
CHAPTER 5. REAL ESTATE TAXES

SECTION I - POLICY

- 5-1 Paying Real Estate Taxes, Special Assessments. During the period the property is held in the inventory, the Field Office is responsible for evaluating unpaid taxes and other liens against the property. Whenever possible, the Field Office must ensure that the assessed tax liability is fair and equitable when compared with comparable properties. Prompt payment by the due date or penalty date, whichever occurs later, of all taxes and liens must be made by the Field Office to avoid additional fines, penalties and assessments. Throughout this chapter, "due date" and "penalty date" are used to mean the same thing, i.e., the last date a payment can be received by the taxing authority before a penalty and/or interest is incurred.

SECTION II - INTERNAL CONTROL OBJECTIVES

- 5-2 Taxing Authorities. Applicable taxing authorities are identified.
- 5-3 Tax Payment Calendar. A tax payment calendar is maintained to ensure payments are made on a timely basis. All tax bills are reviewed for accuracy, and tax payment documentation is evaluated by an individual independent of the disbursement process to avoid duplicate disbursements.
- 5-4 Authorization for tax payments is documented in accordance with HUD program policies.
- 5-5 Appropriate procedures and/or controls are in place to record tax disbursements in a timely manner and avoid duplicate payments.
- 5-6 Segregation of Duties. The appropriate segregation of duties is maintained between authorization and tax disbursements.

SECTION III - PROCESSING PROCEDURES FOR PAYING REAL ESTATE TAXES
AND/OR SPECIAL ASSESSMENTS

- 5-7 Applicability.
- A. This chapter applies only to HUD-owned single family properties, Section 312, Title I, Section 1013, and other legal acquisitions.
- B. Tax bills relating to HUD-held mortgages are handled by the Field Office Loan Management staff and for multifamily properties by Mortgage Insurance Accounting and Servicing (MIAS) in Headquarters.

SECTION IV - PROCEDURES FOR SPECIAL PROPERTIES/CIRCUMSTANCES

- 5-8 Homestead Exemption. In states allowing homestead exemption

privileges, the Field Office must seek continuation of full exemption, with Regional/Area Counsel seeking favorable opinions from states' attorneys.

- 5-9 Governmental Entities and Eligible Nonprofits. Governmental agencies and eligible nonprofit organizations (homeless providers) leasing HUD-owned homes in the Homeless Program may be able to receive an exemption under state or local law from all or a portion of the obligation to pay property taxes on properties they lease from HUD. Wherever these organizations provide HUD with documentation of their tax exemption for payment of taxes on properties owned by HUD, the Field Office will cease the payment of taxes beginning with the first full tax period immediately following the effective date of the exemption. If an exemption falls within a tax period, Field Offices will prorate and pay taxes from the first day of the tax period

up to the effective date of the exemption. The Tax Transmittal will reflect the prorated amount in the "Total Bill Amount" field.

In the event HUD has already paid taxes on behalf of a homeless provider, HUD will not seek reimbursement from the provider for taxes incurred on and after the effective date of the exemption. However, at the discretion of the Chief Property Officer or as stipulated in the lease agreement, Field Offices may seek reimbursement from the provider for taxes paid prior to the effective date of the exemption. Homeless providers are not required to establish tax escrow accounts under the Homeless Program to the extent they are exempt. See paragraph 8-38 for a discussion of tax escrow accounts for homeless providers.

After a provider verifies its exemption from property taxes on HUD-owned properties, the appropriate tax accounts must be modified in SAMS to reflect this exempt status. The modification to SAMS must occur no earlier than the first full tax period following the effective date of the tax exemption. SAMS does not track tax account delinquencies once a tax account has been flagged as "exempt." Therefore, prior to modify the TX DS TA, Update Tax Account screen in SAMS, Field Offices must first retrieve the TX RP DQ, Delinquent Tax Bills Report, to ensure that any outstanding tax obligations unpaid on the property are processed for payment.

