

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to provide advice to municipal officials responsible for the collection of delinquent taxes. Questions should be directed to the Municipal Services Division, at (603) 271-3397.

SUPREME COURT RULING

On August 28, 2000 the New Hampshire Supreme Court issued a ruling in the case of Thomas Tool Services, Inc. v. Town of Croydon. In that decision, the Court ruled that the statutory alternative lien procedure under RSA 80:58-87 is unconstitutional. The New Hampshire Attorney General's Office has filed a motion for reconsideration of the Court's decision. This request for reconsideration is based in part on RSA 80:88 dealing with the distribution of proceeds from the sale of tax-deeded property. RSA 80:88 was enacted in 1998 to address concerns of an uncompensated "taking" of property, but was not addressed by the Court in its current ruling.

In light of the Court's ruling and the request for reconsideration, the Department offers the following recommendation to municipal officials responsible for the collection of delinquent taxes:

Municipal officials should continue with the statutory procedures under the tax lien process. This includes the notice of arrearage under RSA 76:11-b, the notice of impending lien under RSA 80:60, the notice by lienholder to mortgagee under RSA 80:65, and all other requirements necessary to perfect the lien.

However, the Department does NOT recommend deeding property. Until further clarification is received from the Court, we do not recommend issuing the notices of impending deed under RSA 80:77 and 77-a or actually deeding property under RSA 80:76. These final steps are not time sensitive, and may be delayed without significant consequence until such time as clarification is received.