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## Coates' Canons Blog: More on Advertising Tax Liens

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Article: <https://canons.sog.unc.edu/advertising-tax-liens-part-iii/>

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It's March, which means in addition to finalizing your NCAA bracket sheets you might also be finalizing your local government's delinquent property tax advertisement. These ads must be published between March 1 and June 30 in a newspaper having a "general circulation" in your jurisdiction.

I've answered many of the biggest questions about these ads here and here. But my in box continues to be filled with advertising queries. Today's post answers some of these new questions and reviews legislation on this topic filed this session at the General Assembly.

### Can we advertise only on the Internet to save publication costs?

Nope. Under current law, a traditional newspaper print advertisement is still required. A local government may not substitute an ad on a newspaper's website for the print ad. Nor may a county or town rely solely on a posting on its own website instead of a print ad. Local governments are free to use on-line ads or postings *in addition* to traditional print ads, but not in lieu of.

Unless the law changes, that is. And just like we've seen in past years, a bill has been filed with the General Assembly to allow local governments to use the Internet instead of print to advertise legal notices.

Senate Bill 210 doesn't mention delinquent tax advertisements specifically. Because the bill covers "any notice [a local government] is required by law to publish or advertise," I assume it would cover the ads required by G.S. 105-369.

If this bill becomes law, it would allow a local government to adopt an ordinance authorizing Internet-only advertising of all legal notices on the local government's own website. The notices eligible for web advertisement would include those required by boards that are appointed by the local government's governing board, such as a county board of equalization and review.

As I understand the bill it would also allow local governments to advertise in a free weekly newspaper that has an "audited readership" of at least 25,000. That's not permitted under current law, which requires local governments to advertise in newspapers that have paid subscribers.

Were the new law to pass, it would give local governments three legal advertising options: a posting on the local government's website, a traditional print ad in a free weekly paper, or a traditional print ad in a traditional subscriber-based newspaper.

The bill is far from a sure thing, however. Similar bills have died in committee in recent years. Some legislators aren't ready to move public notices to an all-digital world. One legislator summed up her support for traditional print advertising with this observation in the News & Observer: "Society is not at a point where we can stop newspapers and go 100 percent to the Internet . . . The state still has connectivity issues, and some people are unable to sign up for Internet service. We have to be careful when we limit their ability to gather information."

That legislator is sponsoring a competing bill that would continue to require traditional print advertising but force newspapers to run the legal notices on their websites as well as in print (for no additional cost) and to offer local governments a 15% discount on notices that must be published more than once.

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**Can we advertise in a free newspaper if that newspaper can prove it has sufficient readers across our jurisdiction?**

Nope. See above. To satisfy current law a newspaper must have paid subscribers.

**Can we advertise delinquent personal property taxes in addition to delinquent real property taxes?**

Yes, but the local government may charge taxpayers only for the cost of advertising delinquent property taxes that are liens on real property (aka "secured" taxes). G.S. 105-369(d). The county may not pass along to taxpayers the cost of advertising delinquent taxes on personal property that are not also liens on real property (aka "unsecured" taxes).

Remember that taxes on personal property other than registered motor vehicles are a lien on all real property listed by the same taxpayer in the same jurisdiction. (See this post for more details on the real property tax lien.) The cost of advertising these secured personal property taxes may be passed along to the taxpayers.

But taxes on personal property owned by taxpayers who do not also own real property in the same jurisdiction are not a lien on real property. If a county or town chooses to advertise these unsecured taxes, that local government may not pass along the cost of the ad to those taxpayers. Nor should the local government pass along the increased cost of the advertisement relating to the inclusion of unsecured personal property taxes to the other taxpayers who owe delinquent taxes on their real property.

Here's an example of how I believe costs should be distributed if a local government chooses to advertise unsecured personal property taxes:

Assume Carolina County has 1,000 taxpayers who owe delinquent 2014 property taxes that are a lien on real property. The county also has 500 taxpayers who owe delinquent 2014 personal property taxes that are not a lien on real property because they do not own any real property in the county.

The cost of the advertisement for all 1,500 delinquent taxpayers will be \$6,000. However, the ad would have cost only \$5,000 if the county had not included the 500 taxpayers with unsecured personal property tax debts.

(I realize that the county would probably not know to the penny how much a smaller, real-property-tax-lien-only advertisement would have cost. But I think the county must do its best to estimate that cost so that it passes along to its taxpayers only the proper costs.)

The \$5,000 cost of the smaller ad should be distributed among the 1,000 taxpayers who have tax liens on their real property for 2014. That works out to \$5 per taxpayer.

The county needs to eat the additional \$1,000 the ad will cost due to the inclusion of unsecured personal property taxes. The 500 taxpayers who owe only unsecured personal property taxes should not be charged any portion of the advertisement cost.

**Can the county advertise delinquent tax liens from prior tax years?**

Same answer as above: yes, but the county is not permitted to charge taxpayers for advertising prior years' tax liens. It may charge taxpayers only for the cost the county would have incurred had it advertised only real property tax liens from the current year.

If the county includes prior years' real property tax liens in this year's advertisement, it should estimate the cost of the ad had the older tax liens not been included. The county should then pass along to the taxpayers only the cost of that smaller, this-year's-liens-only advertisement.

**Links**

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