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# Payment of Taxes

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Payment of Taxes

Reference Number: CTAS-1576

The county trustee acts as collector of all county property taxes and of all municipal property taxes when the municipality does not collect its own.<sup>1</sup> These taxes are paid to the trustee at the trustee's office at the county seat. Additionally, the trustee has authority to designate other collection sites, including a bank.<sup>2</sup> Procedures for such a designation require the trustee to establish an account with the bank for the deposit of property taxes. In order to pay at the bank, the taxpayer must show evidence of the amount owed. The bank may not accept delinquent taxes and must provide a deposit form to the taxpayer which states that the bank is acting as agent for the trustee. The bank then furnishes a daily accounting to the trustee, who must check amount deposited and owed before issuing a tax receipt.<sup>3</sup> Tax payments may also be mailed to the trustee.<sup>4</sup>

Tax Statements. The trustee's use of tax bills or mailed statements indicating the amount of currently payable taxes is not required or even specifically authorized, except in counties with consolidated forms of government.<sup>5</sup> Owners of land are presumed to know taxes are due without demand or personal notice.<sup>6</sup> Nevertheless, tax statements are almost uniformly used as a very effective way to remind taxpayers of their obligations to pay property taxes. This widespread use of mailed tax statements has been recognized in legislation dealing with notices of delinquent taxes, which are required to be part of mailed tax bills, and also with time limits for appealing to the State Board of Equalization.<sup>7</sup> A county cannot include other charges on the property tax bill unless there is specific statutory authority, as is the case, for example, with solid waste special assessments.<sup>8</sup>

Currency and Partial Payments. The trustee is required to accept constitutional and lawful U.S. currency or warrants on the state treasury legally outstanding in the hands of a person to whom they were issued and unpaid, U.S. coins, U.S. legal tender notes, and federal reserve notes.<sup>9</sup> Prior to any county trustee accepting partial payment of property taxes, the county trustee must file a plan with the Comptroller of the Treasury. The plan must indicate that the county trustee's office has the accounting system technology to implement a program for partial payment of property taxes. The plan must also indicate whether such a program will be implemented within the existing operating resources of the office or indicate prior approval of the county legislative body if additional operating resources are needed.<sup>10</sup> If a trustee does accept a partial payment of taxes, this action does not release the tax lien, except to the extent of the partial payment; the trustee has the duty to accept the balance as if no partial payment has been made.<sup>11</sup>

Checks. The trustee is not authorized to "hold" a check for a taxpayer until sufficient funds are in the account upon which it is drawn. All public funds received by the trustee are to be deposited into that official's bank account within three days after receipt.<sup>12</sup> Trustees accepting checks may encounter problems with nonpayment. If these checks are not paid, the taxpayer is still liable for the tax as well as all legal penalties and interest.<sup>13</sup> A "bad" check may be pursued under the civil provisions<sup>14</sup> or the criminal provisions<sup>15</sup> of the Code but not under both provisions. An official who receives a "bad" check may contact the office of the district attorney. If a check is not duly paid, most trustees void the receipt and proceed as if no check were tendered.

Credit Cards. County officials or entities may receive payment by credit card or debit card for any public taxes collected. Any municipal or county entity or officer collecting payment by credit card or debit card shall set and collect a processing fee in an amount that is equal to the amount paid the third party processor for processing the payment. Such processing fee may be waived by approval of the governing body. If payment is not honored by the credit card company or the entity upon which a debit card payment is drawn, the county entity or official may collect a service charge in the same amount charged for the collection of a check drawn on an account with insufficient funds.<sup>16</sup>

Date of Receipt. Any tax payment which is transmitted by U.S. mail to the trustee is deemed filed and received on the date on the postmark, or if the postmark is illegible, erroneous, or omitted, on the date the payment was mailed, as established by the sender by competent evidence. Also, if the payment is postmarked no more than 24 hours subsequent to the last date for timely payment of taxes, it shall be accepted as if timely filed.<sup>17</sup>

Part Ownership. Whenever a property owner has an undivided interest in any property or a specific portion of any property assessed to another, that part owner may pay the taxes on his or her portion and

receive a receipt for payment in full for that share of the taxes. Prior to accepting such a payment, the trustee must be satisfied that the value placed on each portion is a correct relative valuation, either by agreement of the owners or by a certificate from the assessor that the assessor has fixed the valuation of that portion.<sup>18</sup> Then, any necessary tax sale would involve a sale of the delinquent tenant in common's undivided interest. A life tenant in possession is deemed the owner and is liable to pay the assessed taxes which accrue during that tenancy; taxes are not prorated between a life tenant and the remainder interest.<sup>19</sup>

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<sup>1</sup>T.C.A. § 67-5-1801(a); § 67-1-702.

<sup>2</sup>T.C.A. § 67-5-1801(b); Op. Tenn. Atty. Gen. 83-392 (November 18, 1983).

<sup>3</sup>T.C.A. § 67-5-1801(c).

<sup>4</sup>T.C.A. § 67-1-107.

<sup>5</sup>T.C.A. § 7-3-203.

<sup>6</sup>*M'Carroll's Lessee v. Weeks*, 6 Tenn. (5 Hayw.) 246 (1814).

<sup>7</sup>T.C.A. §§ 67-5-1412; 67-5-2402.

<sup>8</sup>T.C.A. § 67-5-103.

<sup>9</sup>T.C.A. § 67-1-704(a).

<sup>10</sup>T.C.A. § 67-5-1801(e)(2). *See also* T.C.A. § 67-5-1808.

<sup>11</sup>*White v. Kelly*, 387 S.W.2d 821 (Tenn. 1965); *Salts v. Salts*, 190 S.W.2d 188 (Tenn. 1945).

<sup>12</sup>T.C.A. § 5-8-207.

<sup>13</sup>T.C.A. §§ 9-1-108, 9-1-109.

<sup>14</sup>T.C.A. § 47-29-101.

<sup>15</sup>T.C.A. § 39-14-121.

<sup>16</sup>T.C.A. § 9-1-108(c); Op. Tenn. Atty. Gen. 01-015 (January 31, 2001) (processing fees for use of credit card).

<sup>17</sup>T.C.A. § 67-1-107.

<sup>18</sup>T.C.A. § 67-5-1805.

<sup>19</sup>*Sherrill v. Board of Equalization*, 452 S.W.2d 857 (Tenn. 1970).

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