. Evidence of deposit includes deposit slips, notification of wire transfers or ACH credits, and department revenue summaries

1. All employees charged with the receipting of revenues shall be provided a copy of the current fee and rate schedule as well as the appropriate general ledger account codes from their division director or department manager.
2. All departments with cash operations shall have a permanent collection record that contains a record of all transactions including voids, refunds, and cancellations.
3. A receipt shall be issued for all cash transactions. Receipts may be electronically generated or handwritten. All handwritten receipts shall be duplicate, pre-numbered documents contained in a bound log. The original shall be issued to the customer and the duplicate will be retained by the receipting department.
4. The Treasurer/Tax Office in conjunction with the division director and department manager shall determine what type of receipt is appropriate for each department.

201:04 Deposits

1. The general operating standard for deposit of cash receipts to the primary depository shall be twenty-four hours from the receipt of the cash. Departments shall weigh reasonableness and practicality versus security in determining the timing for the deposit of smaller amounts.
2. All cash not deposited daily shall be held in a secured location such as a locked filing cabinet, safe, or vault.
3. All cash received by the Treasurer/Tax Office after 3:00 PM that requires preparation for deposit (hereafter referred to as a turnover) shall be recorded the next business day.
4. The total of funds in a deposit or turnover shall be reconciled to the receipts on the cash register report or bound log. Unresolved variances of greater than \$5.00 shall be reported to the Treasurer/Tax Office and greater than \$50 reported to the CFO.

5. Cash in a deposit or turnover shall not be used to make change, replenish petty cash, or used as a funding source for "IOUs".
6. All security and bid deposits, escrowed funds, and other funds requiring special handling received in negotiable form shall be held by the Treasurer/Tax Office or its appropriate designee until final disposition is made.

201:05 Petty Cash

1. The Treasurer/Tax Office shall establish petty cash funds when deemed necessary to conduct City business in an efficient and responsible manner.
2. Petty cash funds are imprest, that is, an advance from the general fund. Therefore, petty cash transactions shall be subject to the same authorized expenditure controls as any other invoice presented for payment through Accounts Payable.
3. Requests for reimbursement of petty cash expenditures shall not exceed \$250.00.
4. The custodian shall request reimbursement for expenditures of greater than \$50 (or \$75 for mileage) by submitting a payment authorization to Accounts Payable. Reimbursements for expenditures of \$50 (\$75 for mileage) or less shall be made from the Treasurer/Tax Office petty cash fund. Reimbursement shall be issued upon the presentation and surrender of satisfactory evidence of such disbursements.
5. Petty cash reimbursement checks of up to \$250.00 shall be cashed in the Treasurer/Tax Office from the cash drawer established for this purpose.
6. Reconciliations are required as set forth in the separate petty cash procedure established by Financial Reporting.
7. Petty cash shall not be used to make change or used as a funding source for "IOUs".

201:06 Change Drawers and Other Working Funds

1. Change drawers shall be established as deemed necessary by the Treasurer/Tax Office. These drawers shall be used exclusively for making change. The amount of the drawer remains constant; it is never expended.
2. A drawer will be maintained in the Treasurer/Tax Office for the purpose of cashing petty cash reimbursement checks.
3. Other working funds may be established as deemed necessary by the Treasurer/Tax Office.

201:07 Returned Checks

The Treasurer/Tax Office assumes responsibility for collection of checks returned by the bank for any reason with cooperation from the receipting department. The receipting department will assist in contacting the owner of the returned check for proper collection

of all monies due. The city complies with state law RSA 80:56; “Whenever any check issued to a city or town for the payment of taxes, permit fees, licenses, special assessments, water or sewer bills, for any combination of these or for any other municipal services is returned to the city or town official as uncollectible, the city or town shall charge a fee of \$25 plus all protest, bank, and legal fees in addition to the amount of said check to the person who issued such check to cover the cost of collecting the debt that the check was issued to pay. The \$25 fee together with any protest or legal fees collected shall be for the use of the city or town.”

201:08 Banking Services and Account Opening Policy

The Treasurer/Tax Office is responsible for the City’s banking relationships. A primary bank shall be selected on a periodic basis through a request-for-proposal process with formal approval given by the Finance Committee. A separate but coordinated process shall be conducted for armored car services unless it is part of the contract with the City’s primary bank.

1. The establishing and closing of bank accounts shall be managed by the Treasurer/Tax Office.
2. No bank account shall be opened with the City’s tax identification number (TIN) without approval from the Treasurer/Tax Office.
3. The Treasurer shall be an authorized signer on all accounts opened with the City’s TIN.

201:09 Investment Policy

The Treasurer in conjunction with the CFO shall publish and update at least annually a comprehensive investment policy. The policy shall address at a minimum the City’s general fund investments. The policy shall be approved by the Finance Committee.

201:10 Cancellation

All prior policies on Cash Controls & Handling are hereby repealed and replaced with this policy. This policy will remain in full force until such time the hiring source or specific State or Federal rules and regulations that govern employment indicate a change in the policy or procedures.

Any violation of the provisions contained herein shall constitute sufficient grounds for disciplinary action up to and including termination of employment.

Acknowledgement

I hereby acknowledge that I have received and read the City of Nashua’s Cash Controls and Handling Policy. I understand that I am required to follow the procedures stated in this policy when handling cash and checks during my employment with the City. I will keep a copy of the policy and direct any questions regarding it to the Financial Services Division either in person or by calling 589-3170.

Signature of the Employee

Date

CC: Personnel File

TAX COLLECTORS' RECORD RETENTION SPRING WORKSHOPS 2009 -Updated August 2012; Reviewed 2022

History: 1660s – 1967: Keep all records;
1967-1976: 44 record types in Statute;
1977-2005: 105 record types in Administrative rules of MRB;
2005+ to present: 163 record types back into Statute; MRB advisory.
(Rules adopted by Legislature RSA 33-A in 2005).

Purpose: One main purpose is to insure records be retained that are required by law and essential to business. The second is to insure outdated or unnecessary documents be destroyed in a systematic and thoughtful way so that no one can infer that the tax collector acted with bad intentions.

Definitions: What is a record?

“...Any document, book, paper, manuscript, drawing, photograph, map, sound recording, video recording, electronic record, microform, or other material, regardless of physical form or characteristics, made or received pursuant to law or in connection with the transaction of official business.”
RSA 5:29.

Exceptions: Library materials, working copies, duplicate copies, publications.

Remember -not all records are created equal – some are only valuable for a short period of time and others permanently.

What is a municipal record?

“...all municipal records, reports, minutes, tax records, ledgers, journals, checks, bills, receipts, warrants, payrolls, deeds and any other written or computerized material that may be designated by the board.” RSA 33-A:1(IV) (There can be groups of records that document similar actions, decisions or filings; such as the deeding records which can be considered one record).

What is an electronic record?

Any record that is generated by electronic means, for example a record generated by a computer.

- a. Computers, (IBM punch cards, 5.25” floppy drives, 3.5” floppy drives, CD, etc.).
- b. Software platform (Windows, Vista, Linux etc.).
- c. Software applications, (MS Word, WordPerfect, etc.).
- d. Software languages, (Java, C++, XML, HTML, etc.).
- e. Multi format documents

Determining methods of retention as well as disposition may be more challenging than those of hard copy documents.

What is a retention schedule?

It is a predetermined schedule for keeping a record from the time of its' creation until its' disposition. RSA 33-A:3-a refers to the records requirements for the State of New Hampshire. There are also Federal laws which cover records as well. A single record may be subject to a variety of laws and regulations and may also be affected by Statutes of limitations. (If a record is not listed on any legal retention schedule that does not mean it may be destroyed at will, see Municipal Committees).

What is the Municipal Committee?

RSA 33-A:3 establishes a committee consisting of the municipal officers or their designee together with the town clerk, treasurer, an assessor, and tax collector of each city or town to govern the disposition of municipal records pursuant to RSA 33-A. It allows this committee to designate the office responsible for the retention of each type of record created for the municipality unless otherwise provided by a municipal ordinance.

Management: Establishing a plan for:

1. Arranging or organizing records – determining which records need to be kept and for how long.
 - a. MAKE A LIST: determine who creates the record, why it is created and who uses it. Use the RSA retention schedule as a guide but also consider individual municipal needs. A chart or spreadsheet is helpful to identify significant records.
 - b. Identify all PERMANENT records and the safest place for their storage. If the record is not listed in the RSA a determination for it's retention needs to be established by the local records committee. Consider any and all legal, fiscal and historical requirements of a record.
2. Making records accessible (or preserving confidentiality). Creating files such as lien and deeding records by pulling all notices and related records and storing them in one file is an efficient way of preserving specific files. Determining how often the record is used will help determine where it is stored. (Is it used weekly, monthly, quarterly, yearly or never). There needs to be a balance between access and privacy.

If off site storage is necessary make sure only records rarely used are placed in storage that is not readily accessible.
3. Reformatting if necessary; has the method of retention become outdated and not available for use? Remember that methods of storage change over the years and a particular method of retention used years ago now may be obsolete. (For example old back up tapes from computers no longer in use, or cassette tapes etc.).
4. Eliminate unnecessary records according to retention schedules by appropriate disposition. It is not advisable to save every document as it is costly and time consuming. It could also cause unnecessary exposure in the face of Right to Know Law requests and litigation

- discovery demands. (If you have it then you have to produce it even if you are not required to retain it). A town policy for destruction of records is crucial. (This policy should be made by the local committee).
5. When it comes to conserving or preserving records, consider who else will be retaining the same record and decide if you also need to retain it or will it be an unnecessary duplication of efforts.
 6. Establish policies and processes to maintain records by utilizing the local board. Draft a policy; determine departmental involvement as to individual records and needs, (no one person should be responsible for all records); as well as storage facilities.
 7. Determine best practices for record retention and establish a disaster preparedness and recovery plan in case of emergencies; (for example fire, flood, extended loss of power, etc).

Research Rules: Are retention schedules already specified for each type of record? If they are not, the local committee needs to make decisions based on:

1. Town Ordinance
2. State Statute
3. State Administrative Rule
4. Federal Statute
5. Federal Administrative Rule
6. Historical Value

ABBREVIATED RECORD RETENTION LIST - TAX COLLECTORS
Motto - "When in Doubt— DO NOT THROW OUT"

Chapter 33-A
 RSA 33-A:3-a Disposition and Retention Schedule

Abatement Records	5 years
Annual Audit Report	10 years
Bank Deposit Slips & Statements	6 years
Current Use Release	Permanently
Deed for Tax-Deeded Property	Until disposal of property + 10 years
Deed Grantee/Grantor Listing from Registry	Until replaced + 1 year
Excavation Tax Warrant and Book/List	Permanently
Intent to Cut Trees or Bushes	3 years
Intent to Excavate	Completion of reclamation plus 3 yrs
Liens: Tax Sale & Record of Lien	Permanently
Liens: Tax Sales/Liens Redeemed Report	Permanently
Real Estate: Notice of Sale	10 years after recording deed
Special Assessment (Betterment of Property)	20 years
Tax Deeded Property File: Registered or Certified Receipts of Notice to Property Owner and Mortgagee Of Tax Lien and Intent to Deed, and Including Subsequent Payment and Any Pertinent Tax Lien Correspondence for Tax-Deeded Property	Permanently
Tax Deed Record Card	Until disposal of property + 10 years
Tax Maps	Permanently
Tax Receipts:	6 years
Land Use Change Property Resident Sewer Special Assessment Yield	
Warrants:	Permanently
Land Use Change and Book or List Property Tax and Lists Resident Tax and Book or List Utility and Betterment Tax Yield Tax and Book or List	

EXAMPLE FRAUD POLICY

CITY OF DOVER

1. PURPOSE

Financial accountability is a top priority for the City of Dover. The City's fraud policy formalizes the expectations of personal honesty and integrity required of City officials and employees. The City of Dover is committed to protecting its revenue, property, information and other assets from any attempt, either by members of the public, contractors, sub-contractors, agents, intermediaries or its own employees, to gain by deceit, financial or other benefits. This policy prohibits fraud or misuse of the City of Dover's assets and sets forth specific guidelines and responsibilities regarding appropriate actions that must be followed for the investigation of fraud and other similar irregularities.

2. ORGANIZATIONS AFFECTED

All departments and divisions of the City.

3. DEFINITIONS

As used in this policy, the terms listed below shall have the following definitions:

1. *Embezzlement* is any loss resulting from the misappropriation of the City of Dover assets.
2. *Misappropriate* is to take or make use of any item without authority or right.
3. *Loss* is defined as the City of Dover losing possession or control of any type of asset through fraudulent activities.
4. *Fraud* is the intentional misrepresentation or omission of facts for personal gain.
5. *Employee(s)* refer to all City of Dover employees, independent contractors, consultants, and temporary workers.
6. *Assets* refer to the entire property of the City, association, corporation, or estate applicable or subject to the payments of debts. Assets include, but are not limited to, all City vehicles and building properties, computers and software, cash receivables, wages and benefits.
7. *Equipment* is defined as a fixed asset that is not consumable or expandable; it is movable, even though sometimes attached to other objects or buildings; and its removal does not create a readily observable physical impairment or deterioration. Examples include, but are not limited to: Office equipment including computers, desk cabinets, printers and scanners, any electronic data processing equipment, training/educational equipment, medical supplies, and furnishings, audio-visual, cameras and recording devices. Equipment also includes, but is not limited to, all construction and maintenance equipment, air conditioners, fire-fighting equipment, and tools, rescue equipment and tools.

4. POLICY

The City of Dover has adopted a zero tolerance policy regarding fraud. No employee of the City shall remove any City of Dover assets from the property, misuse any City assets for ones personal gain, or willfully misappropriate any City of Dover asset. Any evidence supporting fraud, theft or embezzlement of City of Dover assets and equipment may be subject to the following actions including but not limited to: suspension, termination, restitution, and criminal charges. Any City of Dover employee who is aware of fraud being committed against the City by anyone shall report such activity to the Police Department.

5. PROHIBITED ACTS

Fraud and misuse of the City of Dover assets are prohibited. Examples of fraud and misuse of City assets include but are not limited to:

1. Embezzlement
2. Misappropriation, misapplication, destruction, removal, or concealment of City of Dover property.
3. Alteration or falsification of documents.
4. Theft of any asset (money, tangible property, etc.)
5. Authorizing or receiving compensation for goods not received or services not performed.
6. Authorizing or receiving compensation for hours not worked.
7. Misrepresentation of fact.

6. COMPLAINT PROCEDURE

1. Employees shall read and understand this policy. Additionally, suspected or known fraudulent acts by employees shall be reported to their respective Department Head. If the employee has reason to believe that their Department Head may be involved, the employee shall notify the Police Department directly.
2. Supervisors shall a) communicate the provisions of this policy to all staff, b) take no action without consulting the Department Head, c) recommend appropriate disciplinary action when there is evidence of wrong-doing, and d) if suspension or termination is recommended, consult with the Human Resources.
3. Department Heads shall communicate any suspected or known fraudulent act to the Police Department. The Police Department will notify the City Manager of each reported incident and keep the City Manager abreast of the investigation.
4. All participants in a fraud investigation shall keep the details and results of the investigation confidential.
5. Any employee reporting an act of fraud; or assisting, testifying, or participating in a fraud investigation, acting in accordance with the requirements of this policy, shall not be subject to any adverse employment action unless it is determined the employee is culpable for such action and/or made an allegation knowing it was false. Examples of adverse employment action include, but are not limited to,

discipline, suspension, threatening to discipline or suspend, coercion, acts of intimidation, and firing.

