

**TAX PAYING TIME (2021) - Tax bills come out in October and if the current taxes due have been paid and the first payment date on the loan is prior to January 1, please see the following options.**

The escrows for taxes cannot go beyond the initial 12 month escrow analysis i.e. First payment due 11/1/2021 and have taxes due 12/2022. That is 14 months. If this happens, the client and Doc Prep will get an audit and the client may call us or try to send the order showing tax escrows are beyond 12 months in violation of RESPA.

The reason for the error is that the initial year 1 escrow analysis statement can only cover a 12 month period beginning with the 1<sup>st</sup> payment date according to RESPA. By entering the taxes more than 12 months out an error occurs. There are several options that a lender can follow when handling the tax due date.

**OPTION 1:** A lender can proceed as is, but the initial escrow analysis statement will be generated for a period of more than 12 months. This would result in a potential violation of the RESPA analysis statement requirements.

**OPTION 2:** The lender can do nothing regarding the property taxes – not escrow – which will result in a payment shock to the borrower in the second year of the loan. The lender could optionally do a short year escrow analysis in December of this year, reset the escrow analysis year, and raise the escrow payment at that time to cover the property taxes. This would avoid a larger payment shock which would occur by waiting until the end of the 1<sup>st</sup> escrow analysis year.

**OPTION 3:** The lender may enter the payment of the property taxes in a month included in the first year escrow analysis, moving the payment into the first escrow analysis year. However, if the lender has no intention of paying the property taxes in that month, it could be viewed as a violation of RESPA as they would be pre-accruing for the property tax payment.

**OPTION 4:** Enter into a voluntary escrow agreement with the borrower and collect a monthly escrow amount on a discretionary basis sufficient to pay the taxes in the following December.

**INVESTOR LOANS: If you have an investor involved with this loan, you will want to check with them regarding how they wish you to proceed.**

Please send PPDocs, Inc. an email with instructions as to which option you are picking and state you understand that there is a potential violation of RESPA if you select Option No. 1 or 3.

**If No. 1 IS CHOSEN:** Add the lender's email that they understand the potential RESPA violation and wish to proceed with the file. The lender would still include the estimated property tax amount in the Estimated Taxes, Insurance and Assessment table on page 1 with YES selected for escrow and the estimated annual property tax amount would be reflected on Page 4 in the Escrowed Property Costs over Year 1.

**If No. 2 IS CHOSEN:** The lender would still include the estimated property tax amount in the Estimated Taxes, Insurance and Assessments table on page 1 with NO selected for escrow and the estimated annual property tax amount would be reflected on page 4 in the Non-Escrowed property costs over year 1 – obtain email from lender and attach to file.

**If No. 3 IS CHOSEN:** Add the lender's email that they understand the potential RESPA violation and wish to proceed with the file. Taxes would be entered with October, November or December payment dates, as applicable, keeping them within the initial 12 month analysis period.

**If no. 4 IS CHOSEN:**

Provide the payment shock notice Doc ID 1645 for borrower execution.

The homeowner's insurance will be added as usual on the Escrow Account Setup screen. The voluntary monthly property tax payment will be entered as an "Other Payment" with the description of "Property Taxes – Voluntary" and the "Type" as "Prevent Payment Shock".

### Escrow Account Setup

Escrow Account Yes - Aggregate Escrow Analysis ▼

**Aggregate Escrow Analysis Setup**

First Escrow Payment Date	<span style="border: 1px solid #ccc; padding: 2px;">11/01/2021</span>
Cushions for MI	<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span> (2 Max)
Cushions for Other	<span style="border: 1px solid #ccc; padding: 2px;">2 ▼</span> (2 Max)
Other Payment Description:	<span style="border: 1px solid #ccc; padding: 2px;">Property Taxes - Voluntary</span>
Other Payment Type:	<span style="border: 1px solid #ccc; padding: 2px;">Prevent Payment Shock (Extended Analysis) ▼</span>
Other Payment Amount:	<span style="border: 1px solid #ccc; padding: 2px;">325.00</span>

	Disbursements	Payments per year	Payment due date	Payment amount	Disbursement Code
<span style="border: 1px solid #ccc; padding: 2px;">1001 ▼</span>	Homeowner's Insurance	<span style="border: 1px solid #ccc; padding: 2px;">1 ▼</span>	07/01/2022	1,200.00	<span style="border: 1px solid #ccc; padding: 2px;">Haz Ins ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">1002 ▼</span>	Mortgage insurance	<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">1003 ▼</span>	Property Taxes	<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>
<span style="border: 1px solid #ccc; padding: 2px;">▼</span>		<span style="border: 1px solid #ccc; padding: 2px;">0 ▼</span>			<span style="border: 1px solid #ccc; padding: 2px;">N/A ▼</span>

[How to enter disbursements that are due more than once a year.](#)

**Aggregate Escrow Analysis Recap**

Description	Months	Amount per month	Total amount due
Homeowner's Insurance	5	100.00	500.00
Mortgage Insurance	0		
Property Taxes	0		
Property Taxes - Voluntary	0	325.00	
Aggregate Adjustment	0		
	0		

On the "Other Details" screen, the monthly property tax and the homeowner's insurance will be entered with the "In Escrow" box checked.

