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**TECHNICAL ASSISTANCE**  
**FOR NEW HAMPSHIRE**  
**TAX COLLECTORS**

The attached Questions and Answers were designed to assist tax collectors by providing answers to some of the most frequently asked questions concerning their duties. Also attached is a list of the applicable laws outlining the basic steps for the lien process. The NH Tax Collectors' Association (NHTCA) offers many educational opportunities, training sessions, suggested forms and networking. Their web address is: [nhtaxcollectors.com](http://nhtaxcollectors.com).

In March, the Department of Revenue Administration (DRA), in conjunction with the NHTCA, offers workshops designed for the new tax collector. One workshop is dedicated entirely to the lien process.

Per RSA 41:35, deposits should be made weekly or whenever deposits total \$1500 or more. All receipts should be remitted to the treasurer, or treasurer's designee under RSA 41:29, within 10 days of the close of the fiscal year. (Please refer to questions 8 and 11).

Upon written request from the governing body, the tax collector must provide an itemized list of the uncollected and unredeemed taxes still delinquent at the end of the fiscal year (December 31st or June 30<sup>th</sup>). Also, at the close of the fiscal year, each tax collector is required to submit a written report (form MS-61) to the governing body and to the DRA and publish it in the town's annual report. The MS-61 form is available on DRA's web site. The instruction manual is available on the NHTCA web site by clicking on the Technical Reference heading and selecting MS-61 Preparation Handbook.

## **QUESTIONS AND ANSWERS ON TAX COLLECTOR DUTIES**

The following questions and answers are provided as basic technical assistance for tax collectors and taxpayers regarding the property tax collection process.

### **SUCCESSION IN OFFICE** (RSA 41:36)

#### **1. What happens when a tax collector's term ends?**

Per RSA 41:36 when a tax collector's term ends for any reason, the tax collector's powers and authority cease and are transferred to the new collector (see the next question).

#### **2. When does the successor collector have the authority to collect?**

After a tax collector leaves office, the selectmen must have the outgoing tax collector's books and records audited by either the locally elected auditor or the town's CPA firm. Next the selectmen must commit new warrants and lists to the successor collector (recommittal warrant).

#### **3. What happens to the previous collector's books, papers, and records?**

All books, papers, and records of the outgoing collector must be delivered to the selectmen. The selectmen shall deliver all necessary books, records, and papers to the successor collector, along with a new warrant (recommittal). Any records not needed must be given to the town clerk for care and preservation.

#### **What happens if the selectmen don't do a recommittal audit and warrant?**

The successor collector should request a recommittal warrant and explain that he/she cannot collect taxes until it is completed.

### **COMPATIBILITY**

#### **4. Are there any other elected town offices that the tax collector can hold concurrently?**

Per RSA 669:7, the following offices are not compatible with the office of tax collector: selectmen, treasurer, moderator, trustee of trust fund, auditor and highway agent.

**DUTIES OF COLLECTOR** (RSA 41:35)

**5. Per RSA 41:35, what is the tax collector's basic duty?**

RSA 41:35 defines the tax collector's primary duty as follows: "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".

**6. What should a tax collector do if a reporter wants to examine the warrant for delinquent taxpayers?**

Per RSA 41:35, the warrant is a public record and therefore is available for viewing by anyone. "Every collector shall keep in suitable books ... which books shall be public records." Do not allow access to original books of entry, however, a printout would be sufficient.

**7. What does a collector do if the local bank calls and asks if John Smith has paid his taxes. (They hold his mortgage and one of the conditions of the mortgage is that all taxes must be kept current).**

As stated above, tax collector records are public and the tax collector must give out tax information.

**REMITTANCES TO TREASURER**

**8. Can the tax collector make the deposits?**

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 provided all parties involved are in agreement. The NHTCA website has a Delegation of Authority form under Technical References, Sample Forms.

**9. How often must a tax collector make deposits or remit to the treasurer?**

Per RSA 41:35, deposits should be made weekly or more frequently whenever deposits total \$1500 or more.

**10. What about the final or last deposit for the year?**

The tax collector is to make the final deposit to the town treasurer, or designee, of all the money collected within 10 days after the close of the town's fiscal year.

**11. Is there a penalty for not remitting on time?**

Per RSA 41:35, "Failure to remit collections on a timely basis shall be cause for immediate removal from office, under RSA 41:40.

**12. Must the tax collector show the collection records to the selectmen and the treasurer when requested?**

Yes. Per RSA 41:35 "He or she shall submit the tax books and lists to the treasurer and selectmen for inspection and computation when requested to do so...".

**OFFICE HOURS**

**13. How many hours a week should the tax collector be in the office?**

Per RSA 41:35, "...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".

Note: This is a minimum number of hours that the tax collector must be available to the public. It is not intended to limit the number of hours the tax collector devotes to perform the duty of collecting taxes.

**REPORTS**

**14. When must the tax collector make a written report to the town?**

Per RSA 41:35 "...The tax collector shall make a written report to the town at the end of each fiscal year which shall contain the amount of 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". This information is reported on the MS-61 form.