7. PREVENTION

Each department will maintain an internal control environment to protect the department and the City from loss or other damages as a result of a fraudulent act.

8. FALSE ALLEGATIONS

False allegations of suspected fraud with the intent to disrupt or cause harm to another may be subject to disciplinary action up to and including termination of employment.

9. CORRECTIVE ACTIONS AND DISCIPLINE

Appropriate and timely action will be taken against those proven to have committed fraudulent act. These remedial actions may include, but are not limited to:

1. Disciplinary action (up to and including immediate termination of employment).
2. Restitution for all losses, including investigation and legal expenses, to the fullest extent of the law.
3. Forwarding information to the appropriate authorities for criminal prosecution.
4. Institution of civil action to recover losses.
5. Where the City of Dover elects to take corrective or disciplinary action, it will proceed under the procedures in place under policy or under any collective bargaining agreement for the respective employment classification.
6. The City of Dover may take corrective or disciplinary action without awaiting the resolution of criminal or civil proceedings arising from fraudulent conduct.

10. CONFIDENTIALITY

All investigations will be conducted in confidence insofar as reasonably possible. The names or names of those communicating information about a fraudulent act or the name or names of those suspected of a fraudulent act will only be revealed when required by law in conjunction with the investigation or legal action.

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EXAMPLE FRAUD POLICY

TOWN OF GOFFSTOWN

INTRODUCTION

Like all municipalities, ours is faced with the risks from wrongdoing, misconduct, dishonesty and fraud. We must be prepared to manage these risks and their potential impact in a professional manner.

The impact of misconduct and dishonesty may include:

- The actual financial loss incurred
- Damage to the reputation of our town and our employees
- Negative publicity
- The cost of investigation
- Loss of employees
- Loss of public confidence
- Damaged relationships with our contractors and suppliers
- Litigation
- Damages employee morale

Our goal is to establish and maintain an environment of fairness, ethics and honesty for our employees, our citizens, our suppliers and anyone else with whom we have a relationship. To maintain such an environment requires the active assistance of every employee and manager every day.

Our municipality is committed to the deterrence, detection and correction of misconduct and dishonesty. The discovery, reporting and documentation of such acts provides a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including dismissal where appropriate, the referral to law enforcement agencies when warranted by the facts, and the recovery of assets.

PURPOSE

The purpose of this document is to communicate municipal policy regarding the deterrence and investigation of suspected misconduct and dishonesty by employees and others, and to provide specific instructions regarding appropriate action in case of suspected violations.

DEFINITION OF MISCONDUCT AND DISHONESTY

For purposes of this policy, misconduct and dishonesty include but are not limited to:

- theft or other misappropriations of assets, including assets of the town, our citizens, suppliers or others with whom we have a business relationship
- misstatements and other irregularities in municipal records, including the misstatement of the results of operations
- wrongdoing
- forgery or other alteration of documents
- any similar acts

The municipality specifically prohibits these and any other illegal activities in the actions of its employees, managers, administrators and others responsible for carrying out the town's activities.

POLICY AND RESPONSIBILITIES

Reporting

It is the responsibility of every employee, supervisor, manager and administrators to immediately report suspected misconduct or dishonesty to their supervisor or those that exercise authority over the supervisor. Supervisors, when made aware of such potential acts by subordinates, must immediately report such acts to their supervisor. Any reprisal against any employee or other reporting individual because that individual, in good faith, reported a violation is strictly forbidden.

Due to the important yet sensitive nature of the suspected violations, effective professional follow up is critical. Managers, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstances perform an investigative or other follow up steps on their own. Concerned but uninformed managers represent one of the greatest threats to proper incident handling. All relevant matters, including suspected but unproved matters, should be referred immediately to those with follow up responsibility.

Additional Responsibilities of Supervisors

All employees have a responsibility to reporting suspected violations. However, employees with supervisory and review responsibilities at any level have additional deterrence and detection duties. Specifically, personnel with supervisory or review authority have three additional responsibilities.

- First, you must become aware of what can go wrong in your area of authority.
- Second, you must put into place and maintain effective monitoring, review and control procedures which will prevent acts of wrongdoing.
- Third, you must put into place and maintain effective monitoring, review and control procedures which will detect acts of wrongdoing promptly should prevention efforts fail.

Authority to carry out these additional responsibilities is often delegated to subordinates. However, accountability for their effectiveness cannot be delegated and will remain with supervisors and managers.

Assistance in effectively carrying out these responsibilities is available upon request through the Finance Director and Town Administrator.

RESPONSIBILITY AND AUTHORITY FOR FOLLOW UP AND INVESTIGATION

The Police Department and/or Administration Department has the primary responsibility for all investigations involving the town and all departments. The Police Department and/or Administration may request the assistance of the Finance Office in any investigation, including access to periodic examinations and evaluations of internal controls.

Properly designated members of the investigative team will have:

- free and unrestricted access to all municipal records
- the authority to examine, copy and/or remove all or any portion of contents of files, desks, cabinets, and other storage facilities (whether in electronic or other form) without the prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of investigative or related follow up procedures

All investigations of alleged wrongdoing will be conducted in accordance with applicable laws and town procedures.

REPORTED INCIDENT FOLLOW UP PROCEDURES

Care must be taken in the follow up of suspected misconduct and dishonesty to avoid acting on incorrect or unsupported accusations, to avoid alerting suspected individuals that follow up and investigation is underway, and to avoid making statements which could adversely affect the town, an employee, or other parties.

Accordingly, the general procedures for follow up and investigation of reported incidents are as follows:

1. Employees and others must immediately report all factual details as indicated above under Policy.
2. The Police Department and/or Administration Department has the responsibility for follow up and, if appropriate, investigation of all reported incidents.
3. All records related to the reported incident will be retained wherever they reside.
4. Do not communicate with the suspected individuals or organizations about the matter under investigation
5. Police Department and/or Administration Department will also notify the Finance Director of all reported incidents so that it may be determined whether this matter should be brought to the attention of the Auditors.
6. The Police Department and/or Administration Department may also obtain legal advice at any time throughout the course of an investigation or other follow up activity on any matter related to the report, investigation steps, proposed disciplinary action or any anticipated litigation.
7. Neither the existence nor the results of investigations or other follow up activity will be disclosed or discussed with anyone other than those persons

who have a legitimate need to know in order to perform their duties and responsibilities effectively.

- 8. All inquiries from an attorney or any other contacts from outside of the municipal government, including those from other law enforcement agencies or from the employee under investigation, should be referred to the Police Department and/or Administration Department.

Investigative or other follow up activity will be carried out without regards to the suspected individual's, position or level, or relationship with the municipality.

QUESTIONS OR CLARIFICATIONS RELATED TO THIS POLICY

All questions or other clarifications of this policy and its related responsibilities should be addressed to the Town Administrator, who shall be responsible for the administration, revision, interpretation, and application of this policy.

Approved by Board of

Selectmen:

Date: _____

+++++

Acknowledgement

My signature signifies that I have read the Policy on Suspected Misconduct and Dishonesty and that I understand my responsibilities related to the prevention, detection and reporting of suspected misconduct and dishonesty.

Signature: _____

Print Name: _____

Date Signed: _____

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IX. PUBLIC OFFICIALS' ETHICS RIGHT TO KNOW LAW (RSA 91)

Ethics and Municipal Tax Collectors: A Matter of Public Trust

Provided by
C. Christine Fillmore
Staff Attorney
NH Local Government Center

As public officials, municipal tax collectors have an obligation to comply with all State laws regarding their duties. Many of those laws are covered in depth in other areas of this manual. This section focuses on the ethical obligations tax collectors must meet, and explores what can happen in difficult situations.

A great question to begin with is, what are “ethics”? It seems like a simple question, but ask several people and you are likely to get several different answers. When the question involves the ethical behavior of local government officials and employees, the answers might include things like:

- Avoiding conflicts of interest
- Disclosing financial interests and other relationships
- Avoiding criminal behavior
- Keeping confidential information confidential
- Properly using authority and acting cooperatively
- Treating people fairly and equally

The ethical behavior of all public officials and employees is of significant concern to everyone. Not only is it critical for officials and employees to act ethically, it is important to avoid even the appearance of unethical behavior.

To act ethically in their position, municipal tax collectors need to be aware not only of the scope and details of their duties, but a variety of other statutes that affect the way they may perform those duties.

A. Powers and Duties of Tax Collectors

First and foremost, it is important for tax collectors to have a clear understanding of their duties under the law. Under RSA 41:35, these include:

- Keeping suitable books
- Maintaining a fair and correct account of taxes due, collected, and abated, as well as tax-deeded property

- Paying money collected to the treasurer (or treasurer's designee under RSA 41:29, VI), at least weekly or whenever receipts total \$1,500 or more
- Making final payment of all money collected to treasurer within 10 days after close of fiscal year
- Submitting tax books and lists to treasurer and selectmen for inspection when requested
- Maintaining a usual place of business at least one day per month for at least 2 hours for the transaction of tax business
- Making a written report to the town at the end of each fiscal year including the amount of taxes committed to be collected, the amount collected with interest, the amount of discounts allowed, abatements granted, uncollected taxes, and all tax-deeded properties

When the term of a collector ends for any reason, all books, records and papers of the outgoing collector must be delivered to the selectmen, who turn over to the new collector those needed. Those not needed are turned over to the town clerk. When there is a new tax collector, the selectmen are required to cause an audit to be performed on the books of the previous collector, and to make and commit to the new collector new warrants directing the collection of those taxes. RSA 41:36.

In addition, the New Hampshire Department of Revenue Administration (DRA) has authority to supervise municipal tax collectors and ensure the proper administration of the laws relating to tax collection. RSA 41:39. DRA rules Rev 1905 relate directly to tax collectors, and include requirements for basic records, receipts, and procedures.

B. Internal Controls

All municipal offices need to be concerned with internal controls. What are they? "Internal controls" generally refer to the process designed to provide reasonable assurance regarding the achievement of the municipality's objectives, including reliable financial reporting, effective and efficient operations, and compliance with applicable laws and regulations. They are a system of checks and balances to prevent any one person from committing fraud, theft, or other irregularity. Internal controls are put in place by those charged with governance (generally, the governing body). In towns, selectmen (as the governing body) are responsible for establishing and maintaining appropriate internal control procedures to ensure the safeguarding of all town assets and properties. RSA 41:9, IV. In other words, selectmen have authority to set up internal control procedures that other town officials will be required to follow.

One very useful source of information regarding internal controls is your municipal auditor. Auditors will look at a variety of areas to see whether proper controls are in place, including things like:

- Does your municipality have sufficient expertise to appropriately apply generally accepted accounting principles?
- Is management and/or financial staff adequately trained and qualified to fulfill their assigned functions?
- Is there an antifraud program in place?
- Are there controls over non-routine and non-systematic transactions, such as journal entries, abatements, or expenditures of FEMA funds?
- Are accurate and timely reconciliations of significant accounts routinely performed, such as bank reconciliations, and reconciliations of account receivable/account payable subledgers, grant ledgers, tax and utility receivables?
- Are there sufficient controls over period-end financial reporting, including procedures over approving and processing adjusting entries in the general ledger, preparing financial statements, and providing required note disclosures?
- Are financial reports issued in a timely way?
- Are internal controls adequately documented?
- Is there adequate segregation of duties over significant accounts and processes such as cash receipts, payroll and purchasing functions?
- Are there controls in place to safeguard municipal assets, such as performing periodic physical inventories and maintaining capital asset records?
- Are there adequate IT controls in place over major systems, such as financial reporting, payroll, general ledger and grant management, as well as adequate back-up systems and disaster recovery procedures?

Of these issues, segregation of duties is one of the most important parts of internal controls, especially in a small office. The purpose of segregating duties is to prevent any individual from being in a position in which he or she can both commit an irregularity and then conceal it. This is done by separating job functions so that, ideally, no one individual is able to 1) authorize a transaction, 2) record the transaction in the accounting records, and 3) maintain custody of the asset resulting from that transaction.

For example, to properly segregate duties in a transaction involving the purchase of a computer, one person (such as a supervisor or department head) should authorize the purchase via a purchase order; another person (such as a bookkeeper) should pay the invoice and record the asset in the accounting records; and finally a third person (such as the employee responsible for the new computer) should maintain custody of the asset. In the case of receipts, one person (such as the tax collector) should receive the payment and issue the receipt; another person (such as a bookkeeper) should record the revenue in the cash receipts journal; and a third person (such as the treasurer) should deposit money into the bank. In both of these examples, the authorization, recording and custody functions are each performed by different individuals.

Deputies are an important part of internal controls. Tax collectors are supposed to appoint a deputy with the approval of the selectmen. The deputy shall be sworn, give bond, and have the powers of the tax collector, and perform any duties as assigned by the collector. RSA 41:38. In the absence of the collector, the deputy steps into the

collector's shoes, either temporarily, or (if the collector's term ends for any reason) for up to 30 days until the selectmen appoint a replacement. RSA 669:67. Deputies should be adequately trained to perform the essential functions of the job. In fact, every person in any type of financial position should have someone else trained as a backup to cover during times of planned or unplanned absences.

C. Where Tax Collectors Fit with Other Officials

Many officials in a municipality have financial functions, or authority and responsibilities that affect financial procedures. It can be helpful to note what these other officials are required or authorized to do, and to see how it fits with a tax collector's responsibility and authority.

Selectmen, under RSA 41:9:

- Pay (or cause to be paid) all money received by the town to the town treasurer
- Draw orders upon the treasurer for payment of all accounts
- Keep fair and correct account of all financial transactions
- Publish the general fund balance sheet
- Adopt an investment policy
- Establish internal control procedures

Town Clerk:

- Deposit all fees received with the treasurer at least monthly, or as directed by the selectmen
- Submit invoice to treasurer for payment to clerk if any portion of the clerk's compensation consists of fees. RSA 41:25.

Treasurer:

- Maintain custody of all non-trust fund money belonging to the town, RSA 41:29
- Pay out only upon orders of:
 - Selectmen
 - Conservation Commission (RSA 36-A:5)
 - Heritage Commission (RSA 674:44-a)
 - Local Land Use Board (RS 673:16, II)
 - Revolving Funds (RSA 35-B:21 RSA 31:95-h)

Town Auditor (either one auditor or an elected board, RSA 41:31-b, RSA 41:322-a):

- Examine accounts of selectmen, treasurer, clerk, tax collector and any officer or agent handling funds of the town, at the close of fiscal year and any other time as necessary.
- Report to the town on findings

Trustees of Trust Funds:

- Maintain custody of capital reserve funds and trust funds, including charitable trusts, expendable trusts, and cemetery trusts
- Require a voucher from agent to expend before making a disbursement from the fund, and only for the purpose for which fund was established. RSA 31:22

D. Confidential Information

There are two general areas of confidentiality concerns for tax collectors. One is RSA Chapter 91-A (New Hampshire's Right to Know Law), and the other is the patchwork of statutes requiring certain tax information to be kept confidential.

1. RSA 91-A

Public Meetings: The basic rule is that a meeting of a public body must have proper notice and be open to the public. RSA 91-A:2.

