Windfalls and Pitfalls of Tax Sales

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Are you interested in buying properties at a tax sale? This form of investment can be both inexpensive and quite lucrative if you know what you're doing. In fact, fairly recently a client of mine purchased a $200,000 property at tax sale for $2,500 and ended up with a return of $197,500 in equity on his investment.

Understandably, if every property purchased at tax sale returned such a profit, many more investors would incorporate tax sale purchases into their real estate investment strategies. However, the truth of the matter is that buying properties at tax sales is a minefield that must be walked though carefully. For every purchase resulting in a hefty windfall, there are four or five more transactions where an unwary buyer has not done the proper homework and subsequently discovers he has obtained a property still subject to prior mortgages or other liens not discharged through sale.

Because tax sale buying is a risky venture, the prudent investor needs to know how such sales differ from mortgage foreclosures and how tax sale procedures vary throughout the Commonwealth. With such knowledge at his disposal, an investor can pinpoint which tax sale properties to bid on, thereby avoiding the common tax sale pitfalls and increasing the probability of earning a sizeable return on his investment.

In Beaver County the Sheriff performs mortgage foreclosures and the county tax claim bureau performs tax sales. The function of tax claim bureaus is to sell real properties when owners default on paying county, local or school district real estate taxes. Pennsylvania affords municipalities three years to lien a property, and because these liabilities attach from the date levied, it is necessary to take steps beyond an ordinary title search when buying a property at tax sale.

The tax sale procedure is threefold. The first step in the process is the upset sale. Once liens placed on a property continue to go unpaid, the tax claim bureau (or the Sheriff in Allegheny County) will have the ability to sell the property at tax sale in order to recover the upset price, which often amounts to just a few thousand dollars or less. An upset sale, however, does not transfer property free and clear of liens or judgments.

If a property is listed for upset sale and is not purchased, the tax claim bureau will petition the court for an order permitting the sale of the property at judicial sale in which title is transferred free and clear of liens. Consequently, purchasing at judicial sale carries with it considerably less risk than buying at an upset sale. Even in the case of a judicial sale though, it is necessary to make sure adequate notice was given to the holders of liens being discharged at the sale.

When a property goes unsold at both the upset sale and the judicial sale, it will be held in repository. With the consent of all taxing districts where a property is located, the tax bureau can sell a repository property for any price and the title is passed free and clear of any claims, with the exception of ground rent. A list of these properties can be obtained at your local tax claim bureau office during normal office hours.

A tax sale investor must also deal with the possibility that the sale could be set aside, usually as a result of improper notice. In fact, I recently had a tax sale set aside in Mercer County as a result of inadequate notice. Pennsylvania tax claim bureaus are required to give the record owners published, mailed and posted notices. Each type of notice carries with it guidelines the bureau must follow in order to make notice sufficient. In the Mercer County case, we had the sale set aside because the bureau failed to conform to proper procedures for posting notice on the property. With proper research, a buyer can assess the likelihood of a sale being set aside.

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