



OFFICE OF POLICY AND MANAGEMENT GUIDANCE
Executive Order No. 7S and No. 7W
Explanation of Purpose and Intent

Section 6, Executive Order 7S and Section 1, Executive Order 7W
Suspension and Modification of Tax Deadlines and Collection Efforts

Property taxation is a state function granted within certain parameters to local municipalities. Due to COVID-19 the state deems it necessary to make some changes to the normal deadlines and procedures. There will be two programs designed to offer support to eligible taxpayers who have been affected by COVID-19. The state has established the "Deferment Program" and the "Low Interest Rate Program."

The EO defines "municipality" as indicated in 7-148 which means only towns, cities and boroughs, but also binds "quasi-municipal corporations" which include special taxing districts, special services districts, and all other entities which have the power to make appropriations or levy taxes or assessments.

The legislative body of each municipality must determine if they will offer one plan, or both plans. Municipalities can offer either plan or both but must offer at least one. In municipalities where the legislative body is the town meeting, the board of selectmen decides which program to offer. Towns must notify OPM by April 25 of their choice.

Section a: "Deferment Program"

Think of this program as an extended grace period program. What is "deferred" is not a tax but rather the last day to pay without interest. **The deadline is deferred, not the tax.** Eligible taxpayers ("eligible" will be defined later) are entitled to **defer their payment deadline until 3 months from the tax due date, instead of the usual one month (30 days for water and sewer charges).**

This will have different applications depending on when taxes or other charges (municipal sewer, utility, etc.) are 'due' in a given municipality. Any tax that comes due between April 1, 2020 and July 1, 2020, inclusive, can be covered by this plan.

For semiannual and annual towns: the next installment comes due on July 1, 2020. This plan covers installments that come due up through and including July 1, 2020. For the July 1, 2020 installment, instead of the last day to pay being August 3, 2020 (August 1 falls on a Saturday), the last day to pay will instead be October 1, 2020 (three months from July 1) because the last day to pay is being deferred, or the grace period is being extended.

The plan covers any real estate, motor vehicle or personal property tax, and any municipal water, sewer or electric rate, charge or assessment, as well as benefit assessments under the C-PACE program under C.G.S. § 16a-40g.

For towns that have taxes or other charges coming due between April 1 and July 1 (quarterly billing towns, and towns that bill other charges between April and July): those bills are covered by this plan. For example, if an installment or bill became due and payable on April 1, 2020, instead of the last day to pay being May 1, 2020, the grace period would be extended for three months instead of one, and the last day to pay would instead be July 1, 2020.

“Eligible” taxpayers, businesses, nonprofits, and residents are those that “attest to or document significant economic impact by COVID-19, and / or those that document they are providing relief to those significantly affected by COVID-19.” There is separate guidance about eligibility for this program and is detailed on the application forms provided by OPM.

Municipalities may extend eligibility to other categories of taxpayers, businesses, nonprofits and residents, upon approval of the legislative body or by the Board of Selectmen in towns where the town meeting is the legislative body. This means the town is free to ‘open up’ the extended grace period to others not specifically mentioned in the EO. For example, a municipality could decide to offer the extended grace period to ALL taxpayers, period, without distinction. This is a decision up to the towns. If a municipality decides to “open up” the eligibility, the need for applications may be moot. However, please refer to eligibility of landlords in Section c, below.

This program does not address taxes that are already past due. It is not an amnesty or waiver of interest or other charges on taxes that are already delinquent.

Section b: “Low Interest Rate Program”

This is another option for towns to consider. It can be offered in conjunction with the deferment program, or instead of it. This program does not say a taxpayer can have an extended grace period with no interest at all. Rather, it addresses the rate of interest that is to be charged on a delinquent or past due bill. Interest is normally charged at the rate of 1.5% per month, 18% per year from the due date of the tax, with a portion of a month being considered a full month. However, **this program will allow for a lower rate of interest: 0.25% per month, or 3% per year, from the due date of the tax, for a period of three months only.**

This program provides a ‘window’ of three months from April 1, 2020 through July 1, 2020 from the due date where taxpayers would be able to pay at a reduced interest rate.