- “Public body”: all committees, subcommittees, boards, commissions, agencies, etc. that perform a governmental function for a town, city, village district or school district. RSA 91-A:1-a.
- “Meeting”: the convening of a quorum (majority) of any public body to discuss or act on any of that body’s business, including work sessions. It is a “meeting” whether the members convene in person, by telephone, or electronic communication, or in any other way in which all members may communicate with each other contemporaneously. **However**, legal meetings may never be conducted by email or any other format which does not comply with notice and public accessibility requirements, or which does not allow the public to hear, read or discern the discussion contemporaneously at the noticed meeting location. RSA 91-A:2.
- What is not a meeting? Gatherings of fewer than a quorum; consultation with legal counsel; chance or social meetings neither planned nor intended to discuss official matters and at which no decisions are made; strategy or negotiations regarding collective bargaining; a caucus of elected member of a public body of the same political party.
- Notice: minimum of 24 hours (not including Sundays or holidays), either published in a local newspaper or posted in two prominent places, one of which may be the public body’s website. RSA 91-A:2. Other statutes or local rules may require more.
- “Open to the public”: anyone, not just local residents, may attend, take notes, record and photograph the meeting. However, except as required in a public hearing, the public has no guaranteed right to speak. RSA 91-A:2.
- Telephone participation: Boards may (but do not have to) allow one or more members to participate in a meeting by telephone or other electronic means (RSA 91-A:2), if: physical attendance is not reasonably practical (noted in minutes); all members can simultaneously hear and speak with each other; except in an

emergency, a quorum is physically present in the noticed meeting location; and all parts of the meeting are audible or otherwise discernible to the public in that location.

- Deliberations: public bodies may only deliberate in properly held meetings and may not use communication outside a meeting (such as sequential emails or phone calls) to circumvent the spirit or purpose of the law. RSA 91-A:2-a.

Minutes: Must be kept for all public meetings and made available to the public upon request within five business days after the meeting (whether or not approved yet). Must include members present, others participating, and a brief description of subjects discussed and final decisions made. Names of the members who made or seconded each motion shall be recorded in the minutes. RSA 91-A:2.

Nonpublic Sessions: Meetings or portions of meetings that the public may not attend. Begin in a properly noticed public meeting. A motion for nonpublic session is made and seconded, citing the statutory reason, and a majority roll call vote is taken. Once in the nonpublic session, only the reason(s) cited in the motion may be discussed. Minutes must be kept and (unless the board votes to seal them) made available to the public upon request within 72 hours after the meeting, whether or not approved. RSA 91-A:3. Nonpublic sessions are allowed only for reasons listed in RSA 91-A:3, II, including:

- Dismissal, promotion, compensation, disciplining or investigating of charges, investigation or hiring of a public employee (not an elected official)
- Matters which would likely adversely affect the reputation of any non-board member which shall include any application for assistance or tax abatement or waiver of fee, fine or other levy, if based on inability to pay or poverty
- Buying, selling or leasing real or personal property if public discussion would give someone an unfair advantage over the municipality
- Lawsuits filed or threatened in writing against the municipality, until fully adjudicated or settled but does not apply to an application for tax abatement
- Preparation for and carrying out of emergency functions related to terrorism

Governmental Records: *Basic rule is that they must be made available to the public upon request unless they are exempt from disclosure under RSA 91-A:5 or another statute. Electronic records are treated the same way as paper records in this respect. RSA 91-A:4.*

Definition: Any information created, accepted or obtained by a quorum of a public body, or by a public agency (such as a tax collector's office, town administrator or police department), in any physical format, received in or out of a meeting, in furtherance of its official function. RSA 91-A:1-a. Records of information that a municipality generates about property tax assessments, exemptions, credits, abatements, etc. are all "governmental records."

NOTE: this law affects “records” rather than “information.” This means that when a citizen asks for “information,” the request should be treated as if it is a request for records in your custody which contain that information.

Availability: Records must be made available during business hours at the business premises of the public body or agency. If not immediately available, must respond within five business days in one of three ways: either provide the record, deny the request in writing with the reasons for denial, or acknowledge receipt of the request in writing and estimate the time needed to respond. RSA 91-A:4.

- Copies: Anyone may make notes, tapes or copies. Never hand over without supervision or lend records out. Citizens may be charged the actual cost of providing the copies. RSA 91-A:4.
- Format: Maintain in a manner accessible to the public. May provide in any format the municipality already has, but if one of these formats is more convenient, it must be made available. No obligation to assemble information in a form in which it is not already kept. May provide electronic records by access to a municipal computer, or by a copy in standard or common file formats, a printout, or any other means reasonably calculated to comply with the request. RSA 91- A:4.
- Motive: The reason for requesting a governmental record is irrelevant; do not even ask.
- Raw materials: Tapes and notes used to compile meeting minutes are governmental records as long as they are retained; policy to discard/reuse after minutes are approved is acceptable.
- Partial release: If only part of a record is exempt from disclosure, the remainder should be released. Redact the exempt portion(s).

Retention of Records: RSA Chapter 33-A:3-a governs the length of time records must be kept. Keep electronic records for the same length of time as their paper counterparts. RSA 91-A:4. However, if a record must be kept for more than 10 years, it must also be transferred to paper or microfilm. RSA 33-A:5-a. *Do not destroy a record after a request has been made for it until the request is fulfilled or disputed requests are fully resolved.* RSA 91-A:9.

Deleting Electronic Records: Electronic records are not subject to disclosure under RSA 91-A after they have been “initially and legally deleted” so that they are no longer readily accessible to the public body or agency. A record is “legally” deleted if the retention period has ended and there are no outstanding or disputed requests for that item. *To “delete,” you must empty the “Deleted Items” or “Recycle Bin” folder.* RSA 91-A:4.

Exemptions to the Disclosure Requirement Include:

- Records pertaining to internal personnel practices
- Medical, welfare, library user and videotape sales or rental records

- Confidential, commercial or financial information and any other record whose disclosure would be an invasion of privacy
 - Note: this may affect some tax records. For example, a tax abatement request may be granted based on poverty of the taxpayer. The applicant has a privacy interest in that information, which may outweigh the public's right to know under RSA 91-A. In this situation, public officials have to look at all of the information on each page or electronic file and decide which parts have to be removed. Check with your governing body and/or municipal attorney in these cases.
- Notes or materials made for personal use that do not have an official purpose
- Preliminary drafts, notes or memoranda and other records not in their final form and not disclosed, circulated or available to a quorum of a public body
- Some law enforcement records (but not all)
- Written legal advice (until the client shares it with a third party outside the privilege)

2. Other Confidential Information

Many of the records a municipal tax collector is responsible for contain information that is public under RSA 91-A. However, there are a few tax-specific statutes of which tax collectors should be aware, because they require certain information to be withheld from the public. When one of these statutes applies, it is important to recognize that only the confidential information should be withheld; the remainder of the documents or records should be released. This means that the record may need to be "redacted" (i.e., the confidential information is deleted, blacked out, or otherwise made illegible so that the copy released to the public contains only non-exempt information).

Lists of Properties Taxed and the Amount of Tax: Generally, this is public information. RSA 76:7 requires selectmen to create a record of all taxes assessed and to make the list available either at their office, or, if it is not open five days a week, to make an additional copy available with the town clerk within 30 days after the tax rate is approved by DRA. This record "shall be open to all persons." The record must include (a) the inventory of taxable property prepared under RSA 75:4, (b) the property record (owner's name, map and lot number, and acreage), and (c) the amount of taxes assessed. In addition, if the selectmen's office is not open five days a week, they must also prepare a list of all owners of property not exempt under RSA 72:23 (governmental, religious, educational, and charitable exemptions), with the addresses and assessed value of each parcel. This list must be posted in a public place. RSA 76:7-a.

Therefore, any of the information required by these sections to be on the public list would be considered public information that is not exempt from disclosure, at least under tax laws.

Lists of All Who Receive Abatements, with Reasons and Amounts: This is more complicated. RSA 76:20 requires a town to note abatements on the record of taxes assessed. Therefore, to the extent that the fact of an abatement is a piece of information that must be included in the public record of taxes assessed under RS 76:7, the property, owner's name, and abatement amount would be public information.

If it also clear that, under RSA 76:16, III(h), towns must treat social security and federal tax identification information (sometimes submitted with an abatement request) as "confidential and exempt from information requests under RSA 91-A." Therefore, SSN/EIN identification information should not be disclosed. However, it is less clear whether the reason for the abatement may be released to the public. That information is not placed on the record of taxes assessed, nor is it required to be assembled into any particular list. Thus, even if the information is public, the town is not required to compile that information in a list if it does not already keep it in that format, so the person requesting it might be required to look at each separate tax record to find it.

Selectmen may enter a nonpublic session to address a request for a tax abatement based upon poverty or inability to pay (because that affects the reputation of the taxpayer), and the minutes of that nonpublic session may be sealed if that information would adversely affect someone's reputation. RSA 91-A:3, II(c) and III. Therefore, it seems likely that when the reason for the abatement is inability to pay or poverty, the reason might well be considered confidential information and not discloseable because it would be an invasion of privacy.

On the other hand, other reasons for which an abatement might be granted, such as disproportionate assessment, do not seem to be confidential or protected under any other law. Therefore, the documents reflecting that information should be released if they are requested. One possible exemption may be rent rolls (lists of tenants and monthly rental payments) for commercial buildings. On occasion, landlords request that towns maintain that information as confidential, and there is an argument to do so in that it constitutes "commercial or financial" information of the landlord that is exempt from disclosure under RSA 91-A:5, IV.

Current Use Taxation: There are no confidentiality issues under the Current Use statute. RSA 79-A:5, IV requires municipal officials to create a list of all current use lands and their owners. This list is part of the invoice that goes into the public record of taxes assessed and is subject to public inspection as provided in RSA 76:7. Therefore, records containing this information should be released to the public upon request.

Elderly Tax Exemptions: According to RSA 72:40-b, the names of the people who receive an elderly exemption under RSA 72:39-b may not be printed in any list for publication, with one exception. Under RSA 74:2, selectmen must prepare a separate inventory of property and buildings that would be taxable but for "the tax exemption laws of this state." Therefore, a list of exempt properties must be prepared, and is apparently

public, but the law doesn't require that the list include the owners' names or the specific exemption.

There is another complication under RSA 72:39-a, which lists the eligibility requirements for the elderly exemption. Applicants must include income and asset information, and selectmen may request this information to determine that applicants do not exceed the eligibility limitations. However, these documents and any copies "shall be considered confidential, handled so as to protect the privacy of the individual, and not used for any other purpose" except to verify eligibility. All documents and copies must be returned to the applicant after a decision has been made. RSA 72:34, II. Therefore, all information verifying an applicant's income and assets should be treated as confidential and not disclosed.

Elderly Tax Deferral: Unlike the elderly exemption statute, the elderly deferral statute itself (RSA 72:38-a) does not classify any information as confidential. However, since eligibility for the deferral is subject to income and asset limitations, all documents requested to verify income and assets are covered by the same confidentiality requirement of RSA 72:34, II as for the elderly exemption. Specifically, any documents and information given to the selectmen for them to verify income and asset levels must be treated as confidential, handled to protect the privacy of the applicant, not used for any other purposes, and returned to the applicant once a decision on the application has been made.

Exemptions for Disabled Persons, Improvements to Assist Disabled Persons, Deaf/Hearing Impaired Persons: None of the statutes regarding those exemptions provides that any particular information must be kept confidential. However, since eligibility for the exemptions for disabled persons under RSA 72:37-b and for deaf/hearing impaired persons under RSA 72:38-b is subject to income and asset limitations, all documents requested to verify income and assets are covered by the same confidentiality requirement of RSA 72:34, II as for the elderly exemption. Specifically, any documents and information given to the selectmen for them to verify income and asset levels must be treated as confidential, handled to protect the privacy of the applicant, not used for any other purposes, and returned to the applicant once a decision on the application has been made.

Veterans' Credits and Exemption: There are several credits and an exemption involving veterans, and they are all treated the same way regarding confidentiality of documents. The documentation accompanying the application for any of these credits or the exemption should be maintained as confidential. There are three credits regarding veterans: the veterans' credit (RSA 72:28); the veterans' surviving spouse credit (RSA 72:29-a); and the disabled veterans' credit (RSA 72:35). In addition, there is also a disabled veterans' exemption under RSA 72:36-a. None of these credits or exemption statutes classifies any specific information as confidential, and none of them involve asset or income limitations for eligibility, indicating (on the surface, at least) that the confidentiality requirement of RSA 72:34, II does not apply.

However, there are several reasons that application documents should be treated as confidential and returned to the applicant after a decision has been made. Veterans' credits and exemptions are based in part on a taxpayer's status as a veteran. One document required to prove this is the Federal Form DD-214, the official record of separation from the military. This form contains a lot of personal information, including social security number, date and place of birth, and other information. Much of this information is considered "confidential" and not discloseable under RSA 91-A:5, IV. Furthermore, New Hampshire DRA's rules, its application form (Form PA-29) and its worksheet for calculating applications for these credits and exemption each state clearly that documents submitted with an application for any of these credits or exemptions should be treated as confidential and returned to the applicant after a decision has been made. NH Code Rev 402.06(b). Therefore, these documents should be kept confidential while the municipality has them, and returned to the applicant once a decision to grant or deny the credit or exemption has been made.

E. Conflicts of Interest and Incompatible Offices

One of the most troubling situations to face as a municipal official is when an angry citizen claims that the official should not participate in a matter because of a conflict of interest. A charge of conflict of interest often implies unethical behavior, yet it is not always easy to distinguish between an actual conflict of interest and an unsubstantiated allegation. It is a charge that goes to the heart of the people's trust in their government and questions the personal motives of elected and appointed officials. After all, in this context, conflict of interest involves an official who has a conflict with the *public* interest. It is often easy for an angry citizen to claim conflict of interest. In fact, it is not unheard of for an applicant before a municipal board, or the applicant's attorney, to charge conflict of interest as a way of intimidating municipal officials who may not look favorably on an application to step down. But it is often not easy for a local official to determine whether he or she does, in fact, have a disqualifying conflict. There are a number of New Hampshire Supreme Court opinions to offer guidance, but the determination of an actual conflict relies heavily on the specific facts of the situation.

Conflict Defined: The general rule is that a conflict of interest requiring disqualification will be found when an official has a direct personal or pecuniary (financial) interest in the outcome of a matter. That interest must be "immediate, definite and capable of demonstration; not remote, uncertain, contingent or speculative." *Atherton v. Concord*, 109 N.H. 164 (1968). As the Court in *Atherton* explained, "The reasons for this rule are obvious. A man cannot serve two masters at the same time, and the public interest must not be jeopardized by the acts of a public official who has a personal financial interest which is, or may be, in conflict with the public interest."

This standard applies whether or not the city or town has additional regulations regarding conflicts of interest. However, in cities and some towns, there are additional regulations.

Former RSA 49-A:82, which formed the basis of many of the charters still in effect in cities, says that no city official shall take part in a decision in which he or she has a financial interest “greater than any other citizen or taxpayer.” RSA Chapter 49-C replaced RSA Chapter 49-A in 1991. RSA 49-C:33, I(c) simply permits cities the option of including a conflict of interest provision in their charters.

In towns, the legislative body (town meeting or town council, depending on the town) may adopt a conflict of interest ordinance under RSA 31:39-a. An ordinance adopted under this statute may apply to both municipal officials and employees. These ordinances may include *only* the following items:

- Definitions of conflicts of interest;
- Regulation of conflicts of interest;
- Provisions requiring disclosure of financial interests for specified officers and employees;
- Establishment of incompatibility of office requirements stricter than those otherwise established by law; and
- Establishment of conditions under which prohibited conflicts of interest will require removal from office (but only by petition to the superior court).

