

UPSET TAX SALE TERMS AND CONDITIONS

The upset tax sale is conducted by the Bureau once a year and is the first sale at which a delinquent taxpayer's property may be sold. Properties which are delinquent in the payment of real estate taxes for the past two (2) years are eligible to be exposed to an upset tax sale. The upset sale auction is scheduled to take place between the second Monday in September and the first day of October.

At least three (3) forms of notice – publication, mail, and posting – are required for a valid upset tax sale. First, a notice of the sale covering each property to be exposed for sale must be published in two (2) newspapers of general circulation and in the Lackawanna Jurist at least thirty (30) days before the date of the sale. In addition, the Bureau must give thirty (30) days notice to each of the owners of the subject real estate by certified mail, restricted deliver, return receipt requested, postage prepaid. At least ten (10) days before the date of the sale notice must be given by United States first class mail, proof of mailing, to each owner for whom no return receipt has been obtained. Finally, each property scheduled for sale must also be posted at least ten (10) days prior to the date of the sale. Special notice provisions require personal service by a constable at least ten (10) days before the upset sale if the property is owner-occupied. All four (4) forms of notice – publication, mailing, posting and personal service, if applicable – are essential to a valid upset tax sale. An upset tax sale may be voided if any of the required types of notice are defective.

The upset sale does not divest any existing lien or encumbrance on the property, other than those for real estate taxes, municipal claims, and claims of the Commonwealth that are included in the upset price. The property is subject to all other liens and claims against the property which are of record at the time of the upset sale, including mortgages, judgment liens, mechanic's liens, easements, covenants, servitudes, ground rents or the like.

Within sixty (60) days of the sale, the Bureau must file a consolidated return with the Lackawanna County Court of Common Pleas. The consolidate return of sale serves two purposes. First, it presents the regularity of the sale to the Court for

confirmation, affording interested parties an opportunity to challenge the regularity of the sale. Second, it provides judicial confirmation of the Bureau's proposed distribution of the sale proceeds among the interested parties. An owner or other interested party who fails to question the regularity of the upset tax sale proceeding by filing objections or exceptions to the return will be precluded from raising those objections in any other proceeding. The only issue that an owner can raise after confirmation of the sale is the adequacy of the notice of sale provided by the Bureau.

Three (3) conditions must be met before the successful purchaser at the upset sale is entitled to a deed. First, the purchaser must be a registered and qualified bidder. Next, the purchaser must pay the full amount of the bid to the Bureau. Finally, the Court must confirm the sale absolutely. Once these conditions are met the Bureau will deliver a recorded tax claim bureau deed to the property to the successful purchaser. The Bureau does not provide any warranty of title through a tax claim bureau deed.

The following conditions shall govern upset tax sales:

1. You must be at least eighteen (18) years old to submit a upset sale offer.
2. The Tax Claim Bureau makes no guaranty or warranty whatsoever as to the existence or condition of the property, accuracy of ownership, size, boundaries, locations, existence of structures or lack thereof, liens, encumbrances, titles, occupancy, possession, condemnation or any other matter whatsoever affecting the property.
3. The Tax Claim Bureau has attempted to comply with all the statutory notice requirements of the Real Estate Tax Sale Law but makes no guarantees or warranties whatsoever.
4. The independent due diligence of prospective bidders is essential, including a thorough review of the title.
5. Act 33 of 2021, amends effective August 30, 2021, the act of July 7, 1947 (P.L.1368, No. 542), known as the Real Estate Tax Sale Law, by adding

provisions relating to bidder registration before a tax sale. Specifically, “[a] person that intends to bid at a scheduled upset sale or judicial sale must appear and register at the bureau not less than 10 days before the scheduled upset sale or judicial sale.” The General Assembly has also authorized the County to “establish a fee for filing an application to register.” All bidders are required to pre-register for the upset tax sale by submitting a bidder registration application at the Tax Claim Bureau not less than ten (10) days prior to the date of the upset tax sale. No late bidder registration application will be accepted.

6. Those who are determined to have submitted an inaccurate or false bidder affidavit will not be delivered a tax claim bureau deed and their bid shall be forfeited to the County.
7. Following the fall of the auctioneer’s hammer at the upset tax sale the successful bidder shall immediately pay the upset price to the Tax Claim Bureau by cashiers’ check, certified check, money order (made payable to the Lackawanna County Treasurer) or credit card. If payment is not made, the bid shall be deemed null and void and the property shall be re-exposed to auction at the conclusion of the sale. The remaining balance, if any, owned by the successful bidder must be paid to the Tax Claim Bureau before 4:00 p.m. at the Office of the Tax Claim Bureau on the day of the auction by cashiers’ check, certified check, money order (made payable to the Lackawanna County Treasurer) or credit card, without further demand. If the remaining balance is not timely paid the minimum bid shall be forfeited to the County.
8. All bids are final, you may not contact the Tax Claim Bureau and request to rescind your bid. The rule of *caveat emptor* or buyer beware, codified at 72 P.S. § 5931, applies to the sale of all property by the Tax Claim Bureau and no refunds will be made.
9. The Tax Claim Bureau maintains the discretion and reserves the right to permit an owner of tax delinquent real estate to redeem a property slated to be sold at the upset tax sale.

10. Land title insurance companies may elect not to insure the title of properties sold at an upset tax sale. Bidders should consult legal counsel concerning the title and the advisability of bringing a court action to quiet title.
11. Transfer tax and recording fees that are remitted to and processed by the Lackawanna County Recorder of Deeds are non-refundable under any circumstances.
12. A tax claim bureau deed will be prepared and filed by the Tax Claim Bureau on behalf of a successful bidder for any property purchased at the upset tax sale.
13. Bid assignments may be submitted within ten (10) days of the date of the upset tax sale. Late assignments will not be accepted. Assignment instructions and forms can be found at the Tax Claim Bureau's website. Pursuant to the Pennsylvania Department of Revenue Bureau of Individual Taxes a successful tax sale bid is subject to real estate transfer tax and the subsequent assignment of that bid is additionally subject to real estate transfer tax. Simply put, a tax sale bid and subsequent assignment is considered two (2) separate and distinct transfers accomplished through one (1) document, which are both subject to transfer tax. See 61 Pa. Code § 91.170(b).
14. All county, municipal, and school district real estate taxes accruing after the date of the sale are the responsibility of the successful bidder.
15. The sale does not purport to convey personal property.
16. A lien on a mobile home or manufactured home's certificate of title is not affected by a real estate tax sale.

17. If any problem with possession of the premises arises after purchase, it shall be the responsible of the purchaser to resolve the same.

s/Barbara Lynady

Barbara Lynady
Deputy Director