Massachusetts

Collectors and Treasurers Association

COLLECTOR'S MANUAL

Revised 2008

Chapter 1
The Collector

Nature of the Office

Tax Collector [60:1,2]

1. The tax collector is an elected or appointed public officer to whom taxes, together with excises, betterments, special assessments and certain other charges, added to and committed as taxes, are committed for collection.
2. A tax collector possesses authority to collect only those receivables listed above.

City or Town Collector [41:38A]

By voting to accept Ch. 41 §38A, a city or town may extend its collector's authority to the collection of "all accounts due the city or town…."

Duties of the Collector [60:2]

1. A tax collector, upon receiving a tax list and warrant from the assessors, must collect the taxes set forth in the warrant, with interest.
2. The collector must, once in each week or more often, pay over to the treasurer all money received for taxes and interest during the preceding week or lesser period, together with any interest earned as a result of depositing said taxes and interest received. The collector must give the treasurer an account of all charges and fees collected by him.
3. The collector must report in writing concerning his actions relating to a warrant and tax list at such times as the assessors require in writing.

Who May Perform These Duties [60:90,92; 41:37]

The duties of collector may be performed by a person lawfully serving as the collector of taxes, by the city or town treasurer, in certain instances by the city or town constable or sheriff, and by one or more deputy collectors appointed by any officer authorized to collect taxes.

Term of Office

Tenure [41:126-132]

Tenure is the holding of an appointed office without the necessity for periodic appointment.

1. Appointed Collectors

   a. An appointed collector, who has been in office for at least five consecutive years, may apply for tenure by filing an application statement with the city or town clerk, and, at his own expense, publishing a copy of the application statement in a newspaper once a week for three consecutive weeks. If both the city council and the mayor, in a city, or the selectmen, in a town, approve the application, the question will be placed on the ballot for the next municipal election in substantially the following form:

      Must (name of applicant) incumbent in the position or positions of (title of office) be granted tenure pursuant to Ch. 41 §§126-132?

   b. If approved by a majority of the voters, the collector will hold office until 65 years of age, unless incapacitated by physical or mental disability from performing the duties of the office. However, the collector may be removed for cause after a hearing as provided by Ch. 31§§41-45.

   c. Ch. 41 §§126-132 set out detailed provisions relating to collector tenure.

   d. Generally, tenure is granted to the individual serving in a position; it terminates when that individual vacates the position.

2. Elected Collectors

   e. The General Laws do not contain any provisions for tenure of an elected official. An elected collector wishing to attain tenure would have to utilize the home rule provisions of Ch. 43B.

   f. For an appointed collector, any previous time spent as an elected collector would apply toward the five year minimum needed for tenure, provided the newly appointed collector succeeded himself in office.

Making Elected Officers Appointed Officials [41:1B]

1. Towns may convert elected officers, other than the selectmen and school committee members, to appointed officers without the need for special legislation.
2. A conversion requires a majority vote of those voting at an annual or special town meeting and at the annual town election.

If No One Is Elected Or Appointed As Collector [41:39]

If no person is elected or appointed as a collector or if a person appointed to collect taxes in a town refuses to serve, the constable of the town must be the collector of taxes.

Oath of Office [41:107]

Upon election or appointment, a collector must take the oath of office, swearing faithful performance of collector duties.

Collector's Bond [60:13; 41:109A]

Before performing any duties of the office, a collector must furnish a fidelity bond with a surety (guarantee against default) from a surety company authorized to transact business for this purpose in the Commonwealth. The premium must be paid by the city, town, or district.

Effect of the Bond

A performance bond protects the municipality, not the collector. The collector is directly and primarily liable for any breach of his public trust. If it becomes necessary for the surety company to compensate a municipality for a loss due to the collector's conduct, the surety company will certainly look to the collector and his personal assets for reimbursements.

Form and Sufficiency of Bond [59:53; 60:35]

1. The collector's bond must be in a form approved by the Commissioner and in the amount fixed by the mayor, aldermen, or selectmen.
2. This amount must be no less than the minimum established by the Commissioner.
    a. The Commissioner promulgates the minimum bond amount with a Bond Amount Schedule, which is updated periodically and distributed to all municipalities.
    b. The collector must annually calculate the approximate amount of money, in aggregate, which will be in his custody the following fiscal year, locate the range on the Bond Amount Schedule within which that amount falls, and identify the minimum bond amount which corresponds to this range.
    c. The collector must communicate this minimum bond amount to the chief executive officer who must then establish the bond amount, equal to or greater than the Commissioner's minimum.

Recommittal Bond [60:13,14]

A new collector, elected or appointed, must obtain a bond to cover the outstanding taxes re-committed to him.

Failure of the Collector to Post a Bond [60:13]

If a collector fails to obtain the requisite bond or bonds, the mayor, aldermen, or selectmen may declare the office vacant and fill the resultant vacancy in the manner set out in Ch. 41 §§40 & 61A for the appointment of a temporary collector.

Indemnification of the Collector [41:43A]

1. If, in the opinion of the mayor/council of a city or the selectmen of a town, upon petition of the collector, an action or suit results from an act by the collector performing in "good faith without negligence and in the best interest of the city or town," the solicitor or town counsel must be required to defend the action. The Collector cannot sit passively and merely receive such taxes as may be paid voluntarily; rather, he must make a reasonable effort to enforce collection using the powers available under the General Laws.
2. While all collectors should proceed with diligence in the enforcement of collection, they must not exceed or abuse their authority. The use of common sense is the best guideline for selecting the most effective methods to use.

Obligations and Liabilities of a Collector

Obligations

The primary obligation of a collector is to keep the public trust and faithfully perform all collector duties. Pursuant to Ch. 44 §59, a collector may be compelled to comply with the provisions of Ch. 44 by a court order or upon suit or petition by the attorney general, mayor, or taxable inhabitants of a city, town or district, or a creditor to whom at least $1,000 is indebted.

Liabilities

A tax collector may be personally liable in a circumstance in which the mayor/council or selectmen refuse to support indemnification because they believe the collector's action was:

1. Unfaithful,
2. An act of gross negligence, or
3. Not in the best interest of the city or town.

A collector can diminish liability by carefully conforming with the provisions of the tax warrant, which accompanies each tax list. The warrant directs the collector to levy, collect, and pay over to the treasury the amounts enumerated on the tax list by the assessor. It affords protection to the collector against good faith errors.

Penalties

Fines, varying in amount from $500 to 2½% of the total committed for collection, may be imposed on a collector who fails to comply with Ch. 60 §§2,8,9,12,94,97-102.

Vacancy of Office

Resignation in Town/District [41:109]

A town or district official may resign his office by filing a letter of resignation with the municipal clerk. A resignation is immediately effective unless otherwise specified in the letter. Officials should check their local charter, bylaws, or ordinances for provisions that may vary on a home rule basis, such as residency in the municipality being a prerequisite to holding office as a collector. In such a case, if one moves out of the municipality or district, the office can be deemed vacant.

Elected Office Vacancy

The board of selectmen may call a special election to fill a vacancy created by the resignation of any elected officer, effective at a later date, after the officer has filed the resignation with the town clerk.

1. Vacancy in a Town

   If, in a town, the office of the collector of taxes becomes vacant or if such officer, because of disability or absence, is unable to perform his duties, a majority of the selectmen may appoint a temporary collector and record the appointment in writing with the town clerk. The temporary collector must hold this office and exercise all powers and duties of such office until a duly qualified individual has been elected or appointed, or until the collector who is disabled or absent resumes his duties.

2. Vacancy in a City

   If a vacancy occurs in the office of a city collector of taxes for any reason, the mayor without confirmation from the city council (any provision of a present city charter notwithstanding) must appoint a temporary city collector to serve in the same manner as stated above. A temporary city collector appointed under Ch. 41 §61A, however, must not serve for longer than 60 days.

Bond of Temporary City or Town Collector [60:13, 14; 41:40; 41:61A]

Any temporary collector in a city or a town must be sworn, give oath, and post a bond for the faithful performance of the duties of the office. If an individual fails to post bond within 10 days, the mayor or selectmen must rescind the appointment and appoint someone else.

Removal for Cause

Removal by Recall of Voters

Although the General Laws do not contain any recall provisions, a number of municipalities have established a local recall procedure through special act. Collectors should be aware of any such special act affecting their cities and towns.

Removal by the Commissioner [41:39B]

1. If the funds or sums due a city, town, district or regional school district appear, in the opinion of the Commissioner, to be in jeopardy by the continuation in office of the collector of taxes, the Commissioner may petition the superior court for removal of said collector.
2. The court may, after a hearing, suspend the authority of the collector until the court has taken final action on the petition.
3. In the case of a suspension, the Commissioner must notify the mayor or selectmen that the collector is unable to perform his duties because of disability, within the meaning of Ch. 41 §§40 and 61 A.
4. A justice of the superior court in any county may hear the petition. The justice's decision must be final and conclusive.
5. Proceedings under this section will be advanced for a speedy hearing upon the request of either party.
6. If the court believes that the public good so requires, the court will issue a decree removing the collector. Otherwise, it will dismiss the petition. If the authority of the collector has been suspended, the court must restore it when the petition has been dismissed.

Removal by Aldermen/Selectmen [60:96]

1. Under Ch. 60 §8, the collector must, on demand by the mayor, aldermen,' or selectmen, exhibit to them, or any person they designate, books, accounts, vouchers, receipts and payments made on account of taxes.
2. The mayor, aldermen, or selectmen may remove the collector from office upon the collector's failure to exhibit the requested documents.
3. The mayor, aldermen, or selectmen may also remove the collector for any of the following reasons:
   a. The collector becomes incapacitated due to mental illness,
   b. The collector absconds, or,
   c. In the judgment of the aldermen or selectmen, the collector is about to abscond.

4. A collector may be removed under charter provisions for other reasons not specified in this section. [McKenna v. White. 287 Mass. 495 (1934)]

Removal by City Council [39:8A]

Unless otherwise provided in some general or special law, a city council may remove a collector, appointed or elected by it, for cause after a public hearing. It must give written notice of the proposed hearing to the collector at least 14 days prior to the hearing date.

Procedure When There Is a New Collector

Audit [60:97]

1. If a collector ceases to hold office for any reason, all accounts, records, papers, and tax warrants which relate to the assessment and collection of taxes must, after the conduct of an audit by a competent accountant, be turned over to the assessors by the collector or any other person who has possession of them.
2. The town accountant or city auditor may perform this audit.

Re-Commitment Warrant

The assessors must subsequently recommit the uncollected tax lists to the collector's successor, together with a tax warrant.

Bonding [60:13]

The new collector must obtain two separate bonds, one for the recommitted, outstanding taxes, and the second for taxes anticipated to be committed before acquisition of the next, annual bond. Generally, this second bond covers new warrants issued to the successor from the time of his assuming office until his reappointment or election.

Notification to the Division of Local Services

A letter must be sent to the Division of Local Services notifying them that there is a new collector for the community. The city or town clerk's certification must be on the letter.

Collector as His Own Successor

If the collector is his own successor, he must complete the collection of the taxes as part of the duties of his new term of office and not as a part of the duties of his former term of office.

Compensation [41:108,108A; 44:32,33A]

Elected Collector [41:108]

1. The salary or compensation of an elected collector in a town must be fixed annually by vote of the annual town meeting.
2. An elected official's compensation may be revised by a two-thirds vote of special town meeting called later in the same fiscal year, so long as the vote occurs prior to the establishment of the tax rate for that fiscal year.

Appointed Collector [41-.108A, 108C]

By ordinance or bylaw, a city or town may classify positions other than those filled by popular election.

1. Subject to the provisions of its charter, a city may establish a compensation schedule for each classification or position, setting out minimum compensation and periodic step increments based upon length of service.
2. By town meeting vote or bylaw, a town may authorize salary and wage increases under a plan established under Ch. 41 §108A, or by a consolidated bylaw established pursuant to Ch. 41 §108C.

Assistant Collector [41:39C]

The collector of a city or town may, in writing, and with the approval of the mayor or selectmen, appoint an assistant collector.

The assistant collector must obtain a performance bond which must be in an amount at least one quarter of the amount of the collector's bond.

In the absence of the collector, unless a temporary collector has been appointed, the assistant collector shall have the powers and duties and be subject to the same liabilities as the appointed collector; however, an assistant collector cannot be authorized to sign an Instrument of Taking.

Deputy Collector [60:92; 41:37]

Appointment of a Deputy

A collector may appoint such deputy collectors as he deems necessary. A deputy collector should be of unimpeachable character and unquestionable trust. The deputy's conduct reflects directly upon the office of the collector. (See Ch. 4 of this manual for additional information concerning deputy collectors).

Deputy's Bond [60:92]

1. Every deputy collector must obtain a performance bond in an amount no less than the Commissioner's minimum.
2. To calculate this minimum, the collector must annually approximate the aggregate amount which will be in the deputy's custody the following fiscal year, locate the range on the Bond Amount Schedule within which that amount falls, and identify the minimum bond amount which corresponds to this range.

Deputy's Relationship With the Collector

A deputy collector is an agent of the collector. Consequently, the collector should establish standards for the deputy's procedures and conduct.

State Seal and Coat of Arms

The collector should ensure that the deputy does not misrepresent himself as a state official by using either the State Seal or Coat Of Arms on any cards, letters or other documents.

Turnover Control

1. Deputy Compensation When Collector Maintains Deputy Deposit Account
    a. A collector who appoints a deputy may establish a separate, joint signature bank account with the deputy for the deposit of all monies turned over to him by the deputy. The collector must transfer to the treasurer, at least weekly, all funds which have cleared from such account, including interest earned on such funds but excluding collection fees.
    b. A deputy collector must either turn over to the collector, at least weekly, all monies received in his capacity as deputy collector, including collection fees, or must deposit such monies, including collection fees, within 48 hours of receipt in the collector's deputy account established to receive such fees. A deputy may not deposit municipal funds in a personal bank account nor maintain a personal bank account in the name of the municipality.
    c. Each deputy turnover must be accompanied by an itemized statement of all taxes and excises collected, setting out all underlying amounts and all interest and collection fees which arose from delinquent payment of the underlying amounts.
    d. If instead of turning over, monies collected directly to the collector, the deputy deposits such monies in the collector's deputy deposit account, the deputy must, for each deposit,

provide to the collector a statement itemizing the monies deposited.

e. A deputy collector may not withdraw any monies from the collector's deputy account except the amount of the collector's fees due under Ch. 60 §15 (10) and (11). The deputy may withdraw such compensation only under the following circumstances:

f. His agreement with the collector specifies that such collector fees must belong to the deputy, and

g. The city or town has not by bylaw ordered that such fees be paid over to the treasurer.

h. If by agreement the deputy is authorized to withdraw fees from the collector's deputy account, each particular withdrawal must be approved by the collector's signing the withdrawal check as co-drawer. Such withdrawal cannot be made for any particular collection until the checks, if any, in payment thereof, have cleared.

2. Deputy Compensation When Collector Does Not Maintain Deputy Deposit Account

a. If the collector does not establish a separate account for the deposit of deputy receipts, the collector must turn over to the treasurer, at least weekly, all monies received from the deputy, excepting the amount of the collector's fees due under Ch. 60 §15 (10) and (11).

b. The collector may retain such fees in an agency fund and pay them, when due, to the deputy collector without further appropriation if:

(1) His agreement with the collector specifies that such collector fees must belong to the deputy, and

c. The city or town has not by bylaw ordered that such fees be paid over to the treasurer.

d. No compensation must be paid to the deputy collector for any particular collection until the checks, if any, in payment thereof, have cleared.

e. Alternatively, the collector may turn such monies over to the treasurer for payment through the warrant process.

f. At the end of the calendar year, the town should issue to the deputy a Form 1099.

Department of Finance

A community which accepts the provisions of Ch. 43C §11 may, by ordinance or bylaw, establish a consolidated department of municipal finance, including the offices of assessor, collector, accountant, auditor, comptroller, and treasurer.

Such an ordinance or bylaw must provide for an appointed director, who will serve, ex officio, as accountant, auditor, comptroller, collector, treasurer, or treasurer/collector of the community.

The director may not serve as both treasurer, collector, or treasurer/collector and as the accounting officer (town accountant, city auditor, or comptroller).

Finance department staff must be appointed by the director, subject to approval by the selectmen or mayor, unless the municipal charter provides otherwise.

Department of Revenue

The Commissioner of Revenue exercises oversight over cities and towns through the Division of Local Services, comprised of the Property Tax Bureau, the Bureau of Accounts, the Bureau of Local Assessment and the Municipal Data Management and Technical Assistance Bureau.

Role of the Property Tax Bureau

1. The Property Tax Bureau provides legal assistance relating to assessment administration and municipal finance to the bureaus and to the deputy commissioner. It also reviews and approves interpretations of law and policy.
2. Pursuant to Ch. 58 §1, collectors may obtain advice and interpretations concerning tax collection laws and procedures.

Role of the Bureau of Accounts [44:40]

1. The Bureau of Accounts oversees audit procurement and examines financial statements and management letters produced by outside auditing firms.
2. Ch. 44 §40 directs the Director of Accounts to cause an audit to be made of the accounts of all cities and towns. Audits must include the following activities:
    a. Reviewing taxes, excises, assessments, and departmental accounts outstanding since the previous audit, as well as subsequent commitments within the fiscal cycle, and comparing them with assessors' warrants issued for collection.

b. Verifying abatements and payments to the treasurer and confirming them with the assessors' records.

c. Ascertaining that amounts transferred to tax title and subsequent taxes have been proved and that receivables and cash have been reconciled to the general ledger.

d. Further testing outstanding receivables by mailing verification forms to individual property owners.

3. The Bureau of Accounts also certifies free cash and tax rates.

Role of the Bureau of Local Assessment

The Bureau of Local Assessment supervises local property valuation and assessment practices with the goal of ensuring fair and uniform property taxation. It also oversees implementation of the classification amendment.

Role of the Municipal Data Management/Technical Assistance Bureau

1. The Municipal Data Management/Technical Assistance Bureau is responsible for local aid distribution and for coordinating the Division's technical assistance and management reviews for communities.
2. The Bureau also maintains the Municipal Data Bank which contains financial and demographic information for all 351 cities and towns, 14 counties, and 82 regional school districts.

    a. The data base has been developed and is being maintained by the Division of Local Service's Bureau of Municipal Data Management and Technical Assistance.

    b. The Property Tax Bureau, Bureau of Accounts, and Bureau of Local Assessment also help with maintenance and development.

3. This repository of information permits communities to procure statistical data in formats that satisfy their particular needs.

    a. Source data includes information from Schedule “A's,” Cherry Sheets, Tax Recapitulation Sheets and other data surveys requested by the Division of Local Services.

    b. Available information includes revenues, expenditures, local aid receipts, assessments, tax base, debt service, federal and state census information and other economic and financial data.

    c. This information is free. It can be configured with comparisons to other communities.

    d. Reports available include debt and credit rating management and user fee analyses, annual reports for each municipality, and statistics relating to population trends, public school attendance, tax bills, etc.

4. Data Bank information may be obtained in the following ways

   a. Telephone the Data Bank at 617-626-2359.

   b. E:mail: databank@dor.state.ma.us

   c. Internet Access: http://www.dls.state.ma.us/mdm.htm

   d. Write to the Data Bank at P.O. Box 9569, Boston 02114-9569.

Division of Local Services:

The Division of Local Services distributes the *City & Town* newsletter, Cherry Sheets, Informational Guideline Releases (IGRs), Bulletins and other documents electronically. In order to receive this information from the Division of Local Services you must subscribe online at www.dls.state.ma.us.

Information can be obtained from the Division of Local Services (DLS) website www.dls.state.ma.us.

a. *What's New* allows visitors to view new postings to the site.

b. IGRs (Informational Guideline Releases).

c. Bulletins – technical releases or updates from the DLS

d. Various downloadable financial manuals and guides including:

   Treasurers's Manual, Assessors Manual, UMAS Accounting Manual, Motor Vehicle Excise, Revolving Fund (School and 53 E1/2), Cherry Sheet Manual, Capital Improvements Program Manual, Betterment Assessment and Enterprise Funds

e. A Guide to Financial Management for Town Officials.

f. Issues of the DLS's monthly publication *City and Town.*

Massachusetts Municipal Association

Information can be obtained from the Massachusetts Municipal Association (MMA) website www.mma.org.

The MMA's electronic conferencing and bulletin board system is known as Massachusetts Local Net and requires a user id as provided by the MMA.

Information is available on the following:

a. Local Net News — includes messages and pictures.

b. Schools — updates on budget process are posted, Cherry Sheets, payments, and grants.

c. Local Government — includes information on Home Rule petitions.

d. State Government — includes information on public hearings and messages on committees.

Information is also available on telecommunications and labor and personnel. The MMA website also supplies on-line municipal employment postings for a fee as well as inclusion in the monthly *Bulletin*.

Chapter 2
Books, Records, Accounts and Vouchers

Public Records

Authority

1. Ch. 66, Ch. 4 §7(26) and 950 CMR 32.01-32.09 regulate access to public records.
2. Public records include all books, papers, maps, photographs, recorded tapes, financial statements, and other documentaries of the commonwealth, or of any political subdivision, unless such materials fall within certain express exemptions.
3. Records expressly exempted from disclosure include:
   a. Records expressly or by necessary implication exempted by some specific statute.
   b. Records related to personnel rules and practices.
   c. Personnel and medical files or information.
   d. Correspondence relating to policy positions (working papers), but not reasonably completed factual studies or reports.
   e. Personal notebooks or other materials prepared by an employee.
   f. Investigatory materials prepared by law enforcement or investigatory agencies.
   g. Trade secrets, or commercial or financial information offered by third parties for use in preparation of government policy.
   h. Proposals, bids and related communications to enter into contracts until they are publicly opened.
   i. Appraisals of real property acquired or to be acquired until final agreement has been made and any relevant litigation has ended.
   j. Names and addresses of persons applying for a license to carry or possess firearms cards.
   k. Examination data used to administer licensing exams, provided such materials will be used for other examinations.

l. Law enforcement, judicial, prosecutorial, DYS, correctional and criminal system home address and telephone numbers, including those of family members. (See Ch.66 §10.)

m. Contracts for hospital or related health care services between medical care facilities operated by state, county or municipal government and the medical service providers specified in Ch. 4 §7(26)(m).