Incompatible Offices: The conflict of interest issue – whether an official is disqualified from making a particular decision – is often confused with the related issue of whether a person is disqualified from holding office at all. “Incompatibility” refers to a situation in which a single person is prohibited from holding two different positions at the same time.

RSA 669:7, I lists pairs of offices that cannot be held by a single person at the same time:

No person shall at the same time hold any 2 of the following offices: selectman, treasurer, moderator, trustee of trust funds, collector of taxes, auditor and highway agent. No person shall at the same time hold any 2 of the following offices: town treasurer, moderator, trustee of trust funds, selectman and head of the town's police department on full-time duty. No person shall at the same time hold the offices of town treasurer and town clerk. No full-time town employee shall at the same time hold the office of selectman. No official handling funds of a town shall at the same time hold the office of auditor. No selectman, moderator, town clerk or inspector of elections shall at the same time serve as a supervisor of the checklist. No selectman, town manager, school board member except a cooperative school board member, full-time town, village district, school district except a cooperative school district, or other associated agency employee or village district commissioner shall at the same time serve as a budget committee member-at-large under RSA 32.

Notice in this statute that a municipal tax collector is prohibited from also holding any of these other offices at the same time:

- Selectman
- Treasurer
- Moderator
- Trustee of trust funds
- Auditor
- Highway agent

Two positions might be incompatible even though they are not listed in RSA 669:7 or any other statute. Whenever two positions bear a special relationship to one another, where one position is subordinate to the other, with inconsistent loyalties or responsibilities, then one person cannot legally hold both positions. For example, in the case of *Cotton v. Phillips*, 56 N.H. 220 (1875), the New Hampshire Supreme Court said that one person could not be both school committee member and auditor because he would, in effect, be sitting in judgment over his own acts. That's incompatibility, not a conflict of interest.

F. Removal from Office

The law is not only specific regarding duties of the collector; it is specific regarding the consequences if those duties are not fulfilled.

- RSA 41:12: The governing body may remove any tax collector, Town Clerk, or Treasurer from office when, in the governing body's judgment, the tax person has become insane or otherwise incapacitated to discharge the duties of the office. Removal in this case may proceed without notice to the official being removed.
- Any public official may be removed from office by petition to the superior court for violating RSA Chapter 32, the Municipal Budget Act. RSA 32:12.
- Any public official may be removed from office by petition to the superior court for violating his or her oath of office under RSA 42:1-a.
- Under RSA 41:35, failure to remit money collected on a timely basis is cause for immediate removal from office.
- Removal proceedings may also be instituted if DRA, a CPA, or a state-licensed public accountant find that the collector's accounts contain an irregularity or material error.
 - "irregularity" = an intentional misstatement of the financial statements or a theft of assets
 - "material error" = a mistake or omission resulting from gross negligence which results in a material misstatement of the financial statements

- In other words, these are not simple mistakes, not an “oops.”
- RSA 41:40: procedure for removal for untimely deposits, irregularity or material error:
 - Governing body institutes removal proceedings
 - Notifies the tax collector by certified mail with return receipt, and the commissioner of DRA, of the intention to proceed with removal, and includes a written explanation and justification for the removal. Notice must also include a copy of the audit findings resulting in the removal action.
 - Within 20 days of receiving this notice, the tax collector shall respond to the alleged irregularities, material error, or failure to timely deposit funds. The response shall be submitted to the governing body and the commissioner of DRA, and shall include written comments on each audit finding.
 - If the tax collector fails to respond, the governing body may remove the tax collector immediately by written notice to the collector and DRA.
 - If the tax collector does respond within the 20 day period, the governing body has 20 days from the response to provide written notification to the tax collector and DRA of its decision to proceed or not proceed with removal from office.
 - Within 10 days of receiving this notice from the governing body, the tax collector may request a hearing before the governing body. If a hearing is requested, it is conducted in accordance with RSA Chapter 91-A (the Right to Know Law) and RSA Chapter 43 (hearings before selectmen), and must be held within 20 days of the date of the request.
 - After the hearing, if any, and if the governing body determines that removal of the tax collector is justified, the governing body may remove the tax collector by written notice to the collector & DRA Commissioner.
 - The tax collector may appeal the governing body’s decision to the superior court.

G. Criminal Offenses

Up to this point, the issues discussed have all been “civil” matters. When civil requirements are violated, the result may be removal from office, disqualification to act,

or an inability to hold a particular office because of incompatibility of offices. In contrast, criminal matters may involve criminal penalties including fines and prison sentences. Many state laws prohibit certain unethical behavior by public officials and impose a variety of civil and/or criminal penalties. Municipal officials are required to abide by all of the following criminal statutes.

RSA Chapter 640: Corrupt Practices Act:

- *Bribery in Official and Political Matters* (RSA 640:2): It is a Class B felony to promise, offer or give, or to solicit, accept or agree to accept, any financial benefit to influence a governmental official or employee's action, decision, opinion, recommendation, vote, nomination or other official discretion. It is also a felony for the official or employee to fail to report to law enforcement that they have been offered a bribe.
- *Improper Influence* (RSA 640:3): It is a Class B felony to (1) threaten harm to a governmental official or employee to influence his/her action, decision, opinion, recommendation, nomination, vote or other exercise of official discretion; (2) communicate with an official or employee outside of the legally authorized channels to influence him or her; or (3) for an official or employee to fail to report attempts to do either of the above. In this statute, "harm" means any disadvantage or injury to a person, property, or financial interest, including to a person or entity in which the public official or employee has an interest.
- *Compensation for Past Action* (RSA 640:4): It is a misdemeanor for a public official or employee to solicit, accept or agree to accept any compensation in return for having done any official action or having violated his/her official duty, and is also a misdemeanor to promise, offer or give any such compensation.
- *Gifts to Public Servants* (RSA 640:5): It is a misdemeanor for a public official or employee to solicit, accept or agree to accept compensation from a person who is or is likely to become subject to or interested in any matter or action pending before the official or employee, and it is also a misdemeanor to give, offer or promise any such compensation.
- *Compensation for Services* (RSA 640:6): It is a misdemeanor for a public official or employee to solicit, accept or agree to accept any compensation in return for advice or other assistance to a person in preparing for a transaction in which the official or employee will have official discretion, and it is also a misdemeanor to give, offer or promise any such compensation.
- *Purchase of Public Office* (RSA 640:7): It is a misdemeanor to solicit, accept or agree to accept any compensation for endorsement, nomination, appointment,

approval or disapproval of any person for a position as a public official, and also to give or offer such compensation.

RSA Chapter 641: Falsification in Official Matters

- Of particular interest to tax collectors, RSA 641:7 makes it a misdemeanor to knowingly make a false entry in or false alteration of any governmental record or information. Note that misdemeanors may carry up to a one-year imprisonment penalty.

RSA Chapter 643: Abuse of Office:

- *Official Oppression* (RSA 643:1): It is a misdemeanor for any public employee or official to, with a purpose of benefitting himself or harming another, knowingly commit an unauthorized act which purports to be an act of his office, or knowingly refrain from performing an official duty.
 - For example: under RSA 80:76, a tax collector is required to execute a tax deed two years after the execution of a tax lien. The governing body has authority to refuse the deed, but the collector is prohibited by RSA 643:1 from refusing to execute the deed as required by law.
- *Misuse of Information* (RSA 643:2): It is a misdemeanor for a public official or employee to, knowing that official action is contemplated or in reliance on information he has acquired by virtue of his office or from another public official, (a) acquire or divest himself of a financial interest in any property, transaction or enterprise which may be affected by such action or information; or (b) speculate or wager on the basis of such action or information; or (c) knowingly help someone else to do either (a) or (b).

X. BANKRUPTCY INFORMATION

Refer to NHTCA website for Proof of Claim Form

BANKRUPTCY TERMINOLOGY (Updated 2024)

Bankruptcy- According to Wikipedia, the free encyclopedia, “Bankruptcy is a legally declared inability or impairment of ability of an individual or organizations to pay their creditors. Creditors may file a bankruptcy petition against a debtor (“involuntary bankruptcy”) in an effort to recoup a portion of what they are owed. In the majority of cases, however, Bankruptcy is initiated by the debtor (a “voluntary bankruptcy” that is filed by the bankrupt individual or organization).”

Bankruptcy Code – Authorized by the Constitution (Art I Sec 8), and adopted by Congress as a part of Title 11 of the United States Code which divided into 13 Chapters.

Chapter 7 - Liquidation. A bankruptcy trustee takes title of all non-exempt assets, liquidates and distributes money to creditors. This can be filed only once every six (6) years.

Chapter 9 - Only municipalities may file under this chapter.

Chapter 11- Reorganization. It is generally used by businesses to seek relief from debt but continue business. A plan is filed to reorganize its’ affairs. Routinely there is no trustee appointed, although a representative of the US Trustee’s office provides oversight. The case may continue for six (6) years.

Chapter 13- Adjustment of Debts. This is used only by individuals, who must have a regular income, a secured debt of less than \$750,000, unsecured debt of less than \$250,000 as of the filing date. This is filed voluntarily. The debtor must file a plan with the petition or within 15 days thereafter. The plan can propose to adjust debts, and cure defaults by making payments over a period of time. A trustee is appointed who collects and distributes plan payments. The debtor must file a plan with the petition or within 15 days thereafter. This can be a five year plan.

Under Chapter 13 Reorganization, the new tax bills (and other ongoing debts like current mortgage payments) must be kept current while scheduled payments are made on the taxes (and other arrearages) covered under the bankruptcy plan. If the taxes are not kept current, the municipality may move to have the plan Dismissed, or convert the case to a Chapter 7.

Abandoned Property – For Chapter 7 cases only; the Trustee determines he/she has no interest in the property because there is no equity available for creditors.

Acknowledgment of Filing a Claim- To receive acknowledgment of the filing, enclose a stamped self-addressed envelope and a copy of the proof of claim when mailing the original proof of claim form to the bankruptcy court. A claim may be accessed via the court’s PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Allowance of Claims- In the event that a proof of claim is filed in an amount different from the amount listed in the plan, the proof of claim amount shall be deemed to be the correct amount unless the debtor(s) or another party in interest successfully objects to the proof of claim.

Automatic Stay – An injunction that begins when a bankruptcy case is filed (11 U.S.C. sec 362(a) that stops a creditor from doing anything to collect a debt until the bankruptcy judge says that they can or the case is over. Under the bankruptcy code (11 U.S.C . sec. 362(b)(9)), the process of assessing taxes through the warrant and the issuance of the bills is not affected by the bankruptcy case.

Certificate of Discharge – This confirms that the Debtor has been released from all dischargeable debts. This can occur before a case is closed where the Trustee is still collecting and distributing non-exempt cases. See also, Closure Notice.

Claim – A claim is the creditor’s right to receive payment on a debt owed by the debtor that arose on the date of the bankruptcy filing. A claim may be secured or unsecured.

Claim Entitled to Priority Under 11 U.S.C. sec.507(a)- Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Closure Notice – A confirmation that a case has been closed or dismissed which ends the Automatic Stay.

Creditor- A creditor is a person, corporation or other entity owed a debt by the debtor that arose on or before the date of the bankruptcy filing.

Debtor - A person, corporation or other entity that has filed a bankruptcy case.

Dischargeable Debts – A debt that the bankruptcy court finds is unsecured or under-secured and arose prior to the confirmation of the plan and is not subject to a specific exemption from discharge.

Discharged – The case (a Chapter 7) is successful and the debtor is released from dischargeable Debts. A certificate can be obtained by the court.

Dismissed – There is a 10 day stay; the case has ended in failure.

Evidence of Perfection- Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

Motion for Relief of Stay - An action filed in Bankruptcy Court to request that the Court make an exception to the Automatic Stay or Injunction which is automatically entered when a person files bankruptcy. Usually this relief will be granted if the debtor is not making payments or cannot file a plan to catch up the delinquent payments. This may also occur if there is no “equity” in the property.

Motion to Dismiss- The bankruptcy court trustee sends this to the creditors because the debtor has failed to make timely payments pursuant to the terms of their proffered plan.

Order for Relief from Automatic Stay - Once granted, this order allows a creditor to pursue a claim for the obligation usually to pursue collateral held to secure the claim.

Petition – The application which is filed to commence a bankruptcy case under Federal Law.

Pre-Petition – The amount that is owed before the bankruptcy case is filed. In a Chapter 13 case, the Debtor’s plan may propose to pay some or all of this amount in installments paid through the Trustee.

Post-Petition – The amount that is owed after the bankruptcy case is filed. The Debtor is generally liable to make payment on all “post petition” debts as they come due.

Proof of Claim - An official affidavit from a creditor that supports the financial claim of the creditor. In a Chapter 7 case, the claim must be submitted to the Bankruptcy Court in a timely fashion upon notice to do so (many initial notices advise that no notice of claim is required if there are no assets). When required, the claim form must be filed with the clerk of the bankruptcy court where the case was filed.

Redacted – A document has been redacted when the person filing it has masked, edited out, or otherwise deleted certain information. A creditor should redact and use only the last four digits of any social security, individual’s tax identification, or financial account number, all but the initials of a minor’s name and only the year of any person’s date of birth.

Release from Bankruptcy – At the end of a one year period a release is automatic if no bankruptcy offences have been committed.

Retention of Lien- All secured creditors shall retain the liens securing their claims unless otherwise stated.

Secured Claim – The creditor has a lien on property of the debtor given pre-petition to secure a claim (collateral). Generally a secured creditor’s debt cannot be discharged, at least to the extent of equity in the collateral.

Secured Claim Under 11 U.S.C. sec. 506(a)- A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

Secured Creditor – A creditor who holds a “secured claim”.

Trustee – A bankruptcy trustee is a person who is appointed by the judge or by the creditors involved in the bankruptcy case. The trustee must be a licensed insolvency practitioner who is

registered under the United States Bankruptcy Act. The Bankruptcy Trustee will act on behalf of the debtor to guarantee that both the creditors' and the debtors' interests are maintained in accordance with the bankruptcy laws, and will often be required to act as a negotiator between the two parties.

Unsecured Claim- An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the values of the property on which the creditor has a lien.

Unsecured Creditor - A creditor whose claim is not secured by collateral.

Unsecured Priority Claim – Certain types of unsecured debt are ranked a “priority” ahead of other unsecured debts. Examples of items that are entitled to priority payment are child support and alimony, administrative expenses of the bankruptcy process and employee benefit plans.

BANKRUPTCY NOTIFICATION-WHAT TO DO NEXT

2011 NHTCA Fall Conference; Updated March 2022

Updated 2024 Presentation on NHTCA Website

What should you do? As Tax Collector, you received a Notice of Bankruptcy from the US Bankruptcy Court for property located in your municipality.

Verify that the Debtor listed on the Notice owns property in your municipality. If not, no action is required.

Record a Note in your software system's property tax account stating the property is in bankruptcy, the date the case was filed and the Case Number (if known). For example, "In Bankruptcy 1/12/2022, Case No. 22-1103 and your initials."

Record the Bankruptcy case on a spreadsheet (which you have created) listing all of the bankruptcies in your municipality including the debtor name(s), filing dates, type of bankruptcy, whether Proof of Claim filed, if a Proposed Plan was received/confirmed etc. Use this spreadsheet to track bankruptcy activity in your municipality and a quick reference as you progress through the lien/and or deed process.