Prorated annual tax bills must include a copy of the exemption attached to the tax transmittal form. Also, taxing authorities may continue to issue tax bills after the effective date of an exemption. If this occurs, Field Offices must return the bill to the taxing authority with a copy of the exemption attached and follow up with the taxing authority to verify that HUD will not be assessed penalties or interest on taxes during the period of

exemption.

5-10 HUD pays real estate taxes and special assessments that were liens on properties at the time of acquisition or that are levied later on HUD-acquired properties. Mortgagees may include in their insurance benefits claims amounts advanced for:

- A. Taxes;
- B. Water and sewer bills that were superior liens;
- C. Special assessments, noted on the insurance application, that became liens after the mortgage was insured.

5-11 HUD has no obligation to pay and does not recognize the validity of liens incurred for nonpayment of personal property taxes. If necessary for transfer of title, HUD will process the bill for payment as a maintenance item, not a tax item. Payment of more than \$200 must first be approved by the Home Mortgage Division, OGC.

5-12 Timeliness of Payment.

- A. Proration. The following shall be prorated as of the date of the closing of the sale of the property:
 - 1. All assessments, including improvement assessments, which are available for payment without interest or penalty for advance payment.
 - 2. Taxes.
 - 3. Rent.
 - 4. Ground rent, if any.
- B. Prepayment. To comply with generally-accepted fiscal control and disbursement requirements, Field Offices may not prepay taxes for tax periods not yet due and payable. This

also means that several tax periods cannot be grouped together and paid in a lump sum even though the taxing authority may remit only one bill to cover multiple tax periods.

As a rule, tax bills should be forwarded to the SAMS contractor for payment within 4-6 weeks of the bill's penalty date. Upon receipt, the SAMS contractor will process the bills, but actual disbursement to the TA will not occur until approximately 10 business days before the tax penalty date.

Exceptions to this policy are permitted as follows:

1. Special tax assessments not regularly scheduled for payment may be paid (funds disbursed) in advance of the penalty date provided the total special assessment amount does not exceed \$200.
2. Taxes billed but unpaid as of the date of closing may be paid at closing even if the tax bill is not actually due until after the scheduled closing date. Taxes will be prorated on the HUD-1 Settlement Statement to debit sales proceeds for taxes owed by HUD up to and including the date of closing.
3. HUD may prepay, regardless of due date or penalty, when it would be clearly advantageous to the sale of an acquired property. The Field Office must clearly explain in a written justification to the Regional Director of Housing Management that the prepayment is essential to property sales. If the Regional Director of Housing Management issues a written letter of authorization permitting certain taxes to be prepaid, a copy of this letter must accompany the Tax Transmittal form and bill(s) forwarded for payment to the SAMS Contractor.

NOTE: The Regional Director may elect to permit a prepayment of taxes on a case-by-case basis only. Under no circumstances may these exceptions become standard procedure.

4. Tax bills may be prepaid when a discount is earned for the prepayment. Discounts must be clearly shown on the tax transmittal.
5. Headquarters may, in unique and unusual situations, authorize the payment of taxes in advance of the penalty date for specific offices during specific tax periods.

C. Special Assessments.

1. The Field Office must obtain and process special assessment bills as soon as available and, upon receipt, ensure each bill is immediately identified in SAMS. As discussed above, these bills are paid when due, but may be prepaid if the total assessment amount does not exceed \$200. As with all tax bills, special assessment bills must include FHA case numbers and property addresses. If not already preprinted on the bill, the tax clerk must write this information on the bill.
2. The Field Office will approve the bills, attach them to a tax transmittal form, and forward them for disbursement to the SAMS Contractor.

5-13 Mortgagee Nonpayment. If in settlement of mortgage insurance claims, HUD provided the mortgagee with funds to cover taxes, but those taxes were never paid, the Field Office must request in

writing that the mortgagee either pay the bill or refund sufficient settlement cash for the Field Office to do so.

4310.5 REV-2

5-14 Avoiding Duplicate Payment by HUD and Mortgagee.

