

5:33-1

TAX COLLECTION ADMINISTRATION – TAX COLLECTION PROCEDURES

5:33-1.1 Electronic municipal tax lien sales

(a) No municipality may contract with a third-party vendor to conduct tax lien sales that is not a nationally recognized electronic municipal tax lien service. In order to qualify as a “nationally recognized electronic municipal tax lien service,” the vendor must presently conduct internet-based electronic municipal tax lien sales in at least two states, or have conducted internet-based electronic municipal tax lien sales in the past two years that have included bidders from more than one state, or affirmatively market a system for performing internet-based electronic municipal tax lien sales in more than one state.

(b) An electronic municipal tax lien sale shall be authorized by a resolution of the governing body.

(c) For any contract for an electronic municipal tax lien service that exceeds the contracting unit’s bid threshold, an electronic municipal tax lien service shall not be construed to fall under one of the exceptions to public advertising for bids set forth in N.J.S.A. 40A:11-5, except as set forth under 40A:11-5(3) and 40A:11-5(4).

1. An electronic municipal tax lien service may be procured through competitive contracting pursuant to N.J.S.A. 40A:11-4.1 et seq., without seeking prior approval of the Director of the Division of Local Government Services.

(d) When a municipality conducts an electronic tax lien sale, the tax collector shall continue to prepare the tax lien sale notice required pursuant to N.J.S.A. 54:5-25. In addition to the content required by N.J.S.A. 54:5-25, the notice shall state that the sale is being held through an online auction and that bidders should submit their bids no later than the date and time of the sale set forth in the notice. A full link to the website for tax lien sale bidder instructions and registration shall also be included.

1. The tax lien sale line items shall be available to the public online on the vendor’s website without requiring registration, membership, or payment prior to viewing. If the municipality has a website, a copy of the tax lien sale notice shall be posted until the tax lien sale concludes.

2. Pursuant to N.J.S.A. 54:5-26, the municipality shall physically post copies of the tax lien sale notice prepared pursuant to this subsection in five of the most public places in the municipality.

3. Pursuant to N.J.S.A. 54:5-27, when the property owner’s name appears in the tax lien sale list and their post office address is known, the municipality shall mail to the property owner at that address, postage prepaid, a copy of the tax lien sale notice prepared pursuant to this subsection. Failure to mail the notice shall not invalidate any proceeding under this section.

(e) The newspaper publication requirement set forth in N.J.S.A. 54:5-26 may be satisfied by publishing, in lieu of a copy of the tax lien sale notice prepared pursuant to (d) above, a notice published in the format of a display advertisement, rather than a legal advertisement. The display advertisement, which must be no less than two inches by three inches with a bold black border, shall be published once a week for four weeks, prior to the week of the sale in a newspaper circulating in the municipality which is its official newspaper. The notice contained in the display advertisement shall set forth the following information:

1. A statement that the municipality is announcing the sale of delinquent taxes and delinquent municipal charges;
2. A statement that the sale shall be conducted through an online auction;
3. A statement that the listing of all parcels and delinquencies and costs, along with bidding instructions, are available online for viewing at no cost;
4. The date and time of sale; and
5. The full website link where the tax lien sale line items may be viewed.

(f) Notice to the property owner and to any person or entity entitled to notice of foreclosure pursuant to section 20 of P.L. 1948, c. 96 (N.J.S.A. 54:5-104.8) may be given by regular or certified mail in lieu of any two publications required pursuant to (e) above. In addition to costs of sale provided in N.J.S.A. 54:5-38, the costs of such notice or notices shall be added to the cost of sale pursuant to N.J.S.A. 54:5-26, not to exceed \$25.00 for each notice for a particular property. The notice or notices to the property owner shall contain the information required pursuant to (d) above. Failure of the property owner to receive a notice properly mailed by the tax collector shall not constitute grounds to void the subsequent tax lien sale.

(g) The vendor's fee for conducting the electronic tax lien sale shall not exceed the fee collected by the tax collector under N.J.S.A. 54:5-38. The vendor shall only charge fees to the municipality and not to bidders or lien purchasers.