Carefully read the Notice to determine if you need to file a Proof of Claim with the Bankruptcy Court.

Proof of Claim (Official Form 10) is a signed form describing amounts owed to the municipality at the time of the bankruptcy filing. Refer to the NHTCA website for form and instructions. If required, the Claim must be filed with the Clerk of the Bankruptcy Court where the case was filed. The filing deadline date will be listed on the front of the form under "Deadlines". Refer to the deadline date instructions for "Governmental Units".

Real estate taxes in New Hampshire are a **secured** claim and are not classified as a "Priority Debt". The amount listed is the amount due as of the date the case was filed.

Proof of Claims should be filed in all Chapter 11 and Chapter 13 cases, with amendments to reflect any taxes assessed after the bankruptcy filing date which are not paid. A claim **should** also be filed in any Chapter 7 case with assets. It is generally not necessary, but can do no harm, to file a Proof of Claim in a no-asset Chapter 7 liquidation case.

Collection and liening of taxes during Bankruptcy. New guidance was issued for Tax Collectors as a result of the 2011 Doolan Case. Specifically new wording is suggested by NHTCA Counsel Bernard Campbell for the "Notice of Tax Delinquency" (aka Barrington Notice) and the "Notice of Impending Lien". Refer to the NHTCA website for copies of these notices. All collection and liening steps may be taken without bankruptcy court approval.

Send copies of the Impending Lien notices to the Bankruptcy Trustee. NHTCA Counsel Bernard Campbell recommends sending copies of the Impending Lien Notices to the Bankruptcy Trustee as well as to the owner of record.

Deeding is prohibited during Bankruptcy. The Tax Collector **may not** send an Impending Notice of Tax Deed or issue a tax deed until the Bankruptcy case is **Dismissed**. Note: "**Discharge of Debtor**" should not be confused with "**Dismissal**" of the Bankruptcy case.

The "Proposed Plan": What is the collectible interest rate? The 8% or 14% statutory interest for delinquent taxes or liens may not be included in a Bankruptcy Plan, because the debtor is free to "propose" whatever plan and/or interest rate he wishes. However, a Municipality's objection to the Plan due to a "substitute" rate would be sustained by the Court due to 2005BAPCPA 11 U.S.C.&511. Conversely, if no objection is filed before the noticed deadline, the Plan would be confirmed as proposed. Therefore, you should keep a watchful eye out for the "Proposed Plan" and date for the "Contingent Hearing on Confirmation of the Proposed Plan" from the Court. It is

important to review the Plan to 1) ensure the Municipality's claim is treated as a "Secured Claim", and 2) that it is to be paid at NH statutory interest rates. Any concerns should immediately be forwarded to your Governing Body or legal counsel prior to the objection deadline.

Receiving and recording payments. Separate the payments received from the Court (pre-petition) and apply Court payments to the amounts in your Proof of Claim and approved Plan. Keep track of all pre-petition and post-petition payments. In a Chapter 13 Case, pre-petition payments will come from the Chapter 13 Trustee and post-petition payments will come from the debtor/owner.

BANKRUPTCY ELIGIBILITY

Estates, Trusts, Banks & Lenders

Prepared for NHTCA Fall Conference-2019 Reviewed 2024

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Tax collectors face special responsibilities when dealing with property owners who have filed some type of bankruptcy. It is helpful to know exactly who can and who cannot file for bankruptcy protection (although, as noted at the end, you must assume every filing notice you receive is an "eligible" filer). This presentation is intended to focus on the general requirements for filing a Bankruptcy Petition.

The Bankruptcy Code is derived from language in the U.S. Constitution which grants Congress the ability to make uniform laws governing bankruptcy. Article I Section 8 of US Constitution. The current Federal Bankruptcy Code is found in Title 11 of the United States Code (not to be confused with "Chapter 11"). This title is broken down into a series of "Chapters" (or sections) which capture various topics within the Code. The listing of the Bankruptcy Chapters under Title 11 helps in understanding the structure of the Federal Bankruptcy law:

Chapter 1 - General Provisions Chapter 3 - Case Administration
Chapter 5 - Creditors, the Debtor and the Estate Chapter 7 ... Liquidation
Chapter 9 - Adjustment of Debts of Municipality Chapter 11 - Reorganization
Chapter 12-Adjustment of Debts of a Family Farmer or Fisherman with Regular Annual Income
Chapter 13 -Adjustment of Debts of Individual with Regular Income Chapter 15 - Ancillary and other Cross-Border Cases.

In general, the provisions of Chapters 1, 3 and 5 apply to all cases brought in Bankruptcy Court. 11 USC § 103(a). These contain definitions, concepts and procedures which apply to all types of cases. The provisions of Chapters 7, 9, 11, 12, 13 and 15 are intended to apply to the specific type of Debtor in bankruptcy.

While several of the Chapter names are "self-explanatory" as to the parties eligible to file (i.e., Chapter 9 - municipalities and municipal entities; Chapter 12, Family Farmers and Fishermen), the filing requirements for most all Code Chapters come from Chapter 1, Section 109 entitled 'Who May be a Debtor'. The full text of Section 109 is attached.

The section begins with the requirement that a party must be a person residing, living, conducting business, or owning property in the United States. Foreigners who have no connection with the United States are not eligible to file bankruptcy here. The "connection" need not be particularly strong. In the case of *In Re: Iglesias*, 226 B.R. 721 (Bankr S.D. N.Y. 1998) a bank account in a US bank of \$500 was sufficient to allow a filing by a Citizen of Argentina. See also. *Global Ocean Carriers. Ltd.* 153 B.R. 409

(Bankr S.D. N.Y. 1993). A U.S. Citizen residing outside the country who maintains voting privileges and files tax returns using a parent's U.S. address was deemed eligible to file. In Re: Farmer, 288 B.R. 31 (Bankr N.D. N.Y. 2002).

The operational word for filing eligibility under Section 109 is the word "person".

The Code defines a "person" as:

(41) The term "person" includes individual, partnership and corporation, but does not include governmental unit, except [exception not relevant to this presentation].

11 USC §101(41).

"Individual" is not specifically defined in the Code but is considered to be a "natural person" (i.e., a human being). See, In Re: A & J Auto Sales, 205 B.R. 676 (Bankr D. NH 1996).

A "sole proprietorship" does not fall within the definition of "corporation" or partnerships.

Typically a sole proprietorship is a form of business in which "one person owns all assets of the business in contrast to a partnership or a corporation. Blacks Law Dictionary, 5th Ed. 1979. As such, a "sole proprietorship" is not an entity that can file bankruptcy. In Re: Christenberry, 336 B.R. 353 (Bankr E.D. Tenn. 2005); In Re: CA

Financial Solutions. (Bankr D. Hawaii 2019) Docket #19-000676 (RJF). The appropriate "filer" in such circumstances would be the individual who is the sole proprietor.

Likewise, a "probate estate" cannot file bankruptcy. In RE: Estate of Brown, 16

B.R. 128 (Bankr D. D.C. 1981). Only "persons" qualify for relief under Title 11 and a probate estate is not a person. In Re: Estate of Roberts, 2005 W.L. 3108 224 (Bankr

C. Md. 2005). In fact, if a debtor dies during the process of a Chapter 13 proceeding, the estate representative may not be "substituted" for the Decedent. In Re: Shepherd, 490 B.R. 338 (Bankr N.D. Ind. 2013).

As noted in Section 109 (b) there are several specific prohibitions against filing:

- A railroad may not file Chapter 7 Liquidation. 11 USC 109(b)(1). It may however, file for reorganization under Chapter 11. 11 USC 109(d).
- Domestic Insurance Companies, banks, savings banks, co-op banks, and most other entities that are subject to regulation by the FDIC may not file Chapter 7 (or Chapter 11). This is because they are subject to separate liquidation rules under other Federal or State laws. Most domestic insurance companies are subject to administration by State regulators. E.g., RSA Chapter 402-C. See, In Re: Matter of Liquidation of Home Insurance, 154 NH 472 (2006). Note that this prohibition does not apply to private non-bank lenders (e.g., Ditech Corp.).
- Foreign Insurance Companies and foreign banks are generally prohibited from filing.
- There are specific asset and income limitations as to who may file for relief under Chapter 13. 11 USC §109(c).
- As a result of congressional efforts to limit bankruptcy filings, there are now requirements for "credit counseling" within 180 days prior to filing a bankruptcy petition. 11 USC §109(h).

There are various qualifications and exceptions to this rule which are beyond the scope of this outline.

Of most interest (and considerable litigation) are the provisions related to "corporations". Corporations fall within the definition of "person" meaning that a "corporation" can file for bankruptcy relief. 11 USC §101(41). The definition includes such terms as would be typical for "corporations" under law (a separate legal entity; debts limited to the entity

and not necessarily the assets of individual investors). See, 11 USC 101(9)(A)(i) and (ii). But it also includes the phrase "business trusts". USC 101(9)(A)(v).

It is clear from settled decisions of the Courts that:
"Generally, trusts are not eligible for relief in the bankruptcy court."

In Re: Armstead and Wayson Trust, 29 B.R. 58 (Bankr D. Md 1982).

Accord, In Re: Hughes Living Trust, 305 B.R. 59 (Bankr W.D. Okla. 2004).

A business trust is generally distinguished from an "estate planning" or family Trust. The latter may not file in bankruptcy.

In New Hampshire, the distinctions between a "business trust" (eligible to file) as opposed to a "family trust" (not eligible to file) are set forth in three (3) sequential opinions issued by former Bankruptcy Judge James Yacos:

1) In RE: Gonic Realty Trust, 50 B.R. 710 (Bankr D N.H. 1985). Raymond Crowley established the Gonic Realty Trust in 1977. He served as Trustee and he and his wife were beneficiaries. The Trust owned a large mill and related land in Rochester, New Hampshire. It rented out space in its properties and maintained the properties through contracted vendors. The Trust (through the Trustee) entered into a loan arrangement with Laconia National Bank and Trust. When the loan defaulted, Laconia National began collection proceedings. The Trust filed bankruptcy. The bank moved to

Dismiss, claiming the Trust was not a "business trust". Judge Yacos denied i the Motion to Dismiss. In his opinion he stated:

In the present case it is clear that Gonic was conducting a business operation relating to the leasing of various portions of the mill complex to commercial and industrial tenants. This was something more than mere holding and conserving particular property in a "simple land trust".

Id at 714.

In reaching his conclusion, the Judge rejected the argument that the Trust needed "transferable ownership shares" to constitute a "business trust". Id. at 713.

2) In Re: Woodsville Realty Trust, 120 B.R. 2 (Bankr D NH. 1990). Woodsville Realty Trust owned a commercial building in Woodsville, New Hampshire. It used a management company to manage and collect rents; maintain the properties, and provide regular reports to the Trustee, Melvin Zimmennan. The Trust contained a "Schedule of Beneficiaries" which included language that prohibited the assignment of any beneficial interest in the Trust. It also provided that the Trust could be terminated by the beneficiaries and ended automatically 20 years from formation. A Creditor Lender, Bank of New England, moved to Dismiss a Chapter 11 filing by the Trust. In an

evolution of his thinking on business trusts, Judge Yacos ruled that because "business trust" was within the definition of "corporation" within the Bankruptcy Code, he concluded that the Trust Entity must contain "attributes of a Corporation." *Id.* at 3. After surveying holdings of various other Bankruptcy Courts, Judge Yacos adopted the language of a 1990 Massachusetts decision:

Since the Code defines a corporation to include a business trust, it stands to reason that a business trust should have at least some of the indicia of a corporation and be more than a mere agency. It is not this Court's intention to look behind the trust to find an eligible debtor in the form of the beneficiary.

Woodsville Realty. *supra* at 9, citing, *In Re: Village Green Realty Trust*. 113 B.R. 105 (Bankr D Mass 1990).

Judge Yacos acknowledged that this new standard modified his holding in *Gonic Realty*, stating that:

"I agree that the mere fact that the Trust happens to engage in business activities does not therefore make it a "business trust".

Woodsville Realty *supra* at 5.

He then points out why the Woodsville Trusts is not a business trust:

- Beneficiaries control the Trustee
- Interest shares not transferable
- Fixed termination date.

The Judge concluded that the Woodsville Trust was not a business trust and dismissed its bankruptcy filing.

3) *In Re: BKC Realty Trust*; 125 B.R. 65 (Bankr D NH 1991). In this case Judge Yacos adopts an additional criterion for a "business trust" that is that it be formed for business and commercial purposes. The BKC Realty Trust was formed in 1987. The Trust was a "grantor type" trust into which the Trustee conveyed several pieces of commercial real estate. The purpose of the Trust was stated as being to hold property for the benefit of the beneficiaries (the Trustee's two (2) sons). The Court distinguished a "business trust" and a "family trust" whose primary purpose was to hold property for family and/or avoid probate proceedings. Judge Yacos adopts the requirement that:

"a qualifying trust must be created to transact business for the benefit of investors.

BKC Realty. *supra*, at 68 Citing. *In Re: Medallation Realty Trust* 103 B.R. 8 (Bankr D Ma 1989).

Because BKC Realty was initially established as a "family Trust", the filing was dismissed.

The New Hampshire cases as outlined above generally reflect the prevailing thinking with regard to the ability of trusts to file bankruptcy. In the 2004 case of *Hughes Living Trust*. 305 B.R. 59 (Bankr W.D. Okla. 2008), the Court describes the difference between a "business trust" (an allowed filer) and a "trust" in the following way:

The basic distinction between business trusts and nonbusiness trusts is that business trusts are created for the purpose of carrying on some kind of business or commercial activity for profit; the object of a nonbusiness trust is to protect and preserve the trust res. The powers granted in a traditional trust are incidental to the principal purpose of holding and

conserving particular property, whereas the powers within a business trust are central to its purpose. It is the business trust's similarity to a corporation that permits it to be a debtor in bankruptcy.

Id at 62, citing. *In Re: Treasure Island Land Trust*, 2 B.R. 332, 334 (Bankr M.D. Fla. 1980).

The important thing to remember is that whether or not a filer is a "qualified" filer is something to be judicially determined by the Court, generally through the filing of a Motion to Dismiss (although the Court, on its own, can raise the issue). When notice of a bankruptcy filing is received, you need to act as if it is valid until the case is dismissed.

The "automatic stay" under 11 USC 362 is triggered on filing. Therefore, no matter how skeptical you may be that the filing is legitimate, you must treat it as valid. If the community wishes to challenge the filing, you need to retain Counsel, and file a Motion to Dismiss the case.

Finally, it should be pointed out that there are state proceedings that can (in theory) be started outside of the Bankruptcy Courts. Under NH RSA Chapter 568, there is a process for "Insolvency" that can be filed with the Probate Court. Most of the reported cases involving this statute are prior to 1900. It is essentially a "bankruptcy law" at the state level. See, *Howland's Appeal*, 67 NH 575 (1894). The statute uses the term "inhabitant" and indicates it is available to inhabitants "not entitled to proceed under the Bankruptcy Act". RSA 568:6.

There is also the common law process of filing for "Receivership" which is the equivalent of an "involuntary bankruptcy" where creditors can force a person/entity to liquidate to pay debts. This is done through a Petition to the Superior Court. RSA 498:12. The basic reason is to secure and conserve property for the benefit of all persons interested therein. *Petition of Leon Keyser, Inc*, 98 NH 198 (1953). The author has used the process on at least one (1) occasion.

