

***Personal Property Tax Collections
For Pueblo County Treasurer***

By: Tina Malespini
Personal Property/Bankruptcy Specialist

Collection Calendar

❖ Daily Work-

- Send Going Out of Business Letters when knowledge of closure or transfer of business **(Example # 1)**
- All correspondence for Personal Property is handled directly in the Department so knowledge of all conversation is kept by one person for future use.
- Quote Estimated taxes to Title Companies/Banks
- Issue Certification of taxes due as requested
- Set up payment plans for troubled taxpayers(see attached)
(39-10-110.5 C.R.S.) - Payment Plan developed by County Attorney's Office requires us to list the total due at the conclusion of plan; total amount applied to principal each month, and total amount applied to interest each month. **(Example # 2)**

January

- ❖ Mail tax notices, work on returned statements immediately to find correct addresses. The sooner we can find the owner of closed or relocated business' the better chance we have for collection.
- ❖ Apply estimated tax collections from prior year collections

February- May

- ❖ Normal process of collection following statutes for collection
- ❖ 1st 1/2 tax by last day of February
- ❖ 2nd 1/2 tax by June 15
- ❖ Total tax by April 30

June

- ❖ Cancellation of 1 year and six year uncollectible accounts

July

- ❖ Mail delinquent notices, work on returns immediately

August

- ❖ **Printout listing of delinquent Personal Property accounts for research and obtaining phone numbers**
- ❖ **Make “Friendly Reminder” courtesy calls**
 - **Friendly, upbeat calls are made to each delinquent Personal Property account stating that we are in the process of sending the accounts for publication as required by State Statute which adds advertising fees, and additional interest for September as well as publication in the news paper stating delinquency of taxes for the business. Also all payments after last day of August must be in the form of certified funds so we are trying to remind them to avoid the inconvenience. This has proven in our County to bring in a great numbers of payments and also gives us the opportunity to find out about closed businesses or problems prior to distraint of the property.**
 - **Specific notes are kept of all communication for current year files and information for future years; this will save a lot of time and also gives you personal information that will be helpful in years to come. Many times you are working with repeat offenders, and if you build a relationship with them it will make your job much easier as they feel you are on their side rather than against them.**

September

- ❖ **Advertising Fees Added**
- ❖ **Publication in Local Newspaper**
- ❖ **Final Notice Letters (Example # 3)**
 - **7-10 days Prior to October 1st Deadline**
 - **Short time frame until deadline makes business owner take immediate action to pay rather than setting aside for later payment.**
 - **Total amount is not included because we want a phone call from each taxpayer to show that contact has been made prior to distraint.**
 - **Specific notes kept including name of person calling, when payment will be made, and any important information.**
 - **May set up payment plan**

October

❖ Prepare folders

Folders are made for all outstanding personal property accounts. Folders should include case sheets with business name, parcel number, owner name & address, years delinquent, Assessor information, and all communications to this point; written correspondence; and any pertinent information received during the year.

*****If there are any accounts in bankruptcy, they should be flagged and not acted upon in any way. These accounts will be taken care of strictly by the Bankruptcy Department until account is dismissed or discharged. *****

❖ Distraints(C.R.S. 39-10-111, 39-10-113) (Example #4)

Each year, as soon after October 1, as possible, distraints are performed on all delinquent Personal Property accounts. Distraints are also performed in jeopardy cases throughout the year as needed.

Due to economic conditions, if no contact is made prior to this time, time permitting, we will do drive-bys on accounts to make sure that the business is still in existence, sometimes even taking a receipt book and stopping into the business to give owners one last chance to pay prior to distraint.

Our office has also found it useful to avoid distraints that are difficult to collect total tax from – large equipment with little use to other business owners, broken or outdated equipment left behind by owner of business when vacating, etc.

➤ Preparing distraint

1. Calculate the total amount due including prior taxes, current tax, and *estimated tax. * If there is any money in escrow it should be subtracted from the sub-total. (*To figure estimated tax for upcoming tax year, take the new assessed value times the current mill levy. If the new value is not available, the current value may be used. Also calculate the amount which will be due if paid at time of service, this figure will include all distraint fees, as well as, taxes & fees.