Public Access

1. The Public Records Act mandates that records held by governmental agencies be open to public inspection. A tax title record is not exempt from disclosure.
2. A custodian of a public record must allow that record to be inspected or must provide a copy of it within ten days of the receipt of a written request.
3. A custodian of public records is not obliged to create a record for a requester.
4. A custodian of public records may assess a fee for the time to search for and procure a record as well as for photocopies of that record. 950 CMR 32.06 sets out the maximum amounts of fees which may be assessed.
5. A custodian of public records who denies a request to inspect or receive a copy of a record must detail the specific legal basis for the denial.

Driver Privacy Protection Act, 18 USC §2721 et seq.

1. This federal act specifically limits the dissemination of personal information received from the Registry of Motor Vehicles in connection with a motor vehicle record.
2. Personal information is defined by the act as information which identifies an individual, including an individual's photograph, social security number, driver's identification number, name, address, phone number, and medical or disability information.
3. Personal information may be disseminated only to the specific categories of requesters for the specific uses identified in the act.
4. Municipal officials must retain for five years a record of any disclosure of personal information received from the Registry.

General Information

The collector's books must be furnished by and are the property of the municipality.

1. Who may examine the collector's books? When? [60:8,94]

a. At all reasonable times/ all books kept by the collector must be open to examination by the accounting officer or any other duly authorized agent of the accounting officer.

b. The mayor, aldermen, selectmen, or any persons designated by them may inspect, and/or make copies or extracts from the collector's books at any time during ordinary business hours.

c. The mayor, aldermen or selectmen may require the collector once in two months to exhibit to them a true account of all money received on account of the taxes committed, and to produce the treasurer's receipts for all money paid into the treasury.

2. Collector's records of tax delinquents are public records. [60:8]

In *Attorney General v. Collector of Lynn,* 377 Mass. 151, the Court held that the collectors' lists of tax delinquents are public records under Ch. 4 §7(26) and that the release of such lists does not constitute an invasion of privacy.

Authority of the Commissioner of Revenue [58:31; 60:3A, 8,105]

1. All forms used in the assessment and collection of taxes under Chapters 59 and 60 are prescribed and approved by the Commissioner.
2. Tax bills and notices must be in such form and contain such information as approved by the Commissioner and as set forth in Ch. 60§3A.

Audit Trail and Its Importance

1. A collector should keep a clearly detailed set of records which allows an auditor, at any time and with minimum effort, to track and monitor every entry. All entries should be made with the “audit trail” constantly in mind.
2. A collector should footnote all unusual transactions, such as reversing or offsetting entries to put an account back into balance after an incorrect entry has been discovered, and should maintain a thorough explanation of such entries in the files.

Commitment, Warrant and Commitment Book

Commitment and Warrant

1. Commitment.

   a. A real estate tax commitment is a list of parcels in the community subject to the property tax, containing for each parcel the amount of the tax due and the name and address of the person liable for the tax.

b. The commitment must contain the data from the assessors' valuation sheets which may be required for the preparation of the tax bills. (See Chs. V and VI for more information on the data required for each commitment. See also State Tax Forms 56, 57, 57 F.A.E-M.E., 58, 64B)

2. Tax Warrant

a. The warrant from the assessors which accompanies a commitment provides the collector's authority to collect the taxes set forth in the commitment.

b. If a warrant is lost or destroyed, the assessors may issue another warrant which must have the same force and effect as the original warrant.

3. Accuracy of Commitment v. Warrant

When the collector receives a tax list and warrant, the totals of the tax bills should be verified against the commitment list to make sure they agree. Any discrepancies should be noted and corrected and the assessors advised before the bills are mailed.

Commitment Book

The commitment book is a permanent record. With the written approval of the Commissioner, the collector may maintain the tax list in an electronic format.

Posting Commitment Book

The disposition of every tax, whether reassessed, abated or paid, must be accurately entered in the commitment book. With computerization, the commitment is updated electronically with outstanding balance reports run to show the current status of all accounts.

Records of Payment

Cash Book [60:7]

The collector must enter daily in a cash book all monies received, specifying the total amount of the tax, abatements allowed, all interest charged, and the date of the receipt. The commitment books and cash books are books of original entry. They are the collector's proof as to the amounts collected and the dates they were received.

Deposit and Checkbook Records

1. The collector is responsible for all revenues received until they are paid over to the treasurer and the treasurer's receipt obtained.

2. Ch. 60 §2 requires a collector to pay over to the treasurer, at least weekly, all monies collected, together with all interest and penalties. At least monthly, the collector must enter into the records and reconcile a detailed account of all daily deposits and all weekly payments to the treasurer.

Collector's Turnover Sheet to the Treasurer

A summary report of all taxes, interest, charges and fees collected and paid over to the treasurer must be prepared in triplicate at least once a week. The original of the turnover summary goes to the treasurer, the second copy to the town accountant or auditor, and the third is retained by the collector. (See State Form AD 27A.) Payments can be entered as they are made or batch processed in bulk. Computerized report print-outs can substitute for manual turnovers.

Reconciliation of Commitment Book v. Cash Book

Method of Reconciliation

The total of the commitment, less the total amounts collected and abated, plus all refunds, should yield either a zero balance or an amount outstanding. A listing of all open accounts in the commitment book should equal the amount outstanding at the time of reconciliation.

1. Outstanding List of Amounts

   A prerequisite of reconciliation is to have the correct amount of outstanding taxes and other committed amounts accurately reflected in the commitment book. An outstanding list has value in that it can be updated to reflect a current balance at any particular time.

   It is recommended that the Collector keep a Control book for each receivable that tracks commitments, payments, refunds, abatements, returned checks and transfers to tax title. This Control book should be updated on a weekly basis. This Control book is a valuable tool when balancing receivables with the Town Accountant.

   If the commitment book is found to be out of balance and the outstanding amount does not equal the control account, the collector should review the amounts posted to the control account to make sure that they match the entries posted to the commitment book.

   All entries made should be analyzed to make sure that they are in agreement.

Any failure of agreement indicates that an entry in the commitment book does not match the corresponding entry in the cash book, thus producing an understated or overstated balance in the former.

This situation indicates that a long, tedious examination is necessary, comparing each cash book entry against the corresponding entry in the commitment book to locate the difference. Next, the commitment book must be put in balance with the cash book, or a similar tracing made of each abatement, refund and tax title entry through the commitment book.

Record of Abatement [59: 70A]

Definition of Abatement v. Exemption

1. An exemption is a special relief from taxation authorized by statute and granted by the assessors to certain taxpayers, such as veterans, the elderly and the blind.
2. A tax abatement is a reduction in valuation which results in a reduced tax bill.

Importance of Keeping Abatement/Exemption Records

It is important that the collector keep a record of the abatements and exemptions and post them in the commitment book.

Refunds (See also Ch. 3)

1. Refund Schedule
    a. Refunds due to overpayments, exemptions or abatements should be placed on a refund schedule and sent to the accountant for placement on a treasury warrant.
    b. Prior to releasing a refund schedule, the collector should carefully check each item on the schedule to verify that the amount of the refund is correct and that the refund is to the proper person.
2. Abatement Resulting in Overpayment
    a. If the assessors grant an abatement on property tax to a taxpayer under the provisions of Ch. 59 §69 which results in an overpayment of the total tax assessed for that fiscal year, the taxpayer is entitled to receive a refund of the excess amount, with interest at 8% from the time of payment or the final tax due date for the fiscal year, whichever is later.

b. A taxpayer who makes a voluntary overpayment is not entitled to interest.

c. Town meeting or city council should appropriate sufficient monies to pay for interest on abatements.

3. Motor Vehicle Excise Overpayment

   a. If the assessors grant an abatement of a motor vehicle excise to a taxpayer which results in an overpayment, no interest is due.

   b. If, however, an abatement is granted by the Appellate Tax Board or the County Commissioners, the taxpayer is entitled to simple interest at 6% on the overpayment calculated from the due date or from the date payment was actually made, whichever is later.

   c. No refund for less than $5 will be issued on motor vehicle excise.

Exemption/Abatement to Accounts in Tax Title

When the collector receives a notice of exemption or abatement for an account that has been transferred to a tax title account or has been certified a tax title account, the collector should forward the certificate to the treasurer. The treasurer should then enter the amount in the tax title account.

Reconciliation of Abatements and Exemptions

A collector should obtain a copy of the assessors' monthly report to the accounting officer showing the total amount of exemptions and abatements for each separate levy granted during that month.

Control Accounts

1. A control account, reflecting every transaction from the initial entry of the commitment(s) to the final entry that reduces the balance to zero, should be maintained by the collector for every receivable.

2. The commitment establishes the initial entry of each account. The debit amount of this entry should thereafter be reduced or increased by:

   a. Credit entries of cash to the treasurer.

   b. Credit entries from the assessors.

   c. Abatement reports to the accounting officer.

   d. Refund voucher debit entries to the accountant.

   e. Debit entries of subsequent commitments with the same levy or type of account.

3. Other credit and debit entries will be involved if correcting entries are reported to the accounting officer because of errors discovered by the collector.

4. Because audits must be conducted annually, the maintenance of control accounts is extremely important to a collector in the liquidation of levies and accounts. If an appreciable time has elapsed since the last audit, the control accounts become a valuable reference tool for an examiner in the conduct of an audit.

Chapter 3
Collectors' Responsibilities

Mailing of Tax Bills

The Tax Bill

1. The collector, upon receiving the tax commitment list and the warrant duly and properly signed by the assessors, is responsible for sending a tax bill to each person assessed, resident or nonresident. If mailed, the bill must be sent postpaid.
2. The Commissioner prescribes the form of all tax bills[60:105] and annually issues an Informational Guideline Release (IGR), and Ch. 60 §3 and §3A set out the information which must appear on tax bills.
3. An omission to send a notice does not affect the validity of the tax or the proceedings for its collection. [60:3]
4. The collector possesses responsibility to print and send the tax bill. The collector should communicate with the post office to learn of and comply with any mailing requisites of that office.
5. The collector should print the names of the owners on tax bills as they appear on the assessors' commitment. [41:38A] If the person assessed is no longer the owner, the Collector may add a care of line to route the bill to the new owner.

Mailing Procedures

1. General Postal Concepts
    a. Envelopes, windows, printing and bar codes must comply with post office standards and regulations.
    b. To obtain available post office bulk mail discounts, municipalities must prepare and sort bills in accordance with certain post office requirements. Collectors should determine whether the discounts justify the extra work.
2. First Class Presort — Discount Procedures
    a. Each mailing must contain at least 500 pieces.
    b. A presort must include at least ten or more items to the same five digit zip code.

        The post office allows, also, a discount for the remaining pieces in groups of 50 or more for the same first three digits of the zip code.

c. Residual pieces, not sorted to three or five digit increments, may be counted toward the 500-piece minimum, although they do not qualify for the discount. They must, however, be placed in zip code order.

d. Mail must be bundled, identified by zip code, and placed in trays in accordance with USPS rules.

e. The municipality must obtain a presort slug for the postage meter from the postage machine manufacturer. It may obtain a permit for a permanent imprint stamp from the Postal Service for a one time charge.

f. The post office offers fractional discounts, e.g., a mailing rate of 25.4 cents. A fractional discount, though, cannot be realized unless a community (a) utilizes a postage meter capable of employing more than two decimal places, (b) uses a permanently imprinted presort stamp on preprinted envelopes, or applies a lower whole cent value to each envelope and attaches an additional metered tape to the presort form for the fractional difference.

3. First Class Presort — Pricing

a. The post office assesses an annual presorted permit fee to users.

b. The Post office offers a standard discount for presorted mail. A community may obtain a larger discount by presorting and encoding in accordance with post office guidelines.

c. The post office sells computer software to facilitate electronic mail processing through bar coding. If a collector is using a mailing service, the service should sort the bills in such a way as to ensure the lowest postage cost to the municipality.

4. Commitment Book

For control purposes, the collector should include a copy of the Affidavit as to the Time of Sending Tax Bills in the book containing the tax list committed by the assessors. [60:6]

5. Affidavit of Mailing [60:3]

a. The collector should certify on the "Affidavit as to Time of Sending Tax Bills" (State Tax Form 214) the date tax bills are given into the custody of the post office. The affidavit constitutes prima facie evidence that the bills were mailed on that date.

b. The collector should execute a separate affidavit for each property tax or excise mailing.

c. The collector should have the post office record its attestation of its receipt of the bills, and the date of that receipt, on the original affidavit. The collector should also have that affidavit notarized and filed with the town or city clerk, retaining a copy for the collector's files.

d. Affidavit of Address

(1) Upon acceptance of Ch. 59 §57D, a municipality must include with every preliminary tax bill an affidavit of address to be signed and sworn to by the owner of record of the property.

(2) The affidavit must provide space for the owner to enter his name, residential street name and number, city or town, state, zip code and telephone number.

(3) The owner may not list a post office box as his address.

(4) If the affidavit is not returned to the assessors within 30 days, the municipality should issue a warning to the owner. If the owner fails to respond within the next 30 days, the municipality should impose a $100 fine; if the owner fails to pay the fine in the next 30 days, it may become a lien on the property.

(5) Once the owner has submitted an affidavit, mailing to the owner, or agent, at the listed address will be deemed sufficient service for legal action.

Mail Returns

1. To reduce the amount of returned mail, a collector can utilize the post office's "Address Correction Requested/ Forwarding and Return Postage Guaranteed" for 50 cents per piece. Without use of this service, however, the post office will still forward mail free of charge for twelve months after the filing of a change of address order. It will continue to forward mail for six months after the forwarding order has expired with an endorsement. An endorsement will also provide the collector's office with a corrected address as well as ensure forwarding.

   a. The Registry of Motor Vehicles (RMV) provides address information for motor vehicle excise bills.

   b. The assessors furnish address information for real and personal property tax bills.

2. The post office provides alternative methods for procuring valid mailing addresses which include electronic notices of a new address at a cost of 20 cents per piece and a national change of an address correction program via licensed and certified vendors (Coding Accuracy Support System — CASS). For further information, the collector should contact the local postmaster.

3. The collector should save returned tax bills or other notices since they provide evidence that (a) a bill was mailed, (b) an address change was not given to the post office or (c) a forwarding order expired. Returned mail should be segregated by commitment and retained in the collector's office. Where appropriate, the collector should advise other departments that maintain address files.

Managing Direct Customer Payments

Receipt of Payments Made at Municipal Offices

1. Clerks receiving payments should be congenial and respectful.
2. Clerks should complete each individual transaction before attempting another in order to reduce or minimize collection errors.
3. Clerks should count cash payments in the presence of the customer for control purposes. In the event of a discrepancy or disagreement, they should reconcile the matter immediately.
4. Customers paying by cash should always be given a receipt regardless if they have brought their portion of the bill with them.
5. All bills paid with cash should be marked as cash transactions through the use of a stamp or other noticeable marking method.
6. If the taxpayer claims a shortage in the making of change and the difference is significant, the clerk should close the drawer and have it balanced. Small discrepancies, however, can be resolved with normal balancing procedures.
7. A check offered in payment must be made payable to the municipality. The written and numerical representations should be checked to ensure they match.
8. The clerk should associate each check with the obligation paid. The type of bill (real estate or motor vehicle excise) should be recorded on the front or back of the check along with the bill number and the tax year.
9. The clerk should make sure that all personal checks contain the address of the taxpayer in order to facilitate collection if the check is dishonored.

Procedures and Considerations When Receiving Payments

1. During the 30 day period of greatest payment activity, the collector should require the closing and batch proofing of each cash drawer at a regular interval.
2. Collection personnel should not hesitate to summon a superior or, when appropriate, the police if a taxpayer's conduct becomes hostile and threatening.

3. During busy collection periods, receipts should be deposited frequently. At other times, deposits should be made at least daily.

4. Large deposits should be transported by armored car, bank couriers or with the escort of a police officer.

5. Collectors should take steps to ensure they do not receive counterfeit money in payment of bills. There are several ways to distinguish between counterfeit and legal tender including; (1) the inclusion of a vertical strip in the bill denoting denomination, (2) coloration of the bill, (3) stock quality and (4) the presence of red and green fibers in the stock.

Partial Payments [60:22]

1. A taxpayer may tender a partial real estate tax payment at any time up to the date that an advertisement is prepared for the sale or taking of that real estate so long as the payment is at least ten dollars and not less than ten percent of the total tax due.

2. A taxpayer may tender a partial personal property tax payment at any time up to the date that a warrant or other process is issued for the enforcement and collection of that tax, so long as the payment is at least ten dollars and not less than ten percent of the total tax due.

3. Ch. 60A, which governs motor vehicle excise administration, does not require a collector to accept partial payments of an excise.

Overpayments/Refunds

1. Except in the case of extraordinary or mitigating circumstances, no refund should be made when a taxpayer overpays any preliminary or actual bill if the payment leaves an amount still due for the fiscal year.

   a. In the absence of other direction by the taxpayer, the overpayment should be applied to the tax balance due for that fiscal year.

   b. An example of an appropriate occasion to refund an overpayment is when both the taxpayer and the taxpayer's bank paid the same tax bill.

2. No refund should be made to a taxpayer who pays the first actual bill and subsequently receives an abatement unless the amount of the initial payment exceeds the amount due for the fiscal year. [59:69]

Deposit Preparation

1. Collection personnel should count and list cash and checks separately on bank deposit slips. They should attach a calculator or computer tape to each deposit, retaining a copy in the office as part of an audit trail.

2. Bills associated with a particular deposit should be collated by type: property, excise, water, or sewer etc., and the year to which each relates. This information should be entered on a recapitulation sheet and tied into the collector's turnover. The daily recapitulation should match the deposit by check and cash.

3. Cash and checks may be delivered to the bank by courier, armored transport, or an employee of the collector's office. Armored transport services offer insurance coverage for deposits, as a matter of course. A collector not using armored transport should ensure that the municipality's general liability insurance provides coverage against a possible loss inside or outside the premises.

4. The collector may also use a night deposit box as a substitute for overnight storage in an office vault.

Banking

1. Ch. 44 §55B directs that all monies held in the name of a city or town must be invested in such a manner as to obtain interest at the highest possible rate reasonably available, taking into account safety, liquidity, and yield.

   a. All monies received by an officer, board, or department must be paid to the municipal treasury unless otherwise specifically provided by law. [44:53]

   b. Every collector must, at least weekly, pay over to the treasurer all money received for taxes and interest during the preceding week, together with any earnings from funds on deposit. [60:2]

2. Lock Box

   a. A collector may enter into an agreement for the purpose of accelerating deposits and improving investment earnings. [60:2A] Banks may enter lock box receipts either manually or electronically from OCR scannable bills. (Collectors may utilize OCR capability independently of a bank. Therefore, a collector should determine whether collection functions can be performed in-house more cost effectively than by entering into an agreement with a bank.)

   b. The collector should coordinate all banking agreements with the treasurer.

3. Uniform Procurement Act

   Except for compensating balance agreements [44:53F], the Uniform Procurement Act, Ch. 3OB, governs procurement of all banking services.

a. Contracting procedures set out in Ch. 30B are based on three premises: large contracts receive more attention than smaller ones; fair competition promotes confidence in government; and uniform procedures promote competition and fairness.

1. Because of the complexity of banking services, collectors should consider use of the request for proposal procedure of Ch. 30B even when threshold guidelines suggest price quotes.
2. Ch. 30B manuals can be obtained from the Inspector General's Office (www.mass.gov/ig].
3. Contracts may not exceed three years, unless a longer term has been approved by the governing body.
4. Communities with separate collectors and treasurers should consider making combined bids for banking services.

b. Compensating Balance Agreements

A compensating balance is an arrangement whereby a municipality or district keeps municipal funds on deposit and restricts the use of those funds in return for receiving designated banking services. A collector may enter into compensating balance agreements, for up to three years, for those services authorized by the Commissioner of Revenue.

1. Such agreements must be in a form approved by the Commissioner, and contain terms and conditions he deems appropriate for full disclosure.
2. The agreement must disclose the amount required to be on deposit or, if variable, the minimum required to be on deposit at all times.
3. If the municipality fails to maintain the agreed amount upon deposit, it may not appropriate for such purpose.
4. No such agreement may take effect unless approved by the appropriate local authority.
5. Neither computer hardware and software nor advisory and investment banking services may be provided on a compensating balance basis.

4. Bank Safety

Bank safety has intermittently surfaced as a matter of concern for municipal officials because several communities, over the years, suffered monetary losses caused by bank failures. The safety of funds in the collector's custody is the collector's responsibility. The collector can guard the safety of funds by requiring:

a. Collateralization by banks, and

b. Utilization of bank rating agencies.

Processing Bad Checks

1. All too frequently, collectors receive dishonored checks back from banks. In most instances, the taxpayer had tendered the check believing it would be honored. However, the bank did not pay it because (a) the taxpayer's balance was insufficient when the check was presented, or (b) the taxpayer, had closed the old account before all checks had cleared.

   a. In some instances, a taxpayer tenders a check in bad faith, with an intent to defraud.

   b. Whoever, with intent to defraud, makes, draws, utters, or delivers any check, draft, or order for the payment of money, with the knowledge that the maker or drawer does not have sufficient funds at the bank, must be guilty of attempted larceny; and if the money, property, or services are obtained thereby, the person must be guilty of larceny. [266:37]

2. When notice is received from a bank that a check cannot be processed, the bank notifies both the issuer and the town.

3. The collector may attempt to redeposit the check simply by calling the bank to verify the presence of sufficient funds.

4. If the collector cannot successfully redeposit the check, he may pursue one of the following alternatives:

   a. The collector can reverse the payment and reestablish the receivable as an unpaid balance.

   b. The collector can pursue collection using the district court. [218]

5. The collector may impose upon any person tendering an insufficient funds check a penalty of 1% of the amount of the check, or $25 for a check for less than $2,500. [60:57A] Any person so assessed may appeal to the Commissioner of Revenue if aggrieved, and the Commissioner may abate the penalty if he determines that the person tendered the check in good faith, and with reasonable expectation that it would be paid.

Certificate of Taxes and Other Liens

Municipal Liens

1. The Certificate of Taxes, also known as the Municipal Lien Certificate (MLC), compels a collector to list all taxes and other assessments, including water rates and other charges which, at the time, constitute

unrecorded liens on a parcel of real estate. [60:23] A certificate recorded within *150 days* of preparation may discharge all unrecorded liens on the parcel if not listed.