(h) The tax collector shall not collect any additional fees for the cost of sale, except as otherwise permitted pursuant to law.

(i) Bidding shall open no earlier than upon publication of the tax lien sale notice prepared pursuant to (d) above or the display advertisement prepared pursuant to (e) above.

(j) Bidder registration shall be online and completed prior to submitting a bid, although the municipality shall have the discretion to permit in-person registration with the tax collector's office.

(k) Before any bidder can place a bid, the bidder will be required to post a forfeitable deposit .

1. At the tax collector's discretion, deposits may be given in person at the municipality's office.
2. Deposits shall be held by the municipality and not the vendor.

3. If a bidder shall fail to make a payment on a lien certificate that such bidder has won upon conclusion of the sale, the deposit amount shall be forfeited to the municipality.

4. The tax collector shall ensure that any unused portion of the deposit will be promptly returned to the bidder after the conclusion of the sale.

(l) An electronic municipal tax lien sale system shall provide:

1. Online bidder registration, including the ability to obtain and electronically submit forms, such as bidder information sheets and W-9s.

2. Detailed online instructions on how to use the system's website.

3. Help desk support for tax collectors and bidders through the internet, e-mail, and at least one toll-free telephone number. A dedicated telephone hotline shall be made available to tax collectors for use until the sale has been completed.

4. Web-based training, including online tutorials, for both bidders and those municipal officers and employees responsible for administering the tax lien sale. The vendor shall supply a method for bidders to practice bidding.

5. Available in-person training, including a working demonstration of the website and overall system, for tax collectors and other municipal employees involved in the tax lien sale process.

6. Online display of winning bids immediately upon completion of the auction.

7. Notification to winning bidders by e-mail at the bidder's registered e-mail address.

8. Access for the tax collector to remove and update the tax lien sale list in real time.

9. Access for the tax collector to review a detailed history of all funds transferred, as well as a transaction log of all bid submissions and results.

10. Provision for the electronic transfer of information and data from and to the municipality.

11. A standard complaint procedure for both the municipality and bidders. The complaint procedure shall require that a complaint log be maintained, which shall be available to the municipality for inspection.

(m) All bid information and participant financial data is deemed property of the municipality.

(n) No officer, employee, or independent contractor of the vendor may participate in the auction.

(o) Bid amounts shall not be visible to the public or to the municipality while the auction is in process.

(p) All liens shall be auctioned individually, such that a bid will be placed on each lien with a winning bidder determined for each lien. The bulk sale of liens is prohibited.

(q) The electronic municipal tax lien service shall give the tax collector the ability to accept and process payments by ACH transfer, bank wire transfer, certified check, or cash. Cash payments may be accepted in person by the tax collector; however, the tax collector must immediately input data into the electronic tax lien sale system to reflect any such payment. Payment must be made within 24 hours after the bidding is closed.

1. For ACH transfers, the transfer must be initiated within 24 hours after the bidding is closed and settled within 72 hours of the close of sale, unless a longer period of time has been agreed upon in writing between the municipality and the vendor.

2. The vendor shall notify all registered bidders of any properties that are available for bidding due to non-payment. If a parcel is resold, interest shall be recalculated to the date of the new sale date.

(r) The following cybersecurity best practice framework shall be followed:

1. The vendor's website and system shall:

i. Be hosted on dedicated servers or in a FedRAMP Moderate Impact Level Authorized Cloud. When using cloud services, the vendor shall check provider credentials and contracts;

ii. Encrypt stored and transmitted financial information and personal identification information;

iii. Maintain only critical personal identification information. Social Security numbers shall not be utilized as identification numbers for system purposes;

iv. Employ a resilient password policy;

v. Undergo regular security updates and stress testing;

vi. Have back up, information disposal, and disaster recovery plans and procedures created and tested;

vii. Undergo regular security risk assessments for detecting compromises; and

viii. Maintain awareness of vulnerabilities, implement necessary patches and updates, and develop a cybersecurity incident response plan.

