

# **Personal Property Billing & Collecting**

## **Standards of Practice**

**11**

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# Section XI.I

## General Information

### Purpose

These standards establish guidelines for county officials to bill and collect locally-assessed personal property taxes. These standards will address only personal property subject to *ad valorem* taxes. They do not address registered personal property, such as motor vehicles, subject to fees in lieu of *ad valorem* taxes.

These standards intend to establish a uniform tax collection process by combining the provisions of the Utah State Constitution, the Utah Code Annotated, and accepted practices. By doing so, the standards should assist county officials in the equitable and uniform taxation of personal property. These standards should further promote the effective and efficient collection of property taxes.

### Legislative Authority

Article XIII, Section 5 of the Utah State Constitution provides that “the Legislature . . . “may by statute authorize political subdivisions of the state to assess and collect taxes for their own purposes.”

Article XIII, Section 2 of the Utah State Constitution provides that “...all tangible property in the state, that is not exempt . . . shall be assessed at a uniform and equal rate in proportion to its fair market value, to be ascertained as provided by law and taxed at a uniform and equal rate.”

Through these constitutional articles, the Utah State Legislature has enacted statutes enabling counties to bill and collect personal property taxes. Title 59 of the Utah Code Annotated sets forth statutes relating to revenue and taxation. Within that title, the main body of law concerning the billing and collection of locally assessed personal property taxes is found in Chapter 2, Part 13. Further relevant statutes include:

Section 17-16-5.5 – Allows a county legislative body to assign certain assessor duties to the treasurer, including attachment of personal property taxes to real property taxes.

Section 45-1-101 – Lists legal notice public hearing requirements. These must be satisfied when notifying the public of a tax sale.

Section 59-2-306 – Governs the transmittal of personal property signed statements. This also establishes the personal property delinquency date in accordance with Section 59-2-1302.

Section 59-2-307 – Lists the penalties for failure to file a signed statement.

Section 59-2-401 – Allows transitory personal property to be assessed and collected in a county, even if the property was not present in the county as of the January 1 lien date.

Section 59-2-1103 – Interest in state lands is subject to the same tax sale procedures as personal property.

Section 59-4-101 – Describes the calculation and administration of privilege tax.

Section 59-4-102 – Property subject to privilege tax cannot be seized if delinquent. This section provides an alternate method to handle such delinquencies through the district court.

Section 78B-2-305 – Provides a three year statute of limitations to attach personal property taxes to real property taxes.

## Definitions

**Attached/Attachment:** The act of listing personal property taxes with real property taxes.

**Combined Signed Statement/Bill:** This refers to a signed statement that is returned with taxes due by May 15, or 60 days after the statement is sent. The taxpayer uses the personal property tax rate to determine their taxes, or affirms that they are below the aggregate taxable amount eligible for exemption. This is mutually exclusive with sending a bill separately; see *tax notice*.

**Secured:** Personal property that has been attached to real property.

**(Separate) Signed Statement:** The self-assessing mechanism where a taxpayer returns a list of personal property associated with their business. If it is not combined with a bill through which the taxpayer computes their own taxes, a separate bill must be sent; see *tax notice*.

**Tax Notice:** For personal property, the tax notice refers to a bill sent after the signed statement. This term is used in Section 59-2-1302 of the Utah Code. This is separate from the real property tax notice, sent in November. To avoid confusion, this Standard will supplement the word “tax notice” with “bill”. This is mutually exclusive with sending a combined signed statement/bill; see *combined signed statement/bill*.

**Unsecured:** Personal property that has not been attached to real property.

## **Section XI.II**

### **Billing Personal Property Taxes**

#### **Standard 11.1 Tax Rates from Previous Year**

Taxes for personal property are calculated using the tax rate established in the previous year. (Section 59-2-1304)

Even though new tax rates are established in the middle of the current year, the new tax rates are not used to calculate personal property taxes until the following calendar year. For personal property, the rates established in one year are used the entire following calendar year.

#### **Standard 11.2 Adjusting for Tax Relief**

Tax relief for tangible personal property may be granted under the blind exemption and the veteran's exemption. The owner of a manufactured/mobile home, which is assessed as personal property, is eligible for a residential exemption. Also, the manufactured/mobile owner may be eligible for the indigent and circuit breaker tax relief. See the [Tax Relief and Abatement Standards of Practice](#) for further information.

#### **Standard 11.3 Notice of Assessment**

##### **11.3.0 Assessor Sends Signed Statements and Bills**

Signed statements and personal property bills are prepared and sent to the taxpayer by the county assessor. (Section 59-2-306)

##### **11.3.1 Timing of Signed Statements and Bills**

The assessor/treasurer should send the personal property combined signed statements/bills, or separate signed statements and bills, out as near the first of the calendar year as is practical, so timely action may be taken in case of delinquency.

#### **Standard 11.4 Personal Property Bills**

##### **11.4.0 Billing Methods**

Personal property taxes are determined and billed in one of two ways:

- Taxes are computed by the taxpayer using a combined signed statement/bill; or
- After a signed statement is returned on which the taxpayer has listed all personal property, the assessor/treasurer computes the taxes and sends a bill.

Both methods are detailed in the [Personal Property Valuation Standards of Practice](#).

