

Statutes of Collections for Federal and North Carolina Taxes

TAX SECTION



By [John G. Hodnette](#)

For administrative convenience, federal and North Carolina law both provide that after a specific period of time, uncollected taxes are written off and released. This provides some relief for taxpayers who owe taxes for years long past as well as preventing tax agencies from fruitlessly pursuing old and cold liabilities.

Section 6502 provides the federal collection time limit, stating the collection statute expiration date (“CSED”) is 10 years after the assessment of the tax. There are certain events that extend the date as provided in Section 6503, including the taxpayer’s bankruptcy, spending time outside the United States, and filing a collection due process appeals hearing request. Before the expiration of the CSED, the IRS can seek to extend the 10-year period. However, it rarely does that.

North Carolina has a different system for the collection time limit. G.S. § 105-242(c) provides that the Department may file a certificate of tax liability (“CTL”) in the county where the taxpayer resides. If the taxpayer does not reside in the state, the CTL must be filed in Wake County. The CTL lists the taxpayer’s name and the type and amount of tax owed. The clerk of court records a CTL in the same manner as a judgment, which is appropriate because that is how it is treated under North Carolina law.

As with the federal law, the CTL expires automatically after a 10-year period beginning when the CTL is filed with the taxpayer’s county. There are a few situations in which the 10-year period is tolled, such as the taxpayer’s being absent from North Carolina, death, or bankruptcy, and any period for which the taxpayer has waived the 10-year period.

The important difference between the federal CSED and the North Carolina CTL is the federal 10-year period begins upon the assessment of the tax liability. In contrast, the NCDOR may assess taxes owed by the taxpayer many years before it decides to file a CTL in a North Carolina court and begin the 10-year limit. There does not appear to be any guidance as to the timing of filing CTLs in North Carolina.

John G. Hodnette, JD, LLM is an attorney with Culp, Elliott, & Carpenter in Charlotte.

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