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April 15, 2020

Changing Delinquent Property Taxes Interest

As we approach the May 1 property tax deadline, we would like to advise you of options currently available to you to assist property owners facing fiscal challenges.

N.J.S.A. 54:4-67 permits municipal governing bodies to establish the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens and charges on or before the date when they would become delinquent. The maximum interest rate that can be charged is 8% per annum on the first \$1,500 and 18% per annum on any amount in excess of \$1,500. The minimum interest rate that can be charged is not set by law.

In other words, a town could reduce the interest rate on delinquent taxes as low as effectively 0% (0.000001) for a specific period of time, such as under the current circumstances. Further, any change in interest can only apply prospectively. A governing body cannot retroactively change the interest rate on payments already late. When a payment is made on delinquency after the adoption of the resolution revising the interest rate, the interest rate is calculated at the previous rate until the effective date of the new delinquency rate.

For example, a municipality previously set the delinquent tax rate at 8% for the first \$1,500 and 18% on any amount in excess of \$1,500. A resolution is then adopted changing the interest rate on May 1 to 0.000001%. A taxpayer delinquent on their February 1 tax payment making payment on May 20 is charged the 8% and 18% rate, as appropriate, from February 1 to April 30 then 0.000001% from May 1 to May 20.

If the governing body chooses to change the interest rate for these delinquent payments the law requires that notice of the change must be given to all taxpayers after the adoption of the resolution. The notice advising of the new rate and the effective date may be separate from the tax bill and given prior to the next payment date. No change in the interest rate or end of year penalty can take effect until the notice has been provided to the taxpayers.

The impact of the COVID-19 State of Emergency affects the economy, residents, and financial circumstances of each municipality differently. If your governing body is considering this option, it is strongly suggested that they discuss the proposed change with the Administrator, Chief Financial Officer, Tax Collector, Financial Advisor, and Attorney. This will help you understand the short-term impacts, such as meeting the statutory payments to the county and school district(s), and long-term impact of such a change in context of the specific circumstances facing the municipality.

It is important that each municipality react appropriately to meet the needs of your residents. If an action such as this is contemplated it should be done as a measured response to the conditions in the municipality. It is important to remember that not all communities are impacted in the same way.

Sample Resolution

Resolution Establishing the Rate of Interest for Delinquent Taxes

WHEREAS, N.J.S.A. 54:4-67a permits the governing body by resolution to fix the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges, on or before the date when they would become delinquent; and

WHEREAS, the statute fixes the rate of interest cannot exceed 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00, to be calculated from the date the tax was payable until the date that actual payment to the tax collector is made; and

WHEREAS, the *(insert name of municipality)* adopted *(insert Resolution Number)* setting the Rate of Interest for Delinquent Taxes at *(insert the amount)* on *(insert resolution adoption date)*; and

WHEREAS, due to the COVID-19 pandemic and the State and Federal declarations of a major disaster throughout New Jersey, the governing body of the *(insert name of municipality)* wishes to change the rate of interest for future delinquent tax payments;

NOW THEREFORE, BE IT RESOLVED, by the governing body of the *(insert the name of the municipality)* in the county *(insert name of county)* that the rate of interest for taxes unpaid after *(insert the date of the ten-day grace period following the quarterly payment)* is fixed at *(insert rate)%* on the first \$1,500.00 of delinquency and *(insert rate)%* per annum on any amount of taxes in excess of \$1,500.00 effective *(insert effective date)*; and

BE IT FURTHER RESOLVED, that the rate of interest for taxes unpaid shall be calculated from date of the quarterly payment until the date of actual payment; and

BE IT FURTHER RESOLVED, this Resolution shall be published in its entirety once in the official newspaper of the *(insert name of municipality)* and a copy of this adopted Resolution forwarded to the Division of Local Government Services in the Department of Community Affairs

Please note that if the municipality is reducing the rate for a defined period of time, i.e. one month, then the following clause should be added to the resolution:

BE IT FURTHER RESOLVED, effective (insert effective date) the rate of interest for taxes unpaid after (insert the date of the ten-day grace period following the quarterly payment) is fixed at *(insert rate)*% on the first \$1,500.00 of delinquency and *(insert rate)*% per annum on any amount of taxes in excess of \$1,500.00 effective *(insert effective date)*

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Where can I find COVID-19 Related Resources from the League?

The League has created a [COVID-19 webpage](#), which was created as a central source for all resources we are posting. The League is also posting updates of news and new legislation and guidance daily on the [Emergency Management & Public Health News Flash](#).

You may sign up to receive email alerts when new items are posted, or visit the League's COVID-19 resource page to view news flash items. Many of these items are also being posted on the League's [Facebook](#), [Twitter](#) and [LinkedIn](#) accounts. There have also been several posts published on the League's [Town Crier blog](#) that gives detailed explanations and analysis of the legislation surrounding COVID-19.



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