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**VIRGINIA MUNICIPAL LEAGUE**  
**NORFOLK WATERSIDE CONVENTION**  
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**The Local Government Crash Course**  
**on Collections**


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## WHO?

**Who can collect delinquent taxes ?**


- Treasurer § 58.1-3919
- Private Collection Agencies (> 6 mos.) § 58.1-3919.1
  - Retained by treasurer with approval of governing body for accounts other than real estate
- Attorney/Tax Collector/Sheriff (> 6 mos.) § 58.1-3934
  - A. Attorney(s) hired by governing body with approval of treasurer for any local tax
  - B. Sheriff or Tax Collector selected by governing body; treasurer no longer has responsibility but receives credit for assigned accounts



## WHO 2?

**From whom can one collect delinquent taxes ?**


- From person or business assessed § 58.1-3919
- Real estate tax from subsequent owner § 58.1-3340
- Trust taxes from "responsible officer or employee" § 58.1-3906; Class 1 misdemeanor for "willful evasion" § 58.1-3907
- From recipient of corporate distribution §§ 58.1-6, 58.1-7
- From purchaser of specifically assessed property § 58.1-3341 (except BFP of highway vehicle)



## WHAT?

A tax is delinquent (and subject to collection) if it is not paid by the due date, **unless**:


- an administrative appeal has been filed with the Commissioner of Revenue under § 58.1-3980 (see §§ 58.1-3916, 58.1-3958)
  - Must be filed within 90 days of "assessment date" (2004 VA AG 218: "assessment date" = when written notice is sent to TP)
  - Becomes delinquent if still unpaid 30 days after the final determination of the appeal.



## WHAT?

(exceptions to delinquency continued)

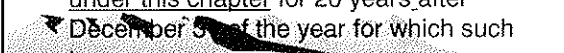
- Tax relief under § 58.1-3210 et. seq. (exemption or deferrals of real property taxes)
- Tax relief for personal property taxes under § 58.1-3506.1
- Jeopardy collections under § 58.1-3919
  - Treasurer/collector has information that taxpayer is planning to leave jurisdiction prior to due date
  - Take collection action prior to the due date; prior to delinquency



## WHEN?

**§ 58.1-3940 Tax Statute of Limitations**

- A. Local taxes shall only be enforceable for five years following December 31 of the year for which such taxes were assessed.
- B. Real property taxes shall be enforceable by tax sale of the property on which such taxes were assessed (§§ 58.1-3965/58.1-3975) and by other means permitted under this chapter for 20 years after December 31 of the year for which such taxes were assessed.



## WHERE?

- In the locality for which the treasurer serves (§ 58.1-3919)
- In other Virginia localities (§ 58.1-3946)

- Treasurer has same remedies in another county, city or town as he has in his own locality
- Treasurer may transfer delinquent account to treasurer of locality in which the delinquent taxpayer resides for collection



## WHY?

- **BECAUSE THE LAW SAYS SO** (§ 58.1-3919)
- **BECAUSE GOVERNMENT CANNOT OPERATE WITHOUT TAX REVENUES**
- **BECAUSE EVERYONE SHOULD PAY THEIR FAIR SHARE FOR THE BENEFITS OF A CIVILIZED SOCIETY**

## HOW?

*As there is no requirement that a treasurer (or collector) adopt a particular method of collection, he can pursue the course that he feels would be most productive.*

-- Pollard & Bagby, Inc. v. City of Richmond  
181 Va. 181(1943)

## COLLECTION METHODS

1. Delinquency Notices § 58.1-3919
2. Distress/Seize Property §§ 58.1-3919/58.1-3941
3. Treasurer's Liens § 58.1-3952
4. Set-Off Debt Program § 58.1-520 et seq.
5. Treasurer's Summons § 58.1-3928
6. DMV Withholding § 46.2-752 K
7. Local License (decals) Withholding § 46.2-752 C
8. Court Suits § 58.1-3919/58.1-3953 et seq.
9. Bill in Equity § 58.1-3965 et seq.
10. Non-Judicial Sale of Real Property § 58.1-3975
11. Collection Agencies/Attorneys § 58.1-3919.1/58.1-3934
12. Payment Offset § 58.1-3133
13. Leasing Property § 58.1-3947

## SETOFF DEBT PROGRAM

§ 58.1-520 et seq.

