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Division of Local Government Services (DLGS)

“The Division strives to help all local governments achieve excellence, efficiency, and long-term fiscal stability in their operations”

The Division has been actively engaged in reviewing a variety of proposals related to local unit property tax payment schedule and rate modification over the past weeks. Although this is not an area in which the Division exercises direct oversight, we remain cognizant of our obligation to support local units' efforts, including providing interpretation and guidance where possible, and remain committed to supporting the tax collectors whose licensure is maintained through the Division. In this vein, and acknowledging the interest in this issue taken in good faith by entities and officials around the state, we provide the following to inform your understanding and decision-making:

First, as noted in our Frequently Asked Questions webpage, at this time there exists no statutory authority for a local unit to extend either the statutory property tax payment deadline, or the grace period for payment of taxes prior to the imposition of penalties and fees. Although efforts to achieve these ends have been undeniably motivated by altruistic intention, they are not permitted under current law.

Second, local units do possess the authority to reduce the rate of interest on delinquent property taxes, liens, and assessments, however, reduction or waiver of the interest on delinquent taxes is a blunt instrument that does not allow for the imposition of penalties should failure to pay persist. Electing to pursue this course of action can also significantly reduce the amount of revenue timely, or ultimately, collected by a municipality.

N.J.S.A. 54:4-67 allows municipalities to set the rate of interest to be charged for the nonpayment of taxes, assessments, or other municipal liens or charges on or before the date of delinquency. The rates cannot exceed 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00.

The Division of Local Government Services has become aware of recent guidance issued by

the New Jersey State League of Municipalities that some local units have interpreted as implying that a municipality may reduce its rate of interest on delinquent taxes to 0% before a tax bill is due, raise its rate back to the previous/higher rate of interest a few months later, and then charge the higher rate of interest on the bill that was past due, effectively creating an artificial grace period, with retroactive application of interest.

Various entities and officials have provided guidance related to this statute. However, the Division interprets the statute to mean that whatever the interest rate on delinquent taxes is set, up to 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00, it becomes the fixed rate of interest for tax bills that became delinquent while that rate was in place.

Accordingly, lowering the interest rate, especially to 0%, while allowed by statute, would cause future delinquencies to be calculated without interest. Redemptions occurring in accordance with N.J.S.A. 54:5-59 and N.J.S.A. 54:5-60 during the application of a lower rate may also be affected. Moreover, there may be negative implications for tax sales. Further, lowering the rate of interest does not defer the tax levy payments due to counties or schools. It may therefore prove detrimental to the municipality's fiscal health.

Additionally, N.J.S.A. 54:4-67 states that "the governing body, after adoption of a resolution changing the rate of interest, shall provide a notice to all taxpayers, prior to the date taxes are next due or with the tax bill, stating the new rate or rates to be charged and the date that the new rate or rates take effect." The cost of sending notices may be prohibitive. In the event a municipality determines to alter its rate, the Division would recommend also posting the notice on the municipal website, in the town newsletter (if available), on municipality-held buildings, and in the local newspaper.

DLGS is aware that there are varying views on this subject and that municipalities have adopted resolutions contrary to the above guidance. Before considering altering your delinquent rate of interest, please consult with your municipal attorney, auditor, and other municipal officials including the Certified Municipal Finance Officer and Certified Tax Collector. Your tax collection software vendor should also be contacted to ensure that they are able to accommodate any proposed changes to how the delinquency rates are applied.