They would not have an extended grace period, but they would be paying significantly less interest if they pay late.

Any tax, or municipal water, sewer, or electricity charge, or C-PACE benefit assessment that comes due at any time between April 1, 2020 and July 1, 2020, inclusive, can be covered by this plan (section i).

For semiannual and annual towns: the next installment comes due on July 1, 2020. This plan covers installments that come due up through and including July 1, 2020. For the July 1, 2020 installment, the last day to pay will (still) be August 3, 2020 (August 1 is a Saturday) but if the taxpayer pays on August 4 or later, they will not be paying 1.5% per month interest, but rather only 0.25% per month interest. On August 4, 2020 the interest charged would not be 3%, but rather $.25 \times 2$ months or .5%. This plan would remain in force only for three months from the due date of July 1; it would end on October 2, 2020.

The plan covers any real estate, motor vehicle or personal property tax, and any municipal water, sewer or electric rate, charge or assessment, as well as benefit assessments under the C-PACE program under C.G.S. § 16a-40g.

For towns that have taxes or other charges coming due between April 1 and July 1 (quarterly billing towns, and towns that bill other charges between April and July): those bills are covered by this plan. For example, if an installment or bill became due and payable on April 1, 2020, the last day to pay will (still) be May 1, 2020, but if the taxpayer pays on May 2 or later, they will not be paying 1.5% per month interest but rather only .25 % per month interest. On May 2, the interest charged would not be 3% but rather $.25 \times 2$ months, or .5%. This plan would remain in force only for 90 days from the due date of the tax or charge. Once the three months has expired, the plan would no longer be in effect.

This program **does not require taxpayers to qualify based upon eligibility criteria** as with the deferment program. However, please refer to eligibility of landlords in Section c, below.

The EO provides that if there is a case where any tax, charge etc. is already subject to an interest rate that is less than 3% per year, then that lower rate will apply instead. The minimum interest charge of \$2.00 for taxes (in C.G.S. § 12-146) and \$5.00 for sewer assessments (in C.G.S. § 7-254) should not be applied if they would result in a higher interest charge than the EO would allow.

The EO also addresses past due charges that were already delinquent on April 1, 2020 (section ii). If a bill was already delinquent on or before April 1, 2020, it shall be subject to 0.25% per month, 3% per year interest for a period of three months from the EO (until July 1, 2020) only. For the time period from April 1, 2020 (the date of the EO)

to July 1, 2020, the delinquent taxpayer pays 0.25% per month or portion thereof instead of the normal 1.5% per month – but ONLY on those last three months, and only if they are making a payment. The program does not retroactively alter previous interest accruals; interest which had already been added at the 1.5% rate before April 1, 2020 for older delinquencies would remain fully payable. Interest at the 0.25% rate would only accrue on those older delinquencies for the months of April, May, and June in 2020 and only to the extent actually paid during those months.

On July 2, 2020, unless this EO is extended or other directives are subsequently given, the 'window' closes, and interest once again goes back to the statutory rate of 1.5% per month from due date. ("Following the 90 days [amended to three months], the portion that remains delinquent shall be subject to interest and penalties as previously established.")

If a taxpayer has made a partial payment between April 1 and July 1, 2020, but has not paid in full, interest goes back to the former rate. If a taxpayer has not made any payment at all during that time, they lose the benefit of the 'window' and all of their interest is calculated at the rate of 1.5% per month from the due date, as if the opportunity for the reduced rate had not ever existed. ("Following the 90 days [amended to three months], the portion that remains delinquent shall be subject to interest and penalties as previously established.")

Section c: Eligibility of Landlords

The EO states that in order to be eligible for the extended grace period/deferral program, a "landlord," or any taxpayer that rents or leases to tenants or lessees, must provide "documentation" to the municipality that the property being taxed has, or will, suffer a significant income decline, or that commensurate forbearance was offered to the tenants or lessees.

