

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 guidance to the tax collectors on the deeding process. If you have specific questions, you may contact the Department of Revenue Administration, Municipal Services Division, P.O. Box 487, Concord, NH 03302-0487, (603) 271-3397.

**SUPREME COURT DECISION - CASE NO. 97-887,
THOMAS TOOL SERVICES, INC. V. TOWN OF CROYDON**

The municipal tax lien procedures had been put on hold due to the NH Supreme Court's decision August 28, 2000 in the Thomas Tool v. Town of Croydon case which stated that the statutory lien procedure was unconstitutional. Many municipalities had halted their liening and deeding operations while awaiting a clarification of the Court's ruling.

On January 30, 2001 the New Hampshire Supreme Court issued a 2nd order in the case of Thomas Tool Services, Inc. v. Town of Croydon which states in part:

"We therefore hold that the statutory alternative lien procedure governing the tax lien in this case is unconstitutional. We are aware that the legislature amended the alternative tax lien procedure in 1998, see RSA 80:61, :88-:91 (Supp. 2000), but at this time express no opinion as to the constitutionality of the amended process.

The application of the rule announced in this case shall apply to the parties and to any similar cases pending as of the date of this opinion but not concluded, but shall not be retrospectively applied. See First NH Bank, 138 N.H. at 328, 639 A.2d at 1095."

The law governing distribution of proceeds from the sale of tax deeded property was substantially changed in 1998, and now provides rights to re-acquire property taken by tax deed and rights to the distribution of proceeds. Based on the above decision, this ruling does not affect liens under the current version of the statute.

Based on the court's clarification, tax collectors in cities and towns may now continue the process of delinquent tax collection activities including the notice of impending deed under RSA 80:77 and 77-a or actual deeding of property under RSA 80:76.

The Court also clarified that its ruling of unconstitutionality will apply only to challenges involving tax deeded property that were filed before August 28, 2000. Properties tax deeded under the new process are not affected by the decision.

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Municipal Services Division at (603) 271-3397.