A similar process by a different name is an "Assessment for Benefit of Creditors". This is another "non-bankruptcy" process to distribute the assets of an insolvent entity. While not fully researched, the author is aware that the process is employed in other states.

11 U.S. Code § 109. Who may be a debtor

U.S. Code Notes

(a) Notwithstanding any other provision of this section, only a person that resides or has a domicile, a place of business, or property in the United States, or a municipality, may be a debtor under this title.

(b) A person may be a debtor under chapter 7 of this title only if such person is not-

(1) a railroad;

(2) a domestic insurance company, bank, savings bank, cooperative bank, savings and loan association, building and loan association, homestead association, a New Markets Venture Capital

company as defined in section 351 of the Small Business Investment Act of 1958, a small business investment company licensed by the Small Business Administration under section 301 of the Small Business Investment Act of 1958, union, or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act, except that an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing organization pursuant to section 409UJ of the Federal Deposit Insurance Corporation Improvement Act of 1991 may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or

(3)

{A} a foreign insurance company, engaged in such business in the United States; or

{B} a foreign bank, savings bank, cooperative bank, savings and loan association, building and loan association, or credit union, that

has a branch or agency (as defined in section 1(b) of the International Banking Act of 1978 in the United States.

(c) An entity may be a debtor under chapter 9 of this title if and only if such entity-

(1) is a municipality.

(2) is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by State law, or by a governmental officer or organization empowered by State law to authorize such entity to be a debtor under such chapter;

(3) is Insolvent;

(4) desires to effect a plan to adjust such debts; and

(A) has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(B) has negotiated in good faith with creditors and has failed to obtain the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in a case under such chapter;

(C) is unable to negotiate with creditors because such negotiation is impracticable; or

. (D) reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

(d) Only a railroad, a person that may be a debtor under chapter 7 of this title (except a stockbroker or a commodity broker), and an uninsured State member bank, or a corporation organized under section 25A of the Federal Reserve Act, which operates, or operates as, a multilateral clearing

1

organization pursuant to section 409 of the Federal Deposit Insurance

Corporation Improvement Act of 1991 may be a debtor under chapter 11 of this title.

(e) Only an individual with regular income that owes, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts of less than \$250,000 and noncontingent, liquidated, secured debts of less than

\$750,000, or an individual with regular income and such individual's spouse, except a stockbroker or a commodity broker, that owe, on the date of the filing of the petition, noncontingent, liquidated, unsecured debts that aggregate less than \$250,000 and noncontingent, liquidated, secured debts of less than \$750,000 may be a debtor under chapter 13 of this title.

(f) Only a family farmer or family fisherman with regular annual income may be a debtor under chapter 12 of this title.

(g) Notwithstanding any other provision of this section, no individual or family farmer may be a debtor under this title who has been a debtor in a case pending under this title at any time in the preceding 180 days if-

(1) the case was dismissed by the court for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case; or

(2) the debtor requested and obtained the voluntary dismissal of the case following the filing of a request for relief from the automatic stay provided by section 362 of this title.

(h) (h)

(1) Subject to paragraphs (2) and (3), and notwithstanding any other provision of this section other than paragraph (4) of this subsection, an individual may not be a debtor under this title unless such Individual has, during the 180-day period ending on the date of filing of the petition by such individual, received from an approved nonprofit budget and credit counseling agency described in section 111(a), an individual or group briefing (Including a briefing conducted by telephone or on the Internet) that outlined the opportunities for available credit counseling and assisted such Individual In performing a related budget analysis.

(2)

{A} Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the United States trustee (or the bankruptcy administrator, if any) determines that the approved nonprofit budget and credit counseling agencies for such district are not reasonably able to provide adequate services to the additional

Individuals who would otherwise seek credit counseling from such agencies by reason of the requirements of paragraph (1).

{B} The United States trustee (or the bankruptcy administrator, If any) who makes a determination described In subparagraph (A) shall review such determination not later than 1 year after the date of such determination, and not less frequently than annually

thereafter. Notwithstanding the preceding sentence, a nonprofit budget and credit counseling agency may be disapproved by the United States trustee (or the bankruptcy administrator, if any) at any time.

(3)

(A) Subject to subparagraph (B), the requirements of paragraph

(1) shall not apply with respect to a debtor who submits to the court a certification that-

(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

(ii) states that the debtor requested credit counseling services from an approved nonprofit budget and credit counseling agency, but was unable to obtain the services referred to in paragraph (1) during the 7-day period beginning on the date on which the debtor made that request; and
(III) is satisfactory to the court.

(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition, except that the court, for cause, may order an additional 15 days.

(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and "disability" means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1).

XI. MISCELLANEOUS INFORMATION

Documents Required for Audit Tax Collector

1. Tax Collector's Report (MS-61) for year end.
2. Uncollected tax lists as of year-end for all taxes (property, yield, etc) showing name, address and amount unpaid at year-end.
3. Monthly reconciliations of all tax levies showing beginning balances, commitments, abatements, remittances to Treasurer and uncollected taxes with the year-end amounts agreeing with totals of lists from # 2 above.
4. Lists by tax levy of signed abatement slips for all abatements issued by Selectmen or Assessor during the year, along with the actual slips.
5. Lists of all signed warrants by tax levy for all tax commitments along with actual warrants supporting the same.
6. Listing of tax deeds to the municipality during the year for unredeemed taxes.
7. Remittance advice slips to the Treasurer for the year and/or supporting information for deposits.
8. List of overpayments during the year and the date refunded along with the check number.
9. Credit balance listing as of year-end.
10. Cash receipt books or computerized daily cash journals for the year and subsequent year to date.
11. Recording of the tax lien and related notices for the year.
12. Listing of bankruptcy notices or other reservations related to unpaid taxes as of year-end. Disclose type of tax, levy and amount owed. Update through date of the audit.
13. If a separate checking account is maintained, the reconciled bank statements and cancelled checks for the year. Please sign and send a bank confirmation form to the bank to confirm the year-end balance to the auditors.

TAX DEFERRALS

RSA 72:38-a Tax Deferral for Elderly and Disabled

Any resident property owner may apply for a tax deferral if the person:

Is either 65 years old or eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled; and

Has owned the homestead for at least five consecutive years if the person qualifies as an elderly applicant, or has owned the homestead for at least one year if the person qualifies as a disabled applicant; and

Is living in the home.

The assessing officials may annually grant a person who is qualified under the above paragraph a tax deferral for all or part of the taxes due, plus annual interest at five percent, if, in their opinion, the tax liability causes the taxpayer an undue hardship or possible loss of the property. The total of tax deferrals on a particular property shall not be more than 85% of its equity value.

Application should be made by March 1 following the date of notice of tax (RSA 72:1-d) under penalty of perjury on Form PA-30 showing that the applicant is the true and lawful owner of the property on which the deferral is claimed. The applicant must also be duly qualified at the time of the application.

TAX DEFERRAL FOR ELDERLY AND DISABLED
(RSA 72:38-a)

NHTCA Spring Workshop 2019

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A recent national study suggests that New Hampshire is in the top 5 of US states for imposing real estate taxes. As a result, and in an effort to mitigate that burden on certain population groups, the State has various tax credits and exemptions (veterans; blind; deaf; disabled; elderly). These various options provide for the reduction of the tax burden.

However, even with options available, the burden of assessed taxes can pose problems for certain elderly and disabled citizens. Consequently, the State has enacted provisions which allow the "deferral" of assessed taxes. This is allowed under RSA 72:38- a, the "Tax Deferral for Elderly and Disabled".

The text of this statute is set forth in full below. The first section of the statute sets forth the qualifications for Tax Deferral. An applicant must be either:

- (i) 65 years old or older, or
- (ii) eligible for Social Security Disability benefits.

There are also residency requirements (the applicant must be living in the property) and they must have "owned" the property for at least: {i} five (5) years for an elderly applicant, or (ii) one (1) year for a disabled applicant. RSA 72:38-a (I) (a). When considering if a person "owns" property, assessing officials must be mindful that State law allows persons who hold a "life interest" or hold title in a grantor/ revocable trust to be considered an "owner". RSA 72:29 (VI).

The filing procedure for elderly/ disabled deferral is different from most exemption filings. Under RSA 72:33, most eligibility for exemptions or credits require filing "by April 15 preceding the setting of the tax rate". RSA 72:33 (I). Under RSA 72:38- a (II-a), the tax deferral request must be filed by "March 1 following the date of notice of tax". Therefore, an application can be filed after a tax bill has been issued. The "form" of the application is developed and distributed by the DRA. The current application form is a PA-30.

While the statute suggests that an applicant may file a "permanent" application, making them eligible for "a deferral on an annual basis", municipalities may require an annual application. RSA 72:38-a (II-a).

By statute, the assessing officials "may" grant a deferral if, in their opinion, the tax liability causes a taxpayer undue hardship or possible loss of the property. The word "may" is important. As opposed to "shall", "may" implies the decision is discretionary in the opinion of the assessing

officials. This means any given set of municipal assessing officials could establish a "no deferral" policy. The deferral can be for "all or a part" of the assessed taxes. There are two (2) specific limitations which are related to the approval of a deferral:

- (i) If the property is subject to a mortgage, the mortgage holder must sign reflecting their approval of the deferral.
- (ii) The statute contains a formula for the assessing officials to use in determining the "maximum" amount of taxes a taxpayer can "defer". The cap is eighty-five (85%) percent of the "equity value" of the property. RSA 72:38-a (I). The "equity" represents the "equalized assessed value" less priority liens.

The language related to "priority liens" is important. Unlike a "tax lien" which represents a first lien on the property (RSA 80:19), any taxes which are placed "on deferral" are subject to prior liens. This means taxes are "at risk" if there is a prior first mortgage (or other priority) and that mortgage (or lien) is later foreclosed. This can prompt some communities to not grant deferrals when there is a prior mortgage lien.

If a deferral is granted, notice of the deferral must be recorded in the Registry of Deeds. RSA 72:38-a (V). There is an appeal process on denial of an application (RSA 72:38-a (VI)), although given the discretionary nature of the grant, it is hard to see what grounds for appeal would be (maybe discriminatory application process).

If a deferral is granted after the tax warrant is issued, but before the bill is paid, it will be necessary for the Selectmen to issue an "abatement" to the Collector to remove the deferred taxes from the committed warrant. If the deferral is for the full amount, a complete abatement will be issued. If only a portion of the taxes are deferred, only a portion will be abated, and the Collector should proceed to collect the non-deferred balance. Those taxes which are "deferred" shall accrue interest at five (5%) percent. RSA 72:38-a (I) (a).

The statute contemplates that the "deferral" shall be paid by one (1) of two (2) deadlines:

- (i) Nine (9) months of the death of the property owner - Payment is required from the heirs, devisees or assignees of the decedent. RSA 72:38-a (IV).
- (ii) Nine (9) months after the conveyance of the property by the owner - Payment is required from the owner or grantee. RSA 72:38-a (N-a).

This "payment" would be made, not through the Tax Collector's office, but directly to the Town Treasurer through the office of Selectmen/Municipal Administration. This is because, at that moment, there would be no warranted taxes for the Collector to collect. The Selectmen/assessing officials are responsible to release the deferral lien (in the same fashion as releasing a "welfare lien"). There is no specific form to do so.

If the deferred taxes are not paid within the nine (9) month deadlines provided, the municipality "may" (remember "may" is permissive, so it is not automatic) "commit the accrued amount of the deferral to the Collector of taxes with a warrant signed by the assessing officials " The "accrued

amount" would assumedly include the deferred taxes plus the five (5%) percent interest up to the date of the warrant. At this point, the amount becomes a legal obligation of the Collector to collect and account for.

Once the deferral is "warranted" to the Collector, the statute provides the Collector with specific collection powers, including reference to RSA 75:13 and RSA Chapter 80. The "interest" you may charge is specifically governed by RSA 76:13-b which states that:

Notwithstanding any provisions in RSA 76:13.. ..

I. Interest on tax deferrals for the elderly and disabled granted pursuant to RSA 72:38-a will accrue at 5 percent beginning 30 days after the date of the final tax bill."

Id.

Therefore, there is at least a thirty (30) day "hiatus" on the interest between the date the warrant is submitted to you, and the date thirty (30) days after the bill remains unpaid. Once the bill goes unpaid, interest accrues at five (5%) percent (rather than the II new" eight (8%) percent). This would continue up until a "tax lien" is imposed, which ostensibly would then accrue interest at fourteen (14%) percent.

If the bill goes unpaid, you can proceed to collect it using the tax lien process. However, there is a trap for the unwary. There is a specific statutory 30-day notice which must be sent before executing a tax lien. This should be read as a separate notice, apart from the intent to lien notice required under RSA Chapter 80:60. This is particularly true because this II advance notice" must be given to mortgage holders (if any) which consented to the deferral when it was given. Therefore, "best practice" is to maintain and send II separate notice" in all deferrals, in addition to the 30-day notice required under RSA Chapter 80 and any post-lien notices to mortgagees.

Attached hereto are the following documents related to the tax deferral process: 1) RSA 72:38-a
2) DRA Rules related to Tax Deferral

CHAPTER 72
PERSONS AND PROPERTY LIABLE TO TAXATION
Property Taxes

Section 72:38-a 72:38-a Tax Deferral for Elderly and Disabled. -

I. Any resident property owner may apply for a tax deferral if the person:

- (a) Is either at least 65 years old or eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled; and
- (b) Has owned the homestead for at least 5 consecutive years if the person qualifies as an elderly applicant, or has owned the homestead for at least one year if the person qualifies as a disabled applicant; and
- (c) Is living in the home.

The assessing officials may annually grant a person qualified under this paragraph a tax deferral for all or part of the taxes due, plus annual interest at 5 percent, if in their opinion the tax liability causes the taxpayer an undue hardship or possible loss of the property. The total of tax deferrals on a particular property shall not be more than 85 percent of its equity value. The total of tax deferrals shall be determined by the following formula:

Assessed Value = Equalized Assessed Value Equalization Ratio

Equalized Assessed Value - Total of Priority Liens = Equity Value
Equity Value X .85 = Total Amount Which May be Deferred

At any time during the tax deferral process, the governing body may consider an abatement pursuant to RSA 76:16

II. A tax deferral shall be subject to any prior liens on the property and shall be treated as such in any foreclosure proceeding.

II-a. No person shall be entitled to the deferral under this section unless the person has filed with the selectmen or assessors, by March 1 following the date of notice of tax under RSA 72:1-d, a permanent application therefor, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the deferral is claimed and that the applicant is duly qualified at the time of application. Any person who changes residence after filing such a permanent application shall file an amended permanent application on or before December 1 immediately following the change of residence. The filing of the permanent application shall be sufficient for said persons to receive a deferral on an annual basis so long as the applicant does not change residence; provided, however, that towns and cities may require an annual application for the tax deferral authorized for the elderly and disabled by this section. The form shall include the following and such other information deemed necessary by the commissioner:

- (a) Instructions on completing and filing the form, including an explanation of the grounds for requesting a deferral.
- (b) Sections for information concerning the applicant, the property for which the relief is sought, and other properties owned by the person applying.
- (c) A section explaining the appeal procedure and stating the appeal deadline in the event the municipality denies the tax relief request in whole or in part.
 - (a) A place for the applicant's signature with a certification by the person applying that the application has a good faith basis and the facts in the application are true.

