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2015 Edition

Municipal Tax Sales (Extra-Judicial)

A Guide to Resources in the Law Library

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This guide links to advance release slip opinions on the Connecticut Judicial Branch website and to case law hosted on Google Scholar.
The online versions are for informational purposes only.

See also:

- [Collection of Delinquent Property Taxes in Connecticut](#)
- [Property Tax Appeals \(Municipal\)](#)

[Connecticut Judicial Branch Website Policies and Disclaimers](#)

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Section 1: Municipal Tax Sales (Extra-Judicial)

A Guide to Resources in the Law Library

SCOPE:

Bibliographic resources related to extra-judicial tax sales of real property by municipalities, Conn. Gen. Stat. § 12-155 to § 12-159b (2015).

DEFINITIONS:

- "The statutory method for collection of unpaid real estate taxes with which this case is concerned is the public auction, or 'tax sale,' pursuant to General Statutes § 12-157, as amended by Public Act No. 95-228 § 3. Unlike a statutory tax foreclosure; General Statutes §§ 12-181, 12-182; or a civil action in debt to collect the tax; General Statutes § 12-161; a public auction of real estate pursuant to General Statutes § 12-157 is entirely extra-judicial." *Pace Motor Lines, Inc. v. Biagiarelli*, Superior Court, Judicial District of Bridgeport, Docket No. 318117S (June 24, 1996) (17 Conn. L. Rptr. 77).
- "The power to sell land for delinquent taxes is strictly construed; the tax collector must substantially, if not strictly, comply with all statutory provisions." *Associates Financial Services of America, Inc. v. Sorenson*, 46 Conn. App. 721, 726-727, 700 A.2d 107 (1997).

STATUTES AND PUBLIC ACTS:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- [Public Act 15-156](#) (2015) An Act Concerning the Municipal Tax Collection Statutes
- Conn. Gen. Stat. (2015)
 - [Chapter 204](#) – Local Levy and Collection of Taxes
 - [§ 12-155](#). Demand and levy for the collection of taxes and water or sanitation charges.
 - [§ 12-157](#). Method of selling real estate for taxes.
 - [§ 12-158](#). Form of collector's deed. Liability of municipalities for breach of warranty.
 - [§ 12-159](#). Collector's deed as evidence. Irregularities.
 - [§ 12-159a](#). Court orders in actions to contest validity of collector's deed or to enjoin tax sale.
 - [§ 12-159b](#). Time for action contesting validity of collector's deed.

OLR REPORTS:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- John Rappa. *Municipal Authorization to Tax Property*. Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2014-R-0037](#) (February 6, 2014).
- Christopher Reinhart. *State Marshals and Selling Residential Real Estate for Delinquent Taxes*. Connecticut General Assembly, Office of Legislative Research, OLR Research Report, [2008-R-0518](#) (September 10, 2008).
- Kevin E. McCarthy. *Tax Sales of Abandoned Property*. Connecticut General Assembly, Office of Legislative

Research, OLR Research Report, [2000-R-0161](#) (February 3, 2000).

WEST KEY NUMBERS:

- *Taxation*
 - III. Property Taxes
 - (K) Collection and Enforcement Against Persons or Personal Property
 - (2) Summary Remedies and Actions
 - 2835. In general
 - (L) Sale of Land for Nonpayment of Tax
 - 2900. In general
 - 2901. Constitutional and statutory provisions
 - 2943. Place of sale
 - 2944. Time of sale
 - 2945. Notice of sale
 - 2948. Persons to be notified, and form, requisites, and validity of notice
 - 2949. Designation or description of property
 - 2950. Personal notice to owner or occupant
 - 2951. Publication
 - 2963. Conduct of sale in general
 - 2964. Terms and conditions of sale
 - 2977. Disposition of proceeds
 - 2979. Surplus
 - (M) Redemption From Tax Sale
 - 3000. In general
 - 3001. Right to redeem and necessity of redemption in general
 - 3011. Time for redemption
 - 3021. Actions to foreclose right of redemption
 - (N) Tax Titles
 - (1) Title and Rights of Purchaser at Tax Sale
 - 3065. In general
 - 3067. Liens and encumbrances on property in general

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Constitutionality of Tax Sale

