

## **Knox County Delinquent Property Tax Sale**

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As of the date of this article, the Knox County, Tennessee government is preparing for what is anticipated to be one of the largest delinquent property tax sales in recent history. With several hundred parcels currently in the upcoming sale, including numerous commercial properties, this sale will offer a wide variety of properties for purchase throughout Knox County.

The tax suit and tax sale affect numerous citizens and their families each year. Despite its far-reaching effects, the tax sale is somewhat of a mystery to many. It can be a confusing and anxiety-producing process for those faced with losing their property. For purchasers, the process of purchasing property and taking possession can also have its own frustrations. There is a general lack of assistance for taxpayers and purchasers alike.

This article is intended as an introductory guide to shed light on this process. The key governmental offices involved in the tax process are highlighted. The general procedure of tax assessment and collection, and the process of what happens when property taxes are not timely paid, are then discussed.

Please note, because the ninety-five (95) counties of Tennessee each have their own independent histories of conducting their own tax sales in their own ways, this means that the established, “black-letter” law which is intended to make the process uniform throughout the State will be applied slightly differently from county to county. Therefore, consultation with your county’s relevant governmental offices is always recommended.

### **Key Government Offices and Their Roles**

#### **Property Assessor**

The main source of tax revenue for Tennessee counties is the collection of property tax. It is the duty of the Property Assessor, who is an elected county official, to classify each parcel of real property within the county’s borders into categories according to the way in which each parcel is used. Each year, the Property Assessor conducts an appraisal and assessment of all real property located within the county to determine the amount to collect on each parcel.

A parcel may be classified as either: public utility, industrial/commercial, residential, or farm property. Additionally, a single parcel may be classified as a combination of these basic categories. Each classification carries with it a certain tax rate. The classification, appraisal and the tax rates are used to determine how much tax the county must collect on each parcel.

### County Trustee/City Tax Office

Another elected office, the Trustee, is tasked with the collection and accounting of all county taxes. Real property taxes become due on the first Monday of October each year. For about five months, taxpayers may pay their taxes to the Trustee without penalty. However, on March 1 of the following year (about five months after they become due), the property taxes, if not paid in full, become “delinquent.” After this point, penalties and interest begin to quickly accrue on the taxes owed, greatly increasing the tax burden on the property owner.

Each year, it is the duty of the Trustee to compile a list of all of the parcels for which the taxes have become delinquent. This is sometimes referred to as the process of “certifying the delinquent tax rolls.” This list is provided to the county attorney to be used by the county attorney’s office to file the delinquent tax suit.

It is the duty of the Trustee’s office to keep track of and collect all delinquent *county* taxes. The City Tax office accounts for and collects *city* taxes. If a property owner wishes to pay all taxes, the owner is advised to directly contact the Trustee (county taxes) and City Tax office (city taxes) to get a current balance owed and to pay their taxes. *Other offices do not know the current amount owed and cannot accept tax payments.*

### County Attorney/City Attorney

The Knox County Charter provides for the establishment of a Law Director’s office, which in recent years has taken up the role of filing and prosecuting the delinquent tax suit. Thus, in Knox County, everything is now done “in house.”

For the purposes of the tax suit and subsequent sale, the County and the City have for the last several tax sales combined all delinquent tax parcels into a single sale, as opposed to having separate County and City tax sales. This has been a more efficient method to conduct the suit and sale and has cut back on the amount of confusion in the payment and collection of taxes. It also benefits tax sale purchasers by having all parcels come up for sale at the same time, as opposed to multiple smaller sales at varying times.

Therefore, the Law Director’s office and the City Tax attorney coordinate their efforts with the Trustee and the Clerk and Master’s office (see more below) to conduct the delinquent tax suit and the subsequent tax sale. It is the job of the county attorney to initiate the tax suit by filing the complaint, having summonses issued and served, filing all motions and attending all hearings, negotiating with taxpayers and other interested parties, and eventually bringing the parcels to sale.

### Clerk and Master

Once the delinquent tax roll is certified by the Trustee to the Law Director, then the Law Director will file a lawsuit in the Knox County Chancery Court. In this lawsuit, all of the taxpayers who have not paid their taxes are named as defendants, along with the properties on which the taxes are delinquent. The Clerk and Master is the clerk of the Chancery Court and is responsible for working with the County and the City to coordinate the eventual sale of parcels, which will be conducted by the Clerk and Master at a public auction.

At the tax sale itself, the Clerk and Master will collect all bids for the sale of the parcels. After the sale, the Clerk and Master holds the funds related to the tax sale in the Court's trust account and administers for the Court all tax sale funds related to all post-sale issues.

## **Structure of the Delinquent Tax Suit**

### **Notice of the Tax Suit**

The Clerk and Master sends notice of the pending lawsuit to all parties who have an interest in each parcel subject to the lawsuit. All interested parties become defendants in the lawsuit and are required to respond to the lawsuit or risk being subject to a default judgment. *Each interested party must be given adequate notice of the tax suit for the suit to affect their rights in the property.* If an owner cannot be physically located to hand-deliver the notice to them, the county attorney will apply to the Court to be permitted to give notice by way of publication in the newspaper.