2. Since a community's lien may be lost upon the recording of an erroneous certificate, the collector should exercise great caution in preparation of the certificate. A second member of the collector's staff should review the work of the preparer.

3. An error in the preparation of an MLC will not discharge a municipality's unrecorded lien when the collector has:

   a. Taken the property into tax title,

   b. Made a tax sale of the property, or

   c. Recorded a Statement to Continue Municipal Lien for that property.

4. In a community with a population of more than 5,000 inhabitants, the collector must furnish a completed MLC to an applicant within ten business days of a request. For a community with 5,000 inhabitants or less, the collector has twenty business days.

5. Unless a municipality has accepted Ch. 60 §23A or §23B, the fee or charge for MLC preparation is $25.

   a. §23A fees

Standard fee	$ 10
Land with three family residence	$ 20
Land with four or more family residences	$ 40
Commercial, industrial, or utility	$100
Farms, forest land & other	$ 50

   b. §23B fees

Standard fee	$ 25
Land with four or more family residences	$100
Commercial, industrial, or utility	$150
Farms, forest land & other	$ 50

   c. Preparation fees may not exceed ½ of 1% of the assessed value of the subject real estate.

6. A request of an MLC signals the municipality of a potential ownership change, information useful to assessors for the maintenance of their records and for issues relating to tax apportionments and penalty tax assessment.

7. Ch. 60 §23 directs registers of deeds to refuse to accept for recording any proposed subdivision plan unless accompanied by an MLC indicating all taxes, assessments and charges have been paid.

Continuation of Liens and Taxes in Litigation

1. The municipality has an automatic lien on taxable real property from January 1st in the year of assessment which does not expire until three years and six months from the end of the fiscal year for which such taxes were assessed. [60:37] A collector should protect against the possibility of the municipality's losing its automatic lien by performing tax takings within that period.

2. When the standard tax taking procedure cannot be pursued because of (a) some federal or state law or court proceeding, (b) an injunction, or (c) action of an administrative body, the collector must preserve the lien using the process set out in Ch. 60 §37A.

    a. The collector must request the Commissioner to reclassify the debt as uncollectible. Upon the Commissioner's approval, the collector may transfer the account to Taxes in Litigation.

    b. The collector should record a statement to continue the municipal lien, using State Tax Form 291, thereby extending the lien until payment or abatement is received.

    c. Subsequent to the removal of a property from bankruptcy or other restriction or disability, the collector should record a renunciation of rights under the statement to continue a municipal lien, using State Tax Form 292. If taxes remain delinquent, the collector should perform a taking within six months of receiving notice that the disability has been removed. The account should then be categorized as tax liens receivable or eliminated from the books by payment in full.

Tax Deferral & Homestead Act

1. Elderly Tax Deferral (See IGR No. 91-202.)

    Although the collector possesses no direct role in granting a tax deferral under Ch. 59 §5(41A), a deferral affects the balance of real property taxes outstanding. A person 65 years of age or older, who has owned and occupied a domicile for five years and resided in the Commonwealth for ten years, and having gross receipts of less than $20,000 (or up to income eligibility of that of a single person under Circuit Breaker in municipalities that have increased that limit) can apply to the assessors to defer payment of part or all taxes due.

    The taxes due are then managed as though they were a tax title, except that interest is calculated at the rate of 8% per annum. The interest rate can be set lower than 8% by a town meeting vote. The interest rate increases to 16% per annum upon death of the property owner unless a surviving spouse qualifies to continue the deferral. No collection activity should be taken against a taxpayer that has entered into such an agreement until such time as the taxpayer passes away or liquidates their interest in the property.

a. The owner must apply timely to the assessors in writing each year to defer all or part of the current year's taxes.

b. In order to defer betterments and water and sewer charges, a municipality must accept the following local options; (1) betterments Ch 80 §13B, (2) sewer charges Ch 83 §16G and (3) water charges Ch 40 §42.

c. Any joint owner or mortgage holder must sign the Deferral and Recovery Agreement.

d. The owner must pay the full amount of all taxes deferred, with interest at 8% per annum, upon the conveyance of any interest in the property. An owner that pays off a deferral is not precluded from again entering into a deferral agreement should he qualify at a later date.

e. The aggregate tax amount deferred, together with accrued interest, cannot exceed 50% of the full and fair cash value of the property.

f. Upon the death of the owner, the treasurer is responsible to recover deferred taxes and interest from the heirs or the estate. If the taxes are not paid within six months, the deferral becomes a tax title and foreclosure proceedings can be initiated.

2. Financial Hardship Tax Deferral (See IGR No. 04-208.)

Although the collector possesses no direct role in granting a tax deferral under Ch. 59 §5(18A), an 18A deferral affects the balance of real property taxes outstanding. A taxpayer experiencing financial hardship, regardless of age, who has owned and occupied the domicile as of July 1st and resided in the Commonwealth for ten years may apply for and be granted an 18A deferral for a period not to exceed three years. The taxpayer must commence repayment of the deferred taxes and 8% per annum interest two years after the last year of the deferral. The repayment may be made over a five year period in annual installments.

3. Homestead Protection Act

The Homestead Protection Act, under Ch. 188, allows homeowners to acquire an estate of homestead by filing a declaration at the registry of deeds in the county where the property is located. An estate of homestead provides partial protection against having their homes confiscated by creditors. It does not, however, provide protection against liability for unpaid taxes or other municipal assessments for which liens exist.

a. Ch. 188 §1 permits any homeowners or persons who occupy their residences by lease or otherwise to acquire an estate of homestead to the extent of $100,000 in land and buildings occupied as a principal residence in protection against attachments and levy for debts.

b. Only one person may acquire an estate of homestead for the benefit of his family.

c. Ch. 188 §1A permits disabled persons or persons 62 years of age or older to be protected to the amount of $200,000 against attachment or levy for debts on their real property or manufactured housing occupied as their principal residence.

Enforcement Perspectives

Priority of Collection

1. Massachusetts law provides for adding district taxes and betterments, special assessments, fees and other charges to the bills in order to permit tax taking and foreclosure procedures to enforce their collection.
2. Ch. 60 §43 sets out how proceeds received from the redemption of a tax title account, or a sale of property after foreclosure are to be applied. A collector maximizes municipal receipts upon applying payments, first, to fees and interest, and then to the underlying tax (Ch 60 §3E]. Denial, Revocation, Suspension for Failure to Pay Taxes
3. Any municipality which accepts Ch. 40 §57 may through bylaw or ordinance, deny any application for, or revoke or suspend any local license or permit including renewals or transfers issued by any board or department for any person, business, or corporation who has neglected to pay taxes, fees, betterments, and assessments, or any other municipal charges for not less than 12 months.
4. The municipality may also deny any application for, or revoke or suspend any local license or permit for, any activity or event which is carried out on or about real estate whose owner has neglected or refused to pay such taxes or charges, providing the municipality's ordinance or bylaw so allows. (See DLS Opinion Letter, File No. 95-596.)
5. The collector must furnish a delinquency list to the appropriate licensing and permitting authorities. Although the collector cannot require other boards and/or departments to deny or withhold licenses and/or permits, he should encourage their assistance.

Bankruptcy

General

1. Bankruptcy is the condition of insolvency in which the assets of a debtor have been turned over to a receiver or trustee for administration. Bankruptcy administration falls under the jurisdiction of federal courts. Massachusetts has two bankruptcy courts, one in Boston and the other in Worcester, with two judges assigned to Worcester and three to Boston.
2. Article I §8 of the Federal Constitution authorizes Congress to establish uniform bankruptcy laws. This section of the Collector's Manual discusses three sections of the Bankruptcy Act: Ch. 7, liquidation; Ch. 11, reorganizations and arrangements; and Ch. 13, adjustment of debts of an individual with regular income.

Liquidation

1. Ch. 7 involves the liquidation of assets, not otherwise exempt from sale, and the distribution of cash proceeds to the bankrupt's creditors. A petition for adjudication may be made voluntarily by the debtor or involuntarily imposed by the creditors.
2. Ch. 7 prioritizes the distribution of a bankrupt's assets in the following order: (a) costs of administering the bankruptcy; (b) unpaid wages and commissions; (c) creditors' costs in successfully opposing discharge of a bankrupt, or offering evidence of a crime and conviction of the bankrupt; (d) taxes owed to the United States government or its subdivisions; (e) debts other than taxes having priority; and (f) debts due to unsecured creditors.

Reorganizations

1. Ch. 11 (for businesses) and Ch. 13 (for individuals) establish reorganization procedures, whereby a debtor may over a period of years (usually three to five) pay off a portion of his past debts.
2. In a reorganization case, assets are not necessarily sold. Rather, the debtor files a plan with the court for the settlement, satisfaction, or extension of time for payment of unsecured debts. In a reorganization case, debts incurred after the filing of the petition must be paid in full as they arise.

Municipal Taxes

Outstanding taxes, including property taxes and motor vehicle excise assessments, constitute a priority claim. Tax creditors receive payment before unsecured creditors.

Automatic Stay in Bankruptcy Court

1. Once a debtor files a bankruptcy petition with the court, all creditors become subject to an automatic stay which precludes their undertaking any effort to collect money owed to them by the debtor.
2. The exercise of police powers in the enforcement of health and safety laws constitutes an exception to the automatic stay. If a bankrupt liquor licensee were to serve minors, for example, the licensing agent could issue a non-monetary order; however, it could not assess a fine.
3. Notification of the bankruptcy filing should be forwarded to the deputy collector promptly to ensure the municipality does not violate the automatic stay. Willful violation of an automatic stay can result in fines from the bankruptcy court.

Strategies in Dealing with the Bankrupt

1. Ch. 11 debtors must meet ongoing expenses, including taxes, in order to avoid a petition to stay the proceedings.
2. A collector may perform tax takings for post petition delinquencies upon gaining permission from the bankruptcy court (Relief from Stay).

Bankruptcy Court Powers

1. The Bankruptcy Courts may reduce claims, order abatements, and permit debtors to spread pre-petition tax delinquencies over ~~six~~ five years. They may, when requested, reduce the statutory interest.
2. The failure of debtors to timely file abatement applications with local assessors does not preclude the Bankruptcy Court from recalculating a tax. (See Section 505 of the Bankruptcy Code.)

Proof of Claim

A municipality protects itself as a creditor by filing a proof of claim. Proof of claim forms may be photocopied. The claim should include:

1. The amount of debt the taxpayer owes the municipality as of a particular date, preferably the date of filing of the bankruptcy petition.
2. The type of debt, i.e., real estate, motor vehicle excise, personal property, or non-tax items.

A collector should attach a separate sheet or schedule identifying the debt, as recommended in the form. The collector should include applicable interest through the expected completion date (5 years) of the plan if filing a Proof of Claim for a Chapter 13 bankruptcy.

Where to File

1. Boston area

   U.S. Bankruptcy Court
   Clerk of the Bankruptcy Court
   10 Causeway Street
   Boston, MA 02222

2. Worcester area

   U.S. Bankruptcy
   Court Clerk of the Bankruptcy Court
   10 Mechanic Street
   Worcester, MA 01608

When to File

1. The collector need not file upon receipt of a form which states, "No Assets at this Time — Do Not File Claim Unless Notified To Do So." However, the collector should retain the form as a reminder the case is in Bankruptcy Court.

2. For any other cases, the collector should file a proof of claim as follows:

   a. Within 90 days of a 341 Creditors Meeting for Chs. 7 and Ch. 13; the collector will receive notice of such meetings.

   b. Within the period set by the court in Ch. 11 cases.

   c. A late filed proof of claim generally bars the claim from consideration.

3. When filing a Proof of Claim, a collector should include a second copy with a self addressed stamped envelope to obtain a date stamped receipt of the document by the bankruptcy court.

4. In Chapter 13 cases, a collector should always request a copy of the Chapter 13 plan from the bankrupt's attorney to ensure that the municipality's claim is accurately reflected.

Other Caveats

1. Generally, a bankruptcy proceeding does not eliminate tax claims; therefore, failure to file a claim should not affect the tax owed to the town. However, since the receivable can change form, the collector should file the proof of claim.

2. In addition, since Ch. 60 §37 provides that a tax lien might automatically expire after 3-1/2 years, the collector should file a continuation of lien certificate under provisions of §37A when a sale or taking cannot be made because of a bankruptcy proceeding.

3. Bankrupts that were marked at the Registry of Motor Vehicles prior to the bankruptcy filing should remain marked unless ordered otherwise by the bankruptcy court.
4. Taxpayers that have been discharged through a Chapter 7 bankruptcy are still responsible to pay the motor vehicle excise bills that were incurred three years prior to the date of filing. These taxes are not discharged and such information is provided on the reverse side of the discharge notice. Excise incurred greater than three years prior should be abated {Ch 60A §7}.

Chapter 4
Collection Process

Sending the Demands [60:16]

The collector must send a demand prior to initiating any of the following collection procedures:

1. Performing a tax taking.
2. Distraining goods.
3. Placing a registrant's license and registration in non-renewal status.
4. For real and personal property bills/the collector should not send the demand until after the second half or fourth quarter bill becomes due.

No requirement for mailing a demand exists prior to initiating the following collection procedures:

1. Bringing a civil action.
2. Making a setoff of amounts due the taxpayer from the town.
3. Adding the boat excise penalties.

   Nevertheless, it is usually good practice for a collector to send a demand in all cases in order to promote prompt collection.

The collector must mail the demand to the person assessed the tax. [60:38] The failure of that person to receive the demand does not invalidate the proceedings for collection so long as the demand was properly mailed to the correct party.

In the case of real estate, the collector should also send a copy of the demand to the current owner, if known, although this is not strictly required by law. Such a notice of demand may speed up collection since the new owner stands to lose equity in the property if the tax liability is not cleared up.

In the case of joint ownership, the collector need send a demand to only one owner; however, service on all joint owners is a better collection practice. The collector should use the name of the owner rather than the descriptive word “heirs” or “partners,” if possible.

The collector must mail the demand to the last and usual place of business or abode, or to the address best known to the collector.

If a tax on more than one parcel of real estate assessed to a taxpayer remains unpaid, the demand may aggregate the total amount of unpaid taxes and may also include unpaid taxes on personal property and motor vehicle and trailer excise assessed to the same owner. [60:16]

An error in the mailing may not invalidate a tax taking if the collector can show that the taxpayer actually received the demand or would not have received the demand if properly mailed. [60:37; *Hilde v. Dixon*, 16 Mass. App. Ct. 981 (1983); *Bartevian v. Cullen*. 369 Mass. 819 (1976)]

See Chs. V, VI and VII for specific information on demands with respect to real estate, motor vehicle, municipal water and light, etc.

Deputy Collector

Issuance of a Warrant

1. A collector may issue warrants to one or more deputy collectors authorizing them to collect delinquent taxes or excises. The warrants should contain the same information as the commitments by the assessors to the collector. The collector may use a facsimile signature in issuing these warrants. [60:29] The collector should provide deputy collectors with all pertinent information at the collector's disposal to promote their collection efforts.
2. A collector may issue a warrant for a delinquent tax or excise only after 14 or more days have elapsed after the mailing of a demand for the payment of that tax or excise.

Service of a Warrant

1. Service of the warrant requires an in hand presentation of the document either to the delinquent taxpayer or to his representative. Leaving a copy of a warrant at a delinquent's last and usual place of abode requires a personal delivery to the place of residence which reasonable diligence would discover to be the taxpayer's customary and most recent residence. For a commercial vehicle, the deputy may serve the delinquent, in hand, at his place of business.
2. For each service of warrant, a deputy collector or other officer must execute a Certification of Service of Warrant, using State Tax Form 276, and turn that certification over to the collector. A mere mailing of the warrant at this stage will not, under any circumstances, justify the imposition of a service fee.
3. Collector's Record of Deputy Warrants

a. A collector should retain in the office a duplicate copy of every outstanding warrant issued to a deputy, removing the copy only after the deputy has either turned over the monies due on that warrant or returned the warrant uncollected.

b. Each group of warrants turned over to the deputy should be totaled and entered in a deputy control record.

With these two records, the collector can know exactly (1) which warrants are still out and (2) how much in tax they represent.

Deputy Fees [60:15]

1. Ch. 60 §15 provides a list of collector's fees which may be added to a tax bill. This list includes fees for:

   a. Notice that the warrant has been issued.

   b. Exhibiting a warrant or delivering a copy thereof at the last known address before distraint or arrest.

2. Although these fees represent services frequently performed by deputies, they are not deputy fees. The amount of a deputy's compensation is a matter to be determined pursuant to an agreement between the deputy collector and the collector.

3. A deputy may not retain fees. Rather, he must turn over all money collected, including fees, at least weekly, to the collector. Subsequently, the collector will tender whatever payment is due to the deputy after checks, if any, have cleared.

4. If a town has accepted a bylaw under the above Ch. 40 §21(13) requiring the collector to turn over all collector fees, the town must provide for the compensation of the collector and the deputy by means of the normal salary appropriation process.

NOTE: "[E]xhibiting or delivering [a] warrant" entails physically and personally going to the last known address or residence of the person named in the warrant. Mailing a copy of a warrant does not satisfy the statutory requisites. Unless the deputy can substantiate that he has in fact delivered a warrant, he will not be entitled to a service fee.

Additional Deputy Compensation

A deputy may incur unreimbursed expense, such as the cost of printing and stationery as well as postage on mailed notices that are returned as undeliverable or warrants that are ultimately returned as uncollectible on which the deputy has invested time and resources trying to collect. If their agreement provides that the collector will compensate the deputy for such expenses, the collector must first obtain an appropriation. The collector may either reimburse the deputy a nominal fee, perhaps $.50 or $1, for each warrant returned or, alternatively, may pay an annual amount, based upon an established average number of warrants returned annually over the past several years.

Fees on an Abated Warrant [60:20]

A person claiming the benefit of an abatement should exhibit the abatement certificate to a collector or deputy collector demanding payment. Such person is liable for all costs and officer's fees incurred before exhibiting this certificate. However, if it ultimately turns out that no tax is due, the person is not liable for any costs, interest or fees. All such amounts collected prior to abatement should be returned to the taxpayer.

Collector-Deputy Relationship

Since a deputy collector is the collector's agent, the collector should exercise great care to appoint only those persons in whom he has complete trust and who are of unimpeachable character. The deputy's conduct reflects directly upon the office of the collector.

Additional Statutory Remedies of Collection

The statutes provide collectors with a number of procedures to enforce collection of delinquent taxes and excises. With the exception of a civil suit, no statute of limitations terminates a collector's option to use these procedures. The remedies are cumulative and concurrent, that is, more than one remedy may be used and more than one may be used at the same time. Restrictions exist, however, on the use of some of the remedies; further, the use of certain combinations of remedies would be inconsistent. Restrictions and limitations are set out below.

Civil Suit

1. When To Use
   a. The collector may use this remedy when a delinquent is personally liable for a tax, excise or charge.
   b. The remedy is most appropriate for liabilities for which no lien exists, such as personal property taxes or motor vehicle excises.
   c. Collection of real estate taxes by civil suit is only appropriate, generally, when a tax taking cannot legally be made or is invalid, as in a circumstance where:
   d. The collector issued an incorrect municipal lien certificate, or
   e. The collector did not make a taking until after:
   f. 3½ years following the end of the fiscal year for which the tax was assessed, and

g. The property had been transferred to a different owner before that tax taking was made.

2. When Not To Use

a. This remedy should not be used to recover from the owner of record if that person is not the person assessed since that person has no personal liability.

b. The remedy should not be used to collect a betterment assessment or a real estate tax bill to which a betterment assessment, or an apportionment thereof, has been added because the owner possesses no personal liability. [80:4]

3. Procedures

a. When To Commence Action

b. The collector must commence a civil action within six years after the tax or debt becomes due.

c. Where a taxpayer dies after the assessment of a tax but prior to payment, the collector must bring a civil suit against the estate within 9 months after the approval of the probate bond. [197:9] The collector may serve a demand on the executor or administrator of the estate in this situation and in the situation where the tax has been assessed to the estate as owner on the assessment date. Upon failure to tender payment upon the receipt of sufficient money in the estate, the executor or administrator becomes personally liable for the tax.

d. Claim More than $2,000.

If the amount of a claim is more than $2,000, a regular civil action must be brought. A collector should have the town counsel or city solicitor manage the case. Before turning any account over to the town counsel or city solicitor for collection, the collector should ensure mutual understanding of the fees and charges which might result. In many smaller communities, the retainer paid to town counsel covers only advice given to the selectmen; counsel imposes an additional charge for rendering advice to any other officer or department.

e. Claim $2,000 or Less

If the amount of a claim is for $2,000 or less, the collector may bring a small claims action in the district court. Although the collector may use the services of the town counsel or city solicitor for this procedure, he may initiate and prosecute the matter on his own.

f. If the collector oversees the matter, he must first appear before the clerk of the local District Court, state the nature and amount of the claim and furnish the clerk with the taxpayer's place of residence and usual place of business or place of employment. The clerk will record the collector's statement in concise, non-technical language for the collector's signature.

g. The collector must pay an entry fee as well as the cost of a notice sent registered mail.

h. The court will mail notice to the taxpayer. The court may order further notice when it appears the initial notice was not received.

i. If the taxpayer desires to contest the claim, he must appear before the clerk and state his defense to the clerk of courts prior to the hearing and must appear there.

j. The collector must appear at the hearing or risk the dismissal of his case for lack of prosecution.

k. If the taxpayer appears and the court finds in favor of the collector, the court may issue an order for payment, including costs (entry and mailing fees) in either a lump sum or in installments.

l. If the taxpayer does not appear, the court may find him in default and issue an order for payment. However, the collector may have to issue further notices and, ultimately, have the taxpayer brought into court by the sheriff or his deputies in order to obtain payment.

4. Findings

a. Taxpayer Unable To Pay

The court may in some instances find in favor of the collector, but after questioning the taxpayer as to his assets and liabilities, discharge him from payment because of his inability to pay.

b. Payment Not Received

c. If payment is not received, a copy of the judgment should be sent to the accounting officer, a notation made in the commitment book, and a copy of the judgment kept on file in the collector's office.

d. The collector should be credited with the amount of a judgment, even though he is unsuccessful in obtaining payment of that judgment. [60:95]

e. Court Finds against the Collector

If the court finds against the collector, the collector can request the assessors to seek authority to abate the tax under the provisions of Ch. 58 §8 in order to be discharged from liability upon his bond.

