

Redemption of tax certificates

Number: AGO 90-92

Date: November 04, 1996

Subject:
Redemption of tax certificates

The Honorable Barbara A. Davis
Calhoun County Tax Collector
425 East Central Avenue, Room 107
Blountstown, Florida 32424

RE: TAXATION--TAX COLLECTORS--to redeem tax certificate, property owner must pay face amount of certificate together with minimum of five years of face value, the proceeds less service charges are paid to tax certificate owner. s. 197.472, F.S.

Dear Ms. Davis:

You have asked substantially the following question:

If a tax certificate is sold prior to June 1 and the property owner redeems the certificate prior to June 1 is the certificate holder entitled to the interest which has accrued on the unpaid taxes?

In sum:

In the event a tax certificate is redeemed by the payment of taxes, interest, penalties and costs owed by the property owner, s. 197.472, F.S., requires a minimum of five percent of the face amount of the tax certificate be paid by the person redeeming the certificate, with the proceeds received by the tax collector, less any service charges, paid to the owner of the tax certificate.

Section 197.332, F.S., prescribes the duties of tax collectors and property owners relating to the collection and payment of taxes as follows:

"The tax collector has the authority and obligation to collect all taxes as shown on the tax roll by the date of delinquency or to collect delinquent taxes by sale of tax certificates on real property and by seizure and sale of personal property. All owners of property shall be held to know that taxes are due and payable annually and are charged with the duty of ascertaining the amount of current or delinquent taxes and paying taxes before the date of delinquency."

Taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector.[1] Generally, taxes become delinquent on April 1 following the year in which they are assessed.[2] Upon becoming delinquent, the tax collector is authorized to collect the taxes by sale of tax certificates on real property and by seizure and sale of personal property.[3]

In order to sell tax certificates on or before June 1 or the 60th day after the date of delinquency for unpaid taxes, whichever is later, the tax collector is required to advertise once each week for 4 weeks and shall sell tax certificates on all real property with delinquent taxes. He shall make a list of such properties in the same order in which the lands were assessed, specifying the amount due on each parcel, including interest at the rate of 18 percent per year from the date of delinquency to the date of sale; the cost of advertising; and the expense of sale.[4]

Tax certificates are issued to "the person who will pay the taxes, interest, costs, and charges and will demand the lowest rate of interest, not in excess of the maximum rate of interest allowed by this chapter." [5] While delinquent taxes on real property may be paid after the date of delinquency but prior to the sale of a tax certificate by paying all costs, advertising charges, and interest, [6] once a tax certificate has been issued, redemption of the tax certificate is prescribed in s. 197.472, F.S.

In pertinent part, s. 197.472, F.S., provides:

"(1) Any person may redeem a tax certificate or purchase a county-held certificate at any time after the certificate is issued and before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing a tax certificate shall pay to the tax collector in the county where the land is situated the face amount of the certificate or the part thereof that the part or interest purchased or redeemed bears to the whole. Upon purchase or redemption being made, the person shall pay all taxes, interest, costs, charges, and omitted taxes, if any, as provided by law upon the part or parts of the certificate so purchased or redeemed.

(2) When a tax certificate is redeemed and the interest earned on the tax certificate is less than 5 percent of the face amount of the certificate, a mandatory charge of 5 percent shall be levied upon the tax certificate. The person redeeming the tax certificate shall pay the interest rate due on the certificate or the 5 percent mandatory charge, whichever is greater. This subsection applies to all county-held tax certificates and all individual tax certificates except those with an interest rate bid of zero percent.

* * *

(6) When a tax certificate has been purchased or redeemed, the tax collector shall pay to the owner of the tax certificate the amount received by the tax collector less service charges." [7] (e.s.)

Thus, the amount paid to the tax collector by the certificate holder includes the interest which has accrued on the delinquent taxes as of the date of sale of the tax certificate. The person redeeming the tax certificate, be it the property owner or any other person, is required to pay the face amount of the certificate, i.e., all taxes, interest, costs, charges, and omitted taxes, plus a minimum charge of five percent of the face amount to the tax collector. The tax collector, in turn, is required to pay the owner of the tax certificate the amount received by the tax collector less service charges. The language and intent of s. 197.472, F.S., clearly requires a minimum charge of five percent of the tax certificate, in addition to the face amount of the certificate, to be paid to the tax collector by the person redeeming the certificate. Where a statute contains plain and

simple language, that language must be given effect.[8]

Accordingly, a property owner seeking to pay his or her delinquent taxes once a tax certificate has been sold, must redeem the certificate by payment of its face amount and a minimum of five percent of the face amount as prescribed by s. 197.472, F.S., to compensate the owner of the tax certificate.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tls

[1] Section 197.333, F.S.

[2] *Id.*, also providing that taxes may be delinquent immediately after sixty days have expired following the mailing of the original tax notice, should such a date fall after April 1.

[3] Section 197.332, F.S.

[4] Section 197.402(3), F.S. This subsection acknowledges an exception in s. 197.432(4), F.S., providing that tax certificates representing less than \$100 in delinquent taxes on property which has been granted a homestead exemption for the year in which the delinquent taxes were assessed may not be sold at public auction but shall be issued by the tax collector to the county at the maximum rate of interest allowed by Ch. 197, F.S.

[5] Section 197.432(5), F.S., also restricting the tax collector to accept bids in even increments and fractional interest rate bids of one-quarter of 1 percent only.

[6] See s. 197.432(13), F.S.

[7] Section 197.472(3), F.S., provides that the tax collector shall receive a fee of \$5.00 for each tax certificate purchased or redeemed.

[8] See *Thayer v. State*, 335 So.2d 815 (Fla. 1976) (where statute's language is plain and definite in meaning, without ambiguity, the legislative intent is fixed and statutory construction is not needed).