

HENRY COUNTY DELINQUENT TAX FAQ

Q1. What is the date of the next delinquent tax sale?

A1: The Henry County Chancery Court is anticipated to hold one or more delinquent tax sales each year, beginning in 2014 or 2015. The dates of delinquent tax sales will be published in the Paris Post Intelligencer. Prospective tax sale dates will not be released in advance of publication because the tax sale dates are subject to change prior to publication.

Q2. What properties will be sold in the next delinquent tax sale? May I request that a particular parcel of property be included in the next sale? May I request an extension so that my property is not sold in the upcoming sale?

A2: Henry County uses objective standards in determining which parcels of property to include in each delinquent tax sale. Requests regarding which specific properties will be sold will not be considered. A list of properties that may be included in each tax sale will be published in the Paris Post Intelligencer prior to the tax sale date, but will not be released in advance of publication.

Q3. I did not receive a tax bill/notice from the Trustee's (or City tax authority's) office, so why am I being sued for delinquent taxes? Can the delinquent tax lawsuit be dismissed because I didn't receive a tax bill/notice prior to the filing of the delinquent tax lawsuit?

A3: Tennessee law does not require the mailing of tax bills/notices by the Trustee's (or City tax authority's) office. Owners of property are legally presumed to know that taxes are due without personal notice. Failure to receive a tax bill/notice does not relieve the responsibility of payment, nor is this a reason for penalty and interest charges to be waived if the taxes become delinquent.

Q4a. It was an honest mistake that I did not pay taxes during that particular year; can court costs, penalties and interest be waived if I agree to pay the base amount of delinquent taxes?

Q4b. Can the delinquent tax lawsuit be dismissed back to the Trustee's (or City tax authority's) office so that I can pay the taxes without the penalty, interest or court costs associated with the delinquent tax lawsuit?

Q4c. In my situation, it's not fair to prosecute me for delinquent taxes. Isn't there some flexibility in the law that would allow the Court to waive taxes, penalty, interest, and court costs in extraordinary circumstances?

A4: We all understand that strict application of the law sometimes yields a harsh result. However, taxes, penalties, interest, and court costs cannot be waived. The law on this question is very clear: "No person, public official, governmental entity or court shall have the power or authority to waive, compromise, remit, prorate, apportion or release property taxes, penalty, interest or court costs nor the first lien securing the same." TENN. CODE ANN. § 67-5-2803 (2014). To dismiss a lawsuit without appropriate legal grounds would constitute an illegal waiver of penalty, interest, and court costs; therefore, the Court is unable to do so.

Q5. I no longer own the property, so why am I being sued for delinquent taxes?

A5: All owners of record during the same tax year are jointly and severally personally liable for payment of property taxes, regardless of how many times the property was sold during a tax year. The law requires that judgment be sought against all persons who owned property during the year in which the taxes are delinquent.

If you previously sold the property but are still (as of the present date) the owner of record, it is likely that the buyer failed to record their deed or notify the tax assessor's office of the change in ownership. Because you are still the owner of record, the law requires the delinquent tax lawsuit to be prosecuted against you; however, you should also notify the Delinquent Tax Attorney and provide evidence of the sale so that the purchaser can also be added to the lawsuit.

Q6. When I sold the property, the new owner agreed to pay the taxes—doesn't that mean anything?

A6: Agreements between private parties (such as buyers and sellers) are not binding on the tax authority, and the Delinquent Tax Attorney is required by law to attempt to collect from all parties who are liable for payment of the delinquent taxes.

Q7. Since I don't own the property any more, why should I care about a delinquent taxes judgment?

A7: Even if a person no longer owns the property, judgment may be enforced by wage garnishment, levy, or otherwise.

Q8. How does a delinquent taxpayer's bankruptcy affect the delinquent tax lawsuit?

A8. IF YOU ARE A DELINQUENT TAXPAYER WHO IS CURRENTLY DEBTOR IN AN ACTIVE BANKRUPTCY CASE, PLEASE ASK YOUR BANKRUPTCY ATTORNEY TO NOTIFY THE HENRY COUNTY CHANCERY COURT IMMEDIATELY.

A delinquent taxpayer in who is also a debtor in an active bankruptcy case will continue to receive delinquent tax notices, but the delinquent tax lawsuit will not be actively prosecuted against a bankruptcy debtor unless and until relief from the automatic stay granted by the Bankruptcy Court.

Depending on the filing date of a delinquent taxpayer's bankruptcy petition, either the Delinquent Tax Attorney or the tax authority may file a claim in the Bankruptcy case for unpaid property taxes. Penalties and interest will continue to accrue during the pendency of the bankruptcy case at the full statutory rate.

Property tax debts are generally not dischargeable in bankruptcy; therefore, after the bankruptcy, prosecution of the delinquent tax lawsuit will resume and the property will ultimately be sold at a tax sale if taxes, penalties, and interest are not paid in full. Also, time wherein a person is a debtor in an active bankruptcy case does not count toward the statute of limitations pertaining to the enforcement of delinquent property taxes.

Q9. During a prior bankruptcy case, I surrendered the property subject to the delinquent taxes. Why am I being sued for delinquent taxes owed on that property?

A9. As explained above, property taxes are generally non-dischargeable in bankruptcy. So, even if a debtor is granted a bankruptcy discharge, the debtor remains liable for unpaid property taxes that accrued in tax years when the debtor was an owner of record of the property.

A debtor usually remains the owner of record of real property surrendered in bankruptcy until such time as another person or entity becomes the owner of record (this usually occurs when the creditor forecloses on the property or sells it in a trustee's sale). The debtor will continue to be liable for payment of property taxes for every tax year in which the debtor remains an owner of record.

Q10. I am unhappy or have some other concern about the tax laws; where should I lodge my complaint?

A10. **Please do not be rude** to the Chancery Court Clerk's Office, Delinquent Tax Attorney, County Trustee, or city tax authorities; they are public servants who are working hard to accomplish a difficult job. Complaining to those entities will not help, as they have no control over Tennessee's tax laws. As explained above, those entities are required to enforce the laws as written, and they are strictly prohibited from unlawfully dismissing a delinquent tax case or waiving taxes, penalties, interest, and court costs. Consequently, if you are unhappy or concerned about the tax laws, you may wish to contact your state legislative representatives.

IMPORTANT NOTICE: The above information is general in nature and does not constitute legal advice. Employees of the Chancery Court, Trustee's Office, and city tax authority are prohibited by law from giving legal advice. Due to an inherent conflict of interest, the delinquent tax attorney cannot give you legal advice regarding the delinquent tax lawsuit. **If you have a legal question, you should not rely on the above information as a substitute for consulting with an attorney; instead, you should consult a licensed attorney of your choosing.**