Distress or Seizure and Sale of Goods [60:24,28]

1. Definition

   Seizure and sale of tangible personal property owned by a delinquent taxpayer, the oldest method of enforcement of payment of taxes, is seldom used today.

2. Limitations on Use

   a. Seizure and sale of goods may not be used by a city or town collector to collect costs and charges prior to their commitment to a tax. [41:38A]

   b. Items such as tools, military arms, housekeeping utensils, etc., listed in Ch. 60 §24, may not be seized.

   c. This remedy may not be used if the taxpayer is deceased.

3. Seized property need not be the property which was taxed, but it must be owned by the delinquent taxpayer.

4. Seizure may be used to enforce payment of a real estate tax assessed to the occupant of land rather than the owner of the land. Cattle, sheep, horses, swine, stock, or produce belonging to the owner of the land may be seized and sold if they are found on the land within nine months after the tax was committed to the collector. [60:27]

5. Risks

   A collector or deputy who seizes and sells personal property runs the risk of liability for damages to holders of security interests and other forms of liens on that property. This risk is especially high for motor vehicles, many of which are used as security for loans for their purchase.

6. Procedures [60:24]

   a. A collector may use this remedy only after the elapse of 14 days following the mailing of a demand and after a warrant to collect and a warrant to distrain have been issued.

   b. The collector should ensure that the warrant covering the tax is complete and regular on its face and bears the signatures of at least a majority of the assessors who were in office when it was issued. (Collectors may use a facsimile signature when issuing warrants to collect under Ch. 60 §29.)

   c. The collector should issue a warrant to collect to a deputy collector in accordance with the provisions of Ch. 60 §29. Upon the taxpayer's failure to pay the tax following service of the warrant, the collector or his deputy may request a hearing in the district court.

d. The court may then issue a summons to the taxpayer, ordering him to appear and to submit to an examination or oath relative to his property, his ability to pay, and whether the tax, interest charges and fees are owed.

e. The court must serve this summons by an officer qualified to serve civil process, including the collector or his deputy, by delivering an attested copy to the taxpayer, or by leaving such a copy at his last and usual place of abode, at least seven days before the return day.

f. If the court finds that the tax is owed and that the taxpayer possesses sufficient property and an ability to pay, the court will issue a warrant to the collector or his deputy, to be served upon the taxpayer, authorizing the collector or deputy to distrain the taxpayer's goods or commit the taxpayer to jail.

g. Upon the issuance of a warrant to distrain or commit, the collector may levy by distress or seizure and sale of the taxpayer's goods.

Sale at Public Auction [60:25-28]

The collector must hold a sale at public auction within 30 days after the seizure.

1. Notice of Sale [60:24]

   The collector must give notice of the sale at least 48 hours in advance by posting in some public place in the town. The notice need not give the name of the person taxed or the amount of the tax, but must contain a general description of the property to be sold and identify the place and time of the sale.

2. Adjourning the Sale [60:26]

   The sale may be adjourned once for a period of not more than 3 days if a notice of the adjournment is posted at the place of the sale.

3. Neither the deputy nor the collector may purchase at the sale.

4. If several items have been seized and are sold separately, the collector must terminate the sale upon the receipt of sufficient monies to pay the tax and charges, and return the remaining items to the owner. If the collector receives an amount greater than the tax and charges, including the expense of storage and sale, he must pay the surplus to the owner, who may require a written account from the collector. [60:28]

Imprisonment [60:29-934A]

The procedures for imprisonment after a hearing for non-payment of taxes parallel those for “Distress or Seizure and Sale of Goods.”

Withholding Sums Due Delinquent [60:93]

1. Upon request by a collector, the treasurer must withhold payment of any monies due to a person who owes taxes or other charges.
2. The collector should make the request in writing.
3. The treasurer and collector should create and maintain the necessary records to account for monies withheld.
4. No statute of limitations applies to this set-off procedure. Decota v. Town of Stoughton.

Suspending of Local Licenses and Permits [40:57] (See also Chs. III & V.)

1. Any city or town which accepts 40:57 may deny any application for, or revoke or suspend any local license or permit (or renewal) issued by any board, officer or department for any delinquent taxpayer.
2. The statute contains numerous exclusions, including licenses for open burning, bicycle permits, dog licenses, fishing, hunting and trapping licenses, marriage licenses and those excluded by the ordinance or bylaw. The statute specifically includes building permits.
3. The city or town must pass an ordinance or bylaw providing that the collector annually furnish each licensing authority with a list of all delinquent taxpayers who have remained delinquent for at least a year and have failed to file an application for abatement or an appeal to the Appellate Tax Board.
4. The ordinance or bylaw must also provide for notice by the licensing authority to the delinquent taxpayer and to the collector setting up a hearing no earlier than 14 days after the notice. The list constitutes sufficient evidence for denial, suspension or revocation unless rebutted at the hearing. The decision of the licensing authority must stand until payment of the tax, interest and charges.
5. The ordinance or bylaw must provide the delinquent taxpayer the opportunity to enter into a payment schedule. The license or permit will be conditionally approved as long as the taxpayer complies with the agreement. The collector does not have to accept any partial payment which is lesser of $10 or 10% of the amount due. [60:22]
6. Ch. 408 of the Acts of 1993 allows communities that have accepted Ch. 40 §57 to revoke, suspend or deny a local license or permit to anyone who plans to conduct or is conducting the licensed activity on the property of a person who is delinquent on his local taxes, fees or other charges. Previously, municipalities could only revoke, suspend or deny licenses or permits for the delinquent himself.

7. This procedure does not include suspension of motor vehicle registrations covered in Ch. VI.

Boat Excise Remedies [60B:4,5] (See also Ch. VH.)

1. All remedies applicable to collection of the motor vehicle excise are available for collection of the boat excise, so far as pertinent. [60B.-5]
2. An additional penalty of $20 or 20% of the excise due, whichever is greater, should be added to a delinquent tax. [60B:4]
3. The harbormaster must refuse to allow a vessel upon which a boat excise is delinquent to moor, dock or otherwise be situated within the waterways of the city or town. [60B:4]

Tax Titles

1. General Information
    a. The creation of a tax title has proven to be the most effective remedy for enforcement of the collection of taxes on real property. It permits a collector to be relieved from liability on his bond and to credit his commitment as though the tax had been collected. The treasurer becomes obligated to liquidate the uncollected taxes and charges.
    b. A lien arises automatically on real estate on January 1 of every year and continues until such time as the taxes for the fiscal year beginning the following July 1 have been paid. Although the lien remains in effect when taxes become delinquent, the collector should make a taking in a timely manner because the lien can be defeated if two things occur before a valid taking or tax sale is made: (1) 3½ years elapse from the end of the fiscal year for which the taxes were assessed and (2) an alienation (or conveyance) of the parcel is recorded. Until an alienation is recorded, however, the automatic lien continues indefinitely. An alienation recorded after a valid taking will not defeat the municipality's lien.
2. Procedure for Tax Taking [60:53,54]
    a. The collector must take a separate tax title on each parcel assessed.
    b. A demand must have been issued to the person assessed at least 14 days before the posting and publication of a notice of taking.
3. Notice of Taking

The collector should prepare a Notice of Tax Taking using Form 300, attaching extra blank sheets as necessary. The collector should exercise care to ensure that the information on the notice is accurate. Substantial or misleading errors can invalidate the tax taking. [60:37]

a. Although Ch. 60 §40 requires the assessors to furnish parcel descriptions, collectors should check descriptions thoroughly, obtaining registry or probate references when possible.

b. The collector should include in the notice the names of all owners known to him. If the owner of the parcel as shown by the assessors' records at the time of the taking is different from the owner who was assessed for the delinquent taxes, the name of that subsequent owner should be included in the notice of intent to take. If the delinquent taxes were assessed to an estate or to the heirs of a person, the collector should check the status of the probate proceedings before preparing the notice.

c. When more than one year's tax is due, the collector should list each year and tax separately. (See State Tax Form 300.)

4. Publication of Notice

a. At least 14 days before a tax taking (preferably longer), the collector should publish completed Form 300 in a local newspaper or, in the absence of a local newspaper, then a newspaper that publishes in the county and circulates in the respective town. [60:1] As an alternative to publication, the collector can give notice in the same manner as subpoenas. This alternative, however, is not recommended because of the expense involved and the increased chance of an error that could invalidate the taking.

b. Also, at least 14 days before a tax taking (preferably longer), the collector should post notice of tax taking (copy of Form 300) in two or more convenient and public places. [60:53]

c. The collector should procure several copies of the notices as they appear in the newspaper. These copies may be used for:

d. Posting, as discussed in the above paragraph.

e. Attachment to the Tax Title Sheet. (See Form 410.)

f. During the 14 day notice period partial payments cannot be accepted. [60:22] It is recommended, but not required by law, that the collector insist on payment in “good funds,” i.e., cash, certified check or bank check during the notice period.

5. Taking

At the designated time and place, the collector announces that he takes the property for the city or town.

6. Recording of Instrument of Taking [60:54]

   a. After a tax taking, the collector should prepare an Instrument of Taking (Form 301) for each parcel. This instrument must be recorded within 60 days of the date of taking. The date on the Instrument of Taking should be the date of the actual taking, not the date on which Form 301 was prepared. (See Form 301.)

   b. Land identified with a certificate or document number, rather than a book and page, is registered land and must be recorded in the land court section of the registry of deeds.

7. Tax Title Accounts

   After performing a taking, the collector should prepare, in triplicate, a list of Recorded Takings (Form 346) to be set up as tax title accounts, giving one to the treasurer, one to the accounting officer, and retaining one for the collector's records.

8. Handling of Tax Title Accounts

   a. Certification of Subsequent Taxes to Tax Title Accounts [60:61]

   b. For parcels of real estate taken into tax title for nonpayment of taxes in prior year(s) and not redeemed, the collector must certify all unpaid taxes and assessments, together with any costs and interest accrued, in each subsequent year. A delinquent taxpayer may tender payments on current taxes without penalty until the due date. The collector should make the certification prior to September 1st of the year following that of its assessment, preparing Form 347 in triplicate.

   c. The treasurer should return a certified copy of Form 347 to the collector, retain the original for his records and forward the remaining copy to the accounting officer.

   d. Upon receiving the certified copy of Form 347 from the treasurer, the collector is credited for the amounts certified to the tax title accounts as if the tax had been paid in money. From this certificate the collector must post to each account in the commitment book in the tax title column, thereby clearing these accounts for that tax year.

   e. Upon a taxpayer's redeeming a tax title, the treasurer must issue a Certificate of Redemption and notify the collector. The collector should note the redemption in the commitment book and on the tax title record, and then remove the record from the active tax title file, noting on the record the name of the person performing the redemption, the date and the redemption amount.

f. Protection of Property in Tax Title [60:50A, 53]

The General Laws impose certain responsibilities upon collectors to protect the municipality's interest in property held by it under a purchase or taking for nonpayment of taxes. The collector should discuss these responsibilities with the town counsel or city solicitor.

g. Protecting Interests by Insurance, etc. [60:50A]

h. If a municipality believes the owner of tax title property is not taking reasonable steps to preserve, maintain or protect it by insurance or otherwise, the mayor or selectmen, with approval of the Commissioner of Revenue, should file a certificate with the clerk stating that the town's interest has not been reasonably protected.

i. Upon such a filing, the collector must send a notice to the owner, specifying particular actions the owner must take to preserve, maintain or protect the property and demanding the performance of these actions within a fixed period of time, not less than 72 hours, after the date of the demand.

In addition to mailing this demand, the collector must post a copy of it at the site of the real estate in question.

If the owner fails to comply with the demand, the town may spend appropriated funds to take the specified action. The expenses so incurred will be added to the tax title account for the real estate and will be treated in all respects as art of the legal costs and charges of collection.

j. Collecting tax title rents. [60:53]

The collector may take immediate possession of tax title property and collect rents and other income generated by it. Upon doing so, the collector becomes legally responsible for the payment of necessary expenses involved in the care, repair, and management of the real estate. He must pay these costs out of the income derived from rents before any amounts of the balance of the income may be applied to taxes, assessments, rates, charges, interest, and costs due the city or town. Thereafter, any remaining balance must be paid to the person otherwise entitled to them.

9. Treasurer's Involvement in Tax Titles

The treasurer becomes involved with tax titles after the collector sends him/her a list of recorded takings (State Tax Form 346). This list contains the names of the delinquent taxpayers, a brief description of the property included, the years, and taxes and liens which are unpaid at the time of the taking. From this list of recorded takings, the treasurer sets up a tax title account sheet for each parcel of real estate included in the list of recorded takings. (See State Tax Form 410.)

10. Treasurer's Duties Respecting Tax Titles

The treasurer's duties include taking custody of the tax deeds or instruments of taking and maintaining records on all properties in tax title. The treasurer should either collect the unpaid taxes or, at least six months after the taking, commence Land Court foreclosure proceedings. With certain properties, land of low value foreclosure proceedings may be initiated, but not less than 90 days after the tax taking.

a. Maintaining Records on Tax Title Accounts

(1) The treasurer should prepare and mail a simple notice to delinquent taxpayers and present owners of the property placed in tax title, informing them of the fact and advising them that to redeem the property, they must contact the treasurer. This notice proves particularly helpful where present owners purchased the property subsequent to the year of taking and are unaware of the delinquent status.

(2) The tax title record should show amounts necessary for redemption; it establishes the basis for a petition to foreclose the right of redemption with the Land Court.

(3) The treasurer should set up a separate tax title account for each parcel of land, containing the following information:

a. Name of person assessed, and last known mailing address.

b. Date of Taking.

c. Description and location of property.

d. Book and page number of the recording of the Instrument of Taking.

e. Unpaid taxes for the year or years for which the property was taken.

f. Other additional costs such as betterment assessments, utility charges, district taxes.

g. Collector's interest to the date of taking, Collector's fees and charges, as outlined in Ch. 60 §15.,

Subsequently certified taxes.

i. The tax title account sheets should be kept in a uniform manner, either alphabetically by name of the delinquent or alphabetically by street location. The sheets should not be kept chronologically since, upon inquiry, it would become necessary to examine the sheets for the various dates of taking. Most treasurers keep the tax title account sheets alphabetically in the name of the delinquent taxpayer; some cross index alphabetically by location.

ii. The treasurer should retain on file copies of the instrument of taking and the notice of tax taking.

iii. The interest percentage which accrues on a tax title is that which is in effect at the time the taking is made. Subsequent statutory rate changes do not affect the rate of accrual of a previously established tax title. The following rates apply:

iv. 6.5% prior to 8/8/66.

v. 8% on or after 8/8/66 to 7/21/70.

10% on or after 7/21/70 to 10/14/ 76.

12% on or after 10/14/76 to 8/16/79.

16% on or after 8/16/79.

b. Disputed Tax Title Accounts

The treasurer possesses no authority to disclaim any tax title. Only the collector possesses this authority. Therefore, upon receiving a claim that a tax title is improper or invalid, the treasurer should refer the claimant to the board of assessors or the collector of taxes. [60:84]

c. Tax Title Redemption [60:62]

(1) Any person with an interest in a property in tax title can redeem that property with the treasurer at any time up until a petition to foreclose has been filed in the Land Court.

(2) If a person elects to redeem a tax title, the treasurer computes the amount due:

11. Tax title account balance including fees, charges and other costs.

12. Interest, at the rate specified in Ch. 60 §62 on each year's taxes from the date of taking and subsequent certification.

13. The Treasurer collects the payment, including the cost of recording the Instrument of Redemption, and records the payment in the cash receipts book.
14. The Treasurer files an Instrument of Redemption at the appropriate registry of deeds. (State Tax Form 441)
15. The redeemed tax title account is moved to the inactive file with the book and page number of the Instrument of Redemption.
16. A “Notice of Final Disposition of Tax Title Account” (State Tax Form 486) is issued to the collector, accountant and assessor.
17. Partial Payments (60:62, as amended Chapter 354 of 2006)
18. Any person possessing an interest in a tax title property may also redeem it by making installment payments to the treasurer.
19. The treasurer, upon accepting payment of any installment, may extend the time during which he will not institute proceedings to foreclose the rights of redemption for a period of two years beyond the time authorized in Ch. 60 §65
    a. Land Ownership Records
        (1) The registry of deeds of each county maintains records of ownership of all land in that county. Two separate systems exist, one for registered land (Ch. 185) and the other for recorded land.
20. Land qualifies as registered land upon the Land Court's issuance of a decree certifying that title to the land is held by the persons named on the certificate and that the land is free of any encumbrances not listed on the certificate. All subsequent instruments affecting registered land must be filed with the registered section of the registry of deeds and must be noted on the appropriate Certificate of Title to be effective. Deeds to such land are identified by a document number noted on a Certificate of Title.
21. All non-registered land is recorded land. Title to such land depends upon the effect of all instruments recorded in the appropriate registry of deeds. Instruments affecting recorded land must be recorded in the registry of deeds where they are identified by the number of the book and page in which they are recorded.
22. Because of differences in recording and filing requirements, treasurers should not combine registered land with unregistered land in the same instrument.
    b Foreclosures in the Land Court
        (1) Treasurers can most effectively compel delinquent taxpayers to redeem tax titles through use of the

foreclosure process. A treasurer cannot institute this process, however, until after the expiration of at least six months after the date of a tax taking or sale.

(2) Treasurers who are not lawyers should consider engaging the services of a law firm with experience in tax title foreclosures for Land Court proceedings. Cases do not move through the Land Court automatically. Either the treasurer or his/her legal agent must monitor the progress of each foreclosure petition.

(3) Ch. 60 §50B requires the treasurer to seek an appropriation in the annual town budget of at least $80 for each tax title ripe for foreclosure which has a current assessed valuation in excess of $1,000. If this amount is not voted, it must be certified in writing to the assessors by the treasurer and raised in the annual tax rate.

c Petition to Foreclose [60:65-76(b)]

A treasurer can commence Land Court proceedings by filing a Petition to Foreclose, using appropriate forms at the Land Court in Boston. This petition and a duplicate must be signed by the treasurer under oath. On the petition, the treasurer must enter the date of taking, the date and the book and page (or document) number of the recording of the Instrument of Taking, the current assessed value of the property, the description that appears in the Instrument of Taking, and the names and addresses of all persons with any interest in the land. (See Land Court Form LCP-5.)

d Filing at Land Court

The petition may be filed at the Land Court in Boston. Land Court clerks will answer questions concerning the preparation and filing of the petition. A "Notice of Filing Petition" must be filed in the local registry when the Petition to Foreclose is filed in the Land Court. (See Land Court Form LCN-2.)

e Filing Fees

(1) The treasurer must accompany each petition with a $515 fee, which the Court keeps on deposit and from which it may draw for the following expenses:

(2) Payment of the Land Court examiner appointed by the court to examine the title at the registry of deeds and to submit a written report to the court setting forth the names and addresses of all parties having an interest in the property and who are thereby entitled to notice.

(3) The cost of certified mail notices.

The cost for an issuance of withdrawal if tax payments are received or a decree of foreclosure if they are not.

23. Upon the conclusion of a case, the Land Court will refund the balance of the unused deposit. During the course of the case, the Court may request additional deposits to cover increased costs in either the examiner's bill, publication costs, or the mailing of notices.

f Examiner

(1) The Land Court appoints an examiner who submits a mini-title abstract of 20-25 years prior to the tax taking and submits a written report setting forth the names and addresses of all parties having an interest in the property.

(2) If addresses are missing, the Court will contact the treasurer or his attorney and request the necessary information. The Court will not proceed without these addresses. Upon receiving all necessary data, the court will issue a citation or notice to each interested party.

g. Notification by the Land Court to Interested Parties

(1) The court will mail the citation by certified mail. The citation must give notice of the number of the case, the location of the property and the date on or before which the party receiving notice must act or be forever barred from redeeming the property. The notice must inform the recipient that failure to act may result in a default which would lead to the entry of a foreclosure decree if the court found all other aspects of the case in order.

(2) If the notice does not reach any of the interested parties, it will be returned to the court undelivered. The court will forward this notice to the treasurer or attorney with a request that a better address be provided. The treasurer or attorney becomes responsible to ascertain the address of the party or parties and forward that information to the court. Upon receiving the new address, the court, will send by certified mail a special citation containing the same information as the original notice and a new deadline or return date, thereby giving the interested party or parties additional time in which to act.

(3) A deputy sheriff may serve a citation if registered mail fails to reach an interested party. If an interested party cannot be served, the city or town must submit a letter to the court, evidencing that a diligent search has been

made. If the reviewing judge approves, the court will prepare a notice to be published once in a local newspaper The court will also send copies of this newspaper notice to all interested parties.

h. Filing an Appearance or Objection [60:68]

(1) If any party in interest wishes to redeem a tax title, he must file an answer with the court, either objecting for some specific reason or offering to redeem the title to his property. Upon an appearance and objection or offer to redeem, the court will accept motions for a hearing on the matter.

(2) At the hearing, the treasurer or attorney will inform the court of the amount due, including penalty and interest, using the interest rate shown on Form 410. Interested parties may offer reasons why the court should not allow a foreclosure to be entered. They may also offer to pay the amount due. The judge will either continue the case or enter a finding, setting the amount due and specifying when payment must be made.

i If Payment is Made

Upon receipt of the total amount due, including court costs, the treasurer or attorney must file a motion to withdraw the case from further consideration and issue an Instrument of Redemption (State Tax Form 441), recording or registering the certificate at the registry of deeds. Subsequently, the court will issue a withdrawal, which either the treasurer or the attorney must record or register at the registry.

j Partial Payments

Neither the General Laws nor the Land Court Rules authorize the redemption of tax title property with partial payments. Further, Ch. 60 §62 declares that an interested party may redeem a tax title property without court approval only “prior to the filing of a petition for foreclosure.” As a practical matter, however, the court may advise or strongly urge a treasurer to accept partial payments. Frequently, the court will continue a case for a period of time, permitting a taxpayer to effect a redemption with a series of partial payments.

k If Payment Is Not Made

If payment is not made by the due date in the finding, then the municipality (attorney) must bring a motion for a decree of foreclosure, alleging that the terms of the finding have not been met. The court must hold a hearing on the motion. At the hearing, the court will permit the delinquent taxpayer to offer reasons to explain his failure to make payment. The taxpayer may promise to make payment in the future. The judge must then either allow the motion or continue its consideration to a future date. The same procedures will occur at any continued hearing or subsequent continued hearing until either the property is redeemed or the Court allows the motion.

l Additional Filings with the Land Court The treasurer must also file:

(1) An Affidavit as to Military Service, stating that no parties in the case are away in military service, using Land Court Forms LCA-3 or LCA-4.

