

## **Chapter 319: AUDITOR**

### **319.20 Transfer of title and tax value of property**

After complying with sections 319.202, 315.251, and 319.203 of the Revised Code, and on application and presentation of title, with the affidavits required by law, or the proper order of a court or the county board of revision, bearing the last known address of the grantee, or of any one of the grantees named in the title, and a reference to the volume and page of the recording, or other means of identifying the recording, of the next preceding recorded instrument by or through which the grantor claims title, the county auditor shall transfer any land or town lot or part thereof, minerals therein, or mineral rights thereto, charged with taxes on the tax list, from the name in which it stands into the name of the owner, when rendered necessary by a conveyance, partition, devise, descent, or otherwise. If by reason of the conveyance or otherwise, a part only of a tract or lot, minerals therein, or mineral rights thereto, as charged in the tax list, is to be transferred, the auditor shall determine the tax value of the part of a tract or lot of real estate, minerals therein, or mineral rights thereto, so transferred, and the value of the remaining part compared with the value of the whole.

Whenever a part only of a tract or lot of real estate has been transferred by the auditor and the tract or lot bears unpaid taxes, penalties, interest, or special assessments, the unpaid taxes, penalties, interest, or special assessments shall immediately be apportioned, upon demand or request by the transferee or remaining owner, in the following manner:

(A) The auditor shall allocate to the part so transferred, and to the remaining part, amounts of any current or delinquent taxes, interest, or penalties that have accrued against the parcel as a whole, proportionate to their respective values.

(B) The lien of taxes, penalties, interest, and special assessments, as levied against the original tract, shall extend to the part so transferred and the part remaining only to the extent of the amounts so allocated to the respective parts.

This section does not change the total amount of taxes, special assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Whenever the state acquires an entire parcel or a part only of a parcel of real property in fee simple, the county auditor, upon application of the grantor or property owner or the state, which application shall contain a description of the property as it appears on the tax list and the date of transfer of ownership, shall prepare an estimate of the taxes that are a lien on the property, but have not been determined, assessed, and levied for the year in which the property was acquired. The county auditor shall thereupon apportion the estimated taxes proportionately between the grantor and the state for the period of the lien year that each had or shall have had ownership or possession of the property, whichever is earlier. The county treasurer shall accept payment from the state for estimated taxes at the

time that the real property is acquired. If the state has paid in full in the year in which the property is acquired that proportion of the estimated taxes that the tax commissioner determines are not subject to remission by the county auditor for such year under division (D) of section 5713.08 of the Revised Code, the estimated taxes paid shall be considered the tax liability on the exempted property for that year.

Section 319.42 of the Revised Code applies to the apportionment of special assessments.

Complaint against such values as determined by the auditor or the allocation of assessments by the certifying authority may be filed by the transferee or the remaining owner, and if filed, proceedings including appeals shall be had in the manner and within the time provided by sections 5717.01 to 5717.06 and 5715.19 to 5715.22 of the Revised Code, for complaints against valuation or assessment of real property.

The auditor shall endorse on the deed or other evidences of title presented to the auditor that the proper transfer of the real estate described in the deed has been made in the auditor's office or that it is not entered for taxation, and sign the auditor's name to the deed. The address of the grantee, or any one of the grantees, set forth in the deed or other evidences of title shall be entered by the auditor on the transfer sheets and on the general tax list of real property prepared pursuant to section 319.28 of the Revised Code.

Effective Date: 05-08-1996; 09-29-2005; 2008 HB160 06-20-2008; 2008 SB353 04-07-2009

### **319.201 Evidence of title to real property acquired by state or political subdivision**

Whenever the state or any political subdivision thereof acquires an easement, right, title, or interest in a parcel or part of a parcel of real property, either by deed of purchase or by order of a court or a county board of revision, upon which parcel of real property the lien for taxes has attached under section 323.11 or 5727.06 of the Revised Code, the state agency or political subdivision acquiring such real property shall file evidence of title, by purchase or by order of a court or a board of revision, with the county auditor of the county in which such property is located. Such evidence of title shall contain a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the grantor or previous property owner acquired or claims title. Such evidence of title shall be endorsed by the county auditor as provided in section 317.22 of the Revised Code, and recorded as other instruments of conveyance are recorded. Any evidence of title to real property that the state or an agency of the state files pursuant to this section shall identify the agency of the state that has the use and benefit of the property as specified in section 5301.012 of the Revised Code.