- [Associates Financial Services of America, Inc. v. Sorenson](#), 46 Conn. App. 721, 726, 700 A.2d 107 (1997). "We next address Ford Finance's claims that § 12-157 is unconstitutional because it fails to provide for a hearing or judicial review of the valuation and sale. Although our appellate courts have never addressed the constitutionality of § 12-157, that issue has been raised and addressed in the Superior Court...In *Pace Motor Lines*, the court offered the following analysis that we find to be persuasive: '[T]he procedural due process requirement for a hearing applies only where a governmental body or official has engaged, or should have engaged, in factfinding. *Mathews v. Eldridge*, 424 U.S. 319, 344, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)

(procedural due process rules shaped by risk of error inherent in truth finding process). In a tax sale pursuant to General Statutes § 12-157, the tax collector does not find facts, other than the fact of nonpayment of taxes."

- [Pace Motor Lines, Inc. v. Biagiarelli](#), Superior Court, Judicial District of Bridgeport, Docket No. 318117S (June 24, 1996) (17 Conn. L. Rptr. 77). "Even if the tax collector were to misuse his authority and to subvert the fairness of the tax sale, that would not render General Statutes § 12-157 violative of procedural due process. Rather, the plaintiffs' remedy would be a common law action, such as an action for a declaratory judgment and injunction. General Statutes § 52-483.; see also *Newton v. Schott*, 87 Conn. 142, 87 A. 271 (1913) (action to set aside tax levy and sale of real estate and deed); *Townsend Savings Bank v. Todd*, supra, 47 Conn. 190 (action for ejection); see also *Curtis Building Co. v. Tunstall*, 36 Pa. Commw. 233, 236 n.2, 387 A.2d 1370 (1978) (if statutory remedy inadequate, action in equity to enjoin tax sale would lie; statute not unconstitutional)."

Proper Notice

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- [Cornelius v. Rosario](#), 138 Conn. App. 1, 16-17, 51 A. 3d 1144 (2012). "The plaintiff argued before the trial court that due process required the defendants to do more to ascertain his unrecorded interest in the property than to satisfy the requirements of § 12-157 (a). The court disagreed and concluded that the plaintiff's interest was not reasonably ascertainable and, thus, he was not entitled to mail notice under § 12-157 (a). Because of his own failure to record his deed, he was not an owner of record and, of course, did not pay taxes. The court noted that the plaintiff received constructive notice of the tax sale via publication in the Hartford Courant and a posting at city hall."
- [Rivera v. Tax Collector of Bridgeport](#), Superior Court, Judicial District of Fairfield at Bridgeport, Docket No. CV96-0329949-S (Mar. 29, 2000) (2000 WL 371488). "Considering the record as a whole, this court finds that probable cause exists to sustain the validity of the plaintiff's claim that the tax collector failed to give proper notice pursuant to § 12-157. Therefore, the motion for discharge of lis pendens is denied."
- [Berger v. Fitzgerald](#), 55 Conn. App. 138, 149, 739 A.2d. 287 (1999). "...§ 12-159 prevents Fitzgerald III from questioning the plaintiffs' title to the property. Section 12-159 provides in relevant part: 'Any deed, or the certified copy of the record of any deed, purporting to be

executed by a tax collector ... shall be prima facie evidence of a valid and unencumbered title in the grantee to the premises.... No act done or omitted relative to the assessment or collection of a tax, including everything connected therewith ... shall in any way affect or impair ... the validity of such sale, unless the person contesting such validity shows that ... the collector neglected to mail to him the notice by law required, or to those with whom he is in privity of title, and who have a right to notice of such sale, and that he or they in fact did not know of such sale within one year *[now six months]* after it was made, provided such property was by law liable to be sold to satisfy such tax....' Thus, unless Fitzgerald III can show that (1) the tax collector failed to mail him notice of the sale and that he did not have actual notice of the sale one year *[now six months]* after it was made, or (2) that the property was not by law liable to be sold to satisfy the tax, then the plaintiffs' proffer of the tax collector's deed is prima facie evidence of their valid and unencumbered title to the subject property."