The EO states that in order to be eligible for the lower/reduced interest rate program, the landlord must offer 'commensurate forbearance' to tenants or lessees upon their request.

On April 10, 2020, Executive Order 7X extended the normal legal grace period for paying rent from 9 days after it is due to 60 days for April rent. Tenants can also get a 60-day grace period for May rent by requesting one from landlords within 9 days after the May rent is due. Landlords can satisfy the commensurate forbearance and income decline requirements for tax and other relief under EO 7S for residential properties simply by complying with EO 7X, and (for the deferment program) confirming they will do so in an e-mail to the tax collector. Landlords of commercial properties may satisfy these requirements with the documentation listed in the application form provided by OPM.

Section d: Escrow Payments

This section of the EO states that an individual taxpayer's eligibility for either program is irrelevant if the taxes on the property are paid on their behalf by an escrow agent, financial institution, mortgage service agent or bank. The escrow agents are still expected to remit tax payments on behalf of their customers according to the regular timetable, that is, by August 3 for semiannual and annual towns. The EO states this is the case 'so long as the borrower remains current on their mortgage or is in a forbearance or deferment program.' The EO does not address what the expectation is if the borrower is NOT current or is NOT in such a program.

Section e: Liens Remain Valid

Nothing in the EO affects ANY PROVISION of the Connecticut General Statutes relating to the continuing, recording and releasing of property tax liens. Tax collectors still rely on the existence of the inchoate lien as of the date of assessment. Intent to lien notices are to be sent. Lien continuing certificates are still to be filed in the land records on the regular timetable. Liens are still to be released according to the regular timetable.

Finally, "...the precedence and enforcement of taxes, rates, charges and assessments shall remain applicable to any deferred tax, rate, charge or assessment or installment or portion thereof." Take this to mean 'deferred' as defined in section a. Even if a tax is deferred according to the program (extended grace period granted) the priority/precedence of that property tax remains in effect, is not lessened or reduced by virtue of participation in the extended grace period program, and will be subject to normal collection enforcement procedures once the 'deferment' (extended grace period) has concluded.

Section 11, Executive Order 7S Suspension of Non-Judicial Tax Sales

Section 11 postpones all pending tax sales and redemption deadlines. Effective on April 1, 2020, any upcoming tax sales are automatically postponed for the duration of the emergency and can be rescheduled by the tax collector no sooner than thirty (30) days after the Governor declares the emergency has ended. Tax sale notices which went out before the EO remain valid. Adjournment notices can go out by first-class mail in the meantime, but the return-receipt notices and newspaper advertising required by General Statutes 12-157(a) should not be resumed until the new auction date is known, and their timing will be calculated from the new date.

Section 11 also extends any six-month redemption deadline pending at the time the EO was signed, which was 9:00 p.m. on April 1, 2020. The length of the extension is equal to the number of days that the emergency is in effect, which will be March 10, 2020 through until whatever date the Governor declares it has ended. The interest rate the purchaser earns during the extended portion of the redemption period is 0.25% per month but remains at 1.5% per month for the regular part of the redemption period. The EO does not reinstate any redemption period which had already expired. This means any tax sale conducted before October 2, 2019 is not affected by EO unless its redemption period was extended by a bankruptcy filing or other law. Deeds and affidavits can still be recorded for tax sales whose redemption deadlines expired before then.



**OFFICE OF POLICY AND MANAGEMENT GUIDANCE
ON TAX PROGRAMS PURSUANT TO SECTIONS 6 AND 11 of
EXECUTIVE ORDER 7S AND SECTION 1 of EXECUTIVE ORDER
7W**

1. What kinds of municipalities do the tax programs apply to?

Section 6 applies to all towns, cities, boroughs in Connecticut including their water pollution control authorities. These municipalities must adopt either or both programs created in the Order. The Order as amended by Executive Order 7W also imposes obligations on every special taxing district, special services district, and other quasi-municipal corporation that charges taxes or water, sewer, or electric charges or assessments. Specifically, each of these entities must follow the same program or programs and eligibility determinations as the town in which it is located, except that those located in multiple towns must either choose their own district-wide program or programs or instead follow those chosen by the towns for their respective portions and notify OPM of their decision by April 25, 2020.