- A. In the event both HUD and the mortgagee pay the same tax on a property, the Field Office must seek a refund of the duplicate payment. Determine possible duplicate payments from Form HUD-27011 by comparing Part A, Schedule of Tax Information, with Part D, Taxes and Special Assessments.
- B. After closing, if the purchaser (or servicer) pays a tax which should have been paid by HUD but was not, the Field Office must submit a Form SAMS-1106, Invoice Transmittal, to the SAMS contractor for reimbursement to the purchaser.

5-15 Reserved.

SECTION V - CONTINUING PROCEDURES

5-16 Liaison with Local Tax Authority (TA). CPOs must maintain effective working relationships with local tax authorities to gain cooperation in efficient management of records and billing. Presented throughout this section are situations in which HUD requests TA action or procedures which are solely at the discretion of the TA.

- A. Field Offices must request TAs to:
 - 1. See that acquired properties are assessed individually.
 - 2. Furnish individual tax bills for each property and enter the FHA case number on each bill. Notify the Field Office of any scheduled tax sale of a HUD property.
- B. Field Offices must ensure that each taxing authority is defined in SAMS. Either the taxing authority or the Field Office must complete Form SAMS 1110 "Taxing Authority Profile" for each tax type and tax period applicable to the TA's scheduled tax billings. The form must be reviewed by the Field Office for accuracy and consistency. Final approval evidenced by the signature of the Field Office Manager or designee is required. The form is then forwarded to the SAMS contractor for input to SAMS. Once defined in SAMS, the Field Offices will have system access to the taxing authority's profile data including:
 - 1. Penalty and discount dates for each tax type;
 - 2. Frequency/due dates for each tax period or installment;

3. Each tax type regularly billed;
 4. Names of persons to contact concerning bills, assessments, and information on payment history; and
 5. Remittance information.
- C. Field Offices may, at their option, also maintain a master file separate from the SAMS system to include additional background information on each taxing authority. This information should include:
1. TA's method for notifying the Field Office of tax sale.
 2. Tax refund rules and evidence required.
 3. Procedures for initiating assessment appeals.
 4. Such other information as deemed necessary for efficient Field Office management of tax issues.

5/94

5-4

4310.5 REV-2

5-17 Payments.

A. Timing.

1. Taxes will be paid on time to avoid penalty.
2. Wait Until Closing Option. Typically, real estate taxes are paid when due. However, a comparison was made of the administrative costs of paying taxes during normal tax cycles with projected costs of waiting until closing. The comparison showed that, depending on local taxing methods, significant savings may be realized when taxes are paid at closing. Therefore, Field Offices are authorized to adopt a "Wait Until Closing" policy of tax payment for any tax jurisdiction in which all the following conditions are met:
 - a. Property sales in the tax jurisdiction are relatively even throughout the year;
 - b. Properties are not subject to tax sale within one year of initial delinquency;
 - c. Within the Field Office's jurisdiction, mortgagees normally pay taxes due before properties are conveyed to HUD;
 - d. The Field Office's turnover rate is equal to or less

than seven (7) months;

- e. The local taxing authority's penalty rate does not exceed 25% per annum; and
- f. Local taxes are not unusually high. Tax rates must be less than 2.5 percent of assessed value based on 100% assessment.

Field Offices which adopt this policy must document the justification for using this procedure and maintain the documentation for official review.

- 3. Processing tax bills through the SAMS Tax Subsystem, which includes defining taxing authorities and establishing tax account numbers at the time of property acquisition, is not required.
- 4. Properties in inventory one year or longer are not eligible for the "Wait Until Closing" policy. Taxes must be paid through the SAMS Tax Subsystem when due for any property in inventory one year or longer. Taxing authorities must be defined and tax accounts established for these properties.