**15. Should a list of uncollected taxes be reported in the town report?**

There is no statutory requirement for a list to be printed.

**16. If the selectmen submit a written request for a list of year end uncollected taxes, must the tax collector comply?**

Yes. Per RSA 41:35 "...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".

**GENERAL TAX COLLECTION PROCEDURES**

**17. What documents are needed before collecting taxes?**

Tax collectors need a warrant, signed by a majority of the board of assessors/selectmen. The warrant contains the amount of taxes to collect (commitment) and should contain a list of taxpayers assessed, their addresses, and the amounts of their assessments. The preparation of this document is the responsibility of the assessors/selectmen, not the tax collector.

**18. How does a tax collector know the warrant is for the correct amount?**

After the tax rate has been established in the fall, DRA sends the collector a copy of the tax rate calculation papers containing the commitment amount. The tax collector must compare the warrant commitment amount with the amount shown on the tax rate calculation sheet sent from DRA. The amount of the total warrant cannot vary from the DRA commitment amount by more than ½%. A Tax Commitment Verification Form stating the commitment amount, the 1/2% variance, the acceptable high, and the acceptable low is enclosed with the tax rate calculation papers. If the warrant commitment

amount differs by more than 1/2%, the MS-1 form (town valuation) may be incorrect. Tax bills cannot be issued until the discrepancy is resolved or a new MS-1 is submitted to DRA for recalculation of the tax rate.

**19. Does the tax collector need to verify the warrant?**

Yes. If there are negative numbers in the list, the totals might be off. The warrant, bills, and list must agree.

**20. What if the warrant and the list don't agree?**

Return the warrant and list to the selectmen/assessors for correction. The warrant and the accompanying list must agree.

**ERRORS AND OMISSIONS (RSA 76:14)**

**21. What happens if taxes are assessed to the wrong party?**

The tax collector notifies the assessors. In this case where the wrong taxpayer was assessed, the assessors would abate the erroneous assessment and issue an added tax warrant to the correct property owner(s) for the same amount.

**22. After the warrant has been issued and the tax bills mailed, it is discovered that a parcel was missed. What now?**

The tax collector notifies the assessors. If it is not yet March 31 of the tax year, the omission can be corrected by issuing an added warrant for the amount of taxes due on that parcel. However, an added warrant cannot be issued if the valuation on a parcel was incorrect.

**INTEREST**

**23. When is interest due on property taxes?**

Interest at 12 percent per annum shall be charged on all property taxes not paid by July 1 of the semi-annual bill or December 1 for the final bill. If the final bill is mailed on or after November 2, interest is not charged until 30 days after the bill is mailed (RSA 76:13 and 76:15-a).

**24. What is the rate of interest on delinquent real estate taxes?**

On real estate taxes the interest rate is 12% until the property is liened for unpaid taxes. Once the property is liened, the rate is 18% on the lien amount; For all other taxes and assessments the interest rate is 18%.

**25. What is the rate of interest on unredeemed taxes?**

The interest rate on unredeemed taxes (liens) is 18% (RSA 80:69).

**ABATEMENTS**

**26. 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. The abatement must be in writing and signed by a majority of the board of selectmen or assessing officials. Verbal orders to abate are invalid.

**27. The selectmen's secretary provides the tax collector with an abatement slip signed by two of the three selectmen. What does the tax collector do?**

The tax collector posts the abatement to the record because the abatement is in writing and is signed by a majority of the board of selectmen. If the taxes have already been paid, the collector will direct the selectmen to issue a refund.

**28. What should the tax collector do when a taxpayer asks for an abatement?**

Only the assessors can grant abatements. The tax collector must refer the taxpayer to the assessing officials.

**OTHER**

**29. Last year, Jim Jones paid with a check which was later returned for insufficient funds. Can the collector refuse another check from him?**

Yes. A collector does not have to accept a check from this individual and could require cash or a certified bank check for payment. RSA 80:56 allows the town or city to charge \$25 plus other fees on returned checks.

**30. William Sam misunderstood the bill and paid double the amount of the bill. What now?**

This is an overpayment. The tax collector records the overpayment, so the year end report will balance. If the town or city has not authorized the collector to receive prepayments under RSA 80:52-a, the collector notifies the selectmen to have the treasurer refund the overpayment (RSA 80:57) or the amount could be applied toward other outstanding taxes under RSA 76:17-d.

**DEPUTY TAX COLLECTOR**

**32. Is there a requirement for every town to have a deputy tax collector?**

Yes. RSA 41:38 "The tax collector shall appoint a deputy.. "

**33. Is the selectmen's approval necessary for the deputy?**

Yes. RSA 41:38 "The tax collector shall appoint a deputy, with the approval of the selectmen... "

**34. Can the tax collector dismiss the deputy?**

Yes, per RSA 41:38, "The tax collector shall appoint a deputy,...who shall be sworn ... and may be removed at the pleasure of the tax collector."

