

Section 40-29-23**Levy and distraint.**

(a) Authority of commissioner or delegate. If any person liable to pay any final assessment of tax neglects or refuses to pay the same or fails to appeal such final assessment within 30 days, it shall be lawful for the commissioner to collect such tax (and such further sum as shall be sufficient to cover the expenses of the levy) as herein provided or as otherwise provided by law. The commissioner may levy upon all property and rights for property belonging to such person or on which there is a lien as provided in this chapter for the payment of such tax. If the Commissioner of Revenue or his delegate makes a finding that the collection of such tax is in jeopardy, notice and demand for immediate payment of such tax may be made and, upon failure or refusal to pay such tax, collection thereof by levy shall be lawful without regard to the 30-day period provided in this chapter.

(b) Seizure and sale of property. The term "levy" as used in this chapter includes the power of distraint and seizure by any lawful means. Except as otherwise provided in subdivision (d)(3), a levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Commissioner of Revenue may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible), as prescribed by law. The Department of Revenue may become the purchaser of any property seized by bidding up to the amount of the final assessment and accrued interest plus any costs associated with such sale. The amount of any successful bid by the department, less costs, shall be credited to the amount owing on the unpaid final assessments. If the department shall become the purchaser of any property at such sale, then the department may resell the property by either public auction or public sale under sealed bids.

(c) Successive seizures. Whenever any property or right to property upon which levy has been made by virtue of subsection (a) is not sufficient to satisfy the claim of the State of Alabama for which levy is made, the Commissioner of Revenue or his delegate may, thereafter, and as often as may be necessary, proceed to levy in like manner upon any other property liable to levy of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

(d) Requirement of notice before levy.

(1) IN GENERAL. Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Commissioner of Revenue has notified such person in writing of his intention to make such levy.

(2) THIRTY-DAY REQUIREMENT. The notice required under subdivision (1) shall be served in any one of the following methods:

a. Given in person;

b. Left at the dwelling or usual place of business of such person; or

c. Sent by certified or registered mail to such person's last known address; no less than 30 days before the day of the levy.

(3) JEOPARDY. Subdivision (1) shall not apply to a levy if the Commissioner of Revenue has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

(e) Continuing levy on salary and wages.

(1) EFFECT OF LEVY. The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied; provided, however, that no such levy made shall be more than 25 percent of the total wages or salary due the taxpayer.

(2) RELEASE AND NOTICE OF RELEASE. With respect to a levy described in subdivision (1), the Commissioner of Revenue shall within 10 days release the levy when the liability out of which such levy arose is satisfied and shall promptly notify the person upon whom such levy was made that such levy has been released.

(f) Special rule for levies on banks. Any financial institution (as defined in Section 40-16-1) shall be allowed 21 days following the date of service to comply with a levy served by or on behalf of the department.

*(Acts 1983, 4th Ex. Sess., No. 83-891, p. 128, §6; Acts 1992, No. 92-186, p. 349, §75.)*