B. Priority - Penalties, Delinquencies, Appeals.

- 1. Both current and delinquent taxes should be processed for payment at the same time as follows:
 - a. Current bills which include an UNDATED PENALTY OR INTEREST DUE may be paid in full on the same tax transmittal with the current tax period provided the penalty and/or interest charges do not include a delinquent tax, and the total amount of the interest/penalty does not exceed \$100.
 - b. Current bills which include both UNDATED PENALTY OR INTEREST charges AND delinquent back taxes in amounts which together exceed \$100. must be applied to the correct tax period as defined in SAMS. At least two tax transmittals will be required to pay the bill. Generally, undated delinquencies are applied to the previous tax period.

- c. Current bills which include DATED DELINQUENCY, PENALTY, AND/OR INTEREST CHARGES must be paid on a separate tax transmittal to ensure these past due amounts are applied to the correct tax period.

2. Multiple past due taxes incurred prior to acquisition may be paid using one tax transmittal and the OP (Other Period) tax period option provided:
 - a. More than one past due bill has been received; OR
 - b. Both current charges and multiple past due tax installments incurred prior to acquisition are included on the same bill; OR
 - c. One or more delinquent special assessment taxes incurred prior to acquisition are billed to HUD.

Delinquencies, interest, and penalties incurred during HUD's ownership are processed in accordance with paragraph B 1. above. In addition, bills which include no more than one delinquent installment period, regardless of when incurred, are also processed in accordance with paragraph B 1. above. (Undated delinquencies are usually applied to the previous tax period.)

3. Delinquent bills are processed through the SAMS contractor for payment. However, if a sales closing could be delayed by waiting for the SAMS contractor's disbursement, the following procedure is used:
 - a. The closing agent advances funds to cover taxes (including any penalties and interest), with HUD's portion of the prorated taxes shown as a separate entry on the HUD-1 Settlement Statement.
 - b. The closing agent is reimbursed either from sales proceeds or by submitting a Form SAMS-1106, Invoice Transmittal, with the Field Office's closing package. In either case, a TA's receipt or copy of the check must be included in the executed closing package the agent returns to HUD. Form SAMS-1106 must be reviewed and approved by the Field Office before it is forwarded to the SAMS contractor for payment.
 - c. Delinquent tax accounts may be approved for payment only after it has been verified that the tax was not already paid.
4. Appeals. Field Offices should review all notices of assessments. In those offices where a determination on an appeal of an assessment is likely to be forthcoming prior to the average turnover date of the property (based on the office average), appeals shall be taken but only where a favorable outcome will result in a tax savings to the Department.

- C. Internal Controls Governing Tax Disbursements. Tax payments are disbursements to vendors and, as such, are subject to HUD's disbursement policies regarding internal controls, proper documentation, and separation of duties. Refer to Chapter 16,

Disbursements, for procedures applicable to establishing taxing authorities as vendors in SAMS and authorizing tax payments through the SAMS contractor.

5/94

5-6

4310.5 REV-2

-
- 5-18 Obtaining Bills. The Field Office must ensure that tax bills are received and identified promptly in SAMS and that tax account numbers, tax types, and tax period due dates agree with data previously defined in the SAMS database.
- A. At an agreed upon date, the Field Office may, at its option, send to the TA the acquired properties inventory list together with the SAMS "Request for Tax Bills" report.
 - B. Bills received will be processed through the SAMS Tax Subsystem in accordance with procedures described in the SAMS User Handbook.
 - C. Each month the tax clerk must review the SAMS "Delinquent Tax Bills" Report. Missing bills are to be obtained in time to preclude penalties for late payment. As appropriate, Field Offices must request that TAs accept a check postmarked by the tax due date to avoid penalty payments. If the TA has misdirected a bill, the Field Office must promptly obtain it from the person to whom it was sent or request that the TA issue a duplicate bill to the Field Office for payment.
 - D. If no SAMS tax account data exists for the bill and the case number is known but not established in SAMS, the tax clerk must check the HUD-held mortgage listings and multifamily records to determine if the bill should have been sent to the Field Office Loan Management staff. If the property appears on neither list, the CPO or designee must contact the TA to determine disposition of the bill.
- 5-19 Tax Record Files.
- A. All acquisition and disposition documents, requests for tax adjustment, and schedules of tax information on home properties must be routed through the Field Office tax clerk so that tax data can be kept current in SAMS.
 - B. When an acquisition document on a property is received, the tax clerk must define all applicable tax account data in SAMS. This data will include the date the tax was last paid so that responsibility for penalty payments, if applicable, can be properly assessed to either HUD or the mortgagee and delinquent tax reports generated by SAMS will be accurate.

