

## 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 a delinquent tax sale approximately every two years, although sales could be more or less frequent. Sales may be held by public outcry or electronically via the Internet. Sale information (dates, location, etc.) will be published in the Paris Post Intelligencer. Sale dates cannot be released in advance, as they are subject to change prior to publication.

**Q2a. What properties will be sold in the next delinquent tax sale?**

**Q2b. May I request that a particular parcel of property be included in the next sale?**

**Q2c. May I request an extension so that my property is not sold in the upcoming sale?**

**Q2d. Why didn't a particular parcel of property sell in the last tax 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 cannot be considered. By law, sale extensions cannot be granted. There are many factors outside the control of the Delinquent Tax Attorney that can cause certain delinquent tax parcels to be omitted from a delinquent tax sale; parcels which were not listed for sale in a past delinquent tax sale may be listed for sale in a future delinquent tax sale. 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.

**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, real estate 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. ***There are no exceptions.***

**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, taxes were prorated and the contract required the buyer to pay—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. A judgment could also appear in background and/or credit checks and public records searches.

**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.

**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 authorities 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.

Depending on the filing date of a delinquent taxpayer's bankruptcy petition, the Delinquent Tax Attorney and/or the tax authority may file a claim in the Bankruptcy case for unpaid property taxes. 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 make my complaint?**

A10. Please do not complain 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.

**Q11. My property sold in the delinquent tax sale; when and how can I get it back?**

A11. Any interested person can file a motion to redeem property sold in the delinquent tax sale within the redemption period. The redemption period is 12 months for some properties, but for certain properties that are abandoned or which have been delinquent for multiple tax years, the redemption period may be much shorter (for abandoned properties, the redemption period may be as short as 30 days). So, the motion to redeem should be filed as soon as possible. The redemption period begins to run on the date that the order confirming the sale of the parcel is filed (see Q12).

The motion to redeem must be filed at the Chancery Court office and served on all interested parties. You may represent yourself or retain an attorney to help you with the redemption process. At the same time you file the motion to redeem, you must pay to the Chancery Court Clerk's Office the entire amount of the tax delinquency, interest, penalties and attorney's fees as of the sale date, plus additional interest and court costs. The person or entity that bought the property at the tax sale has the right to request that the Court order you to pay certain other expenses as a condition of redeeming the property. The redemption is not complete until the Court enters an order declaring the property to be redeemed. *See TENN. CODE ANN. § 67-5-2701 and consult an attorney for more information about this process.*

**Q12. I bought property at the delinquent tax sale; when do I own it?**

A12. All delinquent tax sales are subject to confirmation of the Court. After the tax sale, the Clerk & Master will file a report of the sale; thereafter, the Court will enter orders confirming the sale as to each parcel. You do not own the property until an order confirming the sale of the parcel you purchased is both signed by the Chancellor and filed in the Chancery Court record. This may take several weeks after the sale. Once such an order is filed, you have the right to possess that parcel subject to all interested persons' right to redeem it during the redemption period (see Q11, above). Also on that date, you become liable for the parcel and assume all risk of loss (you may wish to purchase casualty and liability insurance to insure against these risks). You may be liable to a redeemer if you allow the parcel to decrease in value due to permissive waste. You must seek permission from the court (by application for writ of possession or otherwise) before evicting persons from the parcels. See TENN. CODE ANN. § 67-5-2503 and consult an attorney for more information. You may be required by the Order Confirming Sale (and it may be a good idea for other reasons) to record a certified copy of the Order Confirming Sale with the County Register of Deeds to evidence your ownership.

**Q13. What happens to parcels that are struck off to the County Government (because of receiving no bids) at the tax sale?**

A13. Generally, after the Order Confirming Sale is entered, the County will evict any known occupants of such parcels. These parcels are also subject to the redemption process explained in Q/A #11, above. After the redemption period has expired, the Henry County Mayor is authorized to re-sell the parcels in the manner provided by law. Contact the Henry County Attorney's office for more information.

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