
Coates' Canons Blog: Interest on Delinquent Taxes

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Article: <https://canons.sog.unc.edu/interest-on-delinquent-taxes/>

This entry was posted on December 01, 2011 and is filed under Finance & Tax, Property Taxes

Just over a month remains before interest will begin accruing on unpaid property taxes levied for the 2011-12 fiscal year. On January 6, 2012, these taxes will become delinquent and begin accruing interest at the rate of 2% for January and .75% per month thereafter until paid.

The basic rules concerning interest are simple and easy to apply. But the details of the interest calculation can get tricky. Collection fees, discovery bills and similar issues can quickly complicate the process. This post offers my quick thoughts on some common questions concerning interest on delinquent taxes. For more details, take a look at this bulletin.

Is interest compounded?

No, Machinery Act interest is simple interest, not compounded interest. In other words, interest does not accrue on prior interest charges.

Assume Billy Blue Devil owes \$100 in taxes that become delinquent on January 6. If he pays these taxes on February 1, Billy will owe \$102.75: \$100 in principal taxes, \$2 in interest for January, and \$.75 interest for February. The \$2 interest charge for January does not accrue interest in February, because technically the interest calculation is only made at the time Billy seeks to pay his taxes.

Is interest prorated for partial months?

No. The full month's interest accrues on the first day of every month, unless the weekend/holiday rule applies. (See below). The same is true for the initial 2% interest in January; the full 2% is due even if the taxpayer pays the taxes on January 6, the first day the taxes become delinquent.

Does interest accrue on costs and fees owed by the taxpayer?

Yes. GS 105-273(15) defines the term "taxes" to include principal taxes plus costs and fees. As result, when the Machinery Act requires interest to be calculated on "taxes," it also requires interest to be calculated on attachment and garnishment service fees, advertising costs, bad check penalties, and any other cost or fee relating to the delinquent taxes.

For example, assume Tina TarHeel owes \$1000 in delinquent taxes. In April the tax collector garnishes Tina's bank account, correctly adding a \$60 fee for serving notices of the garnishment on the taxpayer and the bank. (Remember the fee for each service doubled from \$15 to \$30 as of July 1 this year.) If this fee is not paid, then it should begin accruing interest as of May 1 at a rate of .75% per month. Interest would not accrue on the service fees for April because those fees were not in place as of the first day of that month.

Remember that partial tax payments should be applied first to interest, fees and costs and then to the principal taxes. GS 105-358(b). As a result, in most instances the service fees for attachments will not remain delinquent because they will be paid by the proceeds of the attachment. But when an attachment does not produce any funds, perhaps because the only funds in the account were Social Security or other funds exempt from attachment, the service fees should remain delinquent and accrue interest.

When does interest accrue on discovery bills?

A discovery bill is considered part of the tax levy for the fiscal year that begins in the year the discovery was made. GS 105-312(i). A discovery made at any point in 2011, even on December 31, will be part of the 2011-12 tax levy and therefore accrue interest on January 6, 2012. A discovery made at any point in 2012, even on January 1, will be part of the 2012-13 tax levy and will not accrue interest until January 6, 2013. (Actually, January 8, 2013—see the the weekend and holiday rule below.) A difference of a few days in the timing of a discovery can push back the delinquency date for an entire year.

But when is a discovery “made”? GS 105-312(d) states that “a discovery is deemed to be made on the date that the abstract is made [for unlisted property] or corrected [for property listed below its true value].” Essentially, this means that the discovery is made when the assessor first places a tax value on the discovered property. This value may be appealed by the taxpayer and therefore not finalized for many months (or years, if the appeal winds its way to the Property Tax Commission or state court). But the length of the appeal should not change the tax levy in which the discovery is included.

Does interest continue to accrue while a wage garnishment is in place?

Yes. Nothing in the Machinery Act authorizes tax offices to terminate interest after initiating wage garnishments. Because local tax collectors are limited to 10% of gross wages per pay period, a wage attachment could take many months to pay off all of the taxes, interest and fees owed by the delinquent taxpayer. Interest should continue to accrue on the new amount owed each month after the wage garnishment payment is applied to the account.

This situation creates a moving target for the tax collector and the employer that is responding to the garnishment. If the garnishment remains in place for more than a month, the initial amount included on the notice of attachment and garnishment will not be the final amount owed by the taxpayer. The tax collector should be sure to update the employer with the new amount owed by the employee when the garnishment is close to satisfying the full amount.

Does interest continue to accrue after the tax office enters into a payment plan with the taxpayer?

Yes. The tax collector can promise to refrain from pursuing enforced collection efforts against the taxpayer while the taxpayer is satisfying the terms of a payment plan. But the tax collector cannot promise to stop accruing interest simply because the taxpayer agrees to a payment plan.

What is the weekend and holiday rule?

Whenever the taxpayer’s last day to pay without accruing a new month’s worth of interest falls on a weekend or holiday, the taxpayer is entitled to pay without that new month’s interest on the next business day following that weekend or holiday. GS 105-395.1.

For example, January 6, 2013 falls on a Sunday. This fact means that the last day a taxpayer could pay 2012-13 taxes at par (in other words, without interest) would be Saturday, January 5. GS 105-395.1 moves this deadline to Monday, January 7. Interest will not accrue on 2012-13 taxes until Tuesday, January 8.

What is the postmark rule?

Under GS 105-360(d), tax payments that are postmarked by the United States Postal Service should be considered received by the tax office as of the date of that postmark. In other words, if I pay my taxes in full with a postmark of January 5 or earlier, my taxes should not accrue interest regardless of when the tax office actually receives the payment.

Note that as of this past summer the post mark rules now applies to payments for taxes on registered motor vehicles. See S.L. 2011-330 (Sect. 40).

Can interest be waived?

Generally no. Interest can be released or refunded only under the same limited situations that justify the refund or release of principal taxes. GS 105-381. To justify a release or refund, the interest must have been levied illegally or due to



clerical error. And even then, the governing board must approve the release or refund. The tax collector does not have this authority.

One common situation that does not justify a release of interest is when the taxpayer complains that he or she never received a tax bill. Under GS 105-348, all taxpayers are charged with notice of their tax obligations even if they never receive actual notice of those taxes. In other words, tax bills are completely optional (although highly recommended!). Interest should not be released simply because the tax office had the wrong address for the taxpayer or failed to mail the taxpayer a tax bill.

For more on refunds and releases, [click here](#).

Do all of these rules also apply to interest charges on privilege license taxes, occupancy taxes, or other local taxes?

No. The Machinery Act controls the collection of property taxes only. Other taxes have their own provisions for late payments. See this bulletin for more details.

Links

- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-360
- ncinfo.iog.unc.edu/pubs/electronicversions/pdfs/ptb156.pdf
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-273
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-358
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