Offices qualifying for the "Wait Until Closing Option" are

exempt from this data entry requirement providing the property is sold and reconciled within one year of acquisition.

5-20 Notice to TA of Acquisition/Sale.

- A. At Acquisition of a property, the Field Office or the Property Manager must notify the TA, by letter, of the change in ownership and request that future bills be sent to the attention of the CPO, with the HUD case number entered on each. (See Appendix 26.)
- B. Sale of an Acquired Property. Within five days after receiving the executed closing documents, the Field Office must notify the TA of the sale and the new owner's billing address (See Appendix 26), or ensure that the closing agent has done so.

SECTION VI - PROCEDURES FOR TAX PAYMENTS RELATED TO SPECIFIC PD STATUS

5-21 Sold But Not Closed Properties. To preclude duplicate payment, Field Offices must ensure close coordination between closing agents and tax clerks. The tax clerk must not submit tax bills to the SAMS contractor when the bill is to be paid at sales closing.

Tax clerks are to pay particular attention to system-generated data that appears when entering the tax bill in SAMS. If the "Expected Settlement Date" is shown as prior to the "Pay Date" of the tax bill, then it is usually preferable to hold the bill for payment at closing so that HUD

disburses no more than is actually owed to the date of closing. CPO, or designee, review and signature and the signature approval of the Certifying Officer on the tax transmittal form are required before the SAMS contractor will disburse tax payments on cases under contract to close (DM Step 8).

5-22 Sold and Closed Properties. Closing packages are to be taken to the tax clerk for verification that all taxes have been paid for the period of HUD's responsibility and that, if prorated on the HUD-1 Settlement Statement, the proration is accurate for each tax type. If the HUD-1 Settlement Statement indicates any owed taxes were not paid, the clerk must request a bill from the TA and promptly process it for payment through the SAMS contractor.

5-23 Post-Closing Procedures.

A. Current Bills:

- 1. Must be forwarded to purchaser if address is readily available and HUD has paid all taxes for which it was

responsible.

2. Must be returned to the TA if purchaser's address is not available.
3. Must be followed by Field Office renotification to the TA that the property is no longer owned by HUD.

B. Delinquent Bills:

1. Must be approved for payment only after it is verified that the tax was not already paid.
2. Delinquent taxes are paid through the SAMS Tax Subsystem if the case number had been established in SAMS. If the case had never been established in SAMS because it closed prior to implementation of the SAMS system, complete a Form SAMS-1106, Invoice Transmittal, payable to the taxing authority in the amount of delinquent taxes owed. Annotate the form: CASE NOT IN SAMS. Refer to the SAMS User Handbook for system instructions on paying taxes.
3. At the discretion of the CPO, may seek reimbursement of penalties paid for taxes owed prior to HUD's acquisition of the property. Collection of these penalties should take into account the administrative costs of collecting the debt to determine if the action benefits the Department.

Anytime it can be determined that a mortgagee overcharged a claim to HUD for taxes declared paid but which, in fact, were unpaid at the time of HUD's acquisition, the Field Office must take action to collect these claims overcharges from the mortgagee. Follow debt collection procedures shown in Chapter 17.

SECTION VII - PROCESSING REQUIREMENTS FOR SAMS

- 5-24 General. Data pertinent to processing, managing, and controlling tax payments on acquired properties is entered in SAMS on a current basis as the bills are received and/or become due. Refer to the SAMS User Handbook for data entry instructions and examples of data screens and reports.