**Estimated Taxes, Insurance and Assessments**

<u>This Estimate Includes</u>	<u>Payment/Period</u>	<u>In Escrow?</u>	<u>Grouping</u>
Property Taxes	0.00	<input type="checkbox"/>	
Homeowner Insurance	100.00	<input checked="" type="checkbox"/>	
Property Taxes - Voluntary	325.00	<input checked="" type="checkbox"/>	Property Taxes ▼
	0.00	<input type="checkbox"/>	Other ▼
	0.00	<input type="checkbox"/>	Other ▼
	0.00	<input type="checkbox"/>	Other ▼
	0.00	<input type="checkbox"/>	Other ▼
	0.00	<input type="checkbox"/>	Condo Assoc. Dues ▼
	0.00	<input type="checkbox"/>	Condo Assoc. Dues ▼
	0.00	<input type="checkbox"/>	Condo Assoc. Dues ▼
	0.00	<input type="checkbox"/>	Condo Assoc. Dues ▼
	0.00	<input type="checkbox"/>	Condo Assoc. Dues ▼
<b>Total</b>	<b>425.00</b>		

Page 4 of the CD will appear as follows:

### **Escrow Account**

**For now,** your loan

- ☒ will have an escrow account (also called an "impound" or "trust" account) to pay the property costs listed below. Without an escrow account, you would pay them directly, possibly in one or two large payments a year. Your lender may be liable for penalties and interest for failing to make a payment.

Escrow		
Escrowed Property Costs over Year 1	\$5,100.00	Estimated total amount over year 1 for your escrowed property costs: <i>Homeowner's Insurance, Property Taxes - Voluntary</i>
Non-Escrowed Property Costs over Year 1	\$0.00	Estimated total amount over year 1 for your non-escrowed property costs:  You may have other property costs.
Initial Escrow Payment	\$500.00	A cushion for the escrow account you pay at closing. See Section G on page 2.
Monthly Escrow Payment	\$425.00	The amount included in your total monthly payment.

The first page of the CD will appear as follows:

<b>Estimated Taxes, Insurance &amp; Assessments</b> <i>Amount can increase over time</i> <i>See page 4 for details</i>	<b>\$425.00</b> a month	<b>This estimate includes</b> <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other:	<b>In escrow?</b> <b>YES</b> <b>YES</b>
<i>See Escrow Account on page 4 for details. You must pay for other property costs separately.</i>			

This will also generate the Initial Escrow statement with the following language and will not show the voluntary payment in the escrow account balance in the analysis.

#### INITIAL ESCROW ACCOUNT DISCLOSURE STATEMENT

<b>Borrower(s) Name and Address</b> <b>Becky Borrower Purchase 1st and Mercutio Borrower</b>  123 Main Street Disney, AR 12345	<b>Lender/Service Name and Address</b> <b>PPDOCS</b> 2310 W Interstate 20, 100, Arlington, TX 76017  <b>Phone: (817) 367-4623</b>
<b>Loan # 1</b>	<b>Mortgage Insurance/Case Number</b> FHA Case # 012-01234

Your first payment with escrow contribution is due November 1, 2021 and will be \$1,186.43, of which \$761.43 will be for the amount owed, and \$425.00 will go into your escrow account which includes \$325.00 for discretionary items that you chose to be included in your payment. The terms of your loan may result in changes to the payments during the year.

This is an estimate of activity in your escrow account during the next 12 months based on payments anticipated to be made from your account.

MONTH	PAYMENTS TO ESCROW ACCT	PAYMENTS FROM ESCROW ACCT	DESCRIPTION	ESCROW ACCT. BALANCE
Escrow Computation Year Beginning Balance:				500.00
Nov 2021	100.00	0.00		600.00
Dec 2021	100.00	0.00		700.00
Jan 2022	100.00	0.00		800.00
Feb 2022	100.00	0.00		900.00
Mar 2022	100.00	0.00		1,000.00
Apr 2022	100.00	0.00		1,100.00
May 2022	100.00	0.00		1,200.00
Jun 2022	100.00	0.00		1,300.00
Jul 2022	100.00	1,200.00	Homeowner's Insurance	200.00
Aug 2022	100.00	0.00		300.00
Sep 2022	100.00	0.00		400.00
Oct 2022	100.00	0.00		500.00

(Please keep this statement for comparison with the actual activity in your account at the end of the escrow accounting computation year.)

Cushion selected by servicer: \$200.00

By signing below, I/we acknowledge receipt of a copy of this Initial Escrow Account Disclosure Statement.

## QUESTION AND ANSWER REGARDING OPTION #4 IF SECTION 35.

**QUESTION:** If option 4 is chosen what happens with regard to a Section 35/HPML loan?

**ANSWER:** Section 35 of Regulation Z has the following direction within the commentary regarding required escrows.

### **35(b)(1) Requirement to escrow for property taxes and insurance.**

1. *Administration of escrow accounts.* Section 1026.35(b)(1) requires creditors to establish an escrow account for payment of property taxes and premiums for mortgage-related insurance required by the creditor before the consummation of a higher-priced mortgage loan secured by a first lien on a principal dwelling. Section 6 of RESPA, 12 U.S.C. 2605, and Regulation X, 12 CFR 1024.17, address how escrow accounts must be administered.

So while Section 35 requires that an escrow account be established, a creditor must still abide by the rules for the administration the escrow account under the rules found in RESPA. Since property taxes will be escrowed, but collected in a manner that is allowed under RESPA, there should be no violation of the Section 35 requirements.

If there is an investor involved in the transaction, they will need to be consulted regarding any additional requirements they may impose.