2. What kinds of taxes and charges does Section 6 apply to?

Section 6 applies to unescrowed taxes on real estate, motor vehicles, and personal property as well as unescrowed municipal water, sewer, and electric charges, and benefit assessments under the C-PACE program under C.G.S. § 16a-40g.

Section 6 does not apply to trash and sanitation charges, landlord rental fees, fines, and other kinds of municipal assessments, penalties, and charges regardless of when they come due. It also does not apply to water, sewer, and electrical charges by private providers. All of these taxes and charges must therefore be paid normally.

3. What is the difference between the two Programs in Section 6?

Section 6 creates two Programs for relief from certain taxes and charges. Two programs are offered to provide municipalities flexibility, but also to ensure that all taxpayers have some type of tax relief available during the COVID-19 pandemic.

The Deferment Program effectively delays certain pay by dates (the last day to pay) by three months for eligible taxpayers who apply and are approved as meeting the guidelines set forth by the Office of Policy and Management. All other taxpayers who do not apply or who are not approved would remain responsible

to pay their taxes and charges normally, unless a municipality votes to extend eligibility to such taxpayers. The EO makes clear that a municipality may extend eligibility to other categories of taxpayers, businesses, nonprofits and residents. Therefore it is up to each town whether to use the “Application for Municipal Tax Relief” available on OPM’s website, or choose to create a different form reflecting eligibility standards approved by its local legislative body, except that landlords participating in the deferral program must provide documentation to the municipality that the relevant parcel has or will suffer a significant income decline or that commensurate forbearance was offered to their tenants or lessees in either case. (Residential landlords can satisfy this requirement simply by confirming in an e-mail to the Tax Collector that they will comply with the 60-day rent deferments required by Executive Order 7X.)

The Low Interest Program would reduce the interest rate for a three-month window to three (3) per cent for all taxpayers owing taxes and charges automatically.

Every town, city, and borough, and every quasi-municipal corporation located in more than one town, must adopt either Program or both Programs and notify the Office of Policy and Management by filling out the OPM Certification Form, no later than April 25, 2020.

4. What are the requirements for landlords?

Landlords are not eligible for either Program for relief from taxes and charges on their rental or leased properties unless they pass on “commensurate forbearance” to their tenants or lessees or, for the Deferment Program only, show that the property has or will suffer a significant income decline.

Commensurate forbearance, for purposes of both programs, means either a) for residential properties, an e-mail from the landlord confirming compliance with the 60-day rent extensions required by Executive Order 7X; or b) for commercial properties, either (i) a deferral of 25% of rent (approximating the property tax portion of rent) for three months from the due date, (ii) a deferral of one month’s rent to be paid over the three-month period; or (iii) forbearance substantially similar to (a) or (b) as determined by the tax collector.

For the Deferment Program, the landlord must provide documentation that the property will suffer a significant revenue decline related to the COVID-19 emergency, or that commensurate forbearance was offered to tenants or lessees. For residential properties, an e-mail from the landlord confirming compliance with the 60-day rent extensions required by Executive Order 7X will satisfy the revenue decline documentation. Landlords are subject to auditing and

may be asked by their municipality to provide their tenants' names and contact information, or other information identified by the municipality to confirm eligibility.

For the Low Interest Program, there is no documentation requirement for ease of administration, but landlords are subject to auditing and should not take advantage of this program unless they pass along to the tenants commensurate forbearance, when requested.

5. When does the taxpayer have to submit their application?

Deferment Program applications and any required documentation or related information must be submitted to the municipality no later than July 1, 2020 in any manner the municipality specifies, which may be in person, by mail and/or electronically. Each municipality shall utilize the guidance provided by the Office of Policy and Management for determining eligibility.