##### **11.4.1 Combined Signed Statement/Bill**

Use of the first method combines both the assessing and billing processes. The combined signed statement/bill statement should contain both the signed statement components recommended in the [Personal Property Valuation Standards of Practice](#), and the billing components listed in [Standard 11.4.3 "Bill"](#). The taxes are due on May 15 or 60 days after the statement is requested.

See [Statement of Personal Property – Salt Lake County](#) and [Statement of Personal Property – Weber County](#) for examples on how a combined signed statement/bill may look.

## **11.4.2 Separate Signed Statement and Bill**

A county may choose to request only a signed statement from a taxpayer and send a bill separately. This has the benefit of allowing the assessor to check the statement for inconsistencies and errors. However, different payment dates may cause difficulty in determining when delinquency occurs and how interest on unpaid taxes should be charged.

In this instance, a bill may be sent out after May 15, when the signed statement is usually due. The due date for payment must be clearly stated (e.g. 30 days after mailing). A separate bill will establish a new delinquency date, potentially after May 15, from which interest resulting from non-payment will accrue.

Assessors/treasurers must immediately collect taxes after assessment, so the due date for a separate bill must be as soon as possible after the taxpayer submits their signed statement. (Section 59-2-1302)

## **11.4.3 Bill Contents**

After the separate signed statement is returned, a bill is prepared, which should include the following information:

- Name and mailing address of owner;
- Account number;
- Street address of the real property where the personal property is located;
- Total market value;
- Tax rate;
- Taxes due for current year;
- Applicable tax relief credits;
- Total due from prior years;
- Total amount due;
- Consequences if taxes are not paid by the due date;
- Appeal rights and process; and
- Due date for payment.

See sample form [PT-111 Personal Property Assessment and Notice](#).

## **Standard 11.5 Manufactured/Mobile Home Bills**

### **11.5.0 Assessed as Personal Property**

The assessor/treasurer sends the bill when manufactured/mobile homes are assessed as personal property (see the [Manufactured/Mobile Home Housing Standards of Practice](#)).

#### **11.5.1 Information on the Bill**

The manufactured/mobile home personal property bill should include the information on a regular personal property bill (see [Standard 11.4.3 "Bill"](#)), and should also list any residential exemption.

See sample form [PT-110 Manufactured/Mobile Home Assessment and Notice](#).

## **Standard 11.6 Leased Personal Property**

### **11.6.0 Responsible Party for Property Tax**

The owner of leased personal property is the lessor and it is ultimately the responsibility of the lessor to pay the property tax. For a distinction between a “true lease” and a “conditional sales agreement,” see the [Personal Property Valuation Standards of Practice](#).

### **11.6.1 Tax Area of Leased Personal Property**

Though the lessor is responsible for the taxes on leased personal property, leased personal property should be taxed at the rate applicable for the tax area where each item of personal property is located, not at the rate for the tax area where the lessor is located.

### **11.6.2 Leased Personal Property Bill**

A “regular” leased personal property statement may be sent to the taxpayer to complete and return to the assessor (see [Personal Property Valuation Standards of Practice](#)). The assessor/treasurer then calculates the personal property taxes and sends a leased personal property tax notice to the lessor.

The leased personal property tax notice should either consist of a separate tax notice for each tax area or a summary tax notice that breaks out the taxes due in each tax area. In either case, the tax notice should include the same information listed in [Standard 11.4.3 “Bill”](#). If a summary bill is used also list the value, rate, and amount due by area, and as a total.

See sample form [PT-112 Leased Personal Property Assessment and Notice](#).

### **11.6.3 Combined Leased Personal Property Signed Statement/Bill**

The assessor may choose to send a combined signed statement/bill to leased personal property taxpayers. If so, this document should contain the elements of both the “regular” leased personal property statement (See [Personal Property Valuation Standards of Practice](#)) and the leased personal property bill, which is detailed above.

## **Standard 11.7 Estimated Taxes**

### **11.7.0 Assessor/Treasurer Collects Estimated Taxes**

When a personal property signed statement is not returned, the assessor/treasurer must estimate the taxpayer’s personal property value (see [Personal Property Valuation Standards of Practice](#)), then send a notice of the estimated taxes to the taxpayer. (Section 59-2-307)

### **11.7.1 Estimated Bill**

The Estimated Bill should contain the information found in [Standard 11.4.3, “Bill”](#), except for “total taxable value,” which, without a completed signed statement, is unknown. Instead, the following information should be substituted on the estimated tax notice:

- Estimated total taxable value;
- An explanation of why taxes were estimated; and
- The amount of penalty and interest charged because the signed statement has not been returned.

## **Section XI.III**

### **Collecting Personal Property Taxes**

#### **Standard 11.8 Collecting the Assessment**

##### **11.8.0 Personal Property Tax Collection**

The assessor should collect or attach personal property taxes and uniform fees. (Section 59-2-1302). However, the duties of the assessor may be assigned to the treasurer by county ordinance. (Section 17-16-5.5). Any taxes collected by the assessor/treasurer must be deposited into an account controlled by the treasurer. (Section 59-2-1305)

##### **11.8.1 Form of Payment**

The assessor/treasurer may accept cash, a check, or a money order as payment for personal property taxes. Though not required, the assessor/treasurer may alternatively accept a bond payable to the county, worth the tax/fee amount plus 20%, and due on November 30. (Section 59-2-1302). When the assessor/treasurer accepts a check, it must be made payable to the office of the county assessor/treasurer. If a check is received made out otherwise, the assessor shall immediately endorse the check with a restrictive endorsement that makes the check payable to the office of the county treasurer.