(2) A general default form using Land Court Form LC-M-1.

m Issuing a Foreclosure Decree

(1) If the court allows a motion for decree, it will then consider all the other aspects of the case and, if it finds they are in order, it will issue a decree of foreclosure. Subsequently, the court will send an attested copy of the decree to the treasurer or attorney, who must record or register it at the registry of deeds.

(2) Upon issuance of a decree, title vests in the municipality, and the treasurer should notify, in writing, all interested municipal departments, including the collector of taxes, board of assessors, town accountant or city auditor, board of selectmen, mayor, and/or city council. (See State Tax Form 486.)

n Redemption of Tax Titles Which Have Been Foreclosed

(1) Should any party with an interest in the property request the right to redeem a tax title which has been foreclosed, the treasurer must refuse. He cannot accept payment or issue an Instrument of Redemption. The treasurer should direct such party to the body now having control over the disposition of municipal property. If that department or body indicates to the treasurer, in writing, that it has no objection to a redemption, the treasurer or attorney may petition the Land Court, to have the foreclosure decree vacated.

(2) It is usually not advisable to have a decree vacated until after payment in full has been received and the check, if any, has cleared. Once payment has been received, the foreclosure decree vacated and the case withdrawn, the

treasurer should prepare and record (register) an Instrument of Redemption.

- o If the Request for Redemption Is Denied

  (1) Should the appropriate department or body deny a party's request for redemption, the party may, within one year of the date of the decree, file with the Land Court his own petition to vacate. The Court will hold a hearing on the petition and, if the delinquent taxpayer can pay all monies due and the municipality has not conveyed the property to a third person, will generally grant the petition.

  (2) Upon the entry of a decree of foreclosure or the denial of a petition to vacate a decree of foreclosure, an interested party may appeal to the Massachusetts Appeals Court. A treasurer should obtain counsel to handle cases allowed by that court.

- p Recovery of Costs and Fees

  (1) A treasurer may file a motion with the Land Court to allow the payment of attorney's fees to the tax title account. The fees awarded shall not exceed the actual costs incurred. [60:65]

  (2) The party redeeming tax title property is liable for all court costs. The amount of these costs can be obtained from the court's accounting department.

24. Tax Possessions [60:77B; 44:63A]

25. The mayor in cities or the selectmen in towns may appoint a custodian who must manage property acquired through foreclosure of tax titles. [60:77B] The treasurer is often appointed as custodian, especially in smaller towns.

26. The custodian may sell such property at public auction notwithstanding ordinances or bylaws that prohibit such sale. The owner of record prior to acquisition of the title by the community must be notified by certified mail of the intent to sell at least 14 days before the sale. Notice must also be posted in two or more public places at least 14 days prior to the sale. The notice should include the following: a description of the property; the date, time and place of sale; and the terms and conditions of the sale. [60:77B] If the property is serviced by a septic system, notice of the system inspection requirements of 310 CMR §15.301 (f) should be set forth in the notice.

27. The custodian may reject any and all bids at such sale if, in his opinion, none of the bids represent the market value of the property. He may also

adjourn the sale. The treasurer must execute and deliver any instruments necessary to transfer title after payment has been made.

28. If property belonging to a municipality is sold, the board or officer executing the deed must receive a pro-rated payment in lieu of taxes, together with payment of the fee for recording the deed, before the deed can be delivered. The payment is calculated by multiplying the tax rate for the fiscal year of the sale by the sale price.

29. If the property is sold between January 2 and June 30 of the fiscal year, the town should receive an additional payment in lieu of taxes for the next succeeding fiscal year. This pro-forma tax is calculated by multiplying the sales price by the tax rate. The pro-rata/pro-forma taxes must be received before delivery of the deed. The treasurer's deed should recite compliance with Ch. 44 §63 A.

30. If he/she does not believe that the sale of such property is practicable, the custodian may also lease the property under provisions of the Uniform Procurement Act (UFA), Ch. 3OB, for not more than three years, subject to the approval of the mayor or selectmen.

31. Real property which has been acquired through foreclosure may not be sold to persons convicted of certain crimes, i.e., arson or fire insurance fraud, or certain real estate tax delinquents. [60:77B]

32. To ensure compliance with Ch. 60 §77B, no tax possession property can be conveyed unless each grantee swears under the pains and penalties of perjury that neither he nor any other person who would gain equity in the property has been convicted of arson or fire insurance fraud, or is a tax delinquent. The subject deed must contain a recitation that such affidavits have been received by the custodian or another person signing the deed.

33. The UFA, Ch. 3OB, sets out specific requirements for the sale of municipal real property.

34. Real property with a value of less than $25,000 may be sold by the mayor or board of selectmen after a 2/3 vote of the city council or town meeting.

35. Real property with a value of $25,000 or more is subject to the request for proposals procedure and to advertisement in the Central Register.

36. Tax Collector's Sale of Real Estate [60:37-51]

37. Collectors infrequently utilize tax sales to enforce collection of delinquencies. This remedy has been substantially replaced by tax takings since the taking process produces a similar result with a simpler procedure. It eliminates the intervention of third parties prior to foreclosure of the tax title. The principal advantage of the tax sale over the tax taking is the immediate collection of the tax, including charges and

fees, if the property is purchased at the sale. This advantage has been greatly diminished, however, by the recent reduction in the length of time that property must be held in tax title before foreclosure proceedings may be commenced. The biggest disadvantage of a tax sale is that unless the collector purchases the tax title, he will be unable to certify subsequent years' taxes to the tax title account. Consequently, the collector would have to conduct another tax sale, or make a tax taking, to secure a subsequent year's taxes.

38. While the tax taking is generally acknowledged to be the preferable procedure, it is nevertheless possible for a city or town, by ordinance or bylaw [60:87], to direct its collector to use the tax sale. For that reason, collectors should be aware of the details of the procedure.

    NOTE: Other statutory remedies exist for the enforcement of the collection of the motor vehicle excise. (See Ch. VI.)

Bulk Sales of Tax Receivables and Liens

(See IGR No. 97-201 before entering into an agreement to assign receivables in bulk.)

1. Authority to Enter into Assignment Agreements

    Before entering into an assignment agreement, the collector should consult with the mayor or selectmen, the accountant or auditor, the assessors and the chief financial officer.

2. Non-Tax Obligations

    Assignments of real estate taxes must include non-tax obligations, such as water and sewer charges, that have been added to the tax and are secured by the tax lien.

3. Entire Class Must Be Assigned Together

    All taxes of a fiscal year that belong to the same class (i.e., residential, open space, commercial, industrial, personal property) must be assigned in one transaction, with the following exceptions:

4. Taxes on parcels that are part of the estate of a bankrupt.
5. Taxes on parcels which are or may be subject to liens for environmental problems under Ch. 21E.
6. Taxes on parcels with respect to which an assignee of a prior year has a right of first refusal to purchase the tax obligation.
7. Taxes with respect to which the taxpayer has entered into and is complying with a payment agreement with the collector.

Note: Taxes involving parcels in bankruptcy or parcels with environmental problems may still be assigned; however, they do not have to be assigned with other delinquent accounts in their respective classes.

8. Limitation on Collector's Authority to Assign

9. A collector may not assign taxes on parcels which are subject to a tax title. Rather, the collector must certify such taxes to the tax title account.

10. A collector with more than one fiscal year's real estate tax receivables outstanding on parcels not in tax title may assign older years' receivables without assigning the newer receivables, but cannot assign newer receivables if the municipality would still have older real estate receivables outstanding.

11. Notice

12. Before assigning delinquent taxes, the collector must publish a list of the accounts that may be assigned in a newspaper printed in the city or town, if any, otherwise in a newspaper published in the county.

13. For residential property taxes, the publication must precede the assignment by at least six months; for taxes in the other four classes, publication must precede the assignment by at least three months.

14. Parcels that are partly residential in their use must be treated as residential property for purposes of this publication requirement and must be assigned with the residential class. Other mixed-use parcels may be grouped with any of the use classes to which they belong for purposes of both publication and assignment.

15. The published list must include the names of the persons assessed and the addresses of all parcels of real estate for which outstanding taxes may be assigned. A collector intending to assign a given class of taxes should not make tax takings during the grace period between the publication of the list and the intended assignment.

16. During the grace period between the publication of the list and the assignment of the taxes, taxpayers may enter into payment agreements with the collector. If a taxpayer has made such a payment agreement and is in compliance with its terms when the other taxes in the same class are assigned, his delinquent tax may not be included in that assignment. If the taxpayer later fails to comply with the terms of his payment agreement, the balance of the delinquent tax may then be assigned, either in accordance with the terms of the assignment of the other taxes in the same class, or under a separate assignment agreement. Collectors must offer equivalent payment plans to all taxpayers owning property of the same class.

17. Assignment Conditions; Amount

18. Tax receivables must be sold to the highest qualified bidder at a public sale or auction.
19. Collectors must inform prospective bidders, by the issuance of bid specifications and amendments thereto, or otherwise, of the scope of the proposed sale, including the classes and fiscal years of tax receivables to be assigned, the approximate number and total amount of receivables in each class or other group of accounts to be assigned, and the terms of the assignment agreement.
20. Bids should be in the form of a percentage of the amount of the receivables to be assigned, which must be at least equal to 100%.
21. The price must be at least equal to the total amount of taxes, interest and charges due on the date of the assignment.
22. The assignee must pay the bid price upon execution of the agreement, except that interest and charges accruing after the commitment may be paid-out of the assignee's first collections of the respective receivables,
23. The amount payable upon execution of the instrument of assignment will at least equal the amount committed by the assessors, including all utility, betterment and other charges added to and committed as part of the tax.
24. District taxes must be included in the assignment unless the district votes not to allow such assignments.
25. If a tax relating to a parcel of real estate is included in a published list of receivables to be assigned, any unapportioned betterments on the parcel should be apportioned before the assignment.
26. Interest and charges that accrue after the commitment on each receivable that is assigned must be paid to the city or town from the first amounts collected by the assignee on account of that receivable.
27. Any premium will not apply to accrued, post-commitment interest.
28. Terms of the Assignment Agreement
29. No assignment agreement may be made at a price which is less than the amount due with respect to the receivables that are assigned.
30. An agreement by a collector must:
31. Be in writing.
32. Include the information contained in the assessors' commitment for each tax being assigned.
33. State the remaining balance of the tax and other charges being assigned.
34. State for each receivable the amount of interest and charges accrued that will be payable from the first amounts collected by the assignee.

35. An assignment agreement must prohibit the imposition by the assignee, his agents or transferees, of any fees or charges other than those that could have been added to the amount due by the collector or treasurer in accordance with the provisions of Ch. 60.

36. Adjustments to Purchase Price and Repurchases of Assigned Receivables

37. Agreements may provide for the repurchase of the purchaser's actual costs. If the agreement provides for such a repurchase, it must set a separate dollar limit on the repayment, and that limit must be encumbered against the expense budget of the collector.

38. Agreements must provide for the repurchase of or adjustments to tax receivables that:

39. Do not conform to the terms of the sale. The following constitute non-conforming receivables:

    (i) Invalid assessments that are not cured by a reassessment under Ch. 59 §77.

    (ii) Receivables for which the municipal lien has been lost through an error on the part of the municipality.

Are less than the amount for which they were purchased. Such a shortfall occurs when:

    (i) The amount of the commitment is misstated in the assignment agreement.

    (ii) Payments on account of the receivable are not properly credited to the account before assignment.

40. Time and Dollar Limits on Adjustments and Repurchases.

41. Agreements must specify a time limit — which may not exceed three years — within which the municipality may be required to:

    (i) Make payments of the purchaser's costs.

    (ii) Repurchase or make adjustments to receivables which do not conform to the terms of the sale.

The maximum net amount of repurchases of and adjustments to receivables that the municipality may be required to make must also be set out in the agreement and cannot exceed 10%.

42. The assignment agreement must also provide that if a receivable has been assigned for less than its actual value, the assignee must pay the difference between the assignment amount and the actual amount of the receivable when notified of the correct amount.

43. Representations

    An agreement must expressly state that no representations are made by the municipality about the receivables assigned.

44. Interest on abated receivables

    (1) If any receivable is abated by the assessors, the amount abated must be paid to the purchaser, with interest as provided by law for such abatements, provided the purchaser certifies that it has not yet been paid on account of the receivable.

    (2) No interest accrues on a repurchase by the municipality that is less than the amount for which it was assigned.

45. An assignment agreement must prohibit the purchaser from entering into any contractual arrangement with a taxpayer requiring the payment of more than would have to have been paid if the tax on the parcel had not been assigned.

46. The assignment agreement must specify how the assignee or its agent will keep the collector informed about the collection status of the assigned receivables and how the collector will inform the assignee of and transfer to it any payments received on account of assigned receivables.

47. The agreement must require the assignee to furnish the collector with copies of tax takings and notices of any transfers, reassignments or appointments of service agents by it.

    (1) The agreement must require the collector to furnish the assignee with copies of any lien certificates issued by the municipality.

48. The agreement must provide that the collector will be an agent of the assignee for the receipt of payments on account of the assigned receivable that are made before the recording of any tax taking.

49. Collectors will still be required to issue lien certificates in accordance with Ch. 60 §23 for all outstanding charges — including assigned tax receivables — that are not secured by a tax title.

50. Before issuing a municipal lien certificate, a collector must obtain a written statement of the balance due on each assigned receivable from the holder of the receivable.

An agreement must require the assignee to provide within three days of a request by the collector all information in its possession needed to complete a municipal lien certificate under Ch. 60 §23 or other lien release form.

An assignment agreement must also provide for reports of total collections to be made at least as often as quarterly to the collector and accountant or auditor.

51. An agreement to assign real estate tax receivables must require the assignee or its agents or transferees to record at the registry of deeds a copy of the instrument of assignment together with a list of owners and parcels of recorded land that will be taken or sold before any tax takings or sales are made. If taxes on registered land are assigned, a copy of the

instrument of assignment must be registered, together with a list of such owners, parcels and certificate of title numbers.

52. An assignment of current receivables — those that are assigned within a year of the last date on which the taxes could have been paid without incurring interest (normally May 1) — may give the purchaser a right of first refusal to purchase subsequent years' receivables with respect to any parcel on which at the time of a later assignment there is still an unpaid balance of the assigned receivable outstanding.

53. The instrument of assignment must include a list containing the following information for each receivable:

    (1) The amount of the receivable, separately stating the after-accrued interest and charges to be paid by the assignee upon collection.

54. The fiscal year.

55. The bill number.

56. The assessed owners.

57. For real estate, the parcel street address, the assessors' map and lot reference, and book & page reference or certificate of title number.

58. The instrument must state that it is an assignment of the receivables of the city or town and give the name, address and telephone number of the assignee. The instrument of assignment must list the total purchase price, and be signed by the collector making the assignment.

59. Effect of Assignment on Free Cash and Available Funds

60. Any premium received on the assignment of tax receivables in excess of the committed amount of taxes, or the sum of the amount for which the property was taken and all subsequently certified amounts, will be credited to general fund revenue. [§(c)5]

    (1) Proceeds of assignments of current receivables (those that are assigned within a year of the last date on which the taxes could have been paid without incurring interest — normally May 1) will be credited to revenue in the fund in which the receivable was recorded, i.e., water lien revenue collected as part of the proceeds would be recorded in the enterprise fund if the town accounts for its water department in an enterprise fund.

61. the amount stated in the instrument of assignment that the municipality may be required to repurchase, and

62. an amount equal to twenty percent of the proceeds to provide for adjustments not subject to the limitation on repurchases must be reserved as a Fund Balance Reserved for Proceeds of Bulk Sales of Property Taxes.

63. At the end of the year in which the time limit set out in the agreement for such repurchases or adjustments has expired, the reserved amount that has not been repaid to the assignee will be closed to Undesignated Fund Balance and thus increase free cash. If the time limit expires between July 1 and March 31, the community may petition the Director of Accounts for an update of its free cash calculation.

    (1) Proceeds of assignments of older taxes will also be credited to revenue in the fund in which the receivable was recorded.

64. the amount stated in the instrument of assignment that the municipality may be require to repurchase, and

65. an amount equal to 25% of the proceeds to provide for adjustments not subject to the limitation on repurchases must be reserved as Deferred Revenue – Bulk Sales of Property Taxes.

    Note: The Director of Accounts may require a larger reserve based upon concerns about the municipality's accounting records, collection results or assessment practices. For example, a larger reserve may be required where there are major discrepancies between the collector's records of outstanding balances and the records of the accountant or auditor.

66. The remaining proceeds less the amount of the municipality's free cash deficit, as most recently certified by the director of accounts, will be reserved as a Fund Balance Reserved for Proceeds of Bulk Sales of Property Tax Receivables Restricted for Capital Expenditures. These funds may only be appropriated for purposes for which the municipality could borrow for five years or more. When the time limit set out in the agreement for such repurchases or adjustments has expired, the reserved amount that has not been repaid to the assignee — except for that part of the reserved amount that is equal to or less than the community's free cash deficit - will be credited to the capital expenditures fund. The amount of the reserve that is equal to or less than the community's free cash deficit will close to Undesignated Fund Balance at year end.

67. Duration of Liens

Ch. 375 §2 extends the automatic duration of municipal liens by fifteen months beyond the date when they could be lost under the preexisting law. The extended duration is applicable to all municipal liens under Ch. 60 §37 that are still valid on November 20,1996 — the effective date of Ch. 375. Property tax liens will ordinarily be valid for a minimum of four and a half years, from the January 1st assessment date until the fifth December 31st after the assessment date. For example, property tax liens for fiscal 1997 taxes will continue at least until December 31, 2000, unless discharged by a municipal lien certificate. Such liens will last indefinitely if a proper taking is made in a timely manner. Every taking made within 5 years of the assessment date is timely; a later taking may still be timely if it is made before any alienation of the parcel is recorded.

Chapter 5
Real and Personal Property

Commitment and Warrant [59:53]

Assessors should commit separate warrants for (1) real property taxes, (2) personal property taxes and (3) betterments, using State Tax Form 58 for real property, State Tax Form 57 for personal property and State Tax Form 59 for betterments.

Tax Bill [60:3, 3A]

Form and Contents

1. Ch. 60 §3 provides that every tax bill "must be in a form approved by the Commissioner of Revenue."
2. In compliance with this statutory duty to approve the form of tax bills, the Commissioner, in the spring of every year, promulgates separate Informational Guideline Releases (IGRs) setting forth the requirements, respectively, for preliminary bills, semi-annual bills and quarterly bills.
3. These IGRs include detailed descriptions of the information which must appear on tax bills. They also include "model" bills and demand notices. Collectors should examine carefully the particular IGRs relevant to their communities to ensure that tax bills and demands conform, in all respects, to their requirements.
4. Information on tax bills must include the last day for the assessed owner to apply for an abatement and the last day on which payment may be made without interest being due.
5. Cities, towns and districts certified by the Commissioner as assessing property at full and fair cash value must use tax bills designated for classified tax systems.
6. Cities, towns and districts that do not meet triennial certification requirements may not use a classified tax system and may not issue classified tax bills.

Local Adaptations

1. The "models" contained in the tax bill IGRs extend to communities some flexibility in making local adaptations to their tax bills. These adaptations are identified in the models by enclosure in parentheses. The adaptations relate to:

a. Interest: The statement on interest computation may provide a per diem interest rate.

b. Applicable Exemptions: The information provided on exemptions on the reverse side of the bill may be adapted to state the local option exemptions specifically available in a city or town.

2. Scholarship and Education Funds

Cities and towns may include on property tax bills, demand notices and motor vehicle excise bills (or may design on a separate form to be mailed with the tax bills) a check-off for taxpayers' use in making donations to scholarship and education funds established by local acceptance of Ch. 60 §3C. (See the relevant tax bill IGR for models of such checkoffs.)

3. Low Income Elderly and Disabled Fund

Cities and towns which accept Ch. 60 §3D may also include a check-off for taxpayers' use in making donations to assist low income elderly and disabled persons meet their property tax obligations.

Mailing of First Bill

1. Affidavit of First Mailing [60:3]

   a. In order to legally establish the date that a tax bill is first mailed, the collector must prepare an Affidavit of First Mailing for both real estate and personal property tax bills.

   b. This instrument is prima facie evidence of the date of mailing.

   c. The original affidavit should be notarized and filed with the city or town clerk as a public document; a copy should be retained by the collector and filed with the warrant which accompanied that levy.

2. Omission to Send a Tax Bill

An omission to send a tax bill does not affect the validity of the tax nor the proceedings for its collection. However, a property owner is not liable for any interest and charges if the collector omits to mail a bill.

3. Mail Stuffers with Tax Bill [60:3A]

   a. The collector may include stuffers with tax bills to respond to typical problems, answer questions and provide other information.

   b. The use of stuffers requires the approval of the mayor or selectmen. They are limited to “non-political municipal informational material” and cannot result in increased postage.

c. Collectors may include information from other municipal departments with prior approval from the mayor or selectmen.

4. Delinquent Payments

a. Semi-Annual Tax Bills Mailed After October 1st [59:57]

If a first half, semi-annual tax bill is mailed after October 1st, the taxpayer has 30 days from the mailing of the bill in which to pay the tax without interest. If not paid within 30 days, interest accrues from the date of mailing. The first day of accrual of interest is the day succeeding the mailing of the bill.

b. Preliminary Quarterly Bills

Preliminary bills are due in two installments, August 1st and November 1st. If not timely paid, interest accrues from these due dates.

Mailing of Subsequent Bills for Fiscal Year

1. Procedures

If property changes hands after the January 1st assessment date, a collector may send a duplicate bill to the new owner. However, the name on the bill must be that of the assessed owner. This rule applies to all tax bills for any particular fiscal year.

2. Information on Notice of Second Payments under Semi-Annual System and Actual Bills under The Quarterly System.

As with initial bills, discussed above, the Commissioner's annual IGRs which put forth the requirements for preliminary, semi-annual and quarterly bills include detailed descriptions, as well as models, of the information which must appear on second payments under the semiannual system and actual bills under the quarterly system. Collectors should examine carefully the particular IGRs relevant to their communities to ensure that these bills comply, in all respects, to the requirements set out in the IGRs.