2. The vendor shall notify the municipality of any cybersecurity incidents they experience, even if the incident did not lead to an actual compromise of data.

3. The vendor's staff shall be educated in good security measures. The vendor shall perform employee background checks on employees with access to financial information and personal identification information stored on the system.

4. The vendor shall have a computer security incident response team (CSIRT) in place.

(s) Vendors shall provide annual evidence of satisfactory internal controls to the municipality's chief financial officer and the tax collector. Such evidence must be in the form of an unqualified auditor's report issued pursuant to the performance of a Service Organization Control (SOC) 2 engagement based upon the existing Trust Services Principles (WebTrustTM and SysTrustTM) carried out in accordance with AT 101 standards, with the ability to test and report on the design effectiveness (Type I) and operating effectiveness (Type II) of the vendor's controls.

(t) All contracts between a municipality and a vendor shall:

1. Be reviewed and approved by the tax collector prior to the execution of the contract as to the terms, including satisfaction of the requirements of this section;
2. Be awarded by the governing body, notwithstanding the value of the contract;
3. Contain adequate provisions to indemnify the municipality against any losses incurred as a result of the actions or inactions of the vendor;
4. Require the vendor to be responsible for the errors and omissions of its employees or agents; and
5. Upon reasonable notice, require the vendor to allow an independent auditor to examine its internal controls applying SSAE No. 16 and AT 101 standards, or WebTrustTM and SysTrustTM standards. The municipality shall have the discretion to agree to compensate the independent auditor. Upon completion, the independent auditor's report shall be provided to the tax collector, chief financial officer, and governing body and shall be for internal use only.

(u) All disputes between the parties and disputes concerning the contract or its operation shall be in writing and forwarded to the other party via registered or certified mail. New Jersey law shall govern the contract and the relationship between the municipality and the vendor. All contracts shall have appropriate provisions for:

1. Dispute resolution between the parties;
2. Service of process to the vendor; and
3. Application of New Jersey law.

(v) The duration of any contract between a municipality and a vendor shall not exceed one year, notwithstanding any provisions of the Local Public Contracts Law to the contrary. Contracts for electronic tax lien sale systems shall not be considered data processing service contracts under N.J.S.A. 40A:11-15(5).

(w) All contracts entered into between the municipality and a vendor shall be in writing, executed by all parties, and have appropriate provisions for termination of the contract, including, but not limited to, termination for failure to perform on the part of the vendor.

(x) The tax collector shall allow the Director of the Division of Local Government Services access to online reports of any electronic municipal tax lien sale. The Director of the Division of

Local Government Services may require any tax collector and vendor conducting an electronic tax lien sale to provide a report with information on the sale including, but not limited to:

1. The date and time of sale;
2. Number of line items;
3. Agreed upon fee to the vendor, subject to the limitations set forth in (h) above;
4. A weblink to the auction site; and
5. Auction results.

New Rule R.2018 d.012, effective January 2, 2018.

5:33-1.2 Bank collection of tax payments

(a) Any municipality adopting a resolution to contract for services in connection with N.J.S.A. 54:4-122.9 shall, prior to adoption, obtain written advice from the municipal auditor who shall review the proposed contract for compliance with law, any relevant rules, and proper internal control procedures. Within three days of adoption of such a resolution, the Municipal Clerk shall submit a certified copy of the resolution and report of the auditor to the Director of the Division of Local Government Services. Unless action is otherwise taken by the Director within 30 days of receipt, the resolution shall be deemed approved. Such contract shall include detailed procedures to be used in implementing procedures to receive and deposit funds, forwarding of back-up materials to the collector, holding of funds, audit trails and all other information required for evaluation of the proposed system.

(b) The bank, savings bank or trust company designated by any resolution to receive current tax payments, current water and sewer rents, and other public moneys must be designated as an official depository in accordance with N.J.S.A. 40A:5-14.

(c) Any municipality which has contracted with a bank, savings bank or trust company under N.J.S.A. 54:4-122.9 shall notify all taxpayers at least once annually that such a service has been contracted. Notification must be made by mail to all taxpayers at least 30 days prior to the next payment due, payable and subject to possible receipt by such bank, savings bank or trust company agent, following the designation of such agent.

