

# **DELINQUENT PERSONAL PROPERTY TAX COLLECTION 2023**

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# Collection of Delinquent Personal Property Taxes T.C.A. § 67-5-2003(b) & 2004

Delinquent personal property taxes may be immediately collected by:

1. Distrain (distress warrant) and sale of any personal property liable therefor,
2. A suit at law against the taxpayer,

# Collection of Delinquent Personal Property Taxes T.C.A. § 67-5-2003(b) & 2004

3. Garnishment, and/or by
4. An agent to collect the delinquent tangible personal property taxes, plus interest authorized by law, reasonable costs, and legal fees.

# Distrain (Distress Warrant)

## T.C.A. § 67-5-2003(a)

All delinquent personal property taxes, including but not limited to, public utility personal property taxes, may be immediately collected by the county trustee, with the assistance of the delinquent tax attorney, if the delinquent tax attorney's assistance is requested by the trustee.

# Distrain (Distress Warrant) T.C.A. § 67-5-2003(a)

The tax books in the hands of the trustee, sheriff, or the delinquent tax attorney, have the force and effect of a judgment and execution from a court of record.

# Distrain (Distress Warrant)

## T.C.A. § 67-5-2003(a)

The tax books shall be ample authority for the trustee, sheriff, or delinquent tax attorney to distrain and sell a sufficient amount of the personal property to satisfy the delinquent taxes, interest, penalties, costs and attorneys' fees.

# Distrain (Distress Warrant)

## T.C.A. § 67-5-2003(a)

### NOTE

Leased personal property assessed to a lessee shall not be distrained and sold pursuant to this section.

# Distrain - Notice of Sale

## T.C.A. § 67-5-2003(c)

Prior to distraint (seizure) of any personal property, the trustee or delinquent tax attorney shall give not less than 10 days' written notice of the intended distraint (seizure) by either:

- (1) Delivering such notice in person;
- (2) Leaving such notice at the dwelling place or usual place of business of the taxpayer; or
- (3) By mailing such notice to the taxpayer's last known address.



# Distrain – Notice of Sale

## T.C.A. § 67-5-2003(d)

Ten days' notice of the time and place of any sale of personalty must be given by advertisement posted in three public places in the county, one of which shall be at the courthouse door. In addition, at least ten days' written notice of the sale shall be given to the taxpayer by any of the methods outlined in subsection (c).

# Distrain – Sheriff's Sale

## T.C.A. § 67-5-2003(e)

The official shall in all cases have the personal property present when sold and shall be allowed to retain in addition to the taxes, interest, penalties, costs, and attorney's fees, all commissions, costs and necessary expenses of removing and keeping the property distrained (expenses of seizure, preservation and storage of the property).

# Delinquent Tax Attorney T.C.A. § 67-5-2003(f)

Any delinquent tax attorney assisting the trustee shall be allowed attorney's fees, computed as are attorney's fees for collection of real property taxes in T.C.A. § 67-5-2410.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(1)

The trustee may turn over the delinquent personal property tax list 30 days after the taxes become delinquent to the delinquent tax attorney to file suit to collect delinquent personal property taxes:

1. as part of any pending suit to collect real property taxes,
2. as part of a separate mass lawsuit pursuant to the procedures set forth in this chapter, or
3. as a separate lawsuit. Such can be done without having first issued a distress warrant.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(2)

In the event the trustee turns over the delinquent list prior to the mailing of the notice pursuant to TCA 67-5-2402, the trustee shall be required to forward written notice by first class mail to the last known property owner at least 10 days before the delinquent list is turned over to the delinquent tax attorney.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(3)

If the procedure in this subsection (g) is used, the trustee is also authorized, as with real property tax records, to turn over records to the clerk of court.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(4)

A judgment of personal liability for unpaid personal property taxes may be enforced as any other judgment, through:

1. garnishment,
2. execution, or
3. otherwise,

and may also be recorded as a lien in one or more offices of registers of deeds.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(4)

Any judgment recorded pursuant to this subdivision is subject to the same requirements and attributes of judgment liens, including durability, priority, and renewal, and shall thereafter no longer be subject to the statute of limitation established by this chapter for unpaid property taxes.



# File A Lawsuit

## T.C.A. § 67-5-2003(g)(4)

However, the rates of penalty and interest shall continue as established by this chapter, and upon recording of such judgment, the tax entity shall retain the alternative of enforcing its tax lien against the assessed personal property according to the priority and procedures set forth in this chapter.

# File A Lawsuit

## T.C.A. § 67-5-2003(g)(5)

Following entry of a personal judgment for delinquent personal property taxes, a tax entity may enter into a written agreement for the payment of such judgment in installments, pursuant to § 26-2-218, on such terms as the tax entity may deem appropriate; provided, that such agreement must provide for payment of all taxes, interest, penalties, fees, and costs in full, including any interest and penalties that accrue during the term of the installment payments.

# Collection By Garnishment

## T.C.A. § 67-5-2004(a)

The trustee may proceed against delinquent personal property taxpayers by garnishment proceedings, returnable before any general sessions court in the district where the delinquent taxpayer resides, or to any court, which garnishment shall run in the name of the state for its own behalf and for the use and benefit of the county.

# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(A)

The county trustee may proceed against a taxpayer who is delinquent in the payment of tangible personal property taxes by retaining an agent to collect the delinquent tangible personal property taxes, plus interest authorized by law, reasonable costs, and legal fees, provided that the collection activities are in compliance with this subsection (b).

# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(B)

If a collection agent is retained, the county trustee shall utilize the bidding procedures applicable to the county to select and retain the agent and shall notify the county legislative body of such action.

**NOTE:** CLB permission is not required.



# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(B)

The agent's collection fee shall not exceed 30% of tangible personal property taxes due, and the fee must be added to the total amount of delinquent tangible personal property taxes owed, plus interest authorized by law, reasonable costs, and legal fees.

# Retention Of Collection Agent T.C.A. § 67-5-2004(b)(1)(C)

A contract or other arrangement entered into to retain a collection agent under this subsection (b) shall not provide that the compensation paid to the agent is conditioned on increasing tangible personal property tax collections in the county involved. A contract found to contain such language is void and unenforceable.

# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(D)

An agent shall not communicate with the delinquent taxpayer or proceed upon the delinquent taxpayer's property unless authorization to take such action is provided in the contract.



# Retention Of Collection Agent T.C.A. § 67-5-2004(b)(1)(D)

The agent shall not institute or undertake a collection or related activity in violation of the Tennessee Collection Service Act, compiled in Title 62, Chapter 20.

# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(E)

An agent retained pursuant to this subsection (b) must be licensed and in good standing with the Tennessee Collection Service Board.

# Retention Of Collection Agent

## T.C.A. § 67-5-2004(b)(1)(F)

All foreclosures, seizures, litigation, or other judicial or non-judicial proceedings to enforce a tax lien or any similar rights to collect delinquent tangible personal property taxes, plus interest authorized by law, reasonable costs, and legal fees, must be in the name of the taxing jurisdiction as the plaintiff or claimant.

# Retention Of Collection Agent T.C.A. § 67-5-2004(b)(1)(G)

An agent who also performs audit procedures shall not be retained to collect delinquent tangible personal property taxes under this section.

# Retention Of Collection Agent T.C.A. § 67-5-2004(b)(2)

**This subsection (b) is repealed  
on July 1, 2024.**

# The End

