TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-122

February 20, 2026

The Honorable Richard McGrew
State Representative
324 Ouachita Avenue
Hot Springs, Arkansas 72901-5209

Dear Representative McGrew:

You report that several of your constituents were assessed delinquent tax penalties on property tax payments that were mailed on or before October 15, 2025, the deadline for payment. Instead of postmarking the payments on the date they were mailed, the United States Postal Service sent the payments to another city for postmarking. As a result, the payments received postmarks dated after October 15, 2025. You have asked the following questions:

1. Does a county collector have authority to waive, cancel, nullify, or otherwise not collect a delinquent tax penalty?

   Brief response: No. The county collector does not have discretion in assessing a penalty when taxpayers do not pay their personal property or real estate taxes by October 15 of each year.

2. Does Opinion No. 2015-149 have application in this instance, as the taxpayers did what was required to timely pay their taxes and were not directly at fault for the delinquency?

   Brief response: No. Opinion No. 2015-149 does not apply here.

3. Is there a procedure available under existing state law for a taxpayer to appeal a delinquent tax penalty? If so, what is that procedure?

   Brief response: The statute at issue, A.C.A. § 26-36-201, does not provide a procedure for a taxpayer to appeal a delinquent tax penalty. And I have found no other appeal method in my research.

4. Does a county court, as the court of original jurisdiction over county tax issues pursuant to Article 7, § 28 of the Arkansas Constitution and A.C.A. § 14-14-1105, have authority to waive, cancel, nullify, or otherwise order a collector to not collect a delinquent tax penalty?

Brief response: No. The penalty under A.C.A. § 26-36-201 is mandatory.

5. Does the circuit court, as the court of appellate jurisdiction from county court, and the court of equity, have authority to waive, cancel, nullify, or otherwise order a collector to not collect a delinquent tax penalty?

   Brief response: No. The penalty under A.C.A. § 26-36-201 is mandatory.

DISCUSSION

Question 1: Does a county collector have authority to waive, cancel, nullify, or otherwise not collect a delinquent tax penalty?

No. The county collector does not have discretion in assessing a penalty when taxpayers do not pay their personal property or real estate taxes by October 15 of each year.

"[A]ll taxes levied on real estate and personal property for the county courts of this state … are due and payable at the county collector's office between the first business day of March and October 15 inclusive."[1] After the October 15 deadline, those taxes are delinquent.[2] A strict reading of A.C.A. § 26-36-201(a)(1)(A) is that the tax payments must be physically present "at the county collector's office" by the deadline.[3] In fact, that statute does not reference postmarks or mailing of payments in any way.

But a better interpretation—and the one I believe many county collectors follow—is that A.C.A. § 26-36-201 should be read in conjunction with other tax laws regarding payments.[4] And under A.C.A. § 26-35-501(c)(3)(A), the final payment in an installment plan for real or personal property taxes can be mailed through the Postal Service. That payment must be mailed and postmarked by October 15 to be considered timely.[5] Thus, many county collectors accept all tax payments as timely so long as they are postmarked by October 15.

But after the deadline has passed, "the county collector shall extend [and collect] a penalty of ten percent (10%) against all delinquent taxpayers that have not paid their taxes within the time limit

[1] A.C.A. § 26-36-201(a)(1)(A).

[2] *Id.* § 26-36-201(a)(2).

[3] *Wickham v. State*, 2009 Ark. 357, 5, 324 S.W.3d 344, 347 (2009) (internal citations omitted) ("[T]he first rule in considering the meaning and effect of a statute is to construe it just as it reads, giving the words their ordinary and usually accepted meaning in common language.").

[4] *Metzner v. State*, 2015 Ark. 222, 9, 462 S.W.3d 650, 656 (internal citations omitted) ("In construing any statute, we place it beside other statutes relevant to the subject matter in question and ascribe meaning and effect derived from the whole.").

[5] A.C.A. § 26-35-501(c)(3)(A).

specified."[6] Because the statute uses "shall," the penalty is mandatory, and the tax collector has no discretion to waive or reduce the penalty.[7]

Question 2: Does Opinion No. 2015-149 have application in this instance, as the taxpayers did what was required to timely pay their taxes and were not directly at fault for the delinquency?

No, Opinion No. 2015-149 does not apply here. That opinion concerned tax payments by check that were timely received but later lost by county staff. In that context, the taxpayers complied with all statutory requirements, and the error occurred *after* their payments were *received*—not just mailed. Since the taxpayers at issue received receipts, they most likely made their payments in person.

Here, by contrast, your constituents' payments were not timely received or postmarked by October 15. While your constituents may not have anticipated that the payments would be postmarked after October 15, I cannot agree that they "did what was required to timely pay their taxes" and so "were not directly at fault for the delinquency." They had several options to ensure their taxes were timely paid. For instance, your constituents could have paid their taxes in person. Or they could have asked the Postal Service staff for postmarks when they mailed their payments.[8]

Question 3: Is there a procedure available under existing state law for a taxpayer to appeal a delinquent tax penalty? If so, what is that procedure?

The statute at issue, A.C.A. § 26-36-201, does not provide a procedure for a taxpayer to appeal a delinquent tax penalty. And I have found no other appeal method in my research.

Question 4: Does a county court, as the court of original jurisdiction over county tax issues pursuant to Article 7, § 28 of the Arkansas Constitution and A.C.A. § 14-14-1105, have authority to waive, cancel, nullify, or otherwise order a collector to not collect a delinquent tax penalty?

No. As discussed above, the penalty under A.C.A. § 26-36-201 is mandatory.

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[6] *Id.* § 26-36-201(b).

[7] *State of Wash. v. Thompson*, 339 Ark. 417, 424–25, 6 S.W.3d 82, 86 (1999) (internal citations omitted) ("Under our principles of statutory construction, "shall" is mandatory.").

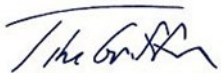
[8] USPS.com, https://about.usps.com/newsroom/statements/010226-postmarking-myths-and-facts.htm (last visited Feb. 20, 2026) ("[I]f a customer wants to ensure that their mailpiece receives a postmark, and that the date on the postmark aligns with the date of mailing, the customer may take the mailpiece to a Postal Service retail location and request a manual (local) postmark at the retail counter when tendering their mailpiece.") (emphasis in original). The Postal Service also has other services that involve proof-of-mailing: Certificate of Mailing, Registered Mail, and Certified Mail. *Id.*

Question 5: Does the circuit court, as the court of appellate jurisdiction from county court, and the court of equity, have authority to waive, cancel, nullify, or otherwise order a collector to not collect a delinquent tax penalty?

No. As discussed above, the penalty under A.C.A. § 26-36-201 is mandatory.

Assistant Attorney General Jodie Keener prepared this opinion, which I hereby approve.

Sincerely,



TIM GRIFFIN
Attorney General