Once notice is properly completed, all interested parties, including those who did not receive notice by personal service, will be bound by the Court's judgment concerning their parcel. *If the notice is not proper, this is sometimes used as ground to set aside a judgment as to a particular interested party and/or parcel.*

### **Litigating the Tax Suit**

After the tax suit is underway, there will be several in-court hearings that may take up a few months to complete. After notice is given, those interested parties who have not made the taxes current and who have not filed an answer with the Court will be subject to default judgment. This means that each party who is defaulted is deemed by the Court as to having admitted that there are delinquent taxes owed, and admitted the amount claimed by the county/city is correct.

### **Order of Sale**

After a variety of procedural hearings, the Court will eventually sign an Order directing the Clerk and Master to report to the Court on the final amount of taxes to be collected as to each parcel, the amount of court costs for each parcel, and the costs of the upcoming tax sale. The Clerk and Master, using information provided by the Trustee and City Tax office, makes a final report to the Court as to each parcel.

Once the Clerk and Master makes this final report, the Court will then Order the tax sale to take place.

### **"Rescuing" Delinquent Tax Parcels from Sale**

For the delinquent taxpayer, it is important to know that at any time prior to the date of the tax sale, which date will be published by the Trustee's office, the taxpayer can go directly to the Trustee (or City Tax office, if applicable) to see if the taxpayer can pay the property out of the sale. Though the Trustee is not obligated to do so, in the past, some Trustees have been willing to work with taxpayers to get the taxes paid to avoid the tax sale. *Check with*

*your county's Trustee to see if a payment arrangement can be made to pay the delinquent taxes prior to the date of the sale. The worst that they can say is no—it's worth a shot!*

HOWEVER, PLEASE NOTE—neither the Trustee nor county/city attorneys have the ability to negotiate a settlement of property taxes for less than the taxes actually owed. It is absolute that no county office has the authority to forgive the collection of taxes.

### **Tax Sale Day**

The date of the sale will be publicly announced. The Clerk and Master conducts the sale, which is an auction-style sale (sometimes referred to as a "public outcry"). With the exception of government employees who work on the sale, virtually any citizen or authorized representative of a business entity that wishes to bid on property, may come to the tax sale and bid on property. In Knox County, the sale is conducted in person. In other Tennessee counties, the sale is virtual and conducted online. Check with your county's Clerk and Master or Trustee to see how the sale is conducted. Previously, there has been discussion in Knox County to move the sale to an online bidding process, but this has not been implemented to date.

The tax sale is subject to numerous conditions and restrictions for bidders; each bidder is strongly advised to research each parcel on which they plan to bid. This must be done prior to the sale date. Immediately prior to taking bids, the Clerk and Master will make a number of highly important announcements. Take heed of these announcements. The proceeding is recorded, and a tax sale purchaser will not be able, after the sale, to plead that they did not know of a particular condition or restriction. If you place a bid, you are deemed to be on notice.

At the sale, the Clerk and Master will call out each parcel, one at a time, and accept bids on each parcel. The Clerk and Master will make the opening bid (the "reserve amount") which is made up of all the taxes owed, the costs of the sale, and the court costs. After the opening bid is made, then the bidding is opened to the public. The highest and best bid prevails.

The high bidder automatically subjects him or herself to the jurisdiction of the Court. A high bidder is deemed by the law to be a party to the tax suit itself. In the past, purchasers who have refused to honor their bids have opened themselves up to being in contempt of Court.

The high bidder must put down ten percent (10%) of the high bid price and sign a promissory note to pay the remaining amount within thirty (30) days. After the sale date, within ten (10) days, any individual may come to the Clerk and Master's office to raise the high bid. A "raised bidder" (also called an "upset bidder" because the high bid has been "upset") must raise the highest bid by ten percent (10%) by paying down 10% of the raised amount and signing a note to pay the remaining 90% in 30 days.

For those properties where the bid was upset within the ten-day period, a second auction is held where those upset properties are put out to the general public again for sale. This is referred to as the "raised bid sale." In this raised bid sale, the starting bid will be the amount of the raised bid. The conclusion of this sale brings finality to all sales. No more bids will be accepted after the raised bid sale. The tax sale is then concluded.

### **Right of Redemption**

Within one (1) year after the date of the entry of the Judgment confirming the sale of the property, any interested party whose interest was foreclosed by the tax suit may apply to redeem the parcel from the party who purchased the parcel (or the county or city if there were no bidders).

A redeeming party must pay an amount in satisfaction of all delinquent taxes plus interest to the purchasing party in an amount of twelve percent (12%) of the successful bid, calculated at one percent (1%) per month.

### **Excess Sale Funds**

If your property was sold for more than the taxes and costs of sale owed, then there could be “excess” funds available to you. On any given parcel sold at the sale, there is often excess funds held by the Clerk and Master waiting for the taxpayer to collect it. Very often, the amounts are not claimed.

Those funds which are unclaimed are held by the Clerk and Master for a number of years. According to the Tennessee Unclaimed Property Act, the Clerk and Master will send notification letters prior to the funds being sent to the State to be held for later collection.

### **Conclusion**

The delinquent property tax suit and sale can be a maze of procedural rules and laws conducted by numerous government offices. If you find that you need assistance navigating this process, please consult with an attorney with experience in tax suit and tax sale matters.