All taxes appearing on the current tax duplicate as owing on such transferred parcel or part of such parcel of real property shall be due and payable as of the date of transfer or acquisition of easement, right, or interest, whichever is later.

Whenever said easement, right, or interest has been acquired in a parcel or part of a parcel of real property after the lien for taxes has attached and the taxes for said tax lien year have not been determined, assessed, and levied for that year, the county auditor, upon application of the grantee or the grantor or property owner, shall make an estimate of the taxes that will be assessed and levied against said parcel for the tax lien year.

If the grantor or property owner has transferred only a part of the parcel by easement, right, or interest in or to such part of the parcel of real property to the state or a political subdivision thereof, the county auditor shall apportion the tax valuation of the parcel of real property proportionately between the part acquired by the state or the political subdivision and the residue remaining with the grantor. If such tax valuation of the residue remaining with the property owner is sufficient to support the taxes that are a lien or that are due and payable, the lien for taxes shall attach to the residue part of the parcel. If such apportioned assessed valuation of the part of the parcel remaining with the grantor or property owner is not sufficient to support the taxes on the parcel that are due and payable and the proportionate amount of the estimated taxes that are a lien but not determined, assessed, and levied, such taxes shall immediately be due and payable; provided, that the grantor or property owner shall be liable only for that portion of the estimated taxes, for the period of the tax lien year preceding the transfer or conveyance of the property to the state or the political subdivision.

This section does not change the total amount of taxes, special assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Section 319.42 of the Revised Code applies to the apportionment of special assessments.

Upon presentation of the executed instrument of conveyance of an easement or the order of court conveying or granting such an easement for highway purposes together with evidence or proof showing that the proportionate amount of taxes, penalties, and interest charged against the part of the whole parcel over which the easement attaches and the proportionate amount of estimated taxes to be levied and assessed against the part of the parcel acquired for highway purposes have been paid or provision made for the payment thereof, the county auditor shall reduce the tax valuation of the parcel to reflect the value of the part or portion used or occupied as a public highway in accordance with section 5713.04 of the Revised Code.

The lien for taxes shall thereupon be extinguished as to that part or portion acquired and used for public highway purposes.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Effective Date: 10-26-1999; 2008 SB353 04-07-2009

### **319.30 Tax levied upon each tract of real property**

(A) After receiving from officers and authorities empowered to determine the rates or amounts of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, the county auditor shall proceed to determine the sums to be levied upon each tract and lot of real property, adding, except as provided under section 319.48 of the Revised Code for tracts and lots on the real property tax suspension list, the taxes of any previous year that have been omitted or that are delinquent, including the penalties and interest thereon, and upon the amount of public utility property listed on the general tax list and duplicate in the county, in the name of each public utility, which shall be assessed equally on all property subject to such taxes, and entered in one or more columns, in such manner and form as the tax commissioner prescribes. The auditor shall enter as separate items any interest required to be so entered under division (B)(1) , (2), or (3) of section 323.121 of the Revised Code.

(B) If a taxing authority or unit has not certified the necessary levies to the county auditor by the time prescribed by section 5705.34 of the Revised Code and an appeal of an action of the budget commission with respect to the tax rate of that authority or unit has been initiated under section 5705.341 or 5705.37 of the Revised Code but a final determination has not been made, the county auditor, in order to avoid a delay in the preparation of the tax list and duplicate, may proceed under division (A) of this section, using in lieu of the rate of tax to be levied for such authority or unit for any levy that has not been so certified, the estimated rate certified to the taxing authority or unit under section 5705.34 of the Revised Code. If as a result of the appeal the tax rate certified to the county auditor is not the same as the estimated rate used to determine the sums to be levied, the auditor shall proceed in the manner prescribed by this section and sections 319.301 and 319.302 of the Revised Code to determine the correct amount of taxes to be levied, charged, and payable for the year. If the correct amount of taxes charged and payable after the determination is complete is greater than or less than the taxes charged and payable as shown on the tax list and duplicate, a clerical error shall be deemed to have occurred in the preparation of the tax list and duplicate, and the auditor shall proceed in the manner prescribed by section 319.35 of the Revised Code.