Amended by R.1992 d.426, effective October 19, 1992. Amended by R.1995 d.490, effective September 5, 1995.

5:33-1.3 Form of tax collection record

Tax collectors shall use a standard form for posting preliminary and final taxes. The content of the form may be reproduced through the use of electronic data processing systems. Sample copies can be obtained from:

Division of Local Government Services

Department of Community Affairs

PO Box 803

Trenton, N.J. 08625-0803

Amended by R.1992 d.426, effective October 19, 1992. Amended by R.1995 d.490, effective September 5, 1995.

5:33-1.4 Municipal Lien Forms

(a) Use of the following forms for the stated purposes is required by municipal taxing districts in the State of New Jersey.

1. Original and Duplicate Certificates of Sale for Unpaid Municipal Liens; and
2. Official Search and Certificates of Search for Municipal Liens.

(b) Samples of these forms are available through the Division of Local Government Services.

5:33-1.5 Third party transaction reconciliation accounts

When check-based or electronic payments for multiple parcels made by property tax processing organizations and servicing organizations defined pursuant in N.J.S.A. 17:16F-15 cannot be correctly reconciled, the tax collector shall create a subsidiary ledger entry to record unreconciled items. The tax collector shall work to reconcile the discrepancy by the end of the fiscal year. All transactions necessary to reconcile entries shall be noted in the subsidiary ledger, and, when necessary, approved by the governing body.

New Rule, R.1997 d.147, effective March 17, 1997.

5:33-1.6 Definitions

The words and terms used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise.

“Charitable fund” shall have the meaning defined in N.J.S.A. 54:4-66.6 and N.J.A.C. 5:30-18.1.

"Current" payment means any payment which is not yet due and payable, or any payment which became due and payable within the tenth calendar day prior to its receipt, provided that the municipality has adopted a resolution allowing "that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable" in accordance with provisions of N.J.S.A. 54:4-67.

"Delinquent" payment means any payment which is not current (as defined above), plus any payments for accounts on which a Tax Title Lien exists.

"Property identification information" means the information necessary to identify a specific parcel of land and includes the following elements: name of municipality, county, block number, lot number, qualification code, property address or location, name and mailing address of the property owner.

"Replacement bill" shall mean a property tax bill made or generated by a mortgagee, servicing organization, or tax processing organization to serve as a replacement to an original tax bill and used in accordance with this subchapter.

"Tax bill" shall mean the original form issued by the tax collector with the appropriate itemization and payment information for local property taxes as required by N.J.S.A. 54:4-64, 65 and 66. It shall include the information section itemizing the taxes due, and payment stubs containing property identification information and amount due for each of the quarters.

"Tax collector" shall mean the properly designated tax collector of the taxing district in which the mortgagor's property is located.

New Rule, R.1992 d.426, effective October 19, 1992. Recodified from 5:33-1.5 by R.1997 d.147, effective March 17, 1997. Amended by R. 2019 d.052, effective June 3, 2019.

5:33-1.7 Payment of property tax bills

(a) Payment of property tax bills shall be made by presenting the stub from either an original or duplicate tax bill, or through the use of a replacement bill as described in N.J.A.C. 5:33-1.8. The original or duplicate tax bill itself does not need to be presented for payment when a payment stub showing the required information is used.

(b) When a receipt for payment sent through the mail is requested, the payor must provide the bill, stub, and a self-addressed stamped envelope for the return of the receipt.

(c) Notwithstanding any provision in this section to the contrary, at the option of the local tax collector, computer printouts or other electronically generated data formats containing property identification and payment amounts will be accepted for processing in lieu of individual tax bills.

New Rule, R.1992 d.426, effective October 19, 1992. Recodified from 5:33-1.6 and amended by R.1997. d.147, effective March 17, 1997. Amended by R.2017 d.014, effective January 17, 2017.