I. If the property is subject to a mortgage, the owner must have the mortgage holder's approval of the tax deferral. Such approval does not grant the town a preferential lien.

II. When the owner of a property subject to a tax deferral dies, the heirs, heirs-at-law, assignee, or devisee shall have first priority to redeem the estate by paying in full the deferred taxes plus any interest due. If the heirs, heirs-at-law, assignees, or devisees do not redeem the property within 9 months of the date of death of the property owner, the municipality may commit the accrued amount of the deferral to the collector of taxes with a warrant signed by the assessing officials requiring him or her to collect it; and the collector of taxes shall have the same rights and remedies in relation thereto as provided in RSA 76:13 and RSA 80. Prior to holding a tax sale or executing a priority tax lien under RSA 80:59, the collector shall, at least 30 days prior to such tax sale or tax lien execution, send notice by certified or registered mail, to the last known post office address of the current owner, if known, or to the last known address of the deceased taxpayer, and to all mortgagees from whom permission has been sought pursuant to paragraph III of this section. Any person with a legal interest in the property may redeem it, either prior to the tax sale or tax lien execution, or subsequently as set forth in RSA 80:32 or RSA 80:69.

IV-a. When the owner of a property subject to a tax deferral sells or otherwise conveys the property, the owner or grantee shall pay in full the deferred taxes plus any interest due and the municipality shall provide recorded written release or satisfaction of the notice of tax deferral. If the owner or grantee, who shall be deemed to have notice of and shall take title to the property subject to the notice of tax deferral, does not pay the accrued amount on the property within 9 months of the date of sale or conveyance of the property, the municipality may commit the accrued amount of the deferral to the collector of taxes with a warrant signed by the assessing officials requiring him or her to collect it; and the collector of taxes shall have the same rights and remedies in relation thereto as provided in RSA 76:13 and RSA 80. Prior to holding a tax sale or executing a priority tax lien under RSA 80:59, the collector shall, at least 30 days prior to such tax sale or tax lien execution, send notice by certified or registered mail, to the last known post office address of the current owner, if known, or to the last known address of the taxpayer who received the deferral, and to all mortgagees from whom permission has been sought pursuant to paragraph III of this section. Any person with a legal interest in the property may redeem it, either prior to the tax sale or tax lien execution, or subsequently as set forth in RSA 80:32 or RSA 80:69.

III. The assessing officials shall file notice of each tax deferral granted, within 30 days, with the registry of deeds of the county in which the property is located to perfect it.

IV. When a taxpayer appeals the denial of a deferral application to the superior court or board of tax and land appeals, the court or board may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court or board is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable.

Source. 1973, 452:1. 1975, 214:1. 1977, 54:1; 591:1-3. 1981, 374:1. 1983, 155:3. 1994, 390:1. 1995, 265:7. 1997, 37:1. 2003, 299:12, eff. April 1, 2003; 299:13, eff. April 1, 2005. 2013, 141:1, eff. Jan. 1, 2014.

PART Rev 418 TAX DEFERRAL FOR ELDERLY AND DISABLED

Rev 418.01 Tax Deferral for Elderly and Disabled.

(a) The municipal assessing officials may annually grant an eligible applicant a property tax deferral if:

- (1) In their opinion, the property taxes due on the applicant's homestead causes the applicant:
 - a. An undue hardship; or
 - b. Possible loss of the applicant's homestead; and

(2) The total of property tax deferrals on the applicant's homestead is not more than 85% of the equity value in the applicant's homestead.

(b) A property tax deferral is granted:

- (1) Only at the discretion of the municipal assessing officials; and
- (2) For all or part of the property taxes due on the applicant's homestead.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 417.01)

Rev 418.02 Eligibility Requirements. An applicant shall not be eligible for a property tax deferral unless the applicant:

(a) Is either:

- (1) At least 65 years old; or
- (2) Eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled;

(b) Has owned a homestead for at least:

- (1) Five consecutive years if the applicant is at least 65 years old; or
- (2) One year if the applicant is eligible under Title II or Title XVI of the federal Social Security Act for benefits for the disabled; and

(c) Resides at the applicant's homestead.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 417.02)

PART Rev 419 APPLICATIONS FOR PROPERTY TAX CREDITS, EXEMPTIONS, AND DEFERRALS

Rev 419.01 Applying for a Property Tax Credit or Exemption.

(a) An applicant for any property tax credit or exemption shall complete and file Form PA-29, "Permanent Application for Property Tax Credits/Exemptions," with the municipal assessing officials in the municipality in which the property tax credit or exemption is claimed by April 15 preceding the setting of the municipality's property tax rate, except as provided in (c) below.

(b) If the municipal assessing officials are satisfied that the applicant for a property tax credit or exemption was prevented from timely filing by accident, mistake, or misfortune, the municipal assessing officials shall accept Form PA-29 after April 15 in the tax year in which the property tax credit or exemption is claimed, but not after the municipality's property tax rate has been approved for that tax year.

(c) An applicant for the tax credit for combat service may complete and file Form PA-29 at any point during the tax year in which the applicant is engaged in combat service. If the application is received and granted after the municipality's property tax rate is approved, the credit shall be applied in accordance with RSA 72:33, I-b.

(d) If an applicant for a property tax credit or exemption owns residential real estate or other property, if applicable, as a tenant in common, the applicant shall complete and file Form PA-29 whether or not the other tenants in common also complete and file Form PA-29.

(e) An entitled applicant for a property tax credit or exemption shall receive the property tax credit or exemption on an annual basis after filing Form PA-29, unless:

- (1) The entitled applicant changes residential real estate; or
- (2) The entitled applicant no longer meets all the eligibility requirements of the property tax credit or exemption.

(f) An applicant for a property tax credit or exemption who changes residential real estate in the same municipality after filing Form PA-29 shall file an amended application within 10 calendar days following the change of residential real estate, but not after December 1 in the tax year in which the property tax credit or exemption is claimed.

(g) The municipal assessing officials may periodically require an entitled applicant for a property tax credit or exemption to file information as needed to verify eligibility, but no more frequently than annually.

(h) An entitled applicant for a property tax credit or exemption who fails to periodically file information pursuant to (f) above may lose the property tax credit or exemption for that tax year, at the discretion of the municipal assessing officials.

Source. #12027, eff 10-28-16; amd by #12925, eff 11-26-20; amd by #12925, eff 11-26-19 (formerly Rev 418.01)

Rev 419.02 Applying for a Property Tax Deferral.

(a) An applicant for a property tax deferral shall complete and file Form PA-30, "Tax Deferral Application for Elderly or Disabled," with the municipal assessing officials in the municipality in which the property tax deferral is claimed by March 1 following the date of notice of tax, on an annual basis.

(b) If there is a mortgage against the property, the mortgage holder shall indicate approval for the property tax deferral by dated signature prior to Form PA-30 being filed with the municipal assessing officials.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 418.02)

Rev 419.03 Other Application Requirements. An applicant shall also complete and file Form PA- 33, “Statement of Qualification for Property Tax Credit, Exemption or Tax Deferral under RSA 72:33, V,” if the person has:

- (a) Placed property in a grantor/revocable trust;
- (b) Equitable title in property; or
- (c) A life estate in property.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 418.03)

PART Rev 420 FORMS

Rev 420.01 Form PA-29, “Permanent Application for Property Tax Credits/Exemptions.”

(a) Form PA-29 shall be completed and filed by every applicant for a property tax credit or exemption with the municipal assessing officials in the municipality in which the property tax credit or exemption is claimed.

(b) Form PA-29 shall document that the applicant for a property tax credit or exemption is:

- (1) The owner of the residential real estate or other property, if applicable, on which the property tax credit or exemption is claimed, in accordance with Rev 402.03; and
- (2) Eligible for the property tax credit or exemption on April 1 in the tax year in which the property tax credit or exemption is claimed.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 419.01)

Rev 420.02 Form PA-30, “Elderly and Disabled Tax Deferral Application.”

(a) Form PA-30 shall be completed and filed by every applicant for a property tax deferral with the municipal assessing officials in the municipality in which the property tax deferral is claimed.

(b) Form PA-30 shall document that the applicant for a property tax deferral is:

- (1) The owner of the homestead on which the property tax deferral is claimed, in accordance with Rev 402.03; and
- (2) Eligible for the property tax deferral at the time of the application.

(c) If a property tax deferral is granted, the municipal assessing officials shall perfect the resulting lien by filing the applicant’s original Form PA-30, within 30 days, with the registry of deeds of the county in which the homestead is located.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 419.02)

Rev 420.03 Form PA-33, “Statement of Qualification for Property Tax Credit, Exemption or Tax Deferral under RSA 72:33, V.” Form PA-33 shall be completed and filed:

(a) By every applicant who has:

- (1) Placed property in a grantor/revocable trust;
- (2) Equitable title in property; or
- (3) A life estate in property;

(b) With the municipal assessing officials in the municipality in which the property tax credit, exemption, or deferral is claimed; and

(c) Together with either:

- (1) Form PA-29; or
- (2) Form PA-30.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 419.03)

Rev 420.04 Form PA-35, “Municipal Assessing Officials’ Response to Tax Credits/Exemptions or Tax Deferral Application.” The municipal assessing officials shall:

(a) Send Form PA-35 to the applicant on or before July 1:

- (1) Prior to the date of notice of tax if the applicant timely completed and filed Form PA-29; or
- (2) Following the date of notice of tax if the applicant timely completed and filed Form PA-30; and

(b) On Form PA-35:

- (1) Notify the applicant of the municipal assessing officials’ decision; and
- (2) Notify the applicant of the applicant’s appeal rights.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 419.04)

PART Rev 421 OBTAINING FORMS

Rev 421.01 Obtaining Forms.

(a) An applicant may obtain the necessary forms:

- (1) From the municipal assessing officials;
- (2) From the forms page located on the department’s website at <http://revenue.nh.gov>; or
- (3) By calling the department’s forms line at (603) 230-5001.

(b) A municipality may obtain the necessary forms from the forms page located on the department's website at <http://www.revenue.nh.gov>.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 420.01)

PART Rev 422 MUNICIPAL ASSESSING OFFICIALS' PROCEDURE FOR THE APPROVAL OR DENIAL OF PROPERTY TAX CREDIT, EXEMPTION, OR DEFERRAL APPLICATIONS

Rev 422.01 Receipt of an Application.

(a) The municipal assessing officials shall examine every timely completed and filed application for a property tax credit, exemption, or deferral to determine whether the applicant is eligible for the property tax credit, exemption, or deferral, except as provided in (b) below.

(b) The municipal assessing officials shall not accept an application for a property tax credit or exemption that has not been adopted by the municipality.

(c) After receiving a timely completed and filed application for a property tax credit, exemption, or deferral, the municipal assessing officials may:

(1) Request copies of any documents as needed to verify the applicant's eligibility for the property tax credit, exemption, or deferral; or

(2) Respond on Form PA-35 to the applicant if the application:

- a. Does not contain sufficient information to determine the applicant's eligibility; or
- b. Contains incorrect, inaccurate, or misleading information.

(d) An applicant who receives a request from the municipal assessing officials for supporting documentation, pursuant to (c)(1) above, shall submit the documents within 30 calendar days.

(e) Pursuant to RSA 72:34, II, all documents submitted by the applicant with an application or as requested by the municipal assessing officials shall be:

(1) Considered confidential; and

(2) Returned to the applicant after a decision is made on the application.

(f) An applicant who receives a Form PA-35 from the municipal assessing officials, pursuant to (c)(2) above, may file a corrected application within 30 calendar days if the applicant timely completed and filed the original application.

(g) If the municipal assessing officials are satisfied that the applicant for a property tax credit or exemption was prevented from timely filing by accident, mistake, or misfortune, the municipal assessing officials shall accept Form PA-29 after April 15 in the tax year in which the property tax credit or exemption is claimed, but not after the municipality's property tax rate has been approved for that tax year.

(h) The municipal assessing officials shall grant a property tax credit or exemption if:

(1) The applicant timely completed and filed an application for a property tax credit or exemption, except as provided in (g) above;

- (2) The municipal assessing officials are satisfied that the applicant has not willfully made any false statement in the application for the purpose of obtaining the property tax credit or exemption;
 - (3) The applicant has cooperated with all the municipal assessing officials' requests pursuant to (c)(1) above, if applicable; and
 - (4) The applicant meets all the eligibility requirements for the property tax credit or exemption in the tax year in which the property tax credit or exemption is claimed.
- (i) The municipal assessing officials may annually grant a property tax deferral if:
- (1) The applicant timely completed and filed an application for a property tax deferral;
 - (2) In the municipal assessing officials' opinion, the property taxes due on the applicant's homestead causes the applicant an undue hardship or possible loss of the applicant's homestead;
 - (3) The total of property tax deferrals on the applicant's homestead is not more than 85% of the equity value in the applicant's homestead; and
 - (4) The applicant meets all the eligibility requirements for the property tax deferral at the time of the application.

Source. #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 421.01)

Rev 422.02 Municipal Assessing Officials' Decision.

- (a) The municipal assessing officials shall send a written decision to the applicant by first class mail:
- (1) On or before July 1:
 - a. Prior to the date of notice of tax if the applicant timely completed and filed Form PA-29; or
 - b. Following the date of notice of tax if the applicant timely completed and filed Form PA-30; or
 - (2) Within 30 calendar days of the municipal assessing officials' receipt of the application, but not after the municipality's property tax rate has been approved for that tax year, if the application was:
 - a. For a property tax credit or exemption; and
 - b. Received pursuant to Rev 421.01(f) or (g).
- (b) Failure of the municipal assessing officials to send a timely decision shall constitute a denial.
- (c) The municipal assessing officials' decision shall:
- (1) Notify the applicant whether the municipal assessing officials granted or denied the property tax credit, exemption, or deferral, and the reason(s) it was denied, if applicable;
 - (2) Notify the applicant of the appeal procedure set forth in Rev 422.01; and

(3) Be sent on:

- a. The municipal assessing officials' authorization portion of Form PA-29 or Form PA-30; or
- b. Form PA-35.

[Source.](#) #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 421.02)

Rev 422.03 Duration of Applications for Property Tax Credits or Exemptions.

(a) An entitled applicant for a property tax credit or exemption shall receive the property tax credit or exemption on an annual basis after filing Form PA-29, unless:

- (1) The entitled applicant changes residential real estate; or
- (2) The entitled applicant no longer meets all the eligibility requirements of the property tax credit or exemption.

(b) An applicant for a property tax credit or exemption who changes residential real estate in the same municipality after filing Form PA-29 shall file an amended application within 10 calendar days following the change of residential real estate, but not after December 1 in the tax year in which the property tax credit or exemption is claimed.

[Source.](#) #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 421.03)

PART Rev 423 APPEALS

Rev 423.01 Appeals. The applicant may appeal the municipal assessing officials' refusal to grant a property tax credit, exemption, or deferral in writing, on or before September 1 following the date of notice of tax to the:

- (a) Board of tax and land appeals; or
- (b) Superior court in the county in which the residential real estate or other property is located.

[Source.](#) #12027, eff 10-28-16; renumbered by #12925
(formerly Rev 422.01)

WHAT IS A CREDIT BUREAU?

A Credit Bureau is a clearinghouse of consumer credit information. A credit record is a summary of how credit obligations have been handled in the past with stores and lending institutions. If a credit grantor had to gather the necessary information on each consumer desiring to purchase goods or services on credit, the consumer would have a delay of time and inconvenience.

