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Linda M. Canavan, CTC
Borough of Saddle River

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Township of Toms River



TAX COLLECTORS AND TREASURERS ASSOCIATION OF NEW JERSEY
Professionalism, Education, Efficiency

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Township of Lakewood

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Paul M. Lesniak, CTC/CMFO
City of Elizabeth

MEMO

FROM: THE OFFICERS OF THE TCTANJ

TO: ALL TAX COLLECTORS AND TREASURERS

RE: NJ League of Municipalities Sample Resolution to Reduce Interest on
Delinquent Property Taxes

DATE: April 22, 2020

The TCTA has reviewed the April 15, 2020 New Jersey League of Municipalities statement advising municipal officials that they have the right to reduce delinquent interest on unpaid taxes and municipal liens. While the TCTA understands that the League was acting in good faith in sending out this information, we strongly disagree that it is a sound business policy for any municipality to pass such a resolution.

It is important to note that under N.J.S.A. 54:4-67(b), after the resolution is passed, the municipality must provide notice to all taxpayers. This would appear to require the very expensive task of providing written notice to all taxpayers. If the rate was increased prior to December 31, the municipality would have to again incur the expense of written notification to all taxpayers. Additionally, the resolution changing the rate of interest charged on delinquencies must be applied equally and prospectively. A municipality may not establish thresholds for interest to begin (for example, only amounts in excess of \$10,000.00) nor can it retroactively charge an interest rate (if unpaid by xx/xx/xx, interest will revert back to 8%/18% from the original due date.).

Furthermore, the Division of Local Government Services has interpreted that a resolution reducing the rate of interest will only affect prospective delinquencies. Therefore, any delinquencies that were in effect prior to the resolution reducing interest will still accrue interest at the prior delinquency rate. Hence, if a resolution was put into effect on May 1 with zero percent interest, it will only apply to delinquencies that occur after May 1 and those delinquencies will forever be at zero percent even after the interest rate is restored to 8%/18%.

Please Reply to:

<i>President</i>	<i>phone: 201-327-2609 x 228</i>	<i>fax: 201-327-0168</i>	<i>email: lcanavan@saddleriver.org</i>
<i>1st Vice President</i>	<i>phone: 732-341-1000 x 8363</i>	<i>fax: 732-505-1886</i>	<i>email: cdileo@tomsrivertownship.com</i>
<i>2nd Vice President</i>	<i>phone: 732-364-2500 x 5967</i>	<i>fax: 732-994-4565</i>	<i>email: epressley@lakewoodnj.gov</i>
<i>3rd Vice President</i>	<i>phone: 908-820-4114</i>	<i>fax: 908-820-4232</i>	<i>email: plesniak@elizabethnj.org</i>

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Any municipality adopting such a resolution must understand that they are providing an incentive for taxpayers to **not** pay their taxes. The federal stimulus package has provided that any person who loses their employment or has their work hours reduced can qualify for unemployment for the full amount of their original pay. Hence, for now, almost all individuals who have lost their jobs will have their income supplemented by the federal government and they should be able to pay their taxes.

If the resolution is passed reducing the interest rate from 18% to 0%, it will become an incentive for large commercial taxpayers to not pay their taxes. Sophisticated property owners may simply decide not to pay their taxes until the date that interest starts to accrue again. Therefore, municipalities may see a substantial drop in collection rates. Furthermore, once everyone knows that there is no interest on delinquent taxes, many taxpayers will simply hold off paying their taxes until the interest starts to be charged again. A municipality cannot pass a resolution disguised as an extension of the grace period. If a municipality reduces the interest rate to zero, it will never be able to collect interest on delinquencies that occur while the zero percent resolution is in effect..

For example, if the resolution reduces the rate of interest effective May 1 to zero percent and then then the normal delinquency rate is restored effective August 1 the following will illustrates the effect of same:

Feb. 1 Delinquency (assuming no prior delinquencies) of \$2,500.00 = \$1,500.00 at 8% and \$1,000.00 at 18% from 2/1/20 until the delinquency is satisfied.

May 1 delinquency of \$2,500 – Interest on the entire \$2,500.00 will remain at 0% until the delinquency is satisfied. According to the State's interpretation, it does not change regardless of any future interest rate change.

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Resolution passed 5/1 to 0% The delinquencies prior to 5/1 will continue to collect 8% & 18% even though the interest rate is reduced to zero.

May 1st delinquency of \$2,500 – Interest on \$2,500 will be lost during time of zero percent –the interest does not go back to the May 1 date, but according to the state’s interpretation can never collect interest on any delinquency that goes into effect after the resolution is passed.

In addition, third party investors who have purchased tax sale certificates in a municipality will most likely not pay their subsequent taxes until they are allowed to collect interest again on same. These same investors will receive no interest on their subsequent tax payments paid during the time period when interest is reduced to zero percent. These investors may choose to not invest in the municipality in the future. Therefore, all of the above may result in the substantial reduction of the collection rate which has a direct budget impact on the following year through the required amount for the Reserve for Uncollected Taxes.. Additionally, it could have a negative impact on the bond rating of the Municipality and its ability to secure financing. We recommend that you consider the broader financial impact of such a resolution and consult with your local administrative team prior to enacting any change.

Therefore, we urge you to advise your municipal officials that the TCTA does not believe that a resolution reducing interest is sound fiscal policy. We further believe that the expenses of notifying every taxpayer is excessive. This memorandum is intended to address some of the concerns that have been raised by recent events.

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