5:33-1.8 Use of replacement bills

(a) Replacement bills must contain property identification information, the amount of tax due, and indication of which quarterly installment is being paid for each parcel. It may be an individually printed bill with a stub, a printed listing of many bills, or many bills transferred via magnetic media or transmitted through electronic means. If printed individually, it must contain a stub that is at least six square inches in size and include the information detailed above.

(b) Individually printed replacement tax bills may be used under the following conditions:

1. For the first payment on the tax bill if the tax collector is unable to, or fails to, issue or mail an original or duplicate tax bill 15 calendar days prior to the statutory due date for that payment, or a later date set by the governing body at which time the full interest penalty for late payments shall begin to accrue, whichever is later;
2. For other quarters if a formal request for a duplicate or original tax bill is not fulfilled within 15 calendar days from the time the tax collector receives the request; or
3. For other quarters when specifically permitted by the tax collector.

(c) The tax collector may permit non-individually printed replacement bills to be used for payment periods other than the first payment period. Such determination shall be made solely by the tax collector.

(d) When a payment is made with a replacement bill, if not previously forwarded, the tax collector shall forward the original bill or a duplicate tax bill, without charge, when the original tax bill was not properly issued by the tax collector. The tax collector shall send the original or duplicate tax bill, as the case may be, to the payor so the subsequent tax payments can be paid in a timely manner.

New Rule, R.1992 d.426, effective October 19, 1992. Recodified from 5:33-1.7 and amended by R.1997 d.147, effective March 17, 1997. Amended by R.2017 d.014, effective January 17, 2017.

5:33-1.9 Applying charitable fund donation credits to a taxpayer's property tax obligation

(a) A local unit fund administrator shall report to the tax collector the amount of credits resulting from a donor's charitable fund donation to be applied to the donor's next upcoming annual property tax bill or, if the municipality so permits, an annual property tax bill already issued by the municipality. Once a local unit has reported a creditable charitable fund contribution to the tax collector, the tax collector shall apply the credit to the taxpayer-donor's annual property tax obligation upon confirming that the donor is not delinquent to the municipality for property taxes and/or municipal charges.

1. If a tax collector applies the credit to an annual property tax bill that has yet to be issued, the amount of the credit shall appear on said bill.
2. If a tax collector applies the credit to an annual property tax bill that has already been issued, the credit shall appear on a statement to be made available to the donor online and/or on paper.

(b) The statement issued to a donor by a tax collector must contain, at minimum, the following information:

1. Name and mailing address of the donor;
2. The total amount of the contribution;

3. The date on which the contribution was made and, if applicable, the date on which the contribution cleared;
4. The total creditable portion of the contribution against either the annual tax bill, or the quarterly installment thereof, and, if the donor sought a credit against multiple parcels within the municipality, the amounts credited against each parcel; and
5. The block, lot, qualifier, and property address of each parcel located within the local unit for which a credit has been applied against the annual property tax obligation.

(c) Any donation deposited into a spillover fund for credit against a donor's future annual property tax obligation or obligations shall be reported in its entirety to the tax collector, and the municipal finance officer if the local unit is a county or school district, concurrently with the reporting of the charitable fund donation to be credited against the current tax bill or in advance of the next upcoming property tax bill.

(d) A tax collector shall report to the fund administrator and, in the case of a county or school district charitable fund, the municipal finance officer, the amount of the credit applied to the donor's property tax obligation. If the amount of the credit applied differs from the amount reported as creditable by the charitable fund, the tax collector shall provide the reason therefor. The tax collector's monthly report to the chief financial officer shall include all charitable fund contributions made.

(e) Credits applied to a donor's annual property tax obligation, or spillover fund donations reported to and recorded by the tax collector as "pre-paid" shall not be rescinded.

(f) Tax bill vendors shall establish a designated identifier code for each local government charitable fund.

New Rule, R.1992 d.426, effective October 19, 1992. Recodified from 5:33-1.8 by R.1997 d.147, effective March 17, 1997. Repealed by R.2017 d.014, effective January 17, 2017. New Rule, R.2019 d.052, effective June 3, 2019.