

§ 105-357. Payment of taxes.

(a) Medium of Payment. – Taxes shall be payable in existing national currency. Deeds to real property, notes of the taxpayer or others, bonds or notes of the taxing unit, and payments in kind shall not be accepted in payment of taxes. A taxing unit may not permit the payment of taxes by offset of any bill, claim, judgment, or other obligation owed to the taxpayer by the taxing unit. The prohibition against payment of taxes by offset does not apply to offset of an obligation arising from a lease or another contract entered into between the taxpayer and the taxing unit before July 1 of the fiscal year for which the unpaid taxes were levied.

(b) Acceptance of Checks and Electronic Payment. – The tax collector may accept checks and electronic payments, as defined in G.S. 147-86.20, in payment of taxes, as authorized by G.S. 159-32.1. Acceptance of a check or electronic payment is at the tax collector's own risk. A tax collector who accepts electronic payment of taxes may add a fee to each electronic payment transaction to offset the service charge the taxing unit pays for electronic payment service. A tax collector who accepts electronic payment or check in payment of taxes may issue the tax receipt immediately or withhold the receipt until the check has been collected or the electronic payment invoice has been honored by the issuer.

If a tax collector accepts a check or an electronic payment and issues a tax receipt and the check is returned unpaid (without negligence on the part of the tax collector in presenting the check for payment) or the electronic payment invoice is not honored by the issuer, the taxes for which the check or electronic payment was given shall be deemed unpaid; the tax collector shall immediately correct the copy of the tax receipt and other appropriate records to show the fact of nonpayment, and shall give written notice by certified or registered mail to the person to whom the tax receipt was issued to return it to the tax collector. After correcting the records to show the fact of nonpayment, the tax collector shall proceed to collect the taxes by the use of any remedies allowed for the collection of taxes or by bringing a civil action on the check or electronic payment.

A financial institution with which a taxing unit has contracted for receipt of payment of taxes may accept a check in payment of taxes. If the check is honored, the financial institution shall so notify the tax collector, who shall, upon request of the taxpayer, issue a receipt for payment of the taxes. If the check is returned unpaid, the financial institution shall so notify the tax collector, who shall proceed to collect the taxes by use of any remedy allowed for collection of taxes or by bringing a civil action on the check.

(1) Effect on Tax Lien. – If the tax collector accepts a check or electronic payment in payment of taxes on real property and issues the receipt, and the check is later returned unpaid or the electronic payment invoice is not honored by the issuer, the taxing unit's lien for taxes on the real property shall be inferior to the rights of purchasers for value and of persons acquiring liens

of record for value if the purchasers or lienholders acquire their rights in good faith and without actual knowledge that the check has not been collected or the electronic payment invoice has not been honored, after examination of the copy of the tax receipt in the tax collector's office during the time that record showed the taxes as paid or after examination of the official receipt issued to the taxpayer prior to the date on which the tax collector notified the taxpayer to return the receipt.

- (2) Penalty. – In addition to interest for nonpayment of taxes provided by G.S. 105-360 and in addition to any criminal penalties provided by law, the penalty for presenting in payment of taxes a check or electronic funds transfer that is returned or not completed because of insufficient funds or nonexistence of an account of the drawer or transferor is twenty-five dollars (\$25.00) or ten percent (10%) of the amount of the check or electronic invoice, whichever is greater, subject to a maximum of one thousand dollars (\$1,000). This penalty does not apply if the tax collector finds that, when the check or electronic funds transfer was presented for payment, the drawer of the check or transferor of funds had sufficient funds in an account at a financial institution in this State to make the payment and, by inadvertence, the drawer of the check or transferor of the funds failed to draw the check or initiate a transfer on the account that had sufficient funds. This penalty shall be added to and collected in the same manner as the taxes for which the check or electronic payment was given.

(c) Small Underpayments and Overpayments. – The governing body of a taxing unit may, by resolution, permit its tax collector to treat small underpayments of taxes as fully paid and to not refund small overpayments of taxes unless the taxpayer requests a refund before the end of the fiscal year in which the small overpayment is made. A "small underpayment" is a payment made, other than in person, that is no more than one dollar (\$1.00) less than the taxes due on a tax receipt. A "small overpayment" is a payment made, other than in person, that is no more than one dollar (\$1.00) greater than the taxes due on a tax receipt.

The tax collector shall keep records of all underpayments and overpayments of taxes by receipt number and amount and shall report these payments to the governing body as part of his settlement.

A resolution authorizing adjustments of underpayments and overpayments as provided in this subsection shall:

- (1) Be adopted on or before June 15 of the year to which it is to apply;
- (2) Apply to taxes levied for all previous fiscal years; and

- (3) Continue in effect until repealed or amended by resolution of the taxing unit. (1939, c. 310, s. 1710; 1971, c. 806, s. 1; 1987, c. 661; 1989, c. 578, s. 3; 1989 (Reg. Sess., 1990), c. 1005, s. 8; 1991, c. 584, s. 2; 1999-434, s. 6; 2001-487, s. 25; 2002-156, s. 1; 2005-134, s. 1; 2005-313, s. 10.)