

Bristol Town Administrator

From: Bristol Clerk
Sent: Friday, January 3, 2020 1:24 PM
To: Bristol Town Administrator
Subject: FW: Delinquent tax penalty questions

The bold italicized font below was given by Susan Senning VLCT attorney and agreed that would be the correct wording for the warning.

Thank You,

Jen Myers
Town Clerk, Treasurer & Delinquent Tax Collector
Town of Bristol
PO Box 249
Bristol, VT 05443
802-453-2410

From: Bristol Clerk
Sent: Tuesday, December 17, 2019 3:14 PM
To: Susan Senning <ssenning@vlct.org>
Subject: RE: Delinquent tax penalty questions

Susan,

That all makes sense. I am an appointed delinquent tax collector who receives an annual stipend in lieu of receiving any kind of commission on the interest and penalty. In 2018 the voters specifically addressed and reduced the penalty when the following article was discussed:

Will the voters of the Town of Bristol vote that all real property taxes payable in installments shall bear interest at a rate of $\frac{3}{4}$ of one percent per month or fraction thereof for the first three months and thereafter one and one-quarter percent per month or fraction thereof from the due date of each installment with the payment to the Town Treasurer of the real property taxes for the Town's fiscal year period of July 1, 2019 through June 30, 2020, being due in two equal installments on November 5, 2019 and April 5, 2020 by physical delivery to the Town Office before midnight on that date?

In 2019 the voters never discussed the penalty amount, so I assumed it would revert back to the 8% since it was not addressed. If we wanted to make a separate article about this in regards to the annual penalty would the article still be what you had given me initially even though I am an appointed collector: ***"Shall the town limit the amount of the penalty charged by the collector of delinquent taxes for payments made after the due date for payment to [insert number no larger than eight] percent of the tax collected pursuant to 32 V.S.A. § 1674(3)(A)?"***

If it is not that, do you have an example of what it might be?

Thank You,

Jen Myers
Town Clerk, Treasurer & Delinquent Tax Collector
Town of Bristol

PO Box 249
Bristol, VT 05443
802-453-2410

From: Susan Senning <ssenning@vlct.org>
Sent: Tuesday, December 17, 2019 2:59 PM
To: Bristol Clerk <clerk@bristolvt.org>
Subject: Re: Delinquent tax penalty questions

Hi Jen,

Thank you for clarifying- good distinction. Are you compensated by a stipend/salary in lieu of fees or commission? If so, the penalty must be assessed (i.e. you'd have no discretion to waive it) and the default amount of the penalty is 8% unless the voters have voted to reduce the amount (which must happen annually).

Does that make sense? If you receive a stipend in lieu of commission and the voters did not vote to reduce the penalty in March 2019, then most likely you have a mandatory 8% penalty.

I hope this helps.

Sincerely,
Susan

From: Bristol Clerk <clerk@bristolvt.org>
Sent: Tuesday, December 17, 2019 1:53:48 PM
To: Susan Senning <ssenning@vlct.org>
Subject: RE: Delinquent tax penalty questions

Susan,

Thank you for the information. Does any of what you said change based on the fact I am an appointed Delinquent Tax Collector who receives a stipend?

Thank You,

Jen Myers
Town Clerk, Treasurer & Delinquent Tax Collector
Town of Bristol
PO Box 249
Bristol, VT 05443
802-453-2410

From: Susan Senning <ssenning@vlct.org>
Sent: Monday, December 16, 2019 4:35 PM
To: Bristol Clerk <clerk@bristolvt.org>
Subject: RE: Delinquent tax penalty questions

Hi Jen,

Carl forwarded me your email, as I was the attorney staffing our inquiry service at the time.

Without seeing the language of the '18-'19 article, it is difficult to say what the voters understood the article to mean. Generally speaking, the collector of delinquent taxes has discretion to charge a penalty on delinquent payments in any amount not to exceed 8% unless the municipality has voted to set the penalty amount for commission. See [32 V.S.A. § 1674](#). Our model articles resource document provides the following:

Reduction of delinquent tax commission/penalty

Unless the town votes to reduce the penalty, the collector of delinquent taxes has discretion to charge a penalty in any amount from zero to a maximum of eight percent. If the town chooses to limit the amount of the penalty it may do so as follows:

“Shall the town limit the amount of the penalty charged by the collector of delinquent taxes for payments made after the due date for payment to [*insert number no larger than eight*] percent of the tax collected pursuant to 32 V.S.A. § 1674(3)(A)?”

This enabling statute does not contain the phrase "such vote shall remain in effect until such time as the town rescinds the same by a majority vote of the legal voters present and voting at an annual or special meeting duly warned for such purpose." Therefore, our opinion is that the voters would have to vote each year to limit the penalty amount. In the absence of such a vote, the penalty amount reverts to being set under the discretion of the collector of delinquent taxes. In either case, if the collector of delinquent taxes is paid by commission, then he/she has discretion whether to apply the penalty. It is only the amount of the penalty once applied that is limited by the voters by an annual vote. If there is no article on the warning regarding the amount of penalty, it is within the delinquent tax collector's discretion to apply a 0-8% penalty. If you want to have the voters set the penalty amount, up to 8%, then I would recommend the model article above.

I hope this helps.

Sincerely,
Susan



Susan E. Senning, Esq.
Staff Attorney I, Municipal Assistance Center
89 Main Street, Suite 4
Montpelier, VT 05602-2948
1-800-649-7915
www.vlct.org

This transmission may contain privileged and confidential information. It is intended only for the use of the person(s) to whom it is addressed above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is prohibited. If you are not the intended recipient, please contact the sender by reply email or telephone and destroy all copies of the original message. Thank you.

From: Bristol Clerk <clerk@bristolvt.org>
Sent: Friday, December 13, 2019 9:41 AM
To: Carl Andeer <candeer@vlct.org>
Subject: Delinquent tax penalty questions
Importance: High

Good Morning Carl,

I have a couple questions for you regarding delinquent tax penalty. At Bristol's annual meeting in March of 2018 the voters agreed to change the penalty on delinquencies from 8% to 4% for the 2018/2019 tax year. At the annual meeting in March of 2019, no motion was made to change the penalty percentage. Is it safe to assume the penalty would revert back to the 8% if they did not specifically alter it. Our article does not state the penalty percentage only the interest percentage assessed.

Following up on that, we would like to provide clarity moving forward and would interested in drafting an article that does address penalty on delinquent taxes specifically. Can you perhaps provide a little guidance/insight on how that might be worded?

If you need more information from me, or have more questions please let me know.

Thank You,

Jen Myers
Town Clerk, Treasurer & Delinquent Tax Collector
Town of Bristol
PO Box 249
Bristol, VT 05443
802-453-2410