3. Posting Interest on Subsequent Bills

a. Some collectors post accrued interest on subsequent bills. If interest is included, it should be computed to the payment due date. If the bill is paid prior to or after that date, the amount of interest must be adjusted to the date of payment.

b. If interest is not shown on the bill, it must be calculated at the time of payment.

Issuing Tax Notices under Semi-Annual Billing System

Ch. 59 §23D authorizes cities and towns to issue notices of preliminary taxes, with the prior approval of the Commissioner of Revenue, when communities are unable to mail tax bills in the fall because the determination of assessed valuations for the fiscal year has been delayed. (See IGR No. 88-223.)

1. Procedures for Issuing Preliminary Tax Notices under the Semi-Annual System
   a. The board of assessors must vote to request authorization to issue preliminary tax notices from the Commissioner on or before August 15th and notify in writing the board of selectmen or mayor and city council of the vote.
   b. Utilizing a "Pro Forma" Recapitulation Sheet, containing all information required to set the tax rate except the assessed valuation, the assessors must establish the tax levy for the fiscal year in the same manner as if they were setting the tax rate. The "Pro Forma" Recapitulation Sheet must indicate a balanced budget within the limits of Proposition 21/2.
   c. The preliminary bill may include up to one-half of both the automatic 2% percent annual increase in the tax levy allowed under Proposition 2½ and any increase in the tax levy for approved overrides and exclusions.
   d. The assessors may also commit with the preliminary tax any betterments, special assessments, liens or other charges that are to be added to the tax on property for collection purposes for that fiscal year. These special assessments and charges will become due at the same time as the preliminary tax.
   e. Notices of preliminary tax are to be issued on or before October 1st. However, the Commissioner may authorize issuance of bills after that date where extraordinary circumstances cause a delay in issuing the notices.
   f. The preliminary tax and all betterments, special assessments, liens or other charges billed with the preliminary tax are due and payable on November 1st, or 30 days after the bills are mailed, whichever is later.
   g. In any city or town which accepts the provisions of Ch. 59 §57D, every preliminary tax bill issued by the city or town must include an affidavit of address to be signed and sworn to by the owner of record of the property. (See Ch. III.)
2. Procedures for Issuing Actual Tax Bills under Preliminary System

a. When valuations are established, the assessors are to determine the total tax assessment and commit those taxes to the collector.

b. After crediting preliminary tax payments made to the actual tax assessed, the collector must issue tax bills which show the total taxes assessed, payments and the balance due. The bill must be a “Notice of Real Estate Tax” and not a “Notice of Second Payment.”

c. The balance is due and payable on May 1st or 30 days after the bill is mailed, whichever is later.

Issuing Tax Notices under Quarterly Billing System

If a city or town accepts Ch. 59 §57C, property tax payments for that community, and that portion of any tax levying district within it, will be made on a quarterly rather than a semi-annual basis. Under the quarterly system:

1. The assessors must make a preliminary tax commitment each year in sufficient time for preliminary tax bills to be mailed by July 1st.
2. The preliminary tax is based on 50% of the prior year's net tax on the property. It may include up to one-half of both the automatic 21/2 percent annual increase in the tax levy allowed under Proposition 2% and any increase in the tax levy for approved overrides and exclusions.
3. The collector may add current year's betterments and unpaid charges to the preliminary tax and adjust the tax in cases where a parcel has been subdivided since the prior year.
4. The collector should attempt to mail preliminary tax bills each year by July 1st. In order to mail bills after July 1st, the collector must obtain prior approval from the Commissioner of Revenue, who may require submission and approval of a pro forma tax recapitulation as a condition of such approval. If the bills are issued on or before August 1st, the first installment will be due 30 days after the bills are mailed, and the second installment on November 1st. All other late issued bills will be due in one installment, only, on November 1st or 30 days after the date of mailing, if later.
5. The preliminary tax is payable in two, equal installments, the first due August 1st and the second, November 1st, even if the preliminary bills are mailed after July 1st.
6. In any city or town which accepts the provisions of Ch. 59 §57D, every preliminary tax bill issued by the city or town must include an affidavit of address to be signed and sworn to by the owner of record of the property. (See Ch. III.)

7. After the city or town sets its tax rate, the assessors must make the annual tax commitment and the collector must mail actual tax bills for the year.
8. If the actual tax bills are mailed on or before December 31st, the balance remaining after the preliminary tax previously committed has been credited against the actual tax will be payable in two equal installments, the first due February 1st and the second, May 1st.
9. If the actual bills are mailed after December 31st, the entire balance is not due until May 1st or 30 days after the bills were mailed, whichever is later.

Voluntary Tax Payments [60:19]

1. The assessors can authorize the collector to accept voluntary tax payments, prior to the issuance of the tax bills, by means of a special warrant. (See State Tax Form 64B.) Upon receipt of this warrant from the assessors, the collector must accept the voluntary tax payment and apply it toward the payment of the tax. Collectors must use extreme care in recording such payments, especially if the taxpayer owns more than one property.
2. Voluntary tax payments from several taxpayers may be combined on a single warrant. Such a warrant would reflect the total amount of the voluntary payments for a single day and would be accompanied by a list including the names of the taxpayers, the amount of each payment and an identification of the property to which the tax relates.

Property Tax Discount

In any city or town which accepts the provisions of Ch. 59 §58, taxpayers who pay their entire tax bill for a fiscal year by the due date of the first annual installment payment are entitled to a 3% discount off their bills. In communities using a quarterly system, the taxpayer would have to pay in full by August 1st. In communities using a semi-annual system, the taxpayer would have to pay in full by November 1st or 30 days after the mailing of the tax bill, whichever was later.

Use of a Single Property Tax Bill

1. For municipalities which accept the provisions of Ch. 59 §57A, any property tax not in excess of $25 is due and payable in a single payment on November 1st or 30 days after the bill was mailed, whichever is later. Any amount not paid timely accrues interest at 14% per annum from October 1st or the date the bill was mailed, whichever is later. This statute does not apply to estimated tax bills.
2. Alternatively, for municipalities which accept the provisions of Ch. 59 §57B, any property tax not in excess of $50 is due and payable in a single

payment on November 1st or 30 days after the bill was mailed, whichever is later. The provisions of this statute are identical to those of Ch. 59 §57A, except for the amount of payment.

3. The single payment bill should be issued in the first half of the fiscal year.

Partial Tax Payments

A collector may accept a partial tax payment in any amount. However, pursuant to Ch. 60 §22, a collector must accept any partial tax payment tendered which is not less than 10% of the total original tax, or a minimum of $10, whichever is greater.

Supplemental Tax Assessment on New Construction

Chapter 59, Section 2D of MGL requires all cities and towns to

make a pro-rata assessment on the value of certain improvements to real estate for which an occupancy permit was issued after January 1 unless the Department of Revenue is notified in writing by the selectmen, town council or city councilwith the mayor's approval if required by law of its rejection. The assessment would be calculated by applying the tax rate to the value of the improvement and prorating that amount over the remainder of the fiscal year after the permit was issued. If the permit is issued between January 1 and June 30, an assessment is imposed for the following year, as well. The assessment would be paid at the same time as regular property tax bills. Taxpayers could also apply for abatements and appeal in the same manner as for property tax assessments.

Delinquent Taxes

Due Dates; Interest

1. As a matter of law, real and personal property taxes are due as of July 1st of the year to which the tax relates. Notwithstanding, interest accrues only if payment is not made by payment due dates. These dates differ under the semi-annual and the quarterly tax systems.

   a. Due Dates under Semi-Annual System

      (1) First Half Bill: Interest accrues if payment is not received on or before November 1st, or 30 days after the bill was mailed, whichever is later.

      (2) Second Half Bill: Interest accrues if payment is not received on or before May 1st, or 30 days after the bill was mailed, whichever is later.

   b. Interest under Semi-Annual System

      (1) First Half of Semi-Annual Bill

a. If one-half of the tax remains unpaid after November 1st of the fiscal year to which the tax relates, interest will accrue at the rate of 14% per annum from October 1st, if the bill was mailed on or before October 1st.

b. If the tax bill is mailed after October 1st and remains unpaid after the 30th day from the date of mailing, interest will accrue from the date of mailing at the rate of 14% per annum.

c. Interest begins to accrue on October 2nd or, in the case of a bill mailed after October 1st, on the day succeeding the date of mailing of that bill. Interest ceases to accrue on the date payment is made and includes the day of payment.

(2) Second Half of Semi-Annual Bill

If the second half of the bill is not paid on or before May 1st, interest accrues at the rate of 14% per annum from April 1st.

c. Due Dates under Quarterly System

Interest accrues if payment is not received on the due date for each quarter, August 1st, November 1st, February 1st and May 1st, respectively.

d. Interest under Quarterly System

If payment is not received on or before the August 1st, November 1st, February 1st and May 1st due dates, interest accrues at the rate of 14% per annum from the respective due date.

Waiver [60:15]

A collector may only waive payment of the interest, charges and fees that may be collectible as part of a tax bill if the total of such amounts is fifteen ($15) dollars or less. (See IGR No. 86-219.)

Demand [60:16]

1. Since the tax bill is a total bill which may be paid in two parts if issued under the semi-annual system or four parts if issued under the quarterly system, no demand should be mailed until after the due date of the final tax bill.
2. If the tax remains unpaid after May 1st, or if any portion of the tax remains unpaid, the collector should send a demand to the delinquent taxpayer. Sending a demand is a prerequisite to the exercise of certain collection remedies such as tax takings.
   a. Demand Charge: An amount not more than $30 as set by the municipality. [60:15(2)]

b. Interest Rate 14% on the unpaid tax.

Warrants

1. If the tax remains unpaid for 14 days after a demand has been sent, a collector may issue warrants to his deputy collectors requiring them to collect the taxes. These warrants must contain the same information and must confer the same powers on the deputy as warrants issued by assessors to the collectors.
2. The decision whether to issue warrants for unpaid taxes rests with the collector. In the case of real estate taxes, most collectors proceed directly with a tax taking if the tax remains unpaid 14 days or more after the issuance of a demand.

Other Statutory Remedies

Please refer to Ch. IV, the Collection Process, for information on statutory remedies available to the collector for unpaid real estate tax bills.

Statutory Remedies for Delinquent Personal Property Tax

1. Petition to Commissioner of Revenue [58:8]

   If a tangible personal property tax is not paid, the collector can request the assessors to petition the Commissioner of Revenue for authority under the provisions of Ch. 58 §8 to abate the unpaid tangible personal property tax.

2. Request to Assessors to Abate [59:71]

   a. If the collector is satisfied that a tax on tangible personal property is uncollectible because of death, absence, poverty, insolvency or other inability of the person assessed to pay, he may notify the assessors under oath that these taxes cannot be paid. The assessors must decide within 30 days after receipt of the notice whether to abate the personal property taxes.

   b. If an abatement is granted, the assessors must certify the abatement in writing to the collector. The certification will discharge the collector from any further obligation with respect to this tax.

Abatements and Exemptions on Real Property

Authority To Abate

1. The assessors have the statutory right to grant abatements (59:59) and exemptions (59:5).

2. Applications for abatements or exemptions must be timely filed with the board of assessors.
3. The application for an abatement must be filed on or before the last day for payment, without interest, of the first installment of the actual tax bill issued upon the establishment of the tax rate for the fiscal year to which the tax relates.
4. The board of assessors may seek authority to abate from the Commissioner of Revenue in certain circumstances, as long as the taxes are unpaid.
5. In the case of a paid tax, the Commissioner may only authorize an abatement under Ch. 58 §8:
   c. If an overassessment occurred as the result of an "obvious clerical error."
   d. For a period not to exceed the three fiscal years preceding the year of a request to the Commissioner.
6. Pursuant to Ch. 59 §69, no refund may be paid on account of an abatement if there is a balance owed on the tax. (See IGR No. 89-203.)

Procedures of Collector in the Case of an Abatement

1. The collector receives from the assessors a copy of the abatement (or exemption) certificate. (See State Tax Form 147.)
2. The collector credits the amount of the abatement or exemption to the proper account in the commitment book.
3. The collector maintains a file or record of abatement certificates.
4. The collector should receive a copy of the monthly total of abatements and exemptions granted from the assessors. This should be reconciled with the abatement certificates.

Omitted and Revised Assessments

Omitted Assessments [59:75]

1. If any portion of the real or personal property of a person has been inadvertently omitted from the annual assessment, the assessors may assess that person for that property provided:
   a. The portion has an assessed value of at least $100 and is liable to taxation, and
   b. Such assessment is made no later than June 20th of the taxable year or 90 days after the date on which the tax bills are mailed (whichever is later).

2. Valuation errors attributable to clerical or data processing mistakes may properly be deemed to be omitted assessments and may be corrected subject to the provisions of Ch. 59 §75.

3. Assessors should deliver to the collector a warrant for the collection of omitted taxes using State Tax Form 62.

Revised Assessments [59:76]

1. If property is not properly valued or classified, assessors may make an assessment on any additional value. (See State Tax Form 63.)

2. Such assessment must also be made no later than June 20th of the taxable year or 90 days after the date on which the tax bills are mailed (whichever is later). (See IGR No. 84-206.)

Collection of Omitted and Revised Assessments [59:57]

1. Bills for omitted and revised assessments are treated like regular tax bills. The first bill is due and payable 30 days after the mailing of the bill. If unpaid, interest accrues from the date of mailing.

   Bills for the second half payment are due and payable by May 1st. If unpaid, interest accrues from April 1st.

2. If the original bill for an omitted or revised assessment is mailed after April 1st, the entire bill is due and payable in 30 days.

Reassessed or Apportioned Taxes

Reassessment of Taxes [59:77,78]

1. General

   If a tax has been assessed in error, it can be reassessed by the assessors for the right amount, on the correct property, or to the person to whom it should have been assessed.

2. Collection

   a. Such taxes can be reassessed whether the correct person is still an inhabitant of the town or not.

   b. A reassessed tax on land must be a lien for the same period and under the same conditions as the original tax would be unless the reassessment is not made during the time the lien is in effect.

   c. Such taxes must be committed to, and collected and paid over by, the collector in the same manner as other taxes except that the name of the person to whom they were originally assessed must be stated in the tax list.

Apportionment [59:78A]

1. If real property is divided after the January 1st assessment date and the division is recorded in the registry of deeds, the assessors may, and upon written request must, apportion the tax with costs and interest upon the several parcels in proportion to the value of each sub-divided unit.
   a. Apportionment cannot take place if the property has been advertised for sale for nonpayment of taxes.
   b. The owner or mortgagee of any portion must request such apportionment in writing.
2. If property is apportioned, only the portion of the tax, interest and costs apportioned on each parcel must continue to be a lien on it, and owners or mortgagees are liable only for the tax apportioned on the parcels they own.

Deferred Real Estate Taxes and Other Assessments

Eligibility [59:5,41A]

Persons aged 65 and older who have owned property for five years may be entitled to defer real estate taxes. The board of assessors determines eligibility in accordance with the provisions of Ch. 59 §5, Clause 41A.

Water, Sewer and Betterment Assessments

A person who enters into a tax deferral agreement may also defer water, sewer and betterment assessments which are added to the tax bill. (See Ch. 40 §42j, Ch. 83 §16g and Ch. 80 §13b.)

Deferral Limit

Eligible taxpayers may defer real estate taxes and other assessments up to 50% of the assessed value of the property.

Deferral Procedures

1. In the first year a property tax deferral is granted to a taxpayer, the assessors must notify the collector and the accountant or auditor of the amount deferred.
2. The assessors must, in addition, provide to the collector and the treasurer copies of:

   a. The Tax Deferral and Recovery Agreement with the taxpayer (State Tax Form 97-1), and
   b. The Statement of Entry into Tax Deferral and Recovery Agreement (State Tax Form 97-2).
3. Modified Tax Title Account
   a. Upon receipt of the agreement and statement, the treasurer must create a modified tax title account for each parcel on which taxes are deferred. These accounts should be maintained on regular tax title account forms (State Tax Form 410) and have a prominent notation — preferably in a different color ink — by the words “Tax Title Account” indicating that they secure taxes deferred under Cl. 41A.
   b. The entries on Form 410 for “Date of Demand, ” “Date Advertised,” and “Notices Posted” should be filled in “NA.” The “Deed of Purchase or Instrument of Taking” should be filled in with the date of the assessors' statement and the book and page (or registration certificate and document number in the case of registered land) of the statement should be entered in the places provided.
4. In subsequent years, the collector and accountant or auditor must be notified by the assessors of the amount of taxes being deferred for that year. The collector will then certify the deferred taxes to the account in the same manner as subsequent taxes are certified to an ordinary tax title account, except that there should not be any collector's interest included in the amount certified.
5. Interest on deferred taxes accrues at eight percent until the property is conveyed or the death of the taxpayer receiving the deferral. After a conveyance of the property or death of the taxpayer, the interest rate increases to the sixteen percent provided in Ch. 60 §62.
6. A conveyance to a trust or a conveyance retaining a life estate makes all deferred taxes immediately due and payable.
7. The eight percent rate should be calculated from:
   a. October 1st or the date of mailing of the first half tax bills, whichever is later, and from April 1st for second half bills for any years in which the community uses the semi-annual payment system.
   b. October 1st or the date of mailing of the preliminary bills, and from April 1st or the date of mailing of the actual tax bills for any years in which the community issues preliminary tax bills under the semi-annual payment system.

c. The due date of all preliminary and actual tax payments for any years in which the community uses the quarterly payment system.

d. The collector's certification should include the relevant dates to enable the treasurer to calculate the interest accruing on account of deferred taxes.

NOTE: In a year when the taxpayer pays any of the taxes before the deferral is granted, a refund should be made with no interest, and interest on the deferred taxes should be calculated from the date of the refund to the taxpayer, instead.

8. Clause 41A deferral accounts should be segregated from ordinary tax title accounts since the liens are not ripe for foreclosure until the sale of the property or the death of the deferring taxpayer. Copies of the agreement with the taxpayer and the assessors' statement should be kept in the modified tax title file for the parcel.

9. Deferred taxes should continue to be accounted for as “Deferred Taxes Receivable.”

10. Upon payment of the deferred amount by the taxpayer, his heirs, or assigns, the treasurer will file a renunciation of the municipality's lien on the property (State Tax Form 97-4) in the registry of deeds.

Chapter 6
Motor Vehicle Excise

Motor Vehicle Excise [60A]

Excise Levy

Except as otherwise provided, there must be an excise assessed and levied each calendar year on every motor vehicle and trailer registered in the Commonwealth.

Place Where Excise Is Due and Payable

The excise must be payable to the community in which the vehicle is principally garaged. When an individual moves during a calendar year, payment is due where the vehicle was originally garaged on January 1st or where garaged on the date of registration if registered after January 1st.

Calculation of the Excise

Determination of Value

1. The value of a vehicle for excise purposes is the applicable Ch. 60A §1 percentage of the manufacturer's suggested retail price of that vehicle in its year of manufacture:
   - In the year preceding the designated year of manufacturer....... 50%
   - In the year of manufacturer 90%
   - In the second year 60%
   - In the third year 40%
   - In the fourth year 25%
   - In the fifth and succeeding years 10%
2. Assessors should not consider a vehicle's condition and market value in determining the excise value.
3. The rate of excise is $25 per $1,000 of valuation.
4. A special excise is assessed to motor vehicle dealers of $100 per plate for every dealer plate issued to that dealer for the respective calendar year.
5. No excise bill may be less than $5. No abatements may be granted and no refund may be paid in an amount less than $5.

Registration Period

Vehicles registered during a month and after January 1st

1. A vehicle registered at any time during a month is considered to be registered for the entire month.
2. For vehicles registered after January 31st, the excise amount due equals that fraction of a full year's excise that the number of months registered bears to twelve months. For example, if a vehicle is registered on April 30th, it will be assessable for nine months; the excise due will be 9/12 of a full year's excise.

Collecting the Excise

Preparation of Tax Bills and Commitment

1. The Registry of Motor Vehicles provides electronic data, at no charge, all the information necessary for a community to print its excise tax bills. The municipality can choose to print and mail their bills in-house or can outsource this process to an outside vendor
2. Before preparing its own bills, a city or town must file with the Registry's Production Control Office a "Notice of Intent to Print Motor Vehicle Excise Bills."
3. A community may then print bills without further notice to the Registry, provided the bills conform to the minimum requirements for form and content.

Where Excise Assessed and Collected [60A: 6]

The excise on a motor vehicle should be assessed and collected in the municipality where that vehicle is principally garaged. The owner's insurance coverage selection sheet provides the best evidence of the place of garaging.

Accuracy of Commitment to Warrant

The assessors' warrant should agree with the total commitment sheet. Acceptance of the warrant by the collector obligates him to collect the full amount shown thereon.

Mailing Excise Bills (See Ch. IE.)

1. First class pre-sort mailing discount — More excise bills are sent out than any other single item. Therefore, the collector should investigate the postage savings available through the use of presort, first class discount.
2. Postal discounts relate directly to the amount of work shifted from the post office to the collector. Therefore, the collector should ascertain the

cost/benefit of each discount before employing any additional in-house resources.

Bills Returned for Incorrect Address

1. Whenever an excise is returned as undeliverable, the collector should make a reasonable attempt to verify the correct billing address, choosing from among the following resources:

   a. Post Office — For a charge of 75 cents per forwarded item, the collector can mark all envelopes, Address Service Requested, whereupon the post office will forward the bill, if the forwarding time has not expired, and send the collector a card with the new address. A special account can be set up with the local Post Office and funds will be drawn as needed for providing forwarding information.

   b. Real estate commitment book.

   c. Local water or electric light department.

   d. Telephone or Folk's directories.

   e. U.S. Postal Service computerized system on CD ROM.

2. Collectors should inform the assessors of new addresses that they obtain.

3. Ch. 90 §26A requires registrants to notify the Registry in writing of any change in name or change of residential or mailing address within 30 days of the change. The Registry may suspend or revoke the license and/or registration of any person who fails to comply with this requirement. The statute also authorizes the Registry to use reasonable sources, including insurance and postal records, to update its address records.

4. A registrant can change his address in the Registry's files through use of an orange change of address card.

5. Collectors may also want to establish their own address file for excise accounts with chronic mailing address problems.

Failure to Receive a Bill [60A: 2]

"…[Failure to receive notice [tax bill] shall not affect the validity of the excise."