(C) Notwithstanding section 2723.01 of the Revised Code, when any taxing district or the county auditor or county treasurer is involved in litigation, no court shall, with respect to such litigation, enjoin the collection of any taxes on real property, except assessments, for the current tax year, on or after the fifteenth day of November of that year. Any such injunction issued prior to that date shall expire on the fifteenth day of November of that year, and the county auditor and county treasurer shall proceed to levy and collect taxes for that year as required by law, in the following manner:

(1) Each tax that is a subject of the litigation and that was approved and authorized by the county budget commission pursuant to section 5705.31 of the Revised Code shall be levied by the county auditor at the rate approved and authorized by the budget commission.

(2) With respect to any other matter that was the subject of any order, determination, or certification required by law to be made by the tax commissioner, or is the subject of any rule, opinion, order, or instruction issued by the commissioner pursuant to section 5715.28, 5715.29, or 5715.30 of the Revised Code, the county auditor shall proceed in accordance with such authority.

The court shall attempt to decide the litigation prior to the first day of May, so that, absent an appeal, the county auditor may adjust the amount of taxes to be collected at the second-half collection in accordance with the order of the court. In such a case the adjustment shall be treated as the correction of a clerical error pursuant to section 319.35 of the Revised Code.

Effective Date: 05-25-1994; 2008 SB353 04-07-2009

### **319.43 Settlement for real and public utility property taxes - certification of delinquent list**

(A) On or before the fifteenth day of February and on or before the tenth day of August of each year, the county auditor shall attend at the auditor's office to make settlement with the county treasurer and ascertain the amount of real property taxes and assessments and public utility property taxes with which such treasurer is to stand charged. At each August settlement the auditor shall take from the duplicate previously put into the hands of the treasurer for collection a list of all such taxes and assessments as the treasurer has been unable to collect, describing in such list the property on which the delinquent taxes and assessments are charged as described on the duplicate, and note on the list, in a marginal column, the several reasons assigned by the treasurer why such taxes and assessments should not be collected. Such list shall be signed by the treasurer, who shall testify to its correctness, under oath to be administered by the auditor.

(B) When making a settlement required by this section, if the county treasurer, under division (A) or (B) of section 321.341 of the Revised Code, has made advance payments to the several taxing districts of the current year unpaid taxes or current year delinquent taxes by means of a current unpaid or delinquent tax line of credit or by means of any other type of borrowing, the county auditor shall not apportion the current year unpaid taxes or current year delinquent taxes thereafter collected if the distribution of the taxes and assessments was made by means of such borrowing. The county treasurer shall apply the current year unpaid taxes or current year delinquent taxes, as applicable and upon collection, to repayment or reimbursement of the source from which the money to make the advance payments was borrowed. The county auditor shall not apportion the penalties and interest on such current year unpaid taxes and current year delinquent taxes collected thereafter to the several subdivisions. The county treasurer shall retain the penalties and interest in the county treasury and shall credit the penalties and interest to the county land reutilization corporation fund established under section 321.263 of the Revised Code pending appropriation to and for the benefit of a county land reutilization corporation organized under Chapter 1724. of the Revised Code.

Effective Date: 10-01-1953; 2008 SB353 04-07-2009

### **319.45 Certificate to treasurer as to moneys collected**

(A) In making the settlement required by sections 319.43 and 319.44 of the Revised Code, the county auditor shall carefully examine the tax duplicate and ascertain, from the entries of taxes, interest, and penalty paid in whole or in part, and from such other sources of information as are within the auditor's reach, the true amount collected by the county treasurer on account of each of the several taxes charged on such duplicate, the amount remaining in the hands of the treasurer payable to each fund, and shall give to the treasurer separate certificates, in duplicate, of the separate sums found to have been collected by the treasurer.

(B) In making each of those settlements, the county auditor, except as provided in division (B) of section 319.43 of the Revised Code, shall apportion any delinquent taxes, penalties, and interest among the several taxing districts in the same proportions that the amount of real and public utility property taxes levied by each district in the preceding tax year bears to the amount of real and public utility property taxes levied by all such districts in the preceding tax year.