##### **11.8.2 Partial Payments**

The assessor/treasurer may accept partial payments for personal property taxes prior to the due date, although the assessor/treasurer may require full payment when the taxes are delinquent.

##### **11.8.3 Priority of Partial Payments**

Partial payments should first be applied to any collection costs that have been assessed to the taxpayer. Only then should the payment be applied to interest, penalties, and taxes, in that order. A partial payment should be applied to the latest delinquent year first. Payments must be applied to interest, then penalties, then the principal tax amount. (Section 59-2-1346)

##### **11.8.4 Recording Payments**

The assessor/treasurer records on the personal property assessment roll the amount of personal property taxes paid. (Section 59-2-1305)

#### **Standard 11.9 Delinquency**

##### **11.9.0 Combined Signed Statement/Bill - Delinquency**

Delinquency occurs if payment is not received by the due date of the combined signed statement/bill (May 15) or 60 days after requested by the assessor, for a county of the first class. (Sections 59-2-306 and 59-2-1302)

##### **11.9.1 Separate Signed Statement and Bill - Delinquency**

There are two distinct signed statement mailing and due dates depending on the county classification.

- For all counties (except for counties of the first class), the signed statement is to be filed on or before May 15th of the year the statement is requested by the county assessor. In order for the taxpayer to have 60 days to file, the statement must be mailed no later than March 15th.

- For counties of the first class (Salt Lake), the signed statement is to be filed on the later of:
  - 60 days after requested by the assessor; or
  - On or before May 15th of the year the statement is requested by the county assessor, if the county governing body adopts the May 15th due date.

If a county assessor requests a signed statement on or after March 16th, the signed statement is to be filed within 60 days after requested by the county assessor. (Section 59-2-306)

If a separate bill is sent after the signed statement is returned, the due date for payment must be listed on the bill. This will establish the delinquency date. See [Standard 11.4.2 “Separate Signed Statement and Bill”](#).

## **Standard 11.10 Collecting Delinquent Accounts**

### **11.10.0 Statutory Collection Methods**

Once a personal property tax is delinquent, the statutes provide two methods for collection:

- Attaching the personal property taxes to real property; (Section 59-2-1302) or
- Seizing and selling the personal property. (Section 59-2-1303)

#### **11.10.1 Statute of Limitations**

The assessor/treasurer must either attach delinquent personal property taxes to real property or seize the delinquent personal property within three years of the delinquency. (Section 78B-2-305)

## **Standard 11.11 Attachment to Real Property**

### **11.11.0 Attaching Taxes versus Attaching Value**

When a delinquent personal property account is attached to real property, the delinquent personal property taxes are attached. These taxes are added to the real property taxes that are separately calculated.

Attachment should not result in the value of the delinquent personal property being added to the value of the real property, for the following reasons:

- Personal and real properties are taxed at different rates in the same calendar year. Adding the value instead of the tax would result in the wrong tax rate being applied to the personal property;
- Personal property may be located in a different tax area than the real property to which it is attached. As different tax areas may have different tax rates, adding the value instead of the tax would result in the wrong tax rate being applied to the personal property; and
- Interest or penalty on delinquent personal property must be converted from a dollar amount to a value amount if value is attached. Due to this conversion problem, interest is often incorrectly calculated.

#### **11.11.1 Real and Personal Property Taxes to be Treated Separately**

Despite attachment, interest and penalties still function differently on real and property taxes. Applying statutes for real property interest and delinquencies to personal property will result in interest and penalties being charged at the wrong rate and at the wrong time. See [Standard](#)

[11.16.5 “Interest on Attached Taxes”](#) and [Standard 11.17.1 “Penalty after Attachment”](#). See also [Appendix 11B Delinquent Taxes Interest and Penalties Table](#).

### **11.11.2 Attaching Interest and Penalties**

Along with delinquent personal property taxes and uniform fees, the amount of interest and penalty accrued on the delinquent taxes is also attached to real property. The full amount must be paid before the lien against the real property is satisfied. See [Standard 11.16.5 “Interest on Attached Taxes”](#) and [Standard 11.17, “Penalties”](#).

### **11.11.3 Attachment as a Payment Option**

Attachment is intended to be a collection method available to the assessor/treasurer. Its purpose is not to be a payment option available to the taxpayer. Nevertheless, attachment at the request of the taxpayer is allowed. However, the account must be considered delinquent. Interest is to be charged in order that the taxpayer not be rewarded for delaying the payment of personal property taxes until later in the year.

Any taxpayer given the option of attachment instead of payment at the regular time must be informed that interest will be charged until taxes are paid. Consider securing a bond from the taxpayer instead (see [Standard 11.8.1 “Form of Payment”](#)). (Section 59-2-1302)

### **11.11.4 Attachment and Delinquency**

Personal property taxes, whether attached at the request of the taxpayer or attached because of non-payment, are considered delinquent as of their delinquency date (see [Standard 11.9 “Delinquency”](#)). For this reason, the State Tax Commission recommends that all personal property taxes be billed as unsecured. Then, if not paid 30 days after the bill is sent, personal property taxes may be attached.