2. Call the Sheriff's Department and locksmith to arrange time and date of distraint.
3. Call Fleet a couple of weeks ahead of time (when scheduled) to insure that a county car will be available for use.
4. Prepare supply bag to include cash bag, receipt book, tape, scissors, distraint signs, map, calculator, pens, camera, film and flashlight. *May also want to include change for cash payments.*
5. Prepare the actual distraint forms. ****Note: The time set for date of sale shall be no more than TEN days from the first notice. We include the day of distraint in counting forward ten days for sale date****
6. Have supervisor or authority proof read.
7. Have Treasurer sign distraint. Signature stamp may not be used. If Treasurer is not available, the Chief Deputy may sign the Treasurer's name and initial beside it.
8. Seal & darken seal.
9. Prepare 5 copies of distraint – 1 copy plus original to Sheriff's Deputy (Original is posted)
 - 1 copy to the locksmith
 - 1 copy to newspaper
 - 1 copy to file
 - 1 extra copy to file for landlord, etc
10. Print distraint procedure forms **(Example # 5)**

➤ Service of Distraint

1. Give original distraint to Sheriff's Officer for service and copy to locksmith.
2. Sheriff's Officer will serve distraint and explain basics of what is taking place.
3. Give owner or employee (if owner is not available) a copy of the distraint procedure and the opportunity to pay total due in cash at this time. Owner may only pay if funds are available on the premises. If payment is made a receipt is given to the individual, we explain that all actual receipts will be sent to them when we apply payments and leave the business. If they are unable or unwilling to pay we ask them to vacate the premises and distraint proceeds.

4. Instruct locksmith to begin changing locks. (If equipment cannot be secured at present location, arrangements will need to be made to transport & store equipment in safe location.)
5. Take an extensive inventory of equipment including serial and model numbers and specific description.
6. Snap photographs of all equipment.
7. Post distraints signs at all entrances to business. (Example #6)
8. Post distraint warrant on front door of business.
9. Lock all entrances, label keys, and store safely in cash bag until returning to the office.

➤ **Post Distraint Procedures** (after return to office)

1. Deposit money for each distraint separately into advance pay ledger
2. Lock keys to businesses distrained in cash drawer/safe
3. Prepare figure due for distrained business, as they may come in as early as 8:00 the next morning.
4. Set aside copy of distraints for publication. Call newspaper by deadline to publish
5. For accounts paid, apply taxes; deposit Sheriff's Service Fee and Distraint Prep Fee, pay locksmith fees and any other costs incurred in process of distraint. (Make copies of any checks, for file, prior to mailing.) Make comment to computer showing account was distrained and date of distraint
6. Type all equipment to inventory lists and have a copy available for the owner. According to State Statute, we must provide this to the owner.
7. Write detailed comments pertaining to distraint on each case sheet. Include who was present at distraint and all other actions performed. This is very important, should we later be ordered to appear in court.

➤ **Sale Procedures**

If taxes are not paid within 10 days, the sale must proceed.

1. *If there is a buyer at time of sale*, total amount including taxes and all fees are collected. The purchaser is issued a "*Certificate of Sale*" and any amount over and beyond the amount due is returned to owner. The file may now be completed with notes and copies of all pertinent documents and filed in the "Old Distraint File"

- 2. If there are no offers at time of sale for total amount due, the sale may be adjourned for up to 30 days from date notice is first published. This is the time to determine if an auction of equipment would be beneficial. If beneficial the following steps should be followed for auction of equipment:**

❖ *Preparation prior to auction*

- 1. Advertise detailed listing of equipment with the Pueblo Chieftain, include date & time of sale, specific instructions for buyers (cash, or cert. Funds, etc.), phone number to contact our office, and time period for viewing.**
- 2. Hire an auctioneer to sell equipment, if needed.**
- 3. Contact all leasing companies to pick up their equipment prior to sale.**
- 4. Clean and prepare all equipment, if necessary, prior to viewing time.**
- 5. Telephone potential buyers. (*Anyone that may be in the same business, etc.*)**
- 6. Set appointments for showing equipment**
- 7. Prepare items needed for sale, including tape, pens, buyer registration sheet, buyer numbers, calculating machine, cash pan w/change, clipboards, case file, receipt book, and other items as needed.**

