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# Delinquent Tax Suit

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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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# Delinquent Tax Suit

Reference Number: CTAS-1593

After February 1, but before April 1, the delinquent tax attorney must file suit in chancery or circuit court to collect delinquent property taxes due the state, county or municipality, as well as the penalties, interest and costs. The complaint shall be in substance and form as other complaints for the enforcement of liens and may be filed against and contain the names of all the delinquent taxpayers in the county, and the fact that the complaint contains the names of more than one defendant shall not be considered by the court multifarious, or a misjoinder of parties. Additional defendants and delinquent taxes may be added to the suit as a matter of right upon the filing of a notice on behalf of the complainant to add additional defendants and without the necessity of amending the complaint. Upon the filing of such notice, the additional defendants shall be served with process pursuant to the Tennessee Rules of Civil Procedure and T.C.A. § 67-5-2415. This type of action has priority by the court.<sup>1</sup>All suits, whether brought in circuit or chancery court, should be prosecuted according to the rules of the chancery court.<sup>2</sup>Upon the filing of this suit, the trustee must submit to the county legislative body a list of uncollected delinquent taxes, and must thereafter receive credit for any taxes for which a lawsuit has been filed.<sup>3</sup>The proceedings shall be automatically dismissed without the entry of any order of a court, as to a defendant's property, upon the payment of the amount of taxes due from the defendant, together with interest and penalty, and such court costs as may have accrued against the defendant in consequence of the filing of the proceedings.<sup>4</sup>Clerks are not required to prepare petitions, complaints, summons, notices, or orders for the prosecution of tax enforcement suits.<sup>5</sup> See Sample Delinquent Tax Suit letter.

There is no authority for a court to delay collection proceedings against property owners even though it would be in the county's best interest to allow the delinquent taxpayers additional time to pay their taxes. Likewise, the court has no authority to order taxes, interest, penalties and other charges be paid on an installment basis.<sup>6</sup>Tax suit complaints, once filed, may be amended to cure descriptions, add parties, and join new owners.<sup>7</sup>The court retains jurisdiction to collect delinquent taxes even though the assessment may be illegal and improper procedures may have been followed.<sup>8</sup>

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<sup>1</sup>T.C.A. § 67-5-2405.

<sup>2</sup>T.C.A. § 67-5-2414.

<sup>3</sup>T.C.A. § 67-5-2407.

<sup>4</sup>T.C.A. § 67-5-2411.

<sup>5</sup>T.C.A. § 67-5-2410(e).

<sup>6</sup>Op. Tenn. Atty. Gen. 86-130 (July 22, 1986).

<sup>7</sup>Tenn. R. Civ. P. 15, 19, 20.

<sup>8</sup>*State v. Delinquent Taxpayers*, 785 S.W.2d 819, 821 (Tenn. Ct. App. 1989).

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