### **11.11.5 Attachment Deadline and Procedures**

For delinquent personal property taxes to be attached to real property in a given year, the following must occur:

- The delinquent personal property account must be identified and “be listed” with the attachable real property.
- The delinquent personal property taxes must be posted to the real property assessment roll in time to “reflect” on the real property bill.
- The real property should be of sufficient value to secure the payment of the personal property taxes. (Section 59-2-1302)

Listing entails:

- Creating a record that identifies the real property parcel number to which the personal property tax will be attached; and
- Showing an intention to attach by physically identifying the personal property account.

### **11.11.6 Attachment Notice**

If personal property taxes are to be attached to real property, the taxpayer should be notified of the attachment and its consequences. If a taxpayer is given the option of attachment instead of timely payment, this notice is unnecessary.

### **11.11.7 Matching Personal Property with Real Property**

For personal property taxes to be attached to real property, the personal property owner of record must be the same as the real property owner of record. One exception is where the owner of the personal property is a partnership and the owner of the real property is a general partner in that partnership.

### **11.11.8 Attaching Prior Years' Delinquent Taxes**

Prior years' delinquent taxes may be attached to real property in the current year. Prior years' taxes, interest, and penalties should be attached using the interest established in the year of delinquency, and conform to the three year statute of limitations (see [Standard 11.10.1 "Statute of Limitations"](#)).

### **11.11.9 Dissolving an Attachment**

The assessor may, with the approval of the county legislative body, dissolve an attachment by abating the attached personal property taxes from the real property account and posting the attached amount back onto the personal property assessment roll.

### **11.11.10 Attachment Reconciliation**

The State Tax Commission recommends that the assessor/treasurer generate a report of attached accounts from the personal property assessment roll before the accounts are transferred to the real property assessment roll. After the transfer, the treasurer should generate a similar report from the real property assessment roll. Comparing the two reports should serve as a check to ensure accuracy.

The two reports should contain the following information about each attached account:

- Real property parcel number;
- Personal property account number;
- Name of owner of both properties;
- The amount of personal property taxes, interest, and penalties attached; and
- The tax area(s) of the attached personal property and the real property

## **Standard 11.12 Collection Steps before Attachment**

### **11.12.0 Attachment at Taxpayer Request**

If the taxpayer requests attachment of personal property taxes in lieu of payment at the regular time, no collection steps are necessary prior to attachment.

### **11.12.1 Attachment for Non-Payment**

When delinquency is the result of non-payment, the following should be considered before the personal property taxes are attached to real property:

- A reminder notice or notices should be sent;
- A letter or notice must be sent if taxes are to be estimated and penalty is to be added; (Section 59-2-307) and
- If taxes are estimated, a bill showing the estimated assessment and accrued interest and penalties must be sent (see [Standard 11.7 "Estimated Taxes"](#)).

## **Standard 11.13 Collection Steps after Attachment**

### **11.13.0 Before the Real Property Tax Notices Are Sent**

The assessor/treasurer may accept payments on attached personal property taxes prior to the sending of the real property tax notices. However, if collected by the assessor/treasurer, the assessor/treasurer must then petition the county legislative body to allow the taxes to be treated as unsecured, and not as secured by the real property (see [Standard 11.11.8 “Dissolving an Attachment”](#)).

### **11.13.1 After the Real Property Tax Notices are Sent**

The treasurer must collect the attached personal property taxes in the manner provided for collecting real property tax if the real property tax notices have already been sent.

### **11.13.2 Recording the Payment**

When the treasurer receives a payment for attached personal property taxes, the payment is recorded in the real property assessment roll.

## **Standard 11.14 Collection Steps before Seizure and Sale**

### **11.14.0 Collection Steps**

After delinquency, the following should be considered before the assessor/treasurer seizes and sells personal property:

- Review and consider the same collection suggestions found in Standard [11.12.1 “Attachment for Non-Payment”](#);
- Attach the personal property taxes to real property, if possible (see [Standard 11.11 “Attachment to Real Property”](#));
- Continue to contact the taxpayer with notices, collection letters, and telephone calls; and/or
- File a tax lien as allowed under the Uniform Commercial Code (“UCC”) with the Department of Commerce, especially if the taxpayer and the personal property cannot be located.

Examples of collection letters include the PT-114 series of forms of the [Property Tax website](#).

### **11.14.1 Collection Time Frame**

The Commission recommends that these collection steps be completed within 3 to 4 months after delinquency. To delay the seizure and sale any longer would increase the risk of the property being moved or sold and would unnecessarily delay the distribution of taxes to the taxing entities.

## **Standard 11.15 Seizure and Sale**

### **11.15.0 Seizing Personal Property**

Person property cannot be seized until the property tax has become delinquent. Assessor/treasurer or the sheriff, at the assessor’s/treasurer’s request, may seize delinquent personal property by posting a “Notice of Seizure” on the property or by physically removing the property. The property is not usually removed, because of the time and expense involved. (Section 59-2-1303)

### **11.15.1 Privilege Tax Exception**

Personal property taxed as privilege tax provisions may not be seized and sold for delinquent taxes. If the tax becomes delinquent, the assessor/treasurer notifies the county auditor of the amount of tax, penalty, and interest due. The county auditor issues a warrant to the clerk of the appropriate district court. The court clerk will enter the warrant in the judgment docket. The warrant then has the same effect as a judgment, and the county has the same remedies against the possessor or user as any other judgment creditor. (Section 59-4-102)

### **11.15.2 Notice of Seizure**

The “Notice of Seizure” should contain the following information:

- Statement that the property is being seized;
- Account number;
- Name of taxpayer;
- Total amount of taxes, penalties and interest owed;
- Total seizure costs;
- Total amount due;
- Description of property;
- Street address of business;
- Tax Area; and
- Signature of assessor/treasurer or deputy assessor/treasurer.