Death of an Owner

1. Bill Issued before Owner's Death

   The executor or administrator should pay the excise, however; the collector must commence an action within 12 months of a registrant's death or lose the community's right to recover the obligation. [197:9]

2. Bill Issued after Owner's Death [60:36]

The bill should be addressed to the owner's estate. The executor or administrator becomes personally liable for any non-payment up to 6 years after the owner's death.

3. If the time limit expires before the collector becomes aware of a registrant's demise, the debt becomes unenforceable.

Form and Content of Bills

Form of Bills

So long as they comply with published Department of Revenue guidelines, cities and towns may vary the format of excise bills. B. Content of Bills

1. Excise Bills

   Bills for motor vehicle excises must include:

   a. Tax date and excise year: The bills should be captioned “Notice of Motor Vehicle and Trailer Excise or Motor Vehicle and Trailer Excise Bill” and must state the applicable excise year. The bills must also state the tax date of January 1st or the date the vehicle was registered, if registered after January 1st.

2. Taxpayer information: The name, mailing address, and license to operate number of the person assessed the excise.

3. Vehicle description: A description of the vehicle subject to the excise. This characterization must include the following:

   (1) Registration number of the vehicle.

   (2) Model year of the vehicle.

   (3) Make of the vehicle.

   (4) Vehicle identification number.

4. Valuation: The value of the vehicle calculated pursuant to the schedule in Ch. 60A §1.

5. Excise rate: $25 per $1,000 of valuation.

6. Amount of excise due.

7. Excise due date.

   (1) The date the excise bill was issued.

   (2) A statement that the excise is due and payable in full within 30 days of issue.

8. Payment instructions

   (1) Checks must be payable to the city or town.

   (2) The address to mail payments.

(3) Collector's office hours,

9. Billing appeal rights information:

The bill must include the following statement on late payment penalties: “If not paid when due, subject to penalties of interest, demand, charges, and fees.” The reverse side of the bill must provide the billing and appeal rights information shown in the model IGR.

10. Demand Notices

If the motor vehicle excise is not paid when due, the collector should make a demand for payment. Demand notices must include:

a. The same tax date and excise year, taxpayer, vehicle description, valuation, excise rate, and payment instruction information found on the excise bill as explained above.

11. The dates the excise bill and the demand were issued.

12. The following information on the amount due:

    (1) Amount of the excise.
    (2) Any abatement issued on the excise bill.
    (3) Amount overdue.
    (4) Amount of interest on the overdue amount.
    (5) Demand charge of not more than $30 – amount set by municipality.
    (6) Total amount due.

13. The following statements:

    (7) In compliance with the law, I hereby demand of you payment of your motor vehicle and trailer excise.
    (8) Unless said excise, together with interest and charge amount for this demand, is paid within 14 days from the demand date, collection will be enforced according to the law.

Delinquent Bills

Use of a Deputy Collector

The collector may appoint a deputy collector to assist in the collection of delinquent motor vehicle excises.

Date Due and Payable [60A: 2]

1. The motor vehicle and trailer excise is due and payable within 30 days from the date of issue, printed on the bill, or 30 days from the date of mailing, whichever is later.

2. Interest is calculated from the 31st day after the issue date to the date of payment.

Payment Adjustments

1. Ch. 60 §15 permits a collector to waive payment of the interest, charges, and fees that may be a collectible part of the tax bill, but only if the total of such amounts does not exceed $15.
2. Ch. 60A does not extend any authorization to accept partial payments of an excise; therefore, a collector may properly refuse to accept anything less than full payment.

Demand

If payment is not made within 30 days after the motor vehicle excise bill is first mailed, the collector should send a demand. The demand may not be issued until at least one day has elapsed after the bill became due and payable.

Interest

Interest accrues at the rate of 12% per annum from the 31st day after the issue date of an excise bill.

Warrant to the Deputy Collector

1. If a demand is not paid within 14 days, the collector may issue a warrant to the deputy collector. The $10.00 charge for the warrant is added to the bill.
2. The deputy collector must send a "Notice of Issuance of Warrant to Collect Excise or Tax" using State Tax Form 275. The charge for this notice is $12.00.
3. If payment is not made within 30 days of the mailing of the notice, service must be made on the delinquent. The person performing service must actually exhibit the warrant to the delinquent or leave a copy of it at the delinquent's last place of residence or business. A Fee for service may be added to the excise bill only if the server properly executes and submits to the collector State Tax Form 276, "Certification of Service of Warrant" for that particular bill. The charge for service is $17.00.

Non-Renewal of License and Registration

1. Placing the mark

   If payment is not made after service of a warrant, the collector, at any time, may request the Registrar to place the license and registration of the registrant in non-renewal status, whereupon the delinquent will be unable to renew either his license or the registration on the subject excise, upon their respective expirations, until after the excise obligation has been paid. In addition, the registrant will be unable to transfer some other registration to that vehicle or register it with a new registration.

2. Outside collection assistance

   The collector may engage outside assistance to facilitate marking at the Registry, choosing from among the following options:

   a. Deputy tax collection services, or

   b. Collection agencies.

3. Time limitation on marking

   Pursuant to Registry guidelines, a license and/or registration may not be placed in non-renewal status following the expiration of two years after the bill was issued.

4. Information required to mark

   a. Bill number.

   b. Bill issuance date.

   c. Vehicle registration number.

   d. Owner's name and license number.

5. Clearing non-renewal marks

   The collector is responsible to remove all marks after the obligations representing them have been satisfied. This can be done as follows:

   a. Batch Clear Transaction. Because this alternative does not effect an immediate removal of marks, the collector must also issue a certified receipt for each mark removed. A subject registrant can then present the receipt to the Registry as evidence of removal of the mark relating to him.

   b. On-Line Clearance. With this alternative, a person authorized by the Registry removes marks immediately through a direct computer hook-up with the Registry.

6. Clearance distinctions

   a. The mark on a license should not be removed until all motor vehicle excises owed by that person have been paid.

   b. The mark on a registration should be removed upon payment of the total amount due on the particular vehicle subject to that registration. The collector should not refuse to remove the mark because excises are due on other vehicles registered by that registrant.

7. The fee for releasing a mark is $20. The municipality collects and deposits the money and is subsequently charged for the release on its Cherry Sheet.

Other Remedies

The collector possesses all other Ch. 60 remedies to enforce collection of a delinquent excise.

Uncollectible Excise [60A: 7]

The collector, if convinced that a motor vehicle excise is uncollectible because of death, absence, poverty, insolvency, bankruptcy, or other inability to pay, may give notice to the assessors, using Form 380A-60A-7. The assessors have 30 days to act after receipt of the notice. Upon granting an abatement, the assessors must issue an abatement certificate to the collector. This certification will discharge the collector from any further obligation with respect to this excise.

This abatement in no way relieves the delinquent from the tax obligation. If the tax is collected and turned over by the deputy collector at some future time, the collector must notify the assessors in order to recommit the bill.

Abatements Pursuant to Ch. 58 §8

In circumstances where the assessors desire to abate an excise but have no jurisdiction to do so, they may petition the Commissioner of Revenue for authority to abate under Ch. 58 §8. This statute affords a procedure to correct substantial inequities, which may not be remedied by the usual abatement process. As a threshold requirement, the taxpayer must show that extraordinary or mitigating circumstances prevented use of the regular abatement process. If the assessors abate an excise under this statute following approval by the Department of Revenue, they will issue an abatement certificate to the collector who should record the abatement in the commitment book against the appropriate account. Thereupon, the obligation is closed out and the collector is relieved of the amount on his bond. Specific data on the 8 of 58 abatement can be obtained from the Division of Local Services, IGR No. 92-206.

Statute of Limitations

No statute of limitations exists for the collection of motor vehicle excises; however, the primary remedies to enforce collection of delinquent excises are time limited. For example, the collector can only bring a breach of contract action for non-payment within six years of the issuance of an excise bill. Additionally, pursuant to Registry guidelines, a license or registration cannot be marked for non-renewal later than two years after the initial tax was issued.

Bankruptcy (See Ch. III of this manual.)

Priority Claim

Title 11 §523 of the U.S. Bankruptcy Code states that any excise due and payable within the 3 years prior to the filing of a bankruptcy petition is a priority claim. Assessors should only abate such excises upon order of the Bankruptcy Court.

Marking

If the mark is placed before an individual files for protection under the bankruptcy laws, it is legitimately recorded; however, a mark cannot be placed after a petition for bankruptcy has been filed.

Proof of Claim

Upon a bankruptcy filing, the collector should file a proof of claim for outstanding excises as well as for delinquent municipal taxes.

Abatements

Authority to Abate

1. The assessors have statutory power to grant motor vehicle excise abatements.
2. Abatement applications are now timely if filed within three years after the excise was due or one year after the excise was paid, whichever is later. [Amends G.L. Ch. 60A, Sec2] Previously, applications were due by December 31 of the year after the excise year, or 30 days after the bill was mailed, if later. Since most vehicle registrations are valid for two years, this new three-year deadline will allow taxpayers sufficient time to address most problems discovered in excises assessed since they last renewed their registrations.
3. Chapter 60A § 8, gives the assessors authority to grant discretionary abatements in certain circumstances where the taxpayer did not timely apply for an abatement. The excise must be unpaid and the abatement must be consistent with this guideline. Assessors no longer have to obtain authority to abate from the Commissioner under G.L. Ch. 58, Sec. 8. {IGR} No. 04-209.

Circumstances Entitling Registrant to Abatement

1. Ownership is transferred by sale or otherwise and the registration canceled or transferred to another vehicle.
2. The owner moves to another state or country, registers the vehicle there, and cancels the Massachusetts registration. Evidence of registration in

another jurisdiction is sufficient to show cancellation of the Massachusetts registration.

3. A vehicle is valued in excess of the formula amount set out in the Ch. 60A §1 table.
4. A vehicle is stolen, the theft reported to the police and the registration canceled.
5. A registrant cancels the registration on a vehicle during the calendar year and subsequently registers the vehicle in the same year. The person would not be entitled to an abatement of the initial registration but would be of the subsequent registration.

Minimum Abatements

No abatement may be granted in an amount less than $5.

Procedures for the Collector

1. The assessors will issue an abatement certificate to the collector using Form 146.
2. The collector should post the amount of the abatement to the proper commitment.
3. The collector should also receive from the assessors a copy of the monthly total for abatements and exemptions granted. The collector should reconcile this report with the individual certificates.

Interest on Abatements

1. If the Appellate Tax Board orders an abatement, the town must refund any overpayment as a result of the Appellate Tax Board decision with interest at 6% from the date of payment to the date of the refund.
2. No interest is due, if the abatement is granted by the board of assessors.

Education, Scholarship and Low Income Elderly & Disabled Fund Donations

1. Cities and towns may designate a place on the motor vehicle excise bill or demand bill (or design a separate form to be mailed with the bills) allowing taxpayers a choice of whether or not to make a donation to their local education, scholarship or low-income elderly and disabled persons fund.
2. The form attached to the excise bill must conform to the specifications of the Department of Revenue and may include instructions to the taxpayer on how to contribute. Annual IGRs for model property and excise bills contain sample forms.

3. In order to establish such a fund and procedure, the community must first accept Ch. 60 §3C and/or Ch. 60 §3D by town meeting or town/city council vote.

4. Contribution Amount

   Voluntary contributions of not less than $1 must be accepted by the collector and turned over to the treasurer who, as custodian, will invest these monies for use by the committees.

Lifetime Registrations

Applicability

1. This form of registration applies to passenger series plates that remain with the same person who does not become delinquent with parking tickets or excises.
2. The registrant must pay a one-time fee of $30. If the plates become lost, stolen, revoked or voluntarily surrendered, a new $30 fee is assessed.
3. Life-time plates are renewed automatically, unless the registrant owes parking fines or excises.
4. Vanity plates and other special plates do not qualify for the one-time fee.

Causes for Ending Lifetime Status

1. Registration revoked.
2. Registration canceled, either with Plate Return Receipt or Lost Plate Affidavit.
3. Old plate exchanged for a new one.

Suspended Registration

1. The Registry notifies the registrant by letter.
2. Customers must clear suspension status.
3. Upon resolution of causes for suspension, registration status will resume.
4. When police remove a plate from a motor vehicle and process a CA 19 transaction, the lifetime registration ends.

Renewal Cycle

1. The renewal cycle begins 60 days before the expiration date.
2. The registration type, status, and insurance verification will determine the notice that is sent to the customer.

3. The customer will receive either a renewed registration (UR1 form), an RMV-2 or a non-renewal letter.
    a. Automatic renewal does not require a plate fee or insurance verification.
    b. RMV-2 requires a special plate fee.

Renewal Options

1. In person or by mail or telephone.
2. Registrants receive a $5 discount for renewing by mail.

NOTE: For additional information, consult the *Motor Vehicle Excise. Assessment, Collection, and Abatement Manual* prepared by the Property Tax Bureau of the Division of Local Services.

Chapter 7
Other Taxes and Collectibles

Departmental Receivables

General Information

1. In order to authorize a collector to collect departmental receipts, the city or town must make that collector a city or town collector by town meeting or city council action. [41:38A]
2. Examples of accounts that may be collected by a city or town collector include cemetery fees, fees for highway excavation, fees for liquor licenses, fees for mooring permits, etc.

Bills and Commitment

The department submitting them for collection usually prepares bills. Bills must state that payment is to be made to the city or town. The commitment is also prepared by the appropriate department, with a warrant, and given to the city or town collector with a copy to the accounting officer.

Abatements

Only the board or commission, which assesses a charge, possesses authority to abate it. If an abatement generates a refund, the collector should prepare a voucher showing the abated amount in order to allow for a good audit trail.

Delinquent Departmental Receivables

1. Due Dates; Interest [40:21E]

   By ordinance or bylaw, cities and towns may establish due dates for payment of municipal charges and fix a rate of interest, which must accrue if the charges are not paid on time. The rate of interest cannot exceed the rate charged on unpaid property tax bills under the provisions of Ch. 59 §57.

2. Remedies [41:38A]

   The collector has all the remedies provided by Ch. 60 §35 (collection by suit), §36 (collection from an estate), and §93 (withholding payment from vendors or employees) to enforce payment of departmental receivables. The collector may also use the small claims court for amounts not exceeding $2,000.

3. Municipal Charges Lien [40:58]

a. General

A city or town may impose a lien upon real property situated within that municipality for any unpaid local charge or fee. In order to implement this provision, city council or town meeting must first authorize a separate lien for each type of charge or fee.

b. Procedures

Once the municipal charges lien has been approved for a particular type of charge or fee, a lien is formally established by the filing of a list of such unpaid charges by the parcel of land and by the name of the person assessed at the registry of deeds. After the lien has been established, the unpaid charge or fee may be certified to the board of assessors to be added to the real estate tax bill for collection. If the property is tax exempt, such charge or fee is committed as the tax.

c. Discharging the lien

Filing a certificate from the collector that all municipal charges or fees constituting the lien, together with any interest charges and costs thereon have been paid or legally abated may discharge a municipal charges lien. The property owner is responsible for all costs of recording and discharging the lien.

Cash Basis Collections

City or town collectors may also be responsible for collecting certain fees and permits on a cash basis. These are not committed to the collector prior to collection. Examples of such collectibles include dump permits, beach stickers, and shellfish permits. Monies collected must be turned over to the treasurer at least once a week.

District Taxes [59:21]

General

In a municipality with a fire, water, light or improvement district, the collector is responsible to collect the district taxes. District taxes are subject to the laws relative to the collection of property taxes. District taxes are assessed as of the January 1st preceding the fiscal year to which they relate.

Procedures

1. The assessors should commit the district tax to the collector at the same time as the town tax, preferably in the same commitment list as the town tax.

2. The collector should establish a procedure to maintain separate records for all assessments within each district, either by computer identification or by keeping separate commitment sheets for each assessment.
3. If a town has more than one district, each district should be given a different identification number, which should be shown on the tax bill.

Municipal Water, Light and Sewer Use Charges

Municipal Water Department [41:69B]

1. Collection
   a. The water department prepares the bills and commits them to the city or town collector. Water bills are usually sent out quarterly or semi-annually.
   b. The bylaws or ordinances of the municipality regulate whether to send a demand for a delinquent water payment. The department may send a letter to delinquent subscribers indicating that their water will be shut off if the bill remains unpaid.
   c. Ratepayers who are receiving a deferral of their property taxes under Ch. 59 §5 (41A) may also defer water charges. [40:42J]
2. Establishing a Valid Lien
   a. If a municipality votes to accept the provisions of Ch. 40 §§42A through 42I, unpaid water charges can be added to the real estate tax. The acceptance vote must be recorded at the registry of deeds. Water bills must be payable at least semi-annually.
   b. The water department or the city or town collector must certify the unpaid charges to the assessors. Unpaid water charges are added to, and become a part of, the real estate tax. The unpaid water charges are then subject to the same interest rates and collection procedures as the taxes to which they are added.
   c. When an unpaid water charge is added to the real estate tax, the lien will be valid as long as the lien for the real estate tax is valid, as specified in Ch. 60 §37. If the unpaid water charge is not added to the real estate tax, it will expire on October 1st of the third year after the charges became due.

Municipal Light Plant [164:58B-58E]

1. Collection

   The municipal light department prepares the bills and commits them to the city or town collector. No formal demand can be sent and no interest may be charged on unpaid electric bills unless authorized by the Department of Public Utilities. The procedures for collection are based on city or town ordinances.

2. Establishing a Valid Lien

    a. If the municipal light board votes to accept Ch. 164, §§58B through 58E, unpaid electric light charges can constitute a lien on the property. The vote to accept Ch. 164 must be recorded at the registry of deeds and a copy provided to the collector.

    b. The manager of the municipal lighting department must certify the unpaid charges to the assessors. Unpaid electric charges are then added to, and become a part of, the real estate taxes. Only the charge for electricity furnished at the request of the owner of the property can be committed with the real estate tax.

    c. Liens for unpaid electric charges have the same duration as those for unpaid water charges.

Sewer Use Charges [83:16A-16F]

1. Collection

    a. As city or town collector, the collector may collect sewer use charges for the city or town or for. Districts. Interest can be added to unpaid accounts only if there is a bylaw or local ordinance indicating that interest is to be charged.

    b. Rate-payers who are receiving a deferral of their property taxes under Ch. 59 §5 (41A) can also defer sewer charges. [83:16G] (For additional information see IGR No. 88-227.)

2. Establishing a Valid Lien

    a. If the community votes to accept Ch. 83, §§16A through 16F, unpaid sewer accounts will constitute a lien on the real estate and may be added to the real estate commitment. The acceptance must be recorded at the registry of deeds.

    b. Unpaid sewer use charges are certified to the assessors by the board or officer in charge of the sewer department or by the city or town collector. The sewer use charges are then added to, and become part of, the real estate tax and are subject to the same interest rates and collection procedures.

    c. Liens for sewer charges have the same duration as those for unpaid water charges.

Demolition Charges and Liens

Billing Demolition Charges

1. A bill for the expenses incurred by the city or town in removing or abating the health or safety hazard should be issued immediately upon completion of the work ordered. The bill may be issued by the official or board ordering the work or a town collector (under 41:38A). The bill should state the amount that is due and the fact that interest at the rate of 6% per annum accrues from the date the bill was issued. The bill should also state that any additional collection costs that may arise will be added to the amount due.

2. The bill should be mailed to the owner of the property. If the charges were incurred to abate nuisances ordered by the board of health under Ch. Ill §125, the bill may be issued to the owner's authorized agent or, as an alternative, to the occupant of the property. The bills may also be issued to the owner's authorized agent if the charges were incurred to demolish unsafe structures under Ch. 139 §3A. If the bill is issued to someone other than the owner, a copy should be mailed to the owner.

Establishing a Demolition Lien

To establish a valid lien for a demolition charge, a statement of claim must be filed with the registry of deeds within 90 days of the date the bill was issued. The statement must contain the amount claimed for the work, without interest, and be signed by the official or board that ordered the work.

Duration of Demolition Lien

1. The lien for demolition charges takes effect upon filing the statement of claim. It expires two years from the October 1st following the filing date. For example, if the statement is filed on December 1,1997, the lien will expire on October 1, 2000. The lien may be discharged by filing with the registry of deeds for record or registration a certificate from the collector that the claim, together with all interest and costs, has been paid or legally abated.

2. All costs of recording and discharging the lien are to be borne by the owner of the property.

Adding Demolition Charges to the Real Estate Tax

1. If the demolition charges remain unpaid, they will be added to the real estate tax on the property and collected as part of the tax.

2. When the assessors are completing the annual assessment list, the collector or official who has billed the demolition charges must notify the assessors of any unpaid demolition charges for which liens exist. The

assessors then add the unpaid charge, together with interest and any recording or collection costs, to the tax assessed on the property. In the case of exempt property, the demolition charge will be committed as the tax.

Collecting Demolition Charges

1. If the amount of the demolition charge which has been added to the real estate tax bill remains unpaid, it is subject to the same interest and collection charges as delinquent property taxes, and the collector can use any of the remedies available under Ch. 60 for collecting taxes, including taking the property into tax title.
2. However, unlike many other liens for delinquent municipal charges, demolition liens are not coterminous with the tax lien on the property. The collector should be aware of the date the lien expires and make a tax taking to perfect the lien before that time.
3. In cases where the lien has terminated before the demolition charges were added to the tax and a taking made, the collector may bring a civil action against the person assessed the charges. [60:35] Lawsuits for the collection of overdue municipal accounts may be brought in the name of the collector or municipality and must be commenced within six years of the date the account is due and payable. Depending on the amount, the suit may be brought in superior or district court. The small claims procedure in district court may be used where the amount is $2,000 or less.
4. Alternatively, the collector may have the treasurer withhold or "set-off" the unpaid charges from monies owed by the municipality to that person. [60:93] The collector can utilize this remedy at any time.

Excise on Farm Animals and Machinery [59:8A]

General Information

1. Any person engaged principally in agriculture (not including a corporation) or any person under 18 years of age who owns an animal in connection with an agricultural youth program may pay an excise in lieu of a tax on qualifying farm animals and machinery.
2. Qualifying persons must make a return under oath to the assessors annually, on or before March 1st, listing the make, age, model or purchase price of farm machinery and equipment and the number and kind of each class of farm animals and fowl owned on the preceding January 1st.
3. The excise rate is $5 per $1,000 of valuation.
4. The Commissioner of Revenue annually values farm animals and mails notice of these values to the assessors.

