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Local Finance Notice

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Distribution

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Applying Payments toward Delinquencies & Cancelling Delinquent Municipal Charges under \$10.00

The notice formalizes the Division of Local Government Services' long-established guidance on applying payments toward delinquent property taxes and municipal charges. Recent legislation pertaining to cancelling delinquent municipal charges and fees under ten dollars is also discussed.

Delinquent property taxes remain delinquent until the entire balance of principal and accrued interest is satisfied prior to a lien being sold. N.J.S.A. 54:4-67 defines "delinquency" as "the sum of all taxes and municipal charges due on a given parcel of property covering any number of quarters or years." The property remains delinquent until all unpaid taxes, including subsequent taxes and liens, together with interest thereon are fully paid and satisfied. Id. As such, the delinquency remains a continuous lien through multiple years until fully satisfied.

When a taxpayer makes payment toward a delinquency, the payment must first be applied to interest. State v. Erie R.R. Co., 23 N.J. Misc. 203 (Sup. Ct. 1945). Only when all outstanding interest is extinguished can the remaining balance of the payment be applied toward principal. Payment toward principal must be applied from oldest delinquency (i.e. "first dollar") on forward. With respect to delinquent property taxes and other municipal charges for which a lower rate of interest is charged on the first \$1,500 (e.g. 8% on first \$1,500 and 18% on any amount in excess of \$1,500), this means that the payment is first applied toward the first \$1,500 of delinquent principal.

For example, if an \$8,500 payment is applied toward \$10,000 in delinquent principal (assuming all interest has been extinguished), the remaining \$1,500 principal balance is not considered the "first \$1,500" pursuant to N.J.S.A. 54:4-67(a) and would be subject to a maximum of 18% interest. Applying payment of principal from the "last dollar" of the delinquency backwards would encourage taxpayers to pay a higher interest obligation (e.g. a credit card) in lieu of the remaining \$1,500 delinquent balance; running contrary to the legislative intent in defining a delinquency as continuous.

In summary, once a delinquency exceeds the \$1,500 threshold, the balance in excess of \$1,500 is subject to the statutory maximum of 18% interest and remains at 18% until the entirety of the delinquency is extinguished.

**Cancellation by Designated Municipal Employee of
Municipal Charges and Fees under \$10.00**

N.J.S.A. 40A:5-17.1 authorizes a municipal governing body to adopt a resolution designating a municipal employee to, on its behalf, process or cancel property tax refunds under ten dollars and cancel any property tax delinquencies under ten dollars. The enactment of [P.L. 2013, c.54](#) has expanded the scope of this statute to encompass any delinquent charges or fees imposed by the municipality, so long as the delinquency is less than \$10.00.

Any resolution passed by the governing body pursuant to N.J.S.A. 40A:5-17.1 should expressly set forth the extent of the designated municipal employee's authority. If the governing body has already adopted a resolution authorizing an employee (e.g. the tax collector) to cancel property tax delinquencies of less than \$10.00 on its behalf, the governing body will need to adopt a resolution extending such authority to delinquencies of less than \$10.00 for any charges and fees imposed by the municipality.

Approved: Timothy J. Cunningham, Director

Document	Internet Address
P.L. 2013, c.54	http://www.njleg.state.nj.us/2012/Bills/PL13/54_.PDF