See sample forms [PT-115A Manufactured/Mobile Home Notice of Seizure](#), and [PT-116A Personal Property Notice of Seizure](#).

### **11.15.3 Seizure Costs**

The assessor/treasurer may charge “actual and necessary” expenses for seizing the property. (Section 59-2-1303). This collection cost should be reflected on the “Notice of Seizure”. At the time of seizure, the county may charge a pre-established fee for both the seizure and sale of the property. If so, that fee should appear on the “Notice of Seizure” as “Total Collection Costs for Seizure and Sale.”

### **11.15.4 Notice of Sale**

Approximately 10 days before personal property is sold (10 days before first publication for Residential Manufactured/Mobile homes), a “Notice of Sale” should be prepared for publication.

The “Notice of Sale” should include the same information found on the “Notice of Seizure” ([see Standard 11.15.2 “Notice of Seizure”](#)), except that the “statement that the property is being seized” should be omitted. Instead, the “Notice of Sale” should include the following:

- Statement that the property will be sold;
- Date, time, and location of the sale;
- Years for which taxes, interest, and penalties are due; and
- Total collection costs for seizure and sale.

See sample forms [PT-115B Manufactured/Mobile Home Notice of Sale](#), and [PT-116B Personal Property Notice of Sale](#).

### **11.15.5 Combined Notice of Seizure and Sale**

When the time and date of the sale have been established before the seizure occurs, the separate “seizure” and “sale” notices may be combined into one notice. The resulting “Notice of Seizure and Sale” is then used to seize the property and publicize the sale.

The “Notice of Seizure and Sale” should contain all elements of both the “Notice of Seizure” and the “Notice of Sale”. See [Standard 11.15.2 “Notice of Seizure”](#), and [Standard 11.15.4 “Notice of Sale”](#). See also sample forms [PT-115C Manufactured/Mobile Home Combined Notice of Seizure and Sale](#), and [PT-116C Personal Property Combined Notice of Seizure and Sale](#).

### **11.15.6 Location of Sale**

The sale is held at a convenient venue such as the property location or the county courthouse. To better ensure that the property will sell, the property location is the preferred site, as most potential buyers prefer to inspect the property before the sale. (Section 59-2-1303)

### **11.15.7 Date of Sale**

The sale of seized property should not occur until the “Notice of Sale” can be adequately publicized (see [Standard 11.15.9 “Notifying the Public”](#)). At least one week after the property is seized is the earliest sale date that is feasible. (Section 59-2-1303)

### **11.15.8 Sale Date Exception for Residential Manufactured/Mobile homes**

For these properties, the sale date can be no sooner than one year after taxes becomes delinquent. (Section 59-2-1303)

### **11.15.9 Notifying the Public**

The “Notice of Sale,” identifying the date, time and location of the sale, must be:

- Published in a newspaper with general circulation in the county;
- Published in accordance with legal notice publication requirements; (Section 45-1-101) and
- Posted in three public places in the county.

The “Notice of Sale” must be published and posted at least one week before the date of the sale. (Section 59-2-1303)

### **11.15.10 Public Notification for Residential Manufactured/Mobile homes**

For these properties, publication of the date, time, and place of sale must be in a newspaper. The notice must run once in each of two successive weeks immediately preceding the date of the sale. (Section 59-2-1303)

### **11.15.11 “Actual Notice” to Interested Parties**

Both federal and state courts have held that lien holders and delinquent taxpayers must receive the “best notice practicable” before property for which they have an interest is sold for delinquent taxes. Published notification does not satisfy this requirement. Instead, the assessor/treasurer must give these parties “actual notice” of the sale, either by sending or hand delivering a copy of the “Notice of Sale.” To help ascertain the names and addresses of lien holders, check the State Motor Vehicle Registration System for manufactured/mobile homes and the State Department of Commerce for other personal property. In smaller communities, local banks may also supply information.

The assessor/treasurer may also want to send the “Notice of Sale” to all known individuals or companies who may be interested in purchasing the delinquent property. Such an action may increase the chances that the property will sell. Examples include dealers in business products or owners of manufactured/mobile home parks.

#### **11.15.12 Notifying Owners of Residential Manufactured/Mobile homes**

Notice giving the date, time, and place of sale of Residential Manufactured/Mobile homes must be sent by certified mail at least 10 days prior to the first publication in the newspaper. This notice must be sent to all known owners, lien holders of record and any other person known by the assessor/treasurer to have an interest in the manufactured/mobile home. (Section 59-2-1303)

Assessors/treasurers must make every effort to acquaint manufactured/mobile homeowners with delinquencies and payment options, and provide opportunities to clear the delinquencies without the requirement to seize and sell. These procedures require the assessor/treasurer to take a more affirmative stance on behalf of the manufactured/mobile homeowner to resolve payment problems.

