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To: **County Auditors and Staff**
County Treasurers and Staff

From: **Dan Bastin**
Settlement Director

Subject: **Adding Prior Year Tax Charges to the Tax Duplicate Guidance**

Date: **March 28, 2012**

The guidance provided in this memo applies to all instances of adding prior year tax charges to the tax duplicate. Including the following, but not limited to the following;

1.) Unbilled prior year taxes discovered by an assessing official, county auditor's office and/or county treasurer's office
2.) Unbilled prior year taxes discovered in an assessment audit
3.) Ineligible homestead credit back taxes and civil penalty uncollected by the county auditor during the county auditor's 30 day collection period

The treatment of prior year taxes added to the tax duplicate is determined by when the prior year taxes are added and not by the year of the added prior year taxes.

1.) When the prior year tax is added to the tax duplicate it is added as an additional charge and is added as a single amount (not split into two installments). Only additional charges for current year taxes are split into two installments. The calculation of the prior year tax is calculated using the tax rates and, if applicable, credit rates that were in effect for the prior year. For example, if the unbilled prior year is 2010 pay 2011, then the 2010 pay 2011 tax rate and credit rates will be used to calculate the prior year tax. Late payment penalties **are not** included in the calculation (late payment penalties can only be applied after the prior year taxes are billed and are not fully paid by the first tax due date following the date the taxes are billed). If there are multiple prior years, then each year is calculated separately, but the multiple years can be combined for a single amount to add to the tax duplicate.

2.) If the additional charge for the added prior year tax is billed and added to the tax duplicate between 14 days before the previous year second installment due date and 15 days before the current year first installment tax due date, then the added charge is due without penalty at the current year first installment tax due date.

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For example, if the previous year second installment due date was November 10 and the current year first installment due date is May 10, then prior year tax added between October 27 of the previous year and April 25 of the current year is due without penalty on May 10 of the current year.

If the added prior year tax is not fully paid on or before the first installment tax due date, then a first installment penalty is applied to the unpaid amount. The normal 5% and 10% penalty rules apply.

Prior year tax added between 14 days before the previous year second installment due date and 15 days before the current year first installment tax due date is treated the same as a current year first installment for purposes of applying late payment penalties and, if the added taxes are unpaid for the required period of time, eligibility for tax sale or demand fees and certified to the clerk processes.

At the current year December Settlement, the prior year tax added to the tax duplicate during the above stated time period is included on the December Settlement Sheet – Form 105 on the "General Property" line in the "Additional Charges and Assessment" area of Section A-1.

If a first installment penalty is added, then it is included on the December Settlement Sheet – Form 105 on the "Penalty on Current First Installment Delinquent" line in the "Additional Charges and Assessment" area of Section A-1.

If the added prior year tax and/or first installment penalty is not fully paid on or before the current year second installment due date, then at the current year December Settlement the unpaid tax is included on the December Settlement Sheet – Form 105 on the "Current First Installment" line in the "Credits" area of Section A-1 and the unpaid penalty is included on the "Penalty Current First Installment" line in the "Credits" area of Section A-1.

3.) If the additional charge for the added prior year tax is billed and added to the tax duplicate between 14 days before the current year first installment tax due date and 15 days before the current year second installment due date, then the added charge is due without penalty at the current year second installment tax due date. If the added prior year tax is not fully paid on or before the second installment tax due date, then a second installment penalty is applied to the unpaid amount. The normal 5% and 10% penalty rules apply.

For example, if the current year first installment due date is May 10 and the current year second installment due date is November 10, then prior year tax added between April 26 and October 26 is due without penalty on November 10 of the current year.

Prior year tax added between 14 days before the current year first installment tax due date and 15 days before the current year second installment due date is treated the same as a current year second installment for purposes of applying late payment penalties and, if unpaid for the required period of time, eligibility for tax sale or demand fees and certified to the clerk processes.

At the current year December Settlement, the prior year tax added to the tax duplicate during the above stated time period is included on the December Settlement Sheet – Form 105 on the "General Property" line in the "Additional Charges and Assessment" area of Section A-1.

If a second installment penalty is added, then it is included on the ensuing year Abstract in the second installment column of Section 5.

If a 5% penalty was added at the current year December Settlement and increased to 10% after 30 days, then the increased amount of the penalty is included on the next year December Settlement Sheet – Form 105 on the "Additional Penalty Added on Prior Year Second Installment" line in the "Additional Charges and Assessment" area of Section A-1.

If the added prior year tax is not fully paid on or before the current year second installment due date, then at the current year December Settlement the unpaid tax is included on the December Settlement Sheet – Form 105 on the "Current Second Installment" line in the "Credits" area of Section A-1.

4.) The prior year tax added in the current year and the late payment penalties, if any, added in the current year that are unpaid at the end of the current year tax collection period roll forward to the next year tax duplicate and tax billing the same as unpaid current year tax and late payment penalties roll forward.