

## Taxation Blues – Part 1

Georgia is second only to Texas when it comes to the number of counties in a single state. Our state has 159 counties and each tax commissioner independently determines when their county's tax bill will be issued and due. To complicate matters, in addition to county taxes a municipality and/or city can also collect and bill taxes separately and in a different month than the county's bill. Managing these variations can prove quite challenging for those of us in the real estate profession, especially when conducting real estate transactions throughout the entire state of Georgia.

Why is this important? County, city and/or municipal taxes must be prorated on the settlement statement between the buyer and seller, pursuant to provisions in the governing contract. If the closing takes place after the current year's tax bill has been issued, that tax amount is simply prorated between the buyer and seller based on the settlement date. If the tax bill has not been issued for the current year, the seller issues a credit on the settlement statement to the buyer for their calculated portion of last year's bill, unless the parties have agreed otherwise in the contract. The seller cannot pay their prorata share directly to the County or City; the municipality will not accept a tax prepayment on an unbilled amount. Based on the seller's credit to the buyer at closing, it will be the buyer's responsibility to pay the entire tax bill when issued for the current year, unless the parties agree otherwise in the contract.

What happens if the current year bill varies from the prior year bill? The answer depends on the language in the contract. If the contract form used is the Georgia Association of Realtors, Inc. (GAR), the parties have agreed to re-prorate amongst themselves after closing. Beware of contract addendums that override this agreement. Addendums which eliminate the provision for re-proration after closing are commonly used in bank owned (REO) sales. The bank's motivation for such clauses is to allow for them to close their books, so to speak, on each property at the conclusion of the sale.

Some of the factors contributing to real property tax complications in Georgia would be eliminated if Georgia required the tax commissioners of all 159 counties to issue tax bills in the same month, as is the practice in other states, providing consistency and predictability. Until then, we will continue singing the taxation blues.

.....Stay tuned for Taxation Blues Part II, Tax Appeals.

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