#### **11.15.13 Redemptions**

The assessor/treasurer should allow the taxpayer to redeem seized personal property up until the time of the sale by paying all amounts due, including interest, penalties and collection costs. (59-2-1346). A single owner may redeem their interest in a property owned with other parties as an undivided interest. (59-2-1349). Redemptions shall be recorded on tax sales list by the treasurer. (Section 59-2-1348)

#### **11.15.14 Conducting the Sale**

A representative from the assessor/treasurer or the sheriff’s office should conduct the sale. The sale should proceed, as follows:

- After announcing that the time and location of the sale are those that were publicized, offer the property for sale;
- State the minimum bid (the total amount due, including collection costs) and open the bidding; and
- Accept bids until the last one is offered, then close the bidding.

#### **11.15.15 Disposition of Property**

Before the sale, the assessor/treasurer should decide whether to sell the personal property as a whole or in individual parts. If the property can be sold in individual parts, the assessor/treasurer should sell only enough to cover all amounts due the county. Once enough property has been sold to pay the total amount due the county, the remaining property may be left at the location of the sale at the risk of the owner.

#### **11.15.16 Payment**

Payment in cash or certified funds at the time of the auction is recommended. The county may, however, establish its own payment criteria.

#### **11.15.17 “Bill of Sale”**

Once payment has been made, the assessor/treasurer shall issue the purchaser a “Bill of Sale”, which should include the following information:

- Name and address of purchaser;

- Amount purchaser paid for the property;
- Description of property bought;
- Signature of county assessor/treasurer and county clerk; and
- Date of sale. (Section 59-2-1303)

See sample form [PT-117 Bill of Sale](#).

### **11.15.18 Excess Proceeds from Sale**

If the property sells for more than was due the county, the excess proceeds are deposited into the county general fund until claimed by the owner of the personal property. (Section 59-2-1303). To obtain the excess, the owner should petition the county executive in writing.

### **11.15.19 No Minimum Bid at Sale**

If the minimum bid is not offered at the sale for the seized property, the official conducting the sale shall declare the county to be the owner of the property. For this reason, the assessor/treasurer should be wary of seizing and selling property worth less than the amount due the county. The county could incur added costs for maintenance and disposal if it becomes the owner of the property. If the county is declared the owner of personal property at the sale, the county executive may then sell or rent the property upon terms determined by the county legislative body. (Section 59-2-1303)

## **Standard 11.16 Interest**

### **11.16.0 Interest**

Interest must be calculated on and charged to delinquent personal property tax due; interest is not charged on penalties for personal property taxes. (Section 59-2-1302) Also, interest must be charged on taxes due, but should not be charged on interest already accrued.

### **11.16.1 Period Interest Accrues**

Interest should be calculated and charged from the delinquency date until the date of payment. (See [Standard 11.9 "Delinquency"](#))

### **11.16.2 Interest Rate**

To compute the interest rate applied to delinquent personal property taxes, first determine the targeted federal funds rate target (FFRT) as of January 1 of the year those taxes were assessed. This rate plus six percentage points is the interest rate; however the interest rate may not be less than 7% or more than 10%. (Section 59-2-1302) This interest rate is used not only to calculate interest on delinquent taxes in the year they were assessed, but also in any subsequent year they may remain delinquent. No matter how long a particular year's taxes remain delinquent; the interest rate applied on those taxes will never change.

Personal property taxes that become delinquent in 2019 will have an interest rate of 8.45%.

### **11.16.3 Interest Rate on Subsequent Years' Taxes**

The interest rate on a particular year's taxes never changes. If the following year taxes become delinquent, they are charged interest based on the new FFRT, but the first year maintains the rate set in its respective year. Remember that personal property delinquent taxes are charged interest on the rate set on January 1 immediately preceding delinquency. See [Appendix 11A](#) for an example on how interest is applied.

#### **11.16.4 Interest if Signed Statement Not Returned**

If the taxpayer does not return a combined signed statement/bill, the assessor/treasurer should charge interest from May 15 or 60 days after it was requested. If a separate signed statement is not returned, interest should be charged from the date the follow-up bill would have been delinquent. (See [Standard 11.9.1 “Separate Signed Statements”](#))

#### **11.16.5 Interest on Attached Taxes**

If personal property taxes are attached to real property, interest should be charged on the personal property taxes from the date of personal property delinquency. This means interest on the personal property portion will accumulate on a different date (May 15 or 60 days after the signed statement was requested) than the real property portion (January 1 if the taxes are not paid by January 31 immediately following delinquency). If a separate signed statement and bill is sent, interest accrues on the personal property delinquency the day after the due date listed on the bill. (Sections 59-2-1302 and 59-2-1331)

Those taxpayers allowed to attach personal property taxes instead of paying them at the regular time must also be charged interest. If a bill is not sent to these taxpayers, interest should be charged beginning May 15 or 30 days after a bill would normally have been sent (see [Standard 11.11.3 “Attachment as a Payment Option”](#)).

Real and personal property taxes that become delinquent in the same year will use a different rate. Personal property delinquent taxes will be charged interest on the rate set on January 1 immediately preceding delinquency. Real property delinquent taxes will be charged the rate set on January 1 immediately following delinquency.

#### **Example**

*If personal property taxes due on May 15, 2017 become delinquent, they will accrue 7% interest (set on January 1, 2017). If real property taxes due on November 30, 2017 become delinquent, they will accrue 7.25% interest (set on January 1, 2018).*

The [Real Property Billing Standards of Practice](#) provides further guidance on how interest is charged on both personal and real property, when personal property is attached.