❖ *Auction Day*

- 1. Arrive at least 1-1/2 hours prior to sell to set up and finalize arrangements.**
- 2. Set up registration table.**
- 3. Double-check all equipment to make sure it is listed.**
- 4. Be ready to check out buyers as they are ready to leave, this should include verifying all equipment purchased, giving receipt for all items purchased.**
- 5. Auctioneer will usually handle many of the items listed above; however, it can save money if we handle some of the responsibilities. Check with auctioneer for specifics.**
- 6. Make sure all equipment is removed immediately or that arrangements have been set to pick-up equipment, as we are still responsible for the premises until keys are returned to owner of business.**
- 7. After returning to the office a “Certificate of Sale” must be provided to each buyer including a description of each piece of equipment purchased. All payments should be applied at this time, all bills paid.**

- 8. If amount due was not fulfilled in full and part of the equipment was not sold, a letter of certification must be given to the County Commissioners striking-off all remaining property to the County. (39-10-111)(5) The County may then sell in any manner so determined by them. If no equipment remains, the account may be turned over to collection agency to complete payment of obligation.**

November – December

- ❖ Collection begins on all properties which were unable to be distrained, usually due to closed business or relocated with no notice to our office. Investigation on the property begins with the Assessor's records, Secretary of State business database, internet information, owner of real estate, neighbor's etc. The quicker we can find the business or prior owners, the better chance we have to collect taxes. If new phone number is obtained, call with information or send a delinquent Personal Property tax letter to new address found with research.
(Example # 7)**
- ❖ Statute also allows for a contract with a collection agency or County Attorney collections, but Pueblo County has not benefited from this form of collection. Cancellation percentage is always less than 1/4%.**

Example 1 (2 Pages)
Office of the County Treasurer
Del Olivas
Treasurer

Phone (719) 583-6687

Fax (719) 583-6526

September 29, 2010

Dusty Paws
84 Cellini Dr
Pueblo West, CO 81007

RE: Personal Property
Parcel No.: #1,275

Dear Taxpayer:

This office has received notification of the closure of your business in Pueblo County. Personal Property taxes have been assessed for 2009 -2010(Est.) and must be paid prior to the closure of your business.

COLORADO REVISED STATUTE 39-10-113 states:

(1) (a) If at any time after the lien of general taxes has been attached the treasurer believes for any reason that any taxable personal property may be removed from the state of Colorado or may be dissipated or distributed, so that taxes to be levied for the current year may not be collectible, he may at once proceed to collect such taxes and, if he deems it necessary, may distrain, seize, and sell such personal property to enforce collection. Upon his request, the assessor shall certify to him the valuation for assessment of such personal property for the current year. If the levy for the current year has not then been fixed and made, the levy for the previous year shall be used to determine the amount of taxes due.

The amount(s) due and payable upon the business is/are as follows:

PARCEL NUMBER	YEAR	AMOUNT	STATUS
1,275	2009	\$510.00	Paid
1,275	2010(Est.)	\$506.48	Not Paid

Late Filing Fee \$50.00

Total Amount Due \$556.48

RE: Personal Property Taxes

Parcel No.: 1,275

Please contact Tina Malespini at (719) 583-6687 *immediately* to arrange payment of these personal property taxes and to prevent the Treasurer from pursuing his statutory remedies for collection of the amount due. Our office hours are 7:45 a.m. – 4:30 p.m.

Payment must be in the form of certified funds – examples; cash, cashier’s check or money order.

Thank you for you cooperation.