Distribution of Excess Proceeds from a Tax Sale

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- Town of Columbia v. Lake Columbia, LLC et al, Superior Court, Judicial District of Tolland, Docket No. CV-14-5005820-S (August 27, 2014). "It would be unjust for the sole applicant in this case, who performed his end of the bargain, to be barred from collecting moneys owed to him in accordance with his agreement with the record owner of the property. Therefore, given the applicant's contributions to the property, as well as the fact that the record owner of the property has not been in communication and has failed to hold up her end of the bargain, this court finds that the applicant also qualifies as an equitable lienholder whose interest in such property is affected by the tax sale of the property, pursuant to General Statutes (Rev. to 2013) "
- Messina v. MT. Olive Towers, Superior Court, Judicial District of Waterbury at Waterbury, Docket No. CV-04-4002106-S (Jun. 28, 2005). "Connecticut General Statutes Section 12-157(d) authorizes a municipal tax collector to 'retain the services of auctioneers and other persons to assist the tax collector in the conduct of the sale and the cost of such persons paid for their services shall be added to the taxes due from the delinquent taxpayer.' . . . Connecticut General Statutes Sections 12-140 and 12-157 provide that all fees, including those of an auctioneer, are to be paid from the proceeds of the tax sale."

- [AR Inter. Prop. v. Town of Litchfield](#), Superior Court, Judicial District of Litchfield, Docket No. CV 04-0092875-S (Sep. 22, 2004). "This court in interpreting General Statute § 12-157(i)(2) finds that it is not ambiguous. The court finds that the two sentences which are the subject of this controversy are separate and distinct. The court finds the first sentence which enumerates the parties who may make application and the second sentence which starts with 'Any person' are not interrelated. The basis for the court's finding is that if the legislature intended only certain named parties to have the right to claim the excess funds there is no reason for the second sentence. In addition, the sentence which allows any person to make a claim for the money specifically allows the court to exercise its equitable powers in determining a party's interest. If the legislature intended to limit who could make an application they could have simply said the following parties only may make application for the excess funds."
- [Federal Deposit Ins. Corp. v. Caldrello](#), 79 Conn. App. 384, 389, 830 A.2d 767 (2003). "Although the defendants claim that the statute does not set forth any particular form or manner for such an application, that assertion is contrary to the language of the statute. Section 12-157 sets forth three requirements that must be satisfied by a party attempting to recover excess tax sale proceeds: (1) the party must file an application with the court, (2) the application must be filed within ninety days of the date the tax collector paid the moneys to the court and (3) the applicant must serve notice of the application in the same manner as to commence a civil action on all persons having an interest of record in such property."
- [Federal Deposit Ins. Corp. v. Caldrello](#), 79 Conn. App. 384, 396, 830 A.2d 767 (2003). "Section 12-157(i)(2) does not require that an applicant for the proceeds be a holder in due course."

Miscellaneous Issues

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [JJT & M, Inc. v. Town of Oxford](#), Superior Court, Judicial District of Ansonia-Milford at Milford, Docket No. CV-13-6013721-S (Jan. 31, 2014). "In the present case, the central underlying allegations of the third count are that the tax collector engaged in a tax fraud scheme that included the manipulation and alteration of real estate tax assessments, the failure to credit property owners for payments submitted in payment of their real estate tax bills, and/or the theft of taxpayer funds, and as a result, this tax fraud scheme resulted in real estate taxes that were 'inflated, false, and fraudulent.' See Amended Complaint (#103) count 3, paras. 5-7. As these alleged

acts go to whether the taxes placed upon the property were proper rather than whether it could be sold under applicable laws to satisfy the taxes in question, they are legally insufficient to constitute a basis on which to challenge the tax deed at issue."

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- [Singh v. City Of Hartford](#), 116 Conn. App. 50, 52, 974 A.2d 810 (2009). "[T]he plaintiff filed a complaint in Superior Court in which he alleged that at the time of the transfer of the property on December 13, 2002, the defendant was aware that the property contained asbestos and other hazardous material. Furthermore, he alleged, the defendant's failure to disclose to the plaintiff that the property contained asbestos and other hazardous material required him to remove and to abate those materials at a considerable cost to him and that their presence also reduced the property's value substantially. As a result, the plaintiff sought damages. On March 3, 2006, the defendant filed an answer that included a special defense alleging that the plaintiff was estopped from claiming any liability on the part of the defendant that resulted from the transfer of the property because of the 'as is' clause included in the contract for sale."