HOW DOES A CREDIT BUREAU COMPILE INFORMATION?

Credit information is supplied by the consumer when they apply for credit; for example name, address, current employer, former employer, social security number and so forth. Other information is supplied by merchants and other creditors with whom the consumer has done business. As members of the credit bureau, information is supplied on debt payments on a regular basis. Other information is obtained from public records such as divorce notices, deaths, marriages, bankruptcies, court judgments, registry of deeds recordings and dispositions of lawsuits.

ARE THERE ANY LAWS THAT REGULATE CREDIT BUREAUS?

The Fair Credit Reporting Act of 1971 was an effort by Congress to regulate the compilation of information on individuals in order to offer legal protection of their privacy while not impeding the credit granting process. Before this law was passed, the consumer did not have the right to know what was in their file. Credit grantors were not as limited in the purposes for which they could gain access to an individual's record.

However, the credit reporting industry was already policing itself under the leadership of the Associated Credit Bureaus, Inc. Most of the credit bureaus had already been reviewing files with consumers without charge and most of them had agreements with their grantor customers that reports were to be ordered only for the purposes of granting credit or employment. The passage of the Fair Credit Reporting Act made this law. The credit industry helped Congress pass this bill.

CAN A CONSUMER FIND OUT WHERE THE INFORMATION IN THEIR FILE CAME FROM?

After proper identification, a consumer can ask a credit bureau to review the information in their file. They will be told everything that is there and where it came from. They will be allowed to correct any errors that may be contained in their file. If an account is in dispute, a consumer may file their side of the story which becomes a permanent part of the record. This explanation is included with the file whenever a credit report containing the disputed information is given out.

HOW LONG DOES ADVERSE INFORMATION REMAIN ON A RECORD?

The law limits the reporting of adverse information to seven years. The only exception is bankruptcy which is reported for 10 years. Most firms do not base decisions on information that old; they consider the consumer's record over the last 3-5 years.

SERVICEMEMBERS CIVIL RELIEF ACT
Formerly Known As: **SOLDIERS' & SAILORS' CIVIL RELIEF ACT**
Spring Workshop 2007 (Updated 2/2022) Reviewed
2024

A taxpayer must request relief and provide a copy of activation orders which stipulate Title 10 of the United States Code. The relief commences when active duty begins and ends when active duty ends.

Title II - 527 Maximum Rate of Interest on Debts Incurred Before Military Service

(a) Interest rate limitation:

(1) Limitation to 6 percent

“An obligation or liability bearing interest at a rate in excess of 6 percent per year that is incurred by a service member, or the service member and the service member’s spouse jointly, before the service member enters military service shall not bear interest at a rate in excess of 6 percent per year during the period of military service.”

(2) Forgiveness of interest in excess of 6 percent

“Interest at a rate in excess of 6 percent per year that would otherwise be incurred but for the prohibition in paragraph (1) is forgiven.”

(3) Prevention of acceleration of principal

“The amount of any periodic payment due from a service member under the terms of the instrument that created the obligation or liability covered by this section shall be reduced by the amount of the interest forgiven under paragraph (2) that is allocable to the period for which such payment is made.”

(b) Implementation of limitation

(1) Written notice to creditor

“In order for an obligation or liability of a service member to be subject to the interest rate limitation in subsection (a), the service member shall provide to the creditor written notice and a copy of the military orders calling the service member to military service and any orders further extending military service, not later than 180 days after the date of the service member’s termination or release from military service.”

(2) Limitation effective as of date of order to active duty

“Upon receipt of written notice and a copy of orders calling a service member to military service, the creditor shall treat the debt in accordance with subsection (a), effective as of the date on which the service member is called to military service.”

(c) Creditor protection

“A court may grant a creditor relief from the limitations of this section if, in the opinion of the court, the ability of the service member to pay interest upon the obligation or liability at a rate in

excess of 6 percent per year is not materially affected by reason of the service member's military service."

(d) Interest

"As used in this section, the term "interest" includes service charges, renewal charges, fees or any other charges (except bona fide insurance) with respect to an obligation or liability."

Interest rate changes to 6% on the date of service and continues until active duty ends. This includes property that may go to tax lien.

The interest rate is not retroactive to any taxes previously liened (prior year). For example, a person is called to active duty and has an outstanding lien from a prior year. The interest rate changes to 6% on the date of service only; all prior interest that had previously accrued at the statutory rate will still be due.

The costs that are imposed for the Impending Lien Fee, Lien Fee, and mortgagee search will still be applied to the account because they are the actual costs to the municipality; not a penalty.

Property can be liened but cannot be deeded; except with the permission of the Court.

Title V- Taxes & Public Lands - 561

(b) Sale of Property

(1) Limitation on sale of property to enforce tax assessment

"Property described in subsection (a) may not be sold to enforce the collection of such tax or assessment except by court order and upon the determination by the court that military service does not materially affect the service member's ability to pay the unpaid tax or assessment."

(2) Stay of court proceedings

"A court may stay a proceeding to enforce the collection of such tax or assessment, or sale of such property, during a period of military service of the service member and for a period not more than 180 days after the termination of, or release of the service member from, military service."

Multiple Owners of Record- If the name of the individual who has been called to duty appears on the deed, the 6% interest rate will apply to the taxes due on the property. The individual must own/occupy the dwelling; verification of residency status may be necessary. However, the 6% interest rate would also apply if the property is owned individually by a service member or jointly by a service member and a dependent or dependents.

NOTE: The taxpayer must own the home when they enter the service. This does not pertain if they purchase something while in the service.

TAX INCREMENT FINANCING (RSA 162-K)

What is a TIF?

According to Wikipedia, Tax Increment Financing is a public financing method that is used as a subsidy for redevelopment, infrastructure and other community improvement projects.

Authorized under RSA 162-K, Tax Increment Financing is a special tax district created to provide funding for public improvements (i.e. sewer, water, roads , sidewalks etc) that are required to initiate viable economic development.

How Does It Work?

It captures the new property tax revenue created by the proposed development and uses it to offset the cost of the specific public improvements. The district size is determined by the type of economic development the municipality wants to stimulate.

Once the TIF district is determined, the current assessed values and related property tax revenue are “frozen” and continue to go to the municipality’s general fund. Any future incremental increases in the district’s property tax revenues are “captured” and all or a portion of the revenue can be used to pay for the infrastructure (i.e. sewer, roads, water etc.) that enabled the development in the district. Once the improvements are paid in full, all (100%) of the property tax revenue generated will go to the municipality’s general fund.

RSA 162-K provides a list of the laws governing these districts. Some of the main points are as follows:

RSA 162-K:11- The municipality’s annual report shall contain a financial report for any development district in the municipality.

RSA 162-K:12- The cost of maintenance and operation of the non-revenue producing facilities together with excess costs of operation and maintenance of revenue producing facilities, if any, shall be charged against the development district in which it is located.

RSA 162-K:14- The legislative body of the municipality shall create an advisory board for each development district.

XII. RESOURCE SECTION

HELPFUL HINTS

Use RSA references whenever possible; make a listing of the most often referred to RSA's

Set up and use a yearly calendar

Use the record retention schedules

Incorporate specific computer procedures when necessary

Keep up with legislative changes and court cases

Know and build a rapport with elected representatives and senators

Review all personnel and interoffice memos

Contact NHTCA Executive Board and County Coordinators

Use the NHTCA Lawbook

Attend spring workshops, fall convention, certification program

TOOLS TO SEARCH VIA INTERNET

REFER TO NHTCA WEBSITE FOR UPDATED INFORMATION

FREQUENTLY ASKED QUESTIONS

The following questions and answers are provided as **basic technical guidance** for tax collectors.

What does a tax collector do when a reporter wants to examine the warrant for delinquent taxpayers?

According to RSA 41:35, the warrant is a public record and can be viewed by anyone. "Every collector shall keep in suitable books...which books shall be public records." Do not allow access to original books or warrants; a computer generated report is sufficient.

What does a collector do if a bank or mortgage company calls and asks if a specific taxpayer has paid his property taxes. They hold his mortgage and one of the conditions of the mortgage is that all taxes must be kept current.

As stated above, the tax collector records are public information and the tax collector must give it out.

How often is the tax collector required to remit to the treasurer? Can the tax collector make the deposits? Is there a penalty for not making timely deposits?

According to RSA 41:35, deposits should be made weekly or whenever deposits total \$1,500 or more.

Under RSA 41:29, the treasurer may delegate deposit duties, provided it is in writing and includes procedures acceptable to the board of selectmen or town manager and all parties involved are in agreement.

According to RSA 41:35, "Failure to remit collections on a timely basis shall be cause for immediate removal from office", under RSA 41:40.

Does the tax collector have to make a written report to the town?

According to RSA 41:35, the tax collector must make a written report to the town at the end of each fiscal year containing the amount of taxes committed to him to collect, the amount of taxes collected, together with interest thereon, the amount of discounts allowed, the amount of taxes abated, and the total amount of uncollected taxes. This information is reported on the MS-61 form.

Must a list of uncollected taxes be reported in the town report?

There is no statutory requirement for a list to be printed in the town report.

If the selectmen submit a written request for a list of year end uncollected taxes, must the tax collector comply?

According to RSA 41:35, "Upon written request therefore, the collector shall provide the selectmen with an itemized list of the uncollected taxes at the end of the fiscal year."

What documents are needed before collecting taxes?

Tax collectors need a warrant, which states the amount to collect, signed by a majority of the board of selectmen or assessors. The warrant should contain a list of taxpayers assessed, their addresses and the amounts of the assessments. The preparation of this document is the responsibility of the selectmen, **not the tax collector.**

How does a tax collector know the warrant is for the correct amount?

Once the tax rate has been established in the fall, DRA sends a copy of the tax rate calculation sheet containing the commitment amount to the collector. The tax collector then compares the warrant amount with the amount on the calculation sheet. The amount of the total warrant should not vary from the DRA commitment amount by more than ½ %. Enclosed with the tax rate calculation sheet from DRA, is a Tax Commitment Verification Form stating the commitment amount, the ½ % amount, the acceptable high, and the acceptable low. If the two amounts differ by more than ½ %, the MS-1 Form (town valuation) may be incorrect and the tax rate will need to be calculated. It is very important that this verification be done **prior to issuing bills.**

Does the tax collector need to verify the warrant? What if the warrant and the list do not agree?

If the warrant and the list to the selectmen/assessors do not agree, return it to them for correction.

What happens if the taxes are assessed to the wrong party?

The tax collector should notify the assessors so they can abate the erroneous assessment and issue an added tax warrant for the correct amount.

After the warrant has been issued and the tax bills mailed, it is discovered that a parcel was missed. What should the tax collector do?

The tax collector should notify the assessors. Assuming it is not yet March 31 of the tax year, the problem can be corrected by issuing an added warrant for the amount of taxes due on that parcel.

What is the final date for correction of omissions, or improper assessments of property taxes?

According to RSA 76:14, March 31st, which is the expiration date of the year for which a tax has been assessed.

If the selectmen become aware that several persons are owners of distinct interests in the same real estate, how can it be assessed?

If requested to, they may assess it separately according to RSA 75:2, Distinct Interests. Whenever it shall appear to the selectmen that several persons are owners of distinct interests in the same real estate, or that one person is owner of land and another is the owner of any building, timber, or wood standing thereon, or ores or minerals therein, they may, upon request, appraise such interests and assess the same to the owners thereof separately, except as provided in RSA 75:3.

To whom shall property held in trust be taxed to?

According to RSA 73:22, the real and personal estate of any legatee or ward, and all taxable property held in trust, shall be taxed to the administrator, guardian, conservator or trustee, the real estate in the town in which it is situated, and the personal estate in the town in which such

administrator, trustee, guardian or conservator resides, if in this state; otherwise in the town in which such legatee, ward or person beneficially interested resides, if in this state; otherwise in the town in which the deceased resided at death.

If the date for filing any report, claim, tax return, statement, remittance or other document falls upon a Saturday, Sunday or legal holiday, what is considered timely filing?

The filing shall be considered timely if performed on the next business day.

What are calendar days?

According to RSA 80:54, calendar days include Sundays and holidays.

A selectman tells the tax collector to abate Sam Smith's taxes. What should the collector do?

One selectmen or assessor does not have the authority to grant an abatement; it must be in writing and signed by a **majority** of the assessing officials.

The selectmen's secretary provides the tax collector with an abatement slip signed by two of the three selectmen. What should the tax collector do?

The tax collector should post the abatement to the record. The abatement is in writing and is signed by the majority of the board of selectmen.

What should the tax collector do when a taxpayer asks for an abatement?

The tax collector must refer the taxpayer to the assessing officials because only they can grant abatements.

Should the tax collector have a deputy?

According to RSA 41:38, "The tax collector shall appoint a deputy, with the approval of the selectmen...."

When does manufactured housing have to remain in any given municipality to be considered taxable for the year?

According to RSA 72:7-a, Manufactured Housing, it must be in the municipality from April 1st through June 15th.

How long should the Tax Collector keep paid receipts?

According to RSA 33-A:3-aXIX, 6 years.

A real estate agent has asked the tax collector to prorate taxes for a real estate closing. What should the collector do?

It is not a tax collector's duty to prorate the taxes for a real estate transaction. The proration of taxes is done by an agreement between the buyer and the seller. It is proper to provide whatever information is in the record and allow the closing agent to do the calculations.

“YOU HAVE BEEN A TAX COLLECTOR TOO LONG WHEN...”

1. A resident gives you their name and you know their account number and address before they give it to you.
2. It still amazes you that after 2 years of warnings and certified letters a home owner is shocked and horrified when they get their “deeding” letter.
3. A mortgage holder calls to see if an account is paid and you know the answer before you bring it up on the computer.
4. You can finish your co-workers sentences and vice versa.
5. When you answer the phone and know who is on the other end just by their “hello”.
6. You know where the taxpayer owns property before they tell you and they think something is wrong because you know who they are.
7. You have seen the new administration try and institute changes that were tried 2 administrations ago and still do not work.
8. You receive a call asking what you are going to do about getting rid of the high water in their basement or they will not pay their taxes.
9. You do the MS- 61 and it balances on the first try.
10. When you can quote your intent to deed list because it has been the same forever.
11. When a new person in Town says, “Oh, you are the Tax Collector I have heard so much about.”
12. You know the names of all the taxpayers who paid late last year and who will be late again this year.
13. You know which property tax owners will come in and pay their taxes the day before the property is to be tax deeded.
14. You cannot find the new property owner on your tax rolls by name but you can remember the map and lot by heart.
15. You research old tax lien releases and you always open to the right page.
16. The administration tells you that if they see you driving a Lexus to work, they will order an audit of your books.
17. The auditors complete their audit without any questions.
18. You open the law book to the correct RSA you need to copy for a taxpayer.
19. You dial “9” from your home phone.
20. Your deputy finds out that you know more than she does.
21. When the Selectmen are going to give you his & her mobile homes you have just deeded to them, from the worse park in Town, as retirement homes.
22. You have to teach the Selectmen how to use the Current Use program, because it is supposed to be their job anyway.
23. Every time the printer jams everyone comes to find you.
24. When the Selectmen find out you know more about their MS -5 form than they do and you have to help them complete it.
25. The Budget Committee accepts your budget as you requested it.
26. You attend the Tax Collectors’ Convention and it has all new faces.