Sincerely,

Del Olivas
Pueblo County Treasurer

By: Tina R. Malespini, Personal Property Tax Specialist
(719) 583-6687

Example # 2
(4 Pages)

AGREEMENT TO PAY PERSONAL PROPERTY TAXES

THIS AGREEMENT is made and entered into this 6th day of July, 2010, by and between Dusty Paws, (hereinafter referred to as the "Taxpayer") and the Office of the County Treasurer (hereinafter referred to as the "Treasurer").

WITNESSETH:

WHEREAS, the parties hereto agree that personal property taxes are due and owing on certain taxable personal property of Taxpayer located in Pueblo County; and

WHEREAS, the Treasurer has the statutory authority to collect such taxes, and, pursuant to Sections 39-10-111 and 39-10-113 C.R.S., the Treasurer's collection efforts may include commencing a court action for collecting delinquent taxes or removing and transferring the personal property, but contingent upon the Taxpayer entering into and complying with the terms and conditions of this Agreement, the Treasurer deems it to be in the best interest of the County and its inhabitants to allow Taxpayer additional time to pay such taxes; and

WHEREAS, the State Legislature has in §39-10-110.5, C.R.S., authorized the Treasurer, in his discretion, to enter into payment plans with taxpayers for any such taxes due and owing; and

WHEREAS, Taxpayer and Treasurer desire to enter into this Agreement whereby Taxpayer agrees to pay said personal property taxes as per the terms and conditions of this Agreement and Treasurer agrees to forbear from exercising his statutory powers of collection, so long as the Taxpayer remains in compliance with the terms and conditions of this Agreement, except as otherwise stated herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

I. OBLIGATIONS OF TAXPAYER:

- A. The parties agree that, as of the date this Agreement is executed, taxes, penalties, interest, advertising costs and other applicable fees in the amount of **\$868.39** for the tax year(s) **2008 - 2009** are due and owing on the personal property identified as Schedule Number **449,680** in the records of the Pueblo County Assessor, owned by Taxpayer, identified as **Dusty Paws**. Taxpayer understands that the amount given includes all interest for the entire term of this agreement, assuming no prepayment by Taxpayer.
- B. Taxpayer, desiring to pay the above-described personal property taxes, penalties, interest, advertising costs, and other applicable charges in monthly installments, hereby agrees to pay to the Treasurer **\$144.73** monthly on or before the **10th** day of each month until the amount paid is sufficient to satisfy in full the entire amount specified in I. A. If any payment is not received in the Office of the Pueblo County Treasurer within five (5) days after the applicable payment date, Taxpayer shall be considered in default and the entire amount owed by the Taxpayer will become immediately due and payable and the Treasurer may, at his sole and exclusive option, cancel this Agreement, and proceed to collect the taxes in any manner provided by law.

- C. Taxpayer shall pay the entire amount specified in Section I.A. above to the Treasurer no later than twenty-four (24) months from the date of this Agreement.
- D. Taxpayer may prepay the entire amount that is due and owing at any time. Any such prepayment shall reduce the total amount specified in Section I.A. by the amount of any unearned interest, penalties, or other charges as calculated by the Treasurer in accordance with statutory guidelines.

II. OBLIGATIONS OF COUNTY TREASURER:

- A. Treasurer agrees to accept payments from Taxpayer as set forth above, and apply the same to the taxes, penalties, interest, advertising costs, and other charges, then due and owing, which are the subject of this Agreement.
- B. The Treasurer agrees not to commence proceedings to collect the personal property taxes that are the subject of this Agreement, during the term of this Agreement, except as otherwise stated herein.

III. APPLICATION OF PAYMENTS:

Payments shall be applied to the amounts owing in the order said taxes first became delinquent. **\$108.91** of each monthly payment will be credited to taxes, and **\$35.82** of each monthly payment will be credited to penalties, interest, advertising costs, or other applicable charges. No taxes will be deemed paid in full for any tax year until all taxes, penalties, interest, advertising costs, and other applicable charges for the applicable tax year have been paid in full.

