

Attachment and Garnishment

School of Government Webinar

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Our Expert Panel



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Poll

- Do you regularly attach *bank accounts* for delinquent property taxes?
 - Yes
 - No
 - What's an attachment?



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Poll

- Do you regularly attach *wages* for delinquent property taxes?
 - Yes
 - No

Poll

- Do you regularly attach *rent payments* for delinquent property taxes?
 - Yes
 - No

Attachment and Garnishment

- What?
- When?
- Who?
- How?

What is A&G?

**Satisfying a Debt from
Intangible Personal Property**

Use for the Collection of ANY Local Tax:

- Property taxes
- Occupancy taxes
- Prepared Food & Beverage taxes

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What is A&G?

**Also use for the collection of any debt that
can be *collected like a tax*:**

- Special Assessments
- Demolition Liens
- Nuisance Abatement Costs
- Ambulance Fees (some counties)

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What is A&G?

Intangible Personal Property:

- Any \$\$ owed to taxpayer*
- Wages
- Bank accounts
- Rents
- Real Estate Closing Settlements

. . . But be careful of benefit payments

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Some benefits are exempt from A&G even *after payment*

- Social Security benefits
- Federal pensions
- Military veteran benefits
- State unemployment compensation

Some benefits are exempt from A&G even *after payment*

- Federal regulations place obligation on bank to determine if account holds exempt Social Security funds
- Taxpayer may complain about other types of exempt funds

When Can I Use A&G?

1. When taxes become delinquent

- Accrue interest on Jan. 6 (*regular*)
- DQ event (*deferred taxes*)

When Can I Use A&G?

2. Taxpayer is about to become insolvent
3. Property is about to be
 - removed from jurisdiction
 - sold
4. Sale of fixtures/supplies by retailer
 - going-out-of-business sale

Don't need to wait for delinquency! GS 105-366

Who can be targeted with A&G?

- The responsible taxpayer(s)

Who can be targeted with A&G?

- Real Property:
 - Owner on date of delinquency (Jan. 6)
 - and all subsequent owners!
- Personal Property:
 - Listing owner (previous Jan. 1)
 - Not subsequent owners!



Who can be targeted with A&G?

Coach K lists a boat for 2016 taxes.
In May 2016 he sells his boat to Roy.
2016 taxes become delinquent 1/6/2017.
Roy sells the boat to Pat in Feb. 2017.

In March 2017, whose bank account can be attached for the 2016 taxes on the boat?

Poll

- Whose bank account may be attached for the 2016 taxes on the boat?
 - Mike
 - Roy
 - Pat
 - All of the above.

Who can be targeted with A&G?

Donald lists Parcel A for 2016 taxes.
In May 2016 he sells Parcel A to Hillary.
2016 taxes become delinquent on 1/6/17.
Hillary sells Parcel A to Bernie in February 2012.

In March 2017, whose bank account can be attached for the 2016 taxes on Parcel A?

Poll

- Whose bank account may be attached for the 2016 taxes on Parcel A?
 - Donald
 - Hillary
 - Bernie
 - Hillary or Bernie
 - All of the above

Who can be targeted with A&G?

- Joint Bank Accounts?
- Corporations and LLC's?
- Partnerships?
- "DBA's" and sole proprietorships?

Who can be targeted with A&G?

Heir Property?

Blog post 11/19/15

Who can be targeted with A&G?

- Banks or employers in other counties?
- Out-of-state banks?
- Out-of-state employers?
- Military?

How do I Conduct an A&G?

- **First step: Find the \$\$\$!**
 - City/county owe \$ to taxpayer?
 - Banks (checks)
 - Employers (lists, ESC)
 - Rents
 - Escheats

Rent Attachments

How do you know if the taxpayer owns rental property?

- Owns multiple properties
- Mailing address is different than property
- Accurint search for property address shows separate individual residing on property
- Field visit



Escheats Garnishments

- Escheated funds are unclaimed fund held by the North Carolina State Treasurer
- Garnishments may be done on individual and business taxpayers

Tips for Garnishing Escheated Funds

- Go to www.nccash.com and search for a name match to your delinquent citizen

Tips for Garnishing Escheated Funds

- Submit a garnishment along with proof of address that your citizen had the address listed on nccash
- Submit social security number or FEIN on the garnishment if available

Tips for Garnishing Escheated Funds

- Submit the associated property ID number or claim form. (Claim form does not replace garnishment)

Tips for Garnishing Escheated Funds

- Keep in mind that certain property cannot be released to us with garnishments including:
 - CSC (Clerk of Superior Court funds)
 - Custodian account funds
 - Safekeeping/tangible/stock
 - Certain co-owned property

How do I Conduct an A&G?

- Second step:
- NOTICE to taxpayer and garnishee

Notice for A&G

- Registered/Certified Mail or Personal Service
 - What if they refuse to sign?
- \$30 per notice
 - \$60 total (usually)
- When should service fees be refunded?
- Timing?

UNC Bank first, then wait 2 days (new!)

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Notice for A&G

- Timing?
 - Bank first, then wait at least 2 days?
 - Taxpayer first, then employer?
 - Decision is up to you

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What *Should* Happen Next . . .

- Bank Account Attachment
 - Federal benefit account review (2 days)
 - Unprotected funds frozen
 - 10 days to remit unprotected funds

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What *Should* Happen Next . . .

- Employer Wage Garnishment
– 10% of gross pay every pay period

Common Responses

- “We can’t attach a bank account without a Social Security number”
- “We’re already garnishing the employee’s wages for state (or federal) taxes and federal law says we can’t garnishment more than 25% total.”

Other Common Problems

- Bankruptcy
- Errors by Bank
- Listing Errors Discovered After A&G