**35. What are the duties of the deputy tax collector?**

The duties of the deputy tax collector are assigned by the tax collector. If the tax collector becomes incapacitated, the deputy serves during that time. The deputy possesses the powers to perform the duties of the tax collector and should be paid as the selectmen or town meeting shall decide.

**36. Does a tax collector or deputy have to reside in town?**

If the tax collector is elected, he or she must reside in the town. An appointed tax collector and an appointed deputy need



not reside in town. The exception is if the deputy tax collector is also the elected town clerk. Per RSA 669:65, a town clerk must be domiciled in the town.

**37. Does a person in a combined position of tax collector and town clerk need to reside in the town?**

Yes, because the combined position is an elected position per RSA 669:16. In addition, RSA 669:65 requires the town clerk be domiciled in the town.

**PRORATION OF TAXES**

**38. Real estate agents ask the 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 and is generally based on a tax year of April through March of the following year. It is proper to provide whatever information is in the record to allow the closing agent to do the calculations.

**BANKRUPTCY**

**39. 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, however contact legal assistance for proper wording. A notice of impending deed cannot be sent nor a deed be issued until release of the bankruptcy. The tax collector should contact the municipality's legal department for additional guidance.

**FORECLOSURE**

**40. The bank has foreclosed on property on which the collector is about to execute a lien.**

First, the collector should notify the bank of the impending lien process as 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.

## **LIENS**

### **41. 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.

### **42. 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?**

No. The tax collector cannot release the lien on just one lot. The lien is on the entire 100 acres so the collector cannot release the full lien and then place another lien on a smaller parcel.

### **43. How Are Partial Payments Handled?**

See 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 lien amount due. The receipt given must be dated and should show amount paid and how it was credited and the amount still owed.

Extreme care must be exercised 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 must, 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 collector's directive, the sum to be refunded shall draw interest at the rate of 6% per year from the date of the directive to be paid to the date of actual payment.

#### **44. What Are Subsequent Tax Payments?**

See 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 18%.

#### **45. What Is The Significance Of The "Barrington Notice" Or The Notice Of Arrearage In Reference To The Tax Lien Procedure?**

See RSA 76:11-b. The notice of arrearage is not part of the tax **lien** process. This is a separate requirement relating to tax **billing**. However, neglecting to send this notice could create a problem if the property is deeded in the future. If the property is in bankruptcy, contact legal council for proper wording of the notice (also see the NHTCA website for suggested wording for the notice).

#### **46. 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.

#### **47. What Information Is Required On the Report Of Tax Lien To Registry?**

Per RSA 80:64, the report of tax lien to the Register of Deeds shall include the following information relating to each parcel of real estate subject to lien:

Name of the current owner, if known, or the person against whom the tax was assessed; description of the property as it appeared on the tax list committed to the tax collector; total amount of each tax lien, including taxes, interest, fees and costs incident to the tax lien process; date and place of the execution of the tax lien.

It is critical that the entire, correct name(s) appear on the report so the lien can be indexed properly. Therefore, abbreviations or truncated names are not acceptable to the

county registers. Eliminating names and using "et al" is not correct procedure. Check computer-generated reports to be sure the entire, correct name(s) are reported and that part of the name has not been cut off when the name column is not wide enough. Also, be sure reports are legible and are printed dark enough so that reproduction of the document will be clear. Contact your county Register of Deeds for additional requirements.

**48. What Happens If A Notice Of Redemption Is Not Sent To The Register Of Deeds?**

The lien would show up under a title search even many years after the payment was made. If this occurs the tax collector would need to research if and when the payment was ever made. If the lien was paid in full and the check has cleared, a notice should be sent to the Register of Deeds to release the lien.

**49. When Shall The Deed Be Executed To The Town?**

Per RSA 80:76, **after 2 years** from the execution of the tax lien, the tax collector **shall** execute a deed to the lienholder. The municipality may refuse to accept a deed if the property involved could be subject to a potential liability for environmental impairment or other undesirable liabilities or obligations per RSA 80:76, II-a. In those situations, the tax collector must be given a signed deed waiver by the assessors or governing body.

A collector should not deed if every step of the lien process was not been done properly.

**50. What Happens If The Tax Liens Are Transferred?**

See RSA 80:80, II-a. The transferee becomes the lienholder. See RSA 80:72, Redemption and Payment to Lienholder, and RSA 80:76, Tax Deed. Upon complete redemption, the money so paid shall be paid over to the lienholder upon demand. If complete redemption is not made in 2 years, the property is deeded to the lienholder.

## **BASIC STEPS OF THE LIEN PROCESS**

- RSA 76:11-b Notice of Arrearage
- RSA 80:60 Notice of Impending Lien
- RSA 80:61 Affidavit – Execution of Lien
- RSA 80:64 Notice – Register of Deeds
- RSA 80:65 Notice to Mortgagee
- RSA 80:69-71 Redemption/Partial Payments
- RSA 80:70 Notice of Redemption
- RSA 80:77 Notice of Tax Deed
- RSA 80:77-a Notice to Mortgagee of Impending Deed
- RSA 80:76 Tax Deed After 2 Years
- RSA 80:80, VI Reimposing Tax Lien After Deed

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