III. DEFAULT/REMEDIES:

The parties understand and agree that, where payments are not made as provided in Section I herein, or where, for any reason, the Treasurer believes the taxable personal property for which the taxes are the subject of this Agreement may be removed from the State of Colorado or may be dissipated or distributed so that taxes to be levied for the current year, or taxes due and owing for previous years, may not be collectible, he may, in his sole and exclusive discretion, cancel this Agreement, proceed to collect such taxes and, if he deems it necessary, may either distrain, seize, and sell such personal property to enforce collection pursuant to §§39-10-111 and 113, C.R.S., bring an action to collect unpaid personal property taxes pursuant to §39-10-112, C.R.S., or pursue other remedies available to him at law.

V. SUBJECT MATTER OF AGREEMENT:

The parties understand and agree that this Agreement applies to and governs only those taxes set forth in Section I herein, and shall not be construed to apply to subsequent taxes on said property. Taxpayer agrees that all taxes not the subject of this Agreement shall be due and payable according to law, and nothing in this Agreement shall prevent Treasurer from pursuing all remedies available to him in the event such taxes become delinquent.

VI. Governing Law:

Taxpayer and Treasurer agree that this Agreement shall be governed according to the laws of the state of Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

ATTEST: OFFICE OF THE PUEBLO COUNTY TREASURER

By: _____ By: _____
Del Olivas or his designated representative

ATTEST: TAXPAYER

By: _____ By: _____

**Calculation of monthly
payment**

Monthly Tax Only	\$653.46/6 months=	\$108.91
Monthly Interest Only	\$214.93/6 months=	\$35.82
Total Monthly Payment	\$868.39/6 months=	<u>\$144.73</u>

Assuming payment plan is set up in October
payments would reflect as follows:

October	\$144.73
November	\$144.73
December	\$144.73
January	\$144.73
February	\$144.73
March **	\$144.74
	<u>\$868.39</u>

****Last payment will need to be adjusted to reflect difference in cents**

Example # 3
Office of the County Treasurer
Del Olivas
Treasurer

September 15, 2010

Amazing Air
84 N Cellini Dr
Pueblo West, CO 81007

RE: Personal Property Taxes
Parcel #1,275

Dear Taxpayer:

Our records indicate your 2009 Personal Property tax, which was due in full by April 30, 2010, has not been received and is ***delinquent***.

Payments will be accepted in our office through September 30, 2010; however, if payment is not received, beginning ***October 1***, your personal property (all equipment used for business) will be ***distraigned, seized, and sold at Public Auction***. Additional fees in the amount of approximately \$100.00 plus 2010 estimated tax would be added as a result of this procedure.

If the delinquent tax is not satisfied by the distraint and seizure procedure, the account will be referred to our attorneys and/or collection agency for collection.

It is **urgent** that you contact our office ***immediately*** at **(719) 583-6687**, in order to clear this matter. Office hours are Monday - Friday 7:45 a.m. to 4:30 p.m.

All payments must be made in the form of certified funds (Cash, Cashier's Check or Money order).

Sincerely,

Del Olivas
Pueblo County Treasurer

By: **Tina R. Malespini**
Personal Property/Bankruptcy Tax Specialist

Pueblo County Courthouse
215 West 10th Street
Pueblo, Colorado 81003
FAX (719) 583-6526

Example # 4

IN THE MATTER OF DISTRAINT OF PERSONAL PROPERTY)
ASSESSSED TO)
DUSTY PAWS)
FOR NONPAYMENT OF PERSONAL PROPERTY TAXES)
)

TO: Dusty Paws, in particular and to any person claiming an interest in personal property located at 25 N. Beth St., Pueblo, Colorado, and to all persons:

PLEASE TAKE NOTICE:

That personal property, subject to taxes, located at 25 N. Beth St., Pueblo, Colorado, has been distrained, pursuant to Distraint Warrant issued, for nonpayment of personal property taxes, as by said Warrant shown.

Therefore, a list has been prepared describing the property seized, as required by Statutes, and is attached hereto and hereby made a part hereof.

