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# Notice of Tax Suit

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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Reference Number: CTAS-1594

Each defendant named in the tax suit must be served by one of the methods authorized in the Tennessee Rules of Civil Procedure, including constructive service of process (publication).<sup>1</sup> However, the constitution requires that defendants be given the best notice possible, which has been defined as that "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections."<sup>2</sup> Under this definition, constructive notice, or publication, probably will not satisfy due process requirements when the identity of the property owner is readily ascertainable by the taxing authority. However, Tennessee statutes specifically state that personal service of process on the defendant is unnecessary; the notice may be sent by certified or registered mail, return receipt requested.<sup>3</sup> Where the taxpayer is not properly before the court either by lack of notice or inadequate description, the resulting sale is a nullity and may be challenged.<sup>4</sup> The trustee's records are important since they may be relied upon when finding names, addresses, and property descriptions for notices in tax suits.

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<sup>1</sup>T.C.A. § 67-5-2415; Tenn. R. Civ. P. 4.

<sup>2</sup>*Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 795 (1983) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)); *Jones v. Flowers*, 126 S.Ct. 1708 (2006); *Wilson v. Blount County*, 207 S.W.3d 741 (Tenn. 2006). See also Op. Tenn. Atty. Gen. 84-208 (June 27, 1984) regarding service of process in delinquent tax suits made by certified mail.

<sup>3</sup>T.C.A. § 67-5-2415. Note, in 2012 the legislature amended this statute to authorize any alternative delivery service as authorized by § 7502 of the Internal Revenue Code. See 2012 Public Chapter 979. See also 2014 Public Chapter 883, Section 8.

<sup>4</sup>*Wilson v. Blount County*, 207 S.W.3d 741 (Tenn. 2006) (In tax lien suits, the government must provide "notice by mail or other means to ensure actual notice ... if [the party's] name and address are reasonably ascertainable.").

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