Effective Date: 03-31-2003; 2008 SB353 04-07-2009

### **319.54 Fees to compensate for auditor's services**

(A) On all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, the county auditor, on settlement with the treasurer and tax commissioner, on or before the date prescribed by law for such settlement or any lawful extension of such date, shall be allowed as compensation for the county auditor's services the following percentages:

(1) On the first one hundred thousand dollars, two and one-half per cent;

(2) On the next two million dollars, eight thousand three hundred eighteen ten-thousandths of one per cent;

(3) On the next two million dollars, six thousand six hundred fifty-five ten-thousandths of one per cent;

(4) On all further sums, one thousand six hundred sixty-three ten-thousandths of one per cent.

If any settlement is not made on or before the date prescribed by law for such settlement or any lawful extension of such date, the aggregate compensation allowed to the auditor shall be reduced one per cent for each day such settlement is delayed after the prescribed date.

No penalty shall apply if the auditor and treasurer grant all requests for advances up to ninety per cent of the settlement pursuant to section 321.34 of the Revised Code. The compensation allowed in accordance with this section on settlements made before the dates prescribed by law, or the reduced compensation allowed in accordance with this section on settlements made after the date prescribed by law or any lawful extension of such date, shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(B) For the purpose of reimbursing county auditors for the expenses associated with the increased number of applications for reductions in real property taxes under sections 323.152 and 4503.065 of the Revised Code that result from the amendment of those sections by Am. Sub. H.B. 119 of the 127th general assembly, there shall be paid from the state's general revenue fund to the county treasury, to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount equal to one per cent of the total annual amount of property tax relief reimbursement paid to that county under sections 323.156 and 4503.068 of the Revised Code for the preceding tax year. Payments made under this division shall be made at the same times and in the same manner as payments made under section 323.156 of the Revised Code.

(C) From all moneys collected by the county treasurer on any tax duplicate of the county, other than estate tax duplicates, and on all moneys received as advance payments of personal property and classified property taxes, there shall be paid into the county treasury to the credit of the real estate assessment fund created by section 325.31 of the Revised Code, an amount to be determined by the county auditor, which shall not exceed the percentages prescribed in divisions (C)(1) and (2) of this section.

(1) For payments made after June 30, 2007, and before 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next five million dollars, two per cent;

(c) On the next five million dollars, one per cent;

(d) On all further sums not exceeding one hundred fifty million dollars, three-quarters of one per cent;

(e) On amounts exceeding one hundred fifty million dollars, five hundred eighty-five thousandths of one per cent.

(2) For payments made in or after 2011, the following percentages:

(a) On the first five hundred thousand dollars, four per cent;

(b) On the next ten million dollars, two per cent;

(c) On amounts exceeding ten million five hundred thousand dollars, three-fourths of one per cent.

Such compensation shall be apportioned ratably by the auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, municipal corporations, and school districts.

(D) Each county auditor shall receive four per cent of the amount of tax collected and paid into the county treasury, on property omitted and placed by the county auditor on the tax duplicate.

(E) On all estate tax moneys collected by the county treasurer, the county auditor, on settlement semiannually with the tax commissioner, shall be allowed, as compensation for the auditor's services under Chapter 5731. of the Revised Code, the following percentages:

(1) Four per cent on the first one hundred thousand dollars;

(2) One-half of one per cent on all additional sums.

Such percentages shall be computed upon the amount collected and reported at each semiannual settlement, and shall be for the use of the general fund of the county.

(F) On all cigarette license moneys collected by the county treasurer, the county auditor, on settlement semiannually with the treasurer, shall be allowed as compensation for the auditor's services in the issuing of such licenses one-half of one per cent of such moneys, to be apportioned ratably and deducted from the shares of the revenue payable to the county and subdivisions, for the use of the general fund of the county.

