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More Than Just Fireworks

First Week in July Spells Danger for Some Property Owners

With the Fourth of July weekend quickly approaching few Texans will spare a thought for their property taxes. However, before firing up the grill and shooting off the fireworks property owners may want to double check that their property taxes have been paid in full to avoid any possibility of a tax suit to foreclose on their property.

Basic Tax Cycle

There are several steps that happen before a taxing entity, or jurisdiction, can elect to foreclose on a property and it is important that all property owners understand the basic tax cycle.

The tax cycle begins in January when the Appraisal District for each county begins appraising property within its boundary to determine the value at which each property will be taxed. The Appraisal District is allowed several months to complete this and process applications for exemptions. Starting in April and continuing into May the Appraisal Districts will send notices to property owners apprising them of the determined value. Once the Appraisal Districts mail these notices the property owner has 30 days or until May 15th to file a protest to get the values lowered. The Appraisal Review Board then reviews the protests submitted through July. Next, starting in August local taxing units begin to set their tax rates until finally tax bills are sent out in October and become due at that time. If taxes remain unpaid, a Tax Lien is put on the property January 1st, but taxpayers have until January 31st to pay their taxes without penalty and interest. Starting February 1st, however, unpaid taxes become delinquent and penalty and interest is added monthly at a set rate. The percentage of penalty and interest added continues to increase until July 1st. Starting July 1st local taxing units send all Delinquent tax accounts to the attorney for collection. At this time additional attorney's fees may be added, and the law firm can elect to file a Tax Suit on behalf of the tax entity that they represent. A Tax suit is a lawsuit filed by the taxing entity for foreclose on the tax lien and can become costly quickly even if it does not make it to Tax Sale.

Tax Suits & Foreclosure

Foreclosure is a scary concept for many properties owner's, especially homeowners at risk of losing their primary residence. Tax suits are serious; delinquent taxes and resulting lawsuit can become expensive rapidly but there is no need to panic immediately. You will find that attorneys rarely file a lawsuit as early as July as they have many accounts, from the current and from the previous years, to go through. It is also important to remember that a lawsuit is inconvenient for all parties including the taxing entities that file the suit. They will file a tax suit if necessary but prefer the taxes get paid before that; so, they try to give notice and opportunity for taxpayers to pay off delinquent taxes before filing suit.

When a tax suit is filed, the foreclosure process has begun but there is still no need to panic. Once a Tax Suit is filed taxpayers have months and, in some cases, even a couple of years before the property is sold at auction. The suit can be paid off up to the day before the sale though it is advantageous to pay it off as soon as possible because penalty, interest, costs, and fees associated with the suit add up. Taxpayers can always simply pay the remaining balance of taxes and fees in full but they may find a different method to avoid losing the property and possibly even decreasing some of the costs and fees in the process.

How to Avoid or Halt a Tax suit & Foreclosure

For property owners with delinquent taxes, there are a few options to avoid a suit and the additional costs and fees that come with it. They may also be able to stop a tax suit before it progresses to the auction stage. Of course, if able, paying off any remaining balance before July 1st is the simplest and cheapest option to avoid a lawsuit and additional fees but that may not be a viable option for some. There are other options set out in Section 33 of the Texas Tax Code that can help taxpayers avoid foreclosure, a tax suit, and can even lower the rate at which penalty, interest, and attorney's fees are added.

Installment Agreement

First, a taxpayer can enter into an installment payment agreement with the tax collector. This option is the most practical for property owners with delinquent taxes as it is the only option that most will qualify for. A taxpayer is eligible to apply for an installment plan if the property in question is the taxpayers place of residence and is receiving the Homestead exemption. The payments must be made monthly, and the plan applied for can last anywhere from 12-36 months. If the property owner continues to make their payments on time the property is safe from tax suit and foreclosure. Furthermore, if they continue to make timely payments no additional penalty and interest will be added to the remaining balance.

This method can also sometimes be used to stop an existing tax suit from progressing to tax sale. At their discretion, the attorney or tax collector can enter into a payment agreement with the taxpayer after a tax suit has been filed. When this happens, the suit will remain active until all everything has been paid off, but the lawsuit will not progress towards foreclosure while the taxpayer is making timely payments.

An installment agreement is a helpful option to not only protect against foreclosure but keep the penalty, interest, and costs associated with a delinquent account to a minimum. However, there are limits to this option. A taxpayer can only apply for an installment plan on property that is their Homestead, and this must be done before a tax suit is filed to avoid costs and fees associated with a lawsuit. If eligible property owners should submit their written request to the tax collector as soon as possible.

Deferral

Another option for some is the Tax Deferral. Under the Deferral status taxpayers may postpone the payment of current and delinquent taxes and instead of the penalty and interest set out in the tax code any delinquent taxes only gain 5% interest annually. This is a good option for property owners, however, not everyone can qualify. Taxpayers can apply for a Tax Deferral if the property is their home and they are over 65, disabled, a disabled veteran, or a surviving spouse.

This can be a helpful break for those no longer able to work and is most advantageous when applied for early. However, it is important to remember that taxes are simply being deferred and are not cancelled entirely. Someone is expected to pay the property taxes and penalty and interest eventually; this usually falls to the heirs after the person receiving the deferral passes.

Abatement

Many homeowners who qualify for the deferral take advantage of the program, however, what if the taxpayer did not find out about the possibility of deferring their taxes until after a Tax Suit has been filed? Luckily, there is still an option for them. In addition to adding the deferral to future taxes they can obtain an abatement of any pending Tax Suit or sale to foreclose. To do this the homeowner must submit an affidavit stating why they qualify. The qualifications for an abatement are the same as for a deferral, the property must be the owner's homestead and the homeowner must be receiving the Over 65, Disabled Person, Disabled Veteran, or Surviving Spouse Exemption. If the property is set for Tax Sale the affidavit must be delivered to the court at least 5 days prior to the sale. Both deferrals and abatements are meant to aid those who are longer a part of the work force and may no longer be getting enough income.

Though taxes can be a costly aspect of owning property in Texas and the threat of a tax suit an intimidating prospect for some the Texas Tax Code sets about several options to help citizens keep their homes and avoid costly and time-consuming court proceedings. Between installment Plans, deferrals, and abatements homeowners can escape some of the more daunting and expensive aspects of the Texas Property Tax system. If you ever find yourself with delinquent taxes it is worth the time to do a bit a research into the tax codes. It can end up saving you some money and even save your home from foreclosure.