

Jul 14, 1999

OPN 99-0008

Honorable Karl Zimmermann, C.F.C.  
Indian River Tax Collector  
Post Office Box 1509  
Vero Beach, Florida 32961-1509

RE: Municipal Property; Lease to Nongovernmental Lessee  
Sections 196.199(8) and 197.432(9), Florida Statutes

Dear Mr. Zimmermann:

Thank you for your letter dated June 11, 1999, received by fax, concerning the proper collection and enforcement procedures of delinquent property taxes levied on municipal property leased to nongovernmental lessees.

You are correct that tax certificates may not be sold for delinquent taxes on governmental properties leased for nongovernmental purposes. See section 197.432(9), Florida Statutes. Such delinquent taxes are enforced in the manner provided in section 196.199(8), Florida Statutes, namely by tax execution or warrant. See Rule 12D-13.046, Florida Administrative Code.

You ask the following questions:

1. Is advertising required to issue these tax warrants/executions?
2. How do you proceed with tax collection efforts (identify the lessee), in view of the fact that cities are not identified on the tax rolls, and that often there is no leasehold or personal property to seize?

Response to Question One

Your first question is answered in the affirmative. Section 197.413, Florida Statutes, provides that tax warrants must be issued pursuant to publication and notice as provided for in section 197.402, Florida Statutes. Under the circumstances of the underlying statutory authority to collect from the lessee and/or government, in this instance, the same publication as done for warrants in the newspaper would appear to be sufficient for tax executions. See generally, Sarasota Herald-Tribune Co. v. Sarasota County, 632 So.2d 606 (Fla. 2nd DCA 1993); State ex rel. Yaeger et al. v. Rose, 93 Fla. 1018, 114 So. 373 (Fla. 1927). Currently, there are suggestions that executions and warrants are somewhat interchangeable in the tax statutes. However, warrants confer powers on the tax collectors, while the sheriff performs executions. See sections 197.412 through 197.416, Florida Statutes. Currently, the terms are used in tandem in the title of Form DR-517L ["Execution and Warrant for Collection of Delinquent Ad Valorem Leasehold Taxes"]

#### Response to Question Two

If there is no leasehold or personal property to seize, leasehold improvements may apparently be attached. See section 196.199(2)(b), Florida Statutes. Moreover, the governmental feeholder appears to be jointly liable for the property taxes under that section.

The taxpayer identification aspect of your question has been answered in previous correspondence from this office. Copies are enclosed with this letter.

If you have further questions with regard to this matter and wish to discuss them, you may call me at (850) 414-6105. If you have specific questions and would like a written response, mail your correspondence to: Technical Assistance and Dispute Resolution, Property Tax Unit, Post Office Box 7443, Tallahassee, Florida 32314-7443.

Sincerely,

Franz E. Dorn, Senior Attorney  
Technical Assistance and Dispute Resolution

Property Tax Unit

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Enclosures