(G) The county auditor shall charge and receive fees as follows:

(1) For deeds of land sold for taxes to be paid by the purchaser, five dollars;

(2) For the transfer or entry of land, lot, or part of lot, or the transfer or entry on or after January 1, 2000, of a used manufactured home or mobile home as defined in section 5739.0210 of the Revised Code, fifty cents for each transfer or entry, to be paid by the person requiring it;

(3) For receiving statements of value and administering section 319.202 of the Revised Code, one dollar, or ten cents for each one hundred dollars or fraction of one hundred dollars, whichever is greater, of the value of the real property transferred or, for sales occurring on or after January 1, 2000, the value of the used manufactured home or used mobile home, as defined in section 5739.0210 of the Revised Code, transferred, except no fee shall be charged when the transfer is made:

(a) To or from the United States, this state, or any instrumentality, agency, or political subdivision of the United States or this state;

(b) Solely in order to provide or release security for a debt or obligation;

(c) To confirm or correct a deed previously executed and recorded or when a current owner on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property is a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, EMT, or investigator of the bureau of criminal identification and investigation and is changing the current owner name listed on any record made available to the general public on the internet or a publicly accessible database and the general tax list of real and public utility property and the general duplicate of real and public utility property to the initials of the current owner as prescribed in division (B)(1) of section 319.28 of the Revised Code;

(d) To evidence a gift, in trust or otherwise and whether revocable or irrevocable, between husband and wife, or parent and child or the spouse of either;

(e) On sale for delinquent taxes or assessments;

(f) Pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order;

(g) Pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation;

(h) By a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of the subsidiary's stock;

(i) By lease, whether or not it extends to mineral or mineral rights, unless the lease is for a term of years renewable forever;

(j) When the value of the real property or the manufactured or mobile home or the value of the interest that is conveyed does not exceed one hundred dollars;

(k) Of an occupied residential property, including a manufactured or mobile home, being transferred to the builder of a new residence or to the dealer of a new manufactured or mobile home when the former residence is traded as part of the consideration for the new residence or new manufactured or mobile home;

(l) To a grantee other than a dealer in real property or in manufactured or mobile homes, solely for the purpose of, and as a step in, the prompt sale of the real property or manufactured or mobile home to others;

(m) To or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the real estate or manufactured or mobile home and the transaction is not a gift;

(n) Pursuant to division (B) of section 317.22 of the Revised Code, or section 2113.61 of the Revised Code, between spouses or to a surviving spouse pursuant to section 5302.17 of the Revised Code as it existed prior to April 4, 1985, between persons pursuant to section 5302.17 or 5302.18 of the Revised Code on or after April 4, 1985, to a person who is a surviving, survivorship tenant pursuant to section 5302.17 of the Revised Code on or after April 4, 1985, or pursuant to section 5309.45 of the Revised Code;

(o) To a trustee acting on behalf of minor children of the deceased;

(p) Of an easement or right-of-way when the value of the interest conveyed does not exceed one thousand dollars;

(q) Of property sold to a surviving spouse pursuant to section 2106.16 of the Revised Code;

(r) To or from an organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, provided such transfer is without consideration and is in furtherance of the charitable or public purposes of such organization;

(s) Among the heirs at law or devisees, including a surviving spouse, of a common decedent, when no consideration in money is paid or to be paid for the real property or manufactured or mobile home;

(t) To a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust;

(u) To the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets;

(v) To the beneficiaries of a trust if the fee was paid on the transfer from the grantor of the trust to the trustee or if the transfer is made pursuant to trust provisions which became irrevocable at the death of the grantor;

(w) To a corporation for incorporation into a sports facility constructed pursuant to section 307.696 of the Revised Code;

(x) Between persons pursuant to section 5302.18 of the Revised Code;

(y) From a county land reutilization corporation organized under Chapter 1724. of the Revised Code to a third party.

The auditor shall compute and collect the fee. The auditor shall maintain a numbered receipt system, as prescribed by the tax commissioner, and use such receipt system to provide a receipt to each person paying a fee. The auditor shall deposit the receipts of the fees on conveyances in the county treasury daily to the credit of the general fund of the county, except that fees charged and received under division (G)(3) of this section for a transfer of real property to a county land reutilization corporation shall be credited to the county land reutilization corporation fund established under section 321.263 of the Revised Code.

The real property transfer fee provided for in division (G)(3) of this section shall be applicable to any conveyance of real property presented to the auditor on or after January 1, 1968, regardless of its time of execution or delivery.

The transfer fee for a used manufactured home or used mobile home shall be computed by and paid to the county auditor of the county in which the home is located immediately prior to the transfer.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 7/17/2009.

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