### **Standard 11.17 Penalties**

#### **11.17.0 Collecting Penalties**

A penalty must be charged for not returning a signed statement or for willfully concealing personal property. For failing to file a signed statement, the penalty is the greater of 10% of the estimated tax due or \$25, for each failure. The penalty for willful concealment is equal to the total value of the property (see [Personal Property Valuation Standards of Practice](#)).

The penalty for failing to report transitory personal property is 50% of tax determined to be due after assessor estimate. This applies to property brought from out of state and present in Utah for more than 90 days, if brought into the state after January 1. (Section 59-2-402 and R884-24P-65)

When charged, the penalty may be collected using the same methods used to collect delinquent personal property taxes, e.g., attachment, seizure and sale or by a judicial proceeding brought in the name of the assessor/treasurer. (Section 59-2-307)

#### **11.17.1 Penalty after Attachment**

Like interest, penalties should be tracked separately when personal property taxes are attached to real property taxes. Penalties for personal property have a different rate and are usually

charged earlier in the year due to the different due date of personal property taxes. (Section 59-2-307). Undeclared transitory personal property brought from out of state has a higher penalty for failure to report than regular personal property. If attached, it would need to be tracked separately from regular personal property penalties as well as real property penalties.

## **Standard 11.18 Overpaid and Underpaid Accounts**

### **11.18.0 Change in Assessment or Tax Amount**

If a review of the taxpayer's signed statement or an audit of the taxpayer's account (see the [Personal Property Valuation Standards of Practice](#)), shows that the taxpayer either overpaid or underpaid personal property taxes, the assessor/treasurer must either collect the amount underpaid or refund the amount overpaid.

#### **11.18.1 New Bill**

It is important in either instance, the assessor/treasurer should send the taxpayer a new bill containing:

- Applicable billing information detailed earlier in [Standard 11.4.3 "Bill"](#);
- The amount underpaid or overpaid; and
- An explanation of how the underpayment or overpayment was determined.

It is important to include notice of the taxpayer's appeal rights and process. Failure to include the appeal information may result in the taxpayer's ability to appeal years later.

#### **11.18.2 Billing Amount Underpaid**

If an underpayment is discovered, the following should apply to the new bill:

- The due date should be 30 days after the notice is sent;
- Interest should not be charged on the underpaid amount unless that amount is not received by the due date in the notice; and
- If the underpayment was the result of willful concealment (see the [Personal Property Valuation Standard of Practice](#)), charge the taxpayer a penalty from the date the tax was first due.

#### **11.18.3 Refunding Amount Overpaid**

If an overpayment is discovered, the assessor/treasurer should proceed as follows:

- Send the taxpayer a new bill and return the refund as soon as practical; and
- Do not add and refund interest for the time the overpayment was in the county's possession.

#### **11.18.4 Prior Years**

If an audit of an account shows that personal property was incorrectly taxed in a prior year, the assessor/treasurer should make sure that the tax rates that applied to that prior year are used to determine the amount of the overpayment or underpayment.

#### **11.18.5 Refund on Over-Estimated Accounts**

Sometimes audits are made to accounts that have been estimated by the assessor/treasurer and the audited value is lower than the assessor/treasurer's estimate. Although the county

boards of equalization and State Tax Commission have no authority to lower an assessor/treasurer estimation, the assessor/treasurer may, depending on the circumstances, lower the estimation to match the audited value. Whether lowered or not for the current year, the new corrected values should be used as the base for the following year's assessment.

## **Standard 11.19 Taxpayer Bankruptcy**

### **11.19.0 Characteristics of Bankruptcy**

If a personal property taxpayer declares bankruptcy, collection of delinquent taxes may become complex. The rules for various bankruptcy chapters are different and delinquent taxes may be treated in a different manner than the interest that has accrued on those taxes. Consult with the county attorney when collecting taxes after a bankruptcy has been declared.

#### **11.19.1 General Steps**

If a delinquent personal property taxpayer has declared bankruptcy, the assessor/treasurer may follow these steps:

- Flag the account to stop all collection proceedings;
- File a claim with the bankruptcy court for all delinquent amounts due the county (see [B-410 "Federal Bankruptcy Proof of Claim"](#) form);
- Send a copy of the bankruptcy proceedings to the county attorney and allow the attorney to respond to any debtor/creditor motions;
- As taxes subsequent to the bankruptcy filing are assessed, file an administrative claim with the bankruptcy court for the amount due and send a notice to the taxpayer;
- If the subsequent tax is not paid by the taxpayer, do not proceed with any other collection efforts in regards to that subsequent tax; and
- Do not place the property on the listing for final tax sale until the bankruptcy is resolved.

## **Standard 11.20 Property Moved From County**

### **11.20.0 Statutory Remedy**

A suit may be brought to collect personal property taxes when that property is moved after assessment to another county in the state. A suit, however, may not be economically feasible except in cases involving large amounts of delinquent taxes.

#### **11.20.1 Other Remedies**

If a suit is not feasible, the assessor/treasurer may want to attempt collection by any or all of the following:

- Attach the taxes to real property;
- Proceed with notices, collection letters, and telephone calls; however, the property may not be seized if these steps are unsuccessful;
- Have the county legislative body abate the delinquent taxes and allow the county to which the property was moved to assess and collect personal property taxes for itself; (Section 59-2-401) or

- Establish an arrangement with the assessor/treasurer of the county to which the property was moved to collect the taxes and send an arranged portion of the taxes to the original county.

