

# TACS FACTS<sup>SM</sup>

*A Resource for Treasurers on Developments and Trends in Collection and Bankruptcy*

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## New Organization Launched for Government Collectors

A new organization, the Government Revenue Collection Association (GRCA) has been formed to address the concerns of Treasurers and governmental collectors. They asked TACS FACTS for an opportunity to introduce themselves to our readers:

*"Governments are responsible for \$1 trillion dollars in revenue so it is remarkable that no organization has materialized to provide government collection personnel the resources they so desperately need.*

*Until now. The Government Revenue Collection Association (GRCA) is a non-profit association founded by long-time government collection professionals Kendall Tierney, former head of collections for the City of Boise, Idaho and Gary Sabeen of the Arlington County Treasurer's Office of Virginia. The Association has been established to educate and support the folks responsible for collecting that huge mountain of revenue. The mission of GRCA is to provide top-notch support to government collection professionals, to help collectors learn from each other through networking, and to strengthen the government collection community through education.*

*The GRCA training and resources are not focused on a single area of government collections, like courts or utilities and membership is not limited to a particular level of government or even the United States. Cities and towns, counties, states and provinces, right on up to Federal collection professionals are encouraged to participate in the Association. GRCA also welcomes collection agents, consultants, and other private business people that have a direct responsibility for collecting government debt.*

*GRCA hopes to bring technology, standards and benchmarks to the desks of government collectors across the United States and beyond. One of the*

## New Collection Organization Launched *(continued)*

*ways the Association will enhance the collector's toolbox is through our Library. GRCA is compiling an extensive Resource Library stocked with sample letters, RFPs, contracts, performance measures, legislation, codes, statutes, and various other items. The intent is for the Membership to utilize these resources to develop their internal departments and improve their effectiveness."*



Jeffrey Scharf of TACS will be speaking on bankruptcy issues at the first annual GRCA Conference being held in San Francisco from April 20<sup>th</sup>-22<sup>nd</sup>.

To learn more about GRCA, its upcoming conference or to contribute information to their Library, please visit their website, [www.govcollect.org](http://www.govcollect.org), or send an email to the GRCA at [info@govcollect.org](mailto:info@govcollect.org).

## WHO IS TACS?

Taxing Authority Consulting Services is a Virginia law firm formed by Jeffrey A. Scharf and Mark K. Ames to meet the needs of treasurers and localities. TACS' sole focus is on tax collection, assessment and bankruptcy issues faced by governments.

## Answers to Some Frequently Asked Questions:

Q: A restaurant filed bankruptcy in the middle of the month and only remitted part of that month's meals tax. I understand that previous periods are covered by the bankruptcy but isn't this a trust tax? Can they continue to operate and not pay the meals tax, and if so, for how long?

A: The bankruptcy automatic stay takes effect from when the bankruptcy petition is filed and the Debtor does not have to pay any pre-petition obligations (measured by the date of filing), including trust taxes. This debt is pre-petition even though it was due after the bankruptcy was filed because the claim actually arose pre-petition, when the Debtor collected the funds from its patrons. The debtor should pay all succeeding months meals taxes as they come due.

This, however, does not mean you are without remedies. If you want to get involved in the bankruptcy case, you can ask the court for the turnover of the funds as they were held in trust and should not be part of the bankruptcy estate. This can be complicated especially if the bankruptcy case is filed out of state.

One of the best way to get paid (and without involving the bankruptcy court) is to have the responsible officers assessed (Code of Virginia §58.1-3906). The officers are not protected by the bankruptcy stay, so once they are assessed, you can pursue collection of the bills against them personally.

Q: Once a tax bill has been recorded as a judgment, for how long can that tax be appealed for correction of an assessment?

A: The entry of a judgment should not change the time for correction of an assessment. The typical period to seek correction of an assessment is 3 years from the end of the year for which the tax is assessed (or 1 year from the date of assessment) and may be 5 years for personal property taxes not due at all for the year in question. See Code of Virginia §58.1-3980. The judgment just extends the time for collection of the tax, and not the time to seek a correction of the assessment. A judgment is valid for 20 years if taken in or docketed in Circuit Court. A judgment in General District court is valid for 10 years.



## Filing Fees in General District and Circuit Courts

Treasurers often ask what fees need to be paid by the locality when filing a Warrant in Debt in the General District Court. Treasurers, upon asking their Clerk, may receive confusing information, sometimes contradictory from what other Treasurers have reported. Clerks may respond to such an inquiry by referring to their schedule of fees from the Clerk's Manual issued by the Dept. of Judicial Services.

You should not have to pay fees to your General District Court for actions involving tax cases. Code of Virginia § 16.1-69.48:2 provides for fees to be charged in the General District Court but clearly states:

*Fees in civil cases for services performed by the judges or clerks of general district courts..shall be as provided in this section...**No such fee shall be collected (i) in any tax case instituted by any county, city or town...***

There should be no fee charged for tax cases in General District Court, but what of other types of cases, like collecting utility bills? And what about the fees imposed by the Circuit Court for filing suit or for docketing a judgment. Code of Virginia § 17.1-266, which addresses Circuit Court fees, provides:

**Localities shall be exempt from paying fees for services rendered by a clerk or other court officer for cases, whether in a court of record or a court not of record, when the locality is a party to a case commenced in a court serving that locality...**

This section clarifies that the Treasurer is exempt from Circuit Court fees in the Court serving the Treasurer's locality, but also for other types of cases brought in General District Court (courts not of record) where the locality is a party.

The bottom line is that a Treasurer should not have to pay court fees when pursuing collections in his own locality.

TACS FACTS is a publication of Taxing Authority Consulting Services, PC (TACS, PC), Richmond, VA  
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