See also: [Singh v. City Of Hartford](#), Superior Court, Judicial District of Hartford at Hartford, Docket No. CV 03-0829026S (July 28, 2008).

- [Faight v. Edgewood Corners, Inc.](#), 63 Conn. App. 164, 175, 772 A.2d. 1142 (2001). "Our legislature, however, in the context of a tax sale, has evidenced that an easement appurtenant does not fall within the general category of encumbrances extinguished by the sale. Section 12-159 further provides in relevant part that title conveyed in a tax sale is 'encumbered only by the lien of taxes . . . easements and similar interests appurtenant to other properties not thereby conveyed . . .' General Statutes § 12-159."

ENCYCLOPEDIAS:

- 72 [Am Jur 2D](#) *State and Local Taxation* (2012) § 803 et seq. -Sale of Land for Nonpayment of Taxes.
- 85 [C.J.S.](#) *Taxation* (2010) § 1221 et seq. -Sale of Land for Delinquent Taxes.
- 7 [ALR 5th](#) 187 (1992). Annotation, *Easement, Servitude, or Covenant as Affected by Sale for Taxes*.
- 10 [POF 2d](#) 285 (1976) *Equitable Relief from Execution – Circumstances of Sale*.
- 28 [POF 3d](#) 439 (1994). *Proof of Circumstances Justifying the Setting Aside of Tax Sales of Real Property*.

TEXTS & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- Caron, Denis. [Connecticut Foreclosures: An Attorney's Manual of Practice and Procedure](#) (5th ed., 2011).
 - Chapter 29. Tax Collector Sales after the 1995 Amendments.
- 16 [McQuillin Mun. Corp. Taxation](#) (3rd ed. revised)
 - § 44.199 et seq. Sale for Nonpayment of Taxes.
- Connecticut Bar Institute, Inc. [Municipal Tax Foreclosures and Tax Sales for Attorneys and Municipal Officers](#) [CLE] (2002).
 - Page 113 et seq. Real Property Tax Collections
- Sherwood, David F., [LexisNexis Tax Practice Insights](#) (2010).
 - The Redeeming Party in a Tax Sale Pays Simple, Not Compound Interest on the Sale Price Plus the Overdue Taxes, Interest and Costs (Lexis CT Tax P.I. 2, 992) [pages 332-333 in 2nd edition]

STANDARDS OF TITLE:

[Connecticut Bar Association Standards of Title - Chapter 29 Tax Collector Sales](#)

- Standard 29.1. Effect of Tax Collector's Deed Given Pursuant to Sale Occurring After July 6, 1995.
- Standard 29.2. Effect of Tax Collector's Deed Given Pursuant to Sale Occurring Before July 6, 1995.
- Standard 29.3. Effect of a Tax Collector's Deed on a Federal Tax Lien.
- Standard 29.4. Effect of Redemption in a Tax Collector's Sale.

FORMS:

- *Form of collector's deed*, Conn. Gen. Stat. [§ 12-158](#)(a) (2015).
- *Alias tax warrant*, Conn. Gen. Stat. [§ 12-162](#)(b) (2015).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our law libraries.

- Francis, Jennifer C.H. *Redeeming What Is Lost: The Need to Improve Notice for Elderly Homeowners Before and After Tax Sales*, [George Mason University Civil Rights Law Journal](#), Vol. 25, Fall 2014, p. 85 (2014).
- Cohen, Adam J. *Revisions to Connecticut's Municipal Revenue Collection Statutes*, [Connecticut Lawyer](#), Vol. 24, Issue 2, p. 26 (Sept. 2013).
- Peterson, Lowell Lee. *The Levy and Sale of Tax Warrants in Connecticut*, [Connecticut Real Estate Law Journal](#), Vol. 10, Number 3, p. 37 (1992).
- Peterson, Lowell Lee. *The Levy and Sale of Tax Warrants*

in Connecticut: Clarification, [Connecticut Real Estate Law Journal](#), Vol. 10, Number 4, p. 67 (1992).