### **11.20.2 Property Moved Out-of-State**

There are no feasible remedies to collect personal property taxes once the property is moved out-of-state. By initiating the collection process immediately upon delinquency, the chances of the property being moved out-of-state before collection are reduced. (Section 59-2-1302)

## **Standard 11.21 Delinquent Taxes on a Property Interest in State Lands**

### **11.21.0 Property Interest in State Lands**

Delinquent taxes on a property interest in land still held in the State of Utah's name shall be collected in the same manner as taxes on personal property. (Section 59-2-1103)

#### **11.21.1 Property Interest Seized and Sold**

If the property interest is seized and sold, a certificate of sale is issued. A copy of the certificate should also be filed with the Board of State Lands to assign the interest of the original purchaser to the tax sale purchaser. (Section 59-2-1103)

## **Standard 11.22 Uncollectible and Small Accounts**

### **11.22.0 "Writing Off" an Account**

The assessor/treasurer may determine when an account is "uncollectible" or too small to warrant collection efforts. These accounts may then be "written off."

#### **11.22.1 Circumstances**

Among the reasons a personal property tax may be "written off" include:

- The owner and the property have disappeared.
- The personal property is not considered valuable enough to seize and sell for the amount due.
- The amount owed is so small that the expense of the collection effort is greater than the revenue that would be collected.

#### **11.22.2 Filing under the UCC**

One way to encourage a taxpayer who cannot be located to pay delinquent personal property taxes is to file a lien under the UCC. The filing will last five years. Even if this option is chosen, the county may decide to "write off" the account before the five years have expired.

#### **11.22.3 Procedure to "Write-Off" Taxes**

If the assessor/treasurer determines that a personal property tax should be written off, these steps are recommended:

- Petition the county governing body to abate the taxes; and
- Adjust the personal property assessment rolls to "zero out" the uncollectible taxes.

The Commission recommends that the county institute a written policy for determining and "writing off" uncollectible accounts.

# Appendix 11A

## Delinquent Taxes Interest Calculation

Taxpayer's personal property taxes from 2016, 2017, and 2018, are delinquent. The amount of taxes assessed in each year and the FFRT on January 1 in each of these years are as follows:

- 2016: \$50 tax due, 0.5% FFRT (7% interest rate)
- 2017: \$60 tax due, 0.5% FFRT (7% interest rate)
- 2018: \$70 tax due, 1.25% FFRT (7.25% interest rate)

Please note that the tax due does not include penalties for personal property. Interest will be computed for the entire calendar year. Interest in each year is calculated as follows:

<b>2016</b>	<b>Due</b>
Total 2016 interest \$50.00 at 7% =	\$3.50 \$53.50
<b>Total Interest:</b>	<b>\$3.50</b>
<b>Total Delinquency due:</b>	<b>\$53.50</b>

<b>2017</b>	<b>Due</b>
Total 2016 interest \$50.00 at 7% =	\$7.00 \$57.00
Total 2017 interest \$60.00 at 7% =	\$4.20 \$64.20
<b>Total Interest:</b>	<b>\$11.20</b>
<b>Total Delinquency due:</b>	<b>\$121.20</b>

<b>2018</b>	<b>Due</b>
Total 2016 interest \$50.00 at 7% =	\$10.50 \$60.50
Total 2017 interest \$60.00 at 7% =	\$8.40 \$68.40
Total 2018 interest \$70.00 at 7.25% =	\$5.10 \$75.10
<b>Total Interest:</b>	<b>\$24.00</b>
<b>Total Delinquency due:</b>	<b>\$204.00</b>

# Appendix 11B

## Delinquent Taxes Interest and Penalties Table

*Other tax types or fees may appear on the tax notice that could carry different penalties and interest than those listed here. Consult the Code if new types of delinquencies are certified to the treasurer's office.*

Property Type	Delinquency Date	Date Interest Accrues	Interest	Interest: Pre-Jan 31 Payment	Penalty	Penalty: Pre Jan 31 Payment
<b>Real Property</b>	Dec. 1 <sup>1</sup>	From following Jan. 1 <sup>1</sup>	FFRT set on Jan. 1 AFTER delinquency (>7%, <10%) <sup>1</sup>	0% <sup>1</sup>	Greater of 2.5% of tax due or \$10 <sup>1</sup>	Greater of 1% of tax due or \$10 <sup>1</sup>
<b>Personal Property</b>	Upon assessment (usually May 15 when signed statement is due) <sup>2</sup>	From date of delinquency <sup>3,7</sup>	FFRT set on Jan.1 BEFORE delinquency (>7%, <10%) <sup>3,7</sup>		Greater of 10% of tax due or \$25 <sup>4</sup>	
<b>Transitory Personal Property</b>	After 90 days presence in the state (if not reported to county assessor) <sup>5</sup>				50% of tax due <sup>6</sup>	
<b>Rollback Taxes</b>	30 days after mailing of rollback notice <sup>7</sup>				Greater of 2% of rollback tax due for final year or \$10 <sup>7</sup>	

<sup>1</sup> Section 59-2-1331

<sup>2</sup> Sections 59-2-1302 and 59-2-306

<sup>3</sup> Section 59-2-1302

<sup>4</sup> Section 59-2-307, upon failure to file a signed statement

<sup>5</sup> Section 59-2-402 and R884-24P-65

<sup>6</sup> Section 59-2-402

<sup>7</sup> Section 59-2-506