Notice of Sale is herewith given to all persons and owner or reputed owner, Dusty Paws, and all other persons claiming any right, title or interest are herewith informed that One Hundred Seventy Nine dollars and Ninety One cents (\$179.91) for taxes, penalty, interest, plus cost of making seizure and advertising the sale, are demanded of said owner in satisfaction of taxes for which distraint was issued, as is by said distraint described, and that your failure to satisfy the lien of the Treasurer of Pueblo County, Colorado, at his office or place of sale at the Court House, Pueblo, Colorado, a sale of the personal property distrained shall be had, and all persons notified that a sale thereof shall be had for nonpayment of personal property taxes , to be conducted for the satisfaction of such taxes at the front steps of the Court House, 215 West 10th Street, Pueblo, Colorado at the hour of 10:00 A.M., on the 29th day of October, 2010 and at such other times and places as it may be adjourned.

Dated this 20th day of October, 2010.

Del Olivas
Pueblo County Treasurer

LIST OF PERSONAL PROPERTY

All of the goods, wares, merchandise, furniture, chattels, equipment, machines and tools of the Dusty Paws and located at 25 N. Beth St., Pueblo, Colorado and from there removed and otherwise stored, kept or maintained, together with all other such property previously transferred, subject to lien for taxes as by Statute imposed and described as follows by way of enumeration and not by way of limitations:

Furniture

Fixtures

Equipment

Etc.

HAVE BEEN SEIZED AS BY DISTRESS WARRANT AUTHORIZED AND SUBJECTED TO SALE AS NOTICE SET FORTH, SUBJECT TO REDEMPTION AND TAXES AND PURSUANT TO STATUTE.

Example #5

Distrain Procedure

When Personal Property taxes become delinquent and payment is not received, the Treasurer's Office, will secure the location and seize the Personal Property (Equipment). At this time the owner will be given the opportunity to pay the full amount due in cash, only if funds are available on the premises. If the taxpayer cannot or will not pay in full, distraint is to proceed, ***NO EXCEPTIONS***.

Payment will be accepted after 8:00 a.m. the following business day, in the Pueblo County Treasurer's Office. If the following day is Saturday or Sunday, payment will be accepted on Monday morning.

If full amount is not paid:

Owner will be asked to vacate the premises ***immediately***.

"No Trespassing" signs and a copy of the distraint will be posted.

Locksmith will change all locks to business.

Inventory of equipment will be taken

Photographs of equipment will be taken.

Business will be locked & keys held in Treasurer's possession until payment has been made.

If after service of distraint, full payment is not received, the equipment will be sold at auction within 10 days. ***Tax must be paid prior to this date to retain possession.***

Please contact either Tina Malespini or myself at **583-6687** to resolve this matter or if you should have any further questions.

Del Olivas
Pueblo County Treasurer

trm

Example # 6
(Red Printed Signs/Legal Size/Landscape Print)
2 Signs

**THIS PERSONAL
PROPERTY SEIZED
UNDER DISTRAINT
WARRANT**

**BY ORDER OF
PUEBLO COUNTY TREASURER**

SECTION 39-10-111 COLORADO STATUTES

NO TRESPASSING

**VIOLATORS WILL BE PROSECUTED
TO THE FULL EXTENT OF THE LAW**

**BY ORDER OF
PUEBLO COUNTY TREASURER**

Example # 7
Office of the County Treasurer
Del Olivas
Treasurer

September 29, 2010

Adams, Jack
4013 Country Club Dr
Pueblo, CO 81008

RE: Personal Property Taxes
Parcel #138,680

Dear Taxpayer:

In researching our records it has been discovered that delinquent personal property taxes are owing for 2009 payable in 2010. The amount now due is \$207.24, good only through 12-30-10. Interest on delinquent tax is computed on a monthly basis.

It is urgent that you contact our office *immediately* to clear this matter. Failure to pay tax will result in this account being referred to our collection agency.

If you should have further questions, please contact Tina Malespini at (719) 583-6687. Our office hours are 7:45 a.m. – 4:30 p.m.

Thank you for your cooperation.

Sincerely,

Del Olivas
Pueblo County Treasurer

By: Tina R. Malespini, Personal Property Specialist