



Fiscal First Aid Quick Reference

Conducting Tax Lien Sales

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Introduction

Local governments are authorized to sell real estate when owners (or mortgage companies) fail to pay property taxes. The law protects the government's interest in much the same manner as other businesses that file liens against real estate and then force a sale of the property if the liens are not satisfied. Laws may vary from state to state, but the complexity and time-consuming tasks related to the processes often overwhelm officials in comparison to the amount of land that actually qualifies for a tax sale.

Selling property in a tax sale is a win-win for the parties involved for the following reasons:

- I. The government is able to collect the revenue from taxes owed.
- II. If the bid results in more money being collected than is owed for taxes (considered an overbid), the government will invest the money until redeemed by the original owner or the tax sale buyer. If the redemption period expires without being exercised, the overbid money becomes the property of the government.
- III. The cost of conducting the property tax auction, doing extensive research, sending notices, and court costs can all be charged to the person purchasing the property (or the homeowner in the case of a redemption), so the government is not out of pocket for labor or costs.
- IV. The homeowner is given a reasonable amount of time to redeem the property if he or she is interested in remaining the owner.
- V. The buyer of the property in a tax sale receives a good interest rate for his investment if the homeowner redeems his property within the allocated period of time after the tax sale date. (Interest rates currently range from 10% to 15%, depending on the timeframe when the property is redeemed).
- VI. If the property does not sell, and it remains unsold for one year following the auction, the government is permitted to take ownership (title) of the property by filing appropriate title papers.
 - A. New property acquired by the local government can be used to improve public land (parks), or it can be remodeled for local government use.
 - B. Property can also be donated to a local non-profit organization or school that will benefit from its location or improvements.
 - C. Property can be donated to the State's Department of Transportation for easements.
- VII. Undeveloped land that adjoins a business or residence can often be consolidated with adjoining parcels, allowing the current business or residential owner to pick up the back taxes to maintain the property value (or raise it).



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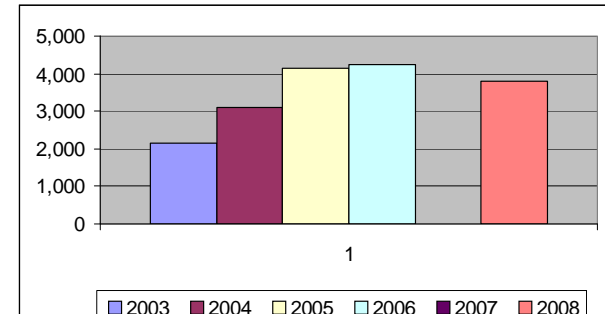
The real-life example included in this paper comes from the City of Indianapolis, Indiana. The city identifies approximately 22,000 eligible parcels each year, and by working with the local Circuit Court, they review the parcels until approximately 3,000 actually are presented for public auction. Because of the number of parcels involved, the city has one full-time employee in the county auditor's office and one person in the county treasurer's office who spends a percentage of her time performing the steps for real estate to be placed in a public auction. Both offices also use additional staff as needed. The process of getting a parcel from delinquent-taxes-owed status to auction is the same for one parcel or 3,000 parcels, but smaller jurisdictions might want to consider using an outside firm to perform the process.

The initial volume of parcels with taxes unpaid is large enough for the city to use outside assistance for pre-sale notices and preliminary work with title companies to obtain the details on lien-holders who might be interested in catching up the delinquent tax payments.

Changes in the economy over the past few years have affected not only taxpayers but also lien-holders. IRS lien claims are secondary to state and federal liens, and the IRS often gives consent for removal for properties that will be deeded to the government. Between 70% and 80% of the taxpayers whose property was sold at auction usually redeemed them within the one-year redemption period. Currently, however, that percentage has declined to 50%.

Indianapolis, Indiana, Tax Sale Statistics

The chart below shows the growth in tax sale parcels over the past few years. In 2007, there was no tax sale due to reassessment and appeals. The growth in parcels has generated a need for more than one sale per year. Approximately 15% to 20% of all parcels listed do not sell the first time they are listed. Only 0.5% to 1% remain unsold after the second sale. The decline in numbers for 2008 is due to the backlog of reassessment appeals in the county and would actually be higher if not for the appeals pending.



Steps to Take

- I. **Research, research, research.** This cannot be emphasized enough. Research and steps that needs to be completed to successfully manage property tax sales include:
 - A. Determine the current name and address of the property owners.
 - B. Research with the county recorder's office for all mortgages and liens filed, identifying lien holders and their contact addresses.
 - C. Check out any plat maps or aerial maps to determine if the property adjoins improved property. The homeowner or mortgage company might think they are paying all the taxes while actually omitting a parcel that is separated from the bulk of the property.



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- D. Verify that there is no appeal pending with the county assessor on the determination of the assessed value of the property. This often occurs as a result of reassessment activities.
 - E. Contact all recorded parties who were interested in the real estate, including the property owners of record and lien-holders. Create and store documentation to prove that all of the parties involved were notified.
 - F. Petition the court to get an order to sell the property.
 - G. Coordinate activities among all departments involved (e.g., the auditor and treasurer) to make sure all processes are covered while containing costs.
 - H. Lists of property included in the tax sale must be published publicly. This could be a newspaper, on a government Web site, or another approved medium.
 - I. Parties interested in purchasing tax sale property should be required to register and pay for auctioned property using certified funds or cash up front on deposit. Registration can be performed online via the Web site.
 - J. Following the sale, petition the court for property that didn't sell, if the property has gone through a second sale and remains unsold.
 - K. Provide notice to interested parties again 75 days before the redemption period ends (usually 12 months, unless there are IRS liens attached).
 - L. Within six months of the end of the redemption period, assuming the tax sale buyer has remained current on the property taxes, petition the court to approve certificates deeding the property to the tax sale buyer, along with approving a quiet title, which essentially removes all encumbrances on the real estate purchased by the tax sale buyer.
- II. **Publicize widely.** Make sure the tax sale is sufficiently well publicized to garner the interest of enough bidders to generate a competitive bidding process. Triple check to ensure that all homeowners receive adequate notice to avoid creating negative public perception of the activities. Advertising mediums include newspaper advertising, featured item on the government's Web page, and notifying local real estate firms or the local board of realtors.
- III. **Auction logistics.** Hold the auction at a time that is convenient for the public, allocate sufficient time to get through all the parcels in the sale, and provide sufficient security to handle the cash transactions that will occur.
- IV. **Forecast financial impact.** If the government has not actively engaged in regular tax sales, prepare a forecast of anticipated revenue and expenditures and determine whether this effort will have a material affect on the government's annual budget.
- V. **Understand local laws.** Ensure that state law is adequate to permit the processes described in this paper. If additional legislation is needed to strengthen the process (such as court-ordered sales), work to have this legislation is enacted, perhaps by collaborating with other local governments that have similar interests.
- VI. **Consider outside help, at least at first.** Consider using an outside specialist for the first sale to ensure that all necessary steps are taken to avoid a tax sale being



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overturned due to an omission. Then learn from this experience and take over some or all of the duties internally for future tax sales.

Evaluating Success

- The government's unpaid property list should be markedly shorter following a sale.
- The government gains the benefit of outstanding taxes collected, ensures that ongoing taxes are likely to be paid, and reaps the benefits of any overbid on the property, should the parcels not be redeemed.
- The income should not be counted as yearly revenue because of its unpredictability. As such, the funds should be put towards a non-recurring use.
- Unsold land might benefit the government, churches, schools, or not-for-profit organizations if it can be converted for their use and enhance the adjoining properties.

Acknowledgements

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