

Two illegal property tax schemes to avoid in Conn., if you run into either practice contact an attorney

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It has come to my attention that at least one city tax collector in Connecticut has a scheme in which taxpayers are being illegally charged a 15% penalty on late taxes.

It works like this: Within days of a tax being late, the tax collector issues a tax warrant to a city constable or state marshal. Then, when a taxpayer comes to pay their taxes, the tax collector refuses to take payment and directs the taxpayer to pay the constable. The constable or marshal takes the payment, deducts 15% of the total amount paid for his fee and returns the balance to the city. One tax collector has even been so bold as to take checks made out to the city, endorse them over to the constable or marshal who then takes his 15% from what are city funds.

In other words, the tax collector is taking city funds and, without authority giving, those municipal funds to a constable or marshal so they get a 15% pay day at the expense of the taxpayer.

This practice has been ruled to be illegal by a trial court in Connecticut on the grounds that under state statutes the constable is entitled only to take a fee upon funds he has levied upon.

Further, there is nothing in state law that authorizes a tax collector to give away municipal funds to a third party.

This scheme constitutes, in this writer's opinion, an unconstitutional deprivation of a person's property without due process of law and opens the city to being liable not only for return of the tax payment but damages and the taxpayer's attorney's fees.

What to do if you are faced with this? Make the check out to the town or city in which the taxes are due and insist that the tax collector take it. If he or she refuses, go immediately to an attorney familiar with this subject of law. If the tax collector does accept the check, make sure you follow up in a couple of days to determine whether the full amount of the check was applied to the taxes.

Second Scheme

In Connecticut if a taxpayer is late with the first installment of taxes, the general statutes allow a tax collector to issue a tax warrant not only for the first installment but also for the second installment. But, this allowed only if certain statutory requirements are met, one of which there is a good faith basis to believe that the tax payment is in jeopardy unless the full tax is accelerated. In order to accelerate the second installment, the tax collector must send notice to the tax payer which contains "a detailed explanation supporting the tax collector's determination that the collection of the tax will be jeopardized by delay." Section 12-163(b) of the Connecticut General Statutes.

It is clear that this is an extraordinary remedy that should be used cautiously by any tax collector. However, in one city, the tax collector has made it practice to issue a tax warrant for the second payment and give it to a constable or marshal without sending in any notice. It is expected that there may be others.

Once again, if you are faced with this practice, you should immediately bring it to the attention of an

attorney with knowledge of this area of law.

It should be emphasized that the vast majority of Connecticut's tax collectors follow the law and serve their communities well. Hopefully, you own property in such a community.

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