6. How is interest calculated under the Programs?

If a municipality adopts the Deferment Program, the interest will be zero for any tax or charge owed by an approved taxpayer which would otherwise come due between April 1 and July 1, 2020, inclusive so long as it is paid within three months days of the original due date. The practical effect of this Program is simply to extend the usual interest-free grace period to three months. It effectively replaces the word "month" with the words "third month" in the phrases "the first day of the month" and "the same date of the month" in the interest statute, General Statutes 12-146. For water and sewer charges, it would be as though the words "thirty days" in General Statutes 7-239(b), 7-254(a), and 7-258(a) were replaced with "three months."

If a municipality adopts the Low Interest Program, interest is reduced automatically for everyone from 1.5% per month to a maximum of 0.25% per month on taxes and charges which come due between April 1 and July 1, 2020, inclusive. (If any tax or charge would otherwise accrue interest at a rate of less than 3% per annum, the lower rate continues to apply.) This Program also imposes the same cap on any delinquent taxes and charges which came due before April 1, 2020 and remain unpaid, but only to the extent of the interest which accrues on them between April 1, 2020 and July 1, 2020. Interest which had already accrued on delinquencies before April 1, 2020 remains unaffected. For example, if a tax which had previously come due on July 1, 2019 is paid in mid-May 2020, a municipality which adopted this Program would charge nine months of interest at 1.5% each plus two months of interest at 0.25% each. Regardless of whether a tax or charge was due before or after April 1, 2020, any portion not paid by July 1,

2020 accrues interest as it normally would, both within and outside the low-interest period. For example, if a tax due on July 1, 2019 is paid in mid-August 2020, the municipality would charge 14 months of interest at 1.5% each; no portion of the tax would remain entitled to the 0.25% per month interest rate. A tax due on July 1, 2020, however, would remain entitled to the normal one-month grace period which would apply normally (or 30 days for a sewer charge). The minimum interest charge of \$2.00 for taxes (in C.G.S. § 12-146) and \$5.00 for sewer assessments (in C.G.S. § 7-254) should not be applied if they would result in a higher interest charge than the EO would allow.

7. Do the programs require refunding payments which the municipality has already received?

Neither program requires any municipality to refund any payment, regardless of when it was made or how it was affected by either Program. If a payment is made which exceeds the correct amount due as affected by either Program, the normal overpayment procedures in General Statutes 12-129 apply.

8. How does the suspension of tax sales in Section 11 affect notices of tax sales previously issued for auctions which were to take place after the date of the Order?

Section 11 does not invalidate any notice issued under General Statutes Section 12-157 before the Order was signed. Although the Order itself postpones all pending tax sale auctions by operation of law, the municipality may issue adjournment notices in accordance with the second sentence of General Statutes Section 12-157(b) which state that the auction will be rescheduled to a date to be determined. In the interim, the other pre-auction notices which would otherwise be required by General Statutes Section 12-157(a) should not be issued. After the Governor declares the COVID-19 emergency to have ended, the tax collector may select a new auction date which is no less than 30 days later and issue any remaining pre-auction notices required by General Statutes Section 12-157(a) as calculated from that new date. If all three pre-auction notices required by General Statutes Section 12-157(a) had already been issued before the Order was signed, notice of the new auction date should be issued in accordance with the second sentence of General Statutes Section 12-157(b).

9. Which tax sale redemption periods are extended by Section 11?

Section 11 extends every six-month redemption period under General Statutes Section 12-157(f) which was in effect at the time the Order was signed. It does not reinstate any redemption deadline which had already expired before the Order was issued at 9:00 p.m. on April 1, 2020. This means that no tax sale which

occurred before October 2, 2019 is affected by the Order except those for which the redemption deadline had already been extended by 11 U.S.C. Section 108 of the Bankruptcy Code or by another law or court order. For any tax sale procedure for which the redemption period expired before the Order was issued, Section 11 does not prohibit municipalities from depositing excess funds with the Superior Court under General Statutes Section 12-157(i), recording deeds or affidavits as provided in General Statutes Sections 12-157(f) or 12-167(a), or otherwise concluding the procedure as provided by law.