## TREASURER'S LIENS

§ 58.1-3952

## LIENS

- BANK ACCOUNTS (BANK LIEN)
- EMPLOYERS (WAGE LIEN)
- TENANTS (RENT LIEN)
- LESSEE
- CREDIT CARD COMPANY
- INSURANCE COMPANY
- CLIENTS/CUSTOMERS
- SERVICE USERS
- FIDUCIARY
- ACCOUNTS PAYABLE (offset)

## TREASURER'S SUMMONS

§ 58.1-3128

## DMV HOLDS

§ 46.2-752 J

## DECAL HOLDS

§ 46.2-752 C

## DISTRESS

§§ 58.1-3919/58.1-3941

## WHAT IS DISTRESS?

The seizure of personal property to enforce the payment of taxes, to be followed by its public sale if the taxes are not voluntarily paid.

§ 58.1-3941 What may be distrained for taxes

- Any goods or chattels, money and bank notes . . .
- *Property specifically assessed, whether assessed per item or in bulk shall be subject to distress after it passes into the hands of a bona fide purchaser for value.*

Except highway vehicles with **BONA FIDE PURCHASER**

*Purchased For Value*

*Without Knowledge of the Tax Liability*

## REAL ESTATE TAX SALES

Bill in Equity: § 58.1-3965 et seq.

Non-Judicial Sales: § 58.1-3975

## MISCELLANEOUS TOOLS

## PAYMENT OFF SETS

§ 58.1-3133

## PAYMENT OFFSETS

§ 58.1-3133.

A. Treasurer can deduct any taxes or other charges due from a vendor payment or tax refund.

B. Governing bodies may enter into compacts to have their treasurers deduct taxes or other charges due to any participating locality and send it to jurisdiction owed.

## LEASING PROPERTY

§ 58.1-3947

WHEN ALL ELSE FAILS

IN IUS VOCO  
SPURIUS!

ADDITIONAL  
CONSIDERATIONS

### General Penalties & Interest

- § 58.1-3916

- Penalties

- Generally 10% or \$10, whichever is greater;
- May be up to 25% for tangible personal property tax (after 30 days) and trust taxes (10% + 5 + 5 + 5)

- Interest

- Not to exceed 10% per year
- May provide a bifurcated rate for second and subsequent years at a rate not to exceed 10% or the rate set by §6621 of the IRS Code, whichever is greater.

### Other Penalties

- Non-Tax Delinquencies (§ 15.2-105)
  - Penalty (not to exceed 10% or \$10, whichever is greater) + 10% interest may be imposed on any delinquent payment owed pursuant to an ordinance.
- Trust Taxes (§ 58.1-3906)
  - Transient occupancy, food & beverage, local admission, or daily rental tax
  - Responsible corporate officer may be liable for penalty equal to the amount of the unpaid tax

### Other Penalties con't

- Corporate Real Estate Taxes (§58.1-3965 F)

- A corporate officer who willful fails to pay may be personally assessed a penalty equal to the amount of the unpaid tax
- Penalty is to be assessed and collected in the same way that real estate is assessed and collected

### Administrative Fees (§58.1-3958)

- Requires ordinance or resolution
- Applies only to accounts delinquent 30 days or
- Requires mailing delinquent notice (§58.1-3919)
- Fee imposed may be up to
  - \$30 pre-judgment
  - \$35 post-judgment
  - \$150 (or 25%) for nuisance abatement
- Section also provides for 20% attorney or collection fees to be added to amount owed.

“Taxes are the life-blood of government, and their prompt and certain availability an imperious need.”



Bull v. U.S.  
295 U.S. 247 (1935).



CONTACT INFORMATION



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