Bills and Commitment

1. The assessors must issue a warrant to the collector for this excise which must be collected in the same manner as real and personal property taxes.
2. The excise is payable in one payment on or before November 1st or within 30 days of the date of mailing if the bill is mailed after October 1st.
3. No excise must be due if the actual amount is less than $10.

Delinquent Excise

1. A collector may utilize a deputy collector to enforce collection of delinquent farm animal and machinery excises.
2. A delinquent excise accrues interest at the rate of 14% per annum.
3. The collector may use all the Ch. 60 remedies to enforce collection of a delinquent excise.

Excise on Boats, Ships and Vessels [60B]

General Information

1. The excise is levied and collected in lieu of a personal property tax. Any person who owns a vessel on July 1st of any year is obligated to file a return with the assessors by August 1st, describing the vessel and giving his opinion of its fair cash value.
2. The excise is levied and collected by the municipality in which the vessel's owner has mooring or dockage for the summer season. If the vessel has no usual mooring or dockage, the excise is levied and collected by the municipality in which the vessel is principally situated or moored.
3. All sums received from the excise are to be turned over to the municipal treasurer who must credit 50% of the excise collected to the Municipal Waterways Improvement and Maintenance Fund. [40:5G]

Calculating the Excise [60B:2]

The excise amount equals the excise rate of $10 multiplied by the fair cash value of the vessel as determined by the assessors. This value, however, cannot exceed the value set out for the vessel in the table contained in Ch. 60B §2, based upon the vessel's age and length.

1. The assessors must issue a warrant to the collector authorizing collection of the excise. The collector is responsible for mailing excise bills to vessel owners. The excise is due and payable at the expiration of 60 days from the date of mailing of the bill.

2. If an excise is not paid by the due date, the collector must add a penalty of $20 or 20% of the excise due, whichever is greater. Upon collection, the penalty must be credited to the Municipal Waterways Improvement and Maintenance Fund.
3. In addition, a delinquent excise accrues interest at the rate of 12% per annum.
4. All provisions of law relating to the collection, payment and abatement of the motor vehicle excise apply, where pertinent, to the boat excise. [60B:5]
5. The tax collector may waive payment of interest, charges and fees collectible, as part of a boat excise only if the total of such interest, charges and fees does not exceed $15.

Classified Forest Land and Forest Product Taxes [61]

Ch. 61, the classified forest land statute, provides -for the following assessments relating to land devoted to the growth of forest products.

Pre-Classification of Forest Products Tax

1. The payment of an initial forest products tax may be a prerequisite to classification under Ch. 61 if timber were recently cut from the parcel. This one-time qualifying payment is based on the amount of forest products cut from the parcel in the two years prior to classification. The State Forester must inspect the land to be classified; determining the amount of forest products cut in the previous two years and submit the stumpage value to the assessors. The pre-classification forest products tax equals 8% of this value.
2. The assessors should issue a warrant and commitment for the pre-classification forest products tax to the collector.
3. This tax may be billed on a standard, personal property tax bill, altered to indicate the nature, amount and basis for the tax.
4. Property should not be classified as forest land if the pre-classification forest products tax is not paid.

Annual Forest Land Tax

1. Ch. 61 imposes an annual land tax on classified forest land. The amount of this tax is determined by multiplying the local, commercial property tax rate by 5% of the full and fair cash value of the land. In no event may the value be less than $10 per acre.
2. The municipality's regular real estate values should include classified forest lands at their classified values.

3. The annual forest land tax should be assessed and collected in the same manner as regular real estate taxes assessed under Ch. 59. The collector has available all the statutory remedies set out in Ch. 60.
4. A standard real estate tax warrants, commitment and bill may be altered, as necessary, for Ch. 61 use.

Annual Forest Products Tax

1. Classified forest land is subject to an annual forest products tax based on the amount of cutting. This tax amount is 8% of the stumpage value of all of the forest products cut from the parcel during the preceding calendar year. In order to facilitate the determination of the amount of the tax, the owner must submit to the assessors prior to May 1st in each year a return indicating the value of the products cut during the preceding year.
2. The assessors should issue a warrant and commitment to the collector for collection of the annual products tax.
3. The tax may be billed on a standard personal property tax bill, altered to indicate the nature, amount and basis for the tax.
4. The annual products tax should be billed in one installment, due and payable on October 1st. If not paid by November 1st, or within 30 days after mailing if mailed after October 1st, the delinquent amount accrues interest as provided for in Ch. 59 §57.
5. The collector has available all the statutory remedies set out in Ch. 60 for the collection of this tax.

Withdrawal Penalty Tax

Ch. 61 imposes a withdrawal penalty tax when classified forest land is withdrawn or removed from classification. This tax is imposed for those years since the last, prior certification under Ch. 61 or for the immediately preceding 5 years, whichever is longer.

1. The penalty tax due varies with the length of time land was classified and the manner of its declassification, as follows:
    a. If classified forest land is voluntarily withdrawn from classification at the expiration of a certification period, the withdrawal tax is the difference between the amount the owner would have paid in annual property taxes on the land if it had been taxed at its fair market value during the withdrawal period and the amount of both the land and products taxes paid under Ch. 61 during the same time.
    b. If classified land is removed from classification upon a determination that it was not properly classified or managed or is voluntarily withdrawn at a time other than at the end of a

certification period, the withdrawal tax is the difference between the amount the owner would have paid in annual property taxes on the land if it had been taxed at its fair market value during the withdrawal period and the amount of only the land taxes paid under Ch. 61 during the same time.

2. Interest at the rate of the federal short-term rate, determined under Section 6621 (b) of the Internal Revenue Code, plus four percentage points, compounded daily, must be added to the withdrawal tax. [62O32]
3. The assessors should use an appropriately altered, standard real estate warrant, commitment and bill for the collection of withdrawal penalty taxes.
4. Withdrawal penalty taxes constitute a special tax revenue of the year of receipt.
5. To enforce collection of withdrawal penalty taxes, the collector possesses all of the remedies provided in Ch. 60.

Classified Agricultural/Horticultural Land [61A]

General Information

1. Ch. 61A sets out rules and procedures governing the classification, valuation and taxation of certain land devoted to agricultural and/or horticultural uses. Classified farmland is valued for property tax purposes on the basis of its agricultural and/or horticultural use, not at its full and fair cash value.
2. Land classified, as agricultural/horticultural land should be taxed at the class three, commercial tax rate. [61A: 15]
3. Buildings and other structures located on land classified as agricultural/horticultural, as well as any land upon which a residence is located or which is regularly used for residential purposes, do not qualify for classification and should be assessed a regular local property tax.
4. The agricultural/horticultural use value of classified farmland should be included in the municipality's regular real estate values.
5. The tax on classified agricultural/horticultural lands is due in the same number of installments and at the same time as other local property tax payments in the city or town. Interest should be assessed at the same rate applicable to other overdue local property taxes.

Bills and Commitment

1. The annual agricultural/horticultural lands tax should be assessed and collected in the same manner as regular real estate taxes assessed under

Ch. 59. The collector has available all the statutory remedies set out in Ch. 60.

2. A standard real estate tax warrants, commitment and bill may be altered, as necessary, for Ch. 61A use.

Penalty Taxes

1. The owner must pay one of two, alternative penalty taxes whenever any classified land is no longer "actively devoted" to agricultural or horticultural purposes.
2. The owner must pay a roll-back tax for a 5 year period if the use of the land changes to a non-qualifying use. If the change in use occurs when the land is classified, the tax is imposed for the current fiscal year and the 4 prior years. If the land is not classified at that time, the tax is imposed for the 5 prior years. In either case, the roll-back tax is the difference between the amount the owner would have paid in annual property taxes on the land if it had been taxed at its fair market value and the amount of taxes paid on the land under Ch. 61A during the same time.
3. The owner must pay an alternative conveyance tax instead if the land is sold for a non-qualifying use within 10 years of the date the owner acquired it, or the earliest date of its uninterrupted use by that owner for agricultural or horticultural purposes, whichever is earlier, or is converted to a non-qualifying use within 10 years of the date the owner acquired it and the conveyance tax is greater than the roll-back tax that would be due. The conveyance tax is based on the conveyance tax rate applied to the sales price of the land, or if converted, to the fair market value of the land as determined by the assessors. The conveyance tax rate is 10% if the land is sold or converted within the first year of ownership, 9% if sold or converted within the second year, and so on with the rate declining each year by one percentage point until it is 1% in the 10th year of ownership.
4. 4The assessors should use an appropriately altered, standard real estate warrant, commitment and bill for the collection of either the conveyance tax or the roll-back tax.
5. Conveyance or rollback taxes constitute a special tax revenue of the year of receipt.
6. To enforce collection of conveyance or rollback taxes, the collector possesses all of the remedies provided in Ch. 60.

Classified Recreational Land [61B]

General Information

1. Ch. 61B sets out rules and procedures governing the classification, valuation and taxation of land retained in a natural, wild and open condition or devoted to certain qualifying recreational uses.
2. The value of classified recreational land is determined annually by the assessors and cannot exceed 25% of the full and fair market value. [61B:2]
   a. Land classified as recreational land should be taxed at the class three, commercial tax rate. [61 A: 15]
   b. Buildings and other structures located on land classified as recreational, as well as any land upon which a residence is located or which is regularly used for residential purposes, do not qualify for classification and should be assessed a regular local property tax.
3. The recreational use value of Ch. 61B land should be included in the municipality's regular real estate values.
4. The tax on classified recreational lands is due in the same number of installments and at the same time as other local property tax payments in the city or town. Interest should be assessed at the same rate applicable to other overdue local property taxes.

Bills and Commitment

1. The annual recreational lands tax should be assessed and collected in the same manner as regular real estate taxes assessed under Ch. 59. The collector has available all the statutory remedies set out in Ch. 60.
2. A standard real estate tax warrants, commitment and bill may be altered, as necessary, for Ch. 61B use.

Penalty Taxes

1. The owner must pay one of two, alternative penalty taxes whenever any recreational land is no longer maintained as open space or used for recreational purposes.
2. The owner must pay a rollback tax for a 10-year period if the use of the land changes to a non-qualifying use. If the change in use occurs when the land is classified, the tax is imposed for the current fiscal year and the 9 prior years. If the land is not classified at that time, the tax is imposed for the 10 prior years. In either case, the rollback tax is the difference between the amount the owner would have paid in annual property taxes on the land if it had been taxed at its fair market value and the amount of taxes paid on the land under Ch. 61B during the same time.

3. The owner must pay an alternative conveyance tax instead if the land is sold for a non-qualifying use within 10 years of the date the owner acquired it, or the earliest date of its uninterrupted use by that owner for agricultural or horticultural purposes, whichever is earlier, or is converted to a non-qualifying use within 10 years of the date the owner acquired it and the conveyance tax is greater than the roll-back tax that would be due. The conveyance tax is based on the conveyance tax rate applied to the sales price of the land, or if converted, to the fair market value of the land as determined by the assessors. The conveyance tax rate is 10% if the land is sold or converted within the 5 years of classification and 5% if sold or converted within the 6th through 10th year of classification.
4. The assessors should use an appropriately altered, standard real estate warrant, commitment and bill for the collection of either the conveyance tax or the roll-back tax.
5. Conveyance or rollback taxes constitute a special tax revenue of the year of receipt.
6. To enforce collection of conveyance or rollback taxes, the collector possesses all of the remedies provided in Ch. 60.

Betterments

When Betterments Can Be Assessed

1. Whenever a limited area of a community receives a benefit from a public improvement made in accordance with a formal vote stating that betterments are to be assessed, each parcel becomes responsible for a proportionate share of the cost of the project.
2. The types of betterments, which may be assessed, include sewer mains, street improvement, water installation, sidewalks, health or sanitary drains, etc. In addition to Ch. 80 and Ch. 83, a number of special enabling acts authorize betterment assessments.

Betterment Liens

1. An order describing the area, which will receive the benefit, and containing an estimate of the betterments to be assessed against each parcel must be recorded in the registry of deeds. Such order constitutes a lien on the property.
2. A city or town may vote to defer recording the statements establishing liens for certain betterments until after the project is completed, the assessments made and the bills issued, and then only if the property owner has not paid the entire amount assessed. [80:12]

3. Boards of health may enter into agreements with residential property owners to repair faulty septic systems, remove underground fuel storage tanks or remove dangerous levels of lead paint. They may also enter into agreements with associations of condominium owners to repair faulty septic systems which are part of the common areas and facilities, so long as a majority of the affected unit owners consent. The property owners or unit owners would then have to repay the respective municipalities for the cost of the work by having a portion of the cost, with interest, added to the annual property tax bill for up to 20 years in the same manner as an apportioned betterment is paid.

Assessors' Role in Betterment Administration

The original betterment is assessed, once a document of intent is recorded at the registry of deeds by the board responsible for the project, such as the board of public works. The board of assessors acts only as a conduit through which betterments are committed to the collector. The board in charge of the project grants all abatements and deferments of betterments.

Assessment for betterments must be made within six months after the completion of the improvement, except in the case of sewers.

Collection of Betterments [80:4]

1. After receiving the assessment from the board responsible for the improvement, the board of assessors must commit the original betterment to the collector with a warrant for the total amount.
2. The collector then issues bills for the full amount of the betterment, notifying the property owners of their right to pay the entire amount within 30 days without interest. The notice should also explain that the taxpayer may spread the payments over a period of up to 20 years.

Unpaid Betterments

1. At the time that the assessors are preparing the valuation lists, the collector must certify all unpaid betterments which were committed prior to January 2nd to be added to the real estate tax bill.
   a. The assessors must apportion the unpaid betterment over a period of 20 years, or a lesser period if requested by the property owner, and the first portion of the betterment must be included on the real estate tax bill together with committed interest.
   b. The committed interest is computed at the rate of five percent, or at the election of the board responsible for the improvement, at a rate not to exceed 2% above the rate paid to finance the project, from the

30th day after the assessments were committed to the collector to the date when interest on taxes becomes due and payable.

   c. If the betterment is not apportioned, it is added together, with committed interest, to the first half of the annual real estate tax bill. (See State Tax Form 59A.)

   d. The assessors of any city or town that issues a notice of preliminary tax under either the semi-annual or the quarterly system may add any betterment assessment or apportionment thereof, water rate, annual sewer or use charge and any other charge placed on the annual bill to the preliminary tax on the property to which it relates, and such amount shall become part of the preliminary tax.

2. If betterments are established by special act, they bear interest at the rate indicated by the act. As betterments may be assessed under special acts providing for different interest rates, the collector must be familiar with the provisions of these acts.

3. After a betterment has been apportioned, the assessors must, upon the written application of the owner of the land assessed, order that the remaining balance of the betterment be paid forthwith and must commit said amount, together with interest under a special warrant to the collector.

   a. After receiving full payment of the betterment, the collector must prepare a certificate dissolving the lien. The collector must charge $4 for each certificate.

   b. The collector possesses the same powers and is subject to the same duties with respect to betterments as with the collection of real estate taxes; however, the owner of the land is not personally liable for the payment of the betterment.

   c. If a betterment is apportioned before the entire betterment is added to the tax bill, the first installment, together with committed interest, should be added to the first half of the real estate bill.

Deferred Betterments

The Board responsible for the betterment may extend the time of payment for any betterment on vacant land until such time as it is built upon or for a fixed time, but interest at the rate of 4% per annum must be paid on the assessment. Within three months after the land is built upon, or at the end of the fixed time, the actual betterment assessment must be paid.

Estimated Betterment Assessments

1. Estimated betterment assessments have, at times, been placed on parcels because a street was accepted as a public way, but for unknown reasons,

the actual work was never done and the betterment was never assessed. The liens, however, appear on records at the registry of deeds. They should be removed.

2. In order for this type of lien to be discharged, a municipality must vote to abandon the project, and a copy of the vote must be recorded at the registry of deeds. State tax form 292 may be used for this purpose.

Municipal Funding of Residential Improvements (See IGR No. 94-208.)

Purpose

Under Ch. 111 §127B½, boards of health are permitted to enter into agreements with residential property owners to repair or replace faulty septic systems, remove underground fuel storage tanks or remove dangerous levels of lead paint. The property owner will then repay the municipality for the cost of the work by having a portion of the cost, with interest, added to the annual property tax bill for up to 20 years in the same manner as an apportioned betterment assessment is paid.

Conditions

Only property owners whose properties are in violation of health standards may take advantage of this new law. If the board of health determines that a property qualifies, the board may, with the agreement of the owner, enter into contracts with third parties to correct the problem. Such contracts are subject to municipal procurement laws.

Funding

1. Cities and towns may make funds available for this program either from the tax levy, from available funds or through borrowing. Appropriations will be excluded from the municipality's levy limit under Proposition 2½ Bonds may be issued for periods of up to 20 years and are exempt from the debt limit in Ch. 44 §10. The annual costs of these debts will be treated as a debt exclusion under Proposition 2½.
2. The board of health must execute agreements with property owners authorizing the work. Owners must assume personal liability for the payment of the project cost and agree to repay in 20 years or less. Interest must be not less than 5% and may be 2% more than the cost incurred by the municipality if funds were borrowed.
3. The board of health records a lien within 90 days of the agreement along with the estimated cost of the project. As work is completed, the board of health must certify the final project cost for each parcel to the assessors.
4. Municipal betterment liens for septic system upgrades, removal of lead paint and underground fuel storage tanks take effect only if and to the extent that an apportioned annual payment is overdue.

Collection

1. The assessors must commit the amounts as betterments to the collector. The collector sends notices to the property owners informing them of the final cost and specifying when the first installment will appear on the property tax bill.

2. The first installment is added to the tax assessed as of the January 1st after the final project costs were committed to the collector. For example, if the final project costs were committed before January 1, 1997, the first installment would be on the fiscal 1998 tax bill. If the final project costs were committed in February 1997, the first installment would be added to the fiscal 1999 tax bill.

   a. In the first year, the installment should be committed with interest on the entire unpaid balance calculated from the 30th day after the commitment until 30th day after the assessments were committed to the collector to the date when interest on taxes became due and payable. For example, if the final project costs were committed on April 1, 1997 and the first installment added to the fiscal 1999 first quarter tax bills, interest would be computed on the entire unpaid balance from May 1, 1997 until August 1, 1998.

   b. If a property owner fails to pay any installment, the delinquency becomes subject to the same interest and collection charges as delinquent property taxes.

3. At any time, a property owner may pay the entire balance or make additional payments; however, the assessors must commit the amount of any prepayment with interest to the collector with a warrant. Before the first installment is added to a tax bill, interest should be calculated from the 30th day after the project costs were committed until the date of prepayment. After the first installment, interest should be computed from October 1st of the year that the last installment was added to a tax bill until the date of prepayment.

Delinquency

1. Collectors may use all of the remedies available to collect unpaid betterment assessments, including taking the property into tax title before the lien expires. The lien exists from the time of the recording of the orders. It will expire if (a) the collector fails to make a taking before the elapse of 2 years from October 1st of the year the last installment appears on the tax bill and (b) the property is conveyed. So long as the property is not conveyed, however, the lien continues, even in the absence of a taking.

2. Since the property owner is personally liable for the project costs, the collector may also bring a civil action against the owner.

The Brownfields Law (See Chapter 206 of the Acts of 1998)

Tax Agreements [59:59A]

By locally accepting G.L. Ch. 59, Sec. 59A, a municipality may enter into a real estate tax payment agreement with "innocent" owners of abandoned, contaminated property to facilitate the cleanup and redevelopment of these properties. Each agreement must:

1. Cover a property contaminated with oil or hazardous material and zoned for commercial and industrial use.
2. Be entered into with an eligible owner under G.L. Ch. 21E Sec 2. Eligible owners are new, "innocent" purchasers who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release.
3. Specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue, if any, amount of monthly payments, payment schedule, late penalties and other terms.
4. Be signed by the chair of the city council or board of selectmen and the property owner and be notarized and attested to by the town or city clerk. Copies must be provided to the Commissioner of Revenue, state Department of Environmental Protection and federal Environmental Protection Agency, in addition to the property owner and city council or board of selectmen.

Implementation By-Law/ Ordinance

Communities that accept the statute will also need to adopt an implementation by-law or ordinance. The by-law or ordinance should specify, at a minimum, the following:

1. The persons authorized to negotiate an agreement on behalf of the city or town, This authority may be given to a particular officer or some combination of officers.
2. The scope of the agreement that may be negotiated. The scope may include reductions in outstanding taxes, interest and penalties, or may be limited to accrued interest and penalties.
3. The process of approving any agreement negotiated. The legislative body may retain the power to approve all or some agreements, e.g., those including reductions in taxes or over a certain dollar amount, or it may establish another approval process.

Abatements

If an agreement reduces the taxes to be paid, abatements must be processed and charged to the overlays for the fiscal years of the taxes abated. Abatements should be processed in the same manner and using the same forms as other abatements of real estate taxes. The assessors' records should reflect, however, that the abatements are authorized by G.L. Ch. 59 Sec 59A.

Contaminated Property Liability

If a party, including a municipality, purchases property that was previously contaminated by a prior owner or operator and the new owner remediates the site as required by Chapter 21E and the Department of Environmental Protection's regulations, the new owner of the site will be exempted from liability to the Commonwealth or to any other person for contribution, response actions or property damage under Chapter 21E or common law in connection with the release of hazardous materials. There are several conditions to this exemption from liability which include various remediation obligations depending upon the nature and degree of contamination.

Acquisition by Tax Title / Foreclosure

The Brownfields Law provides cities and towns, which acquire properties through tax foreclosure with relief from the potential liability for site contamination, and it provides incentives for the productive reuse and development of these parcels. There is no longer a five year limitation requirement for a municipality to sell or otherwise convey such a property in order to stay the obligation for contamination clean-up.

Chapter 8
Office Administration

Personnel

General

If a collector's personnel belong to a union, the collector should be familiar with the relevant provisions of the union contract covering those employees. In all cases, the collector should be aware of the personnel bylaw of the municipality, as well as the Commonwealth's conflict of interest laws, especially those dealing with nepotism.

Sexual Harassment

1. Title VII of the Civil Rights Act of 1964 [42 USC §2000a et seq] provides federal protection to employees from sexual harassment.
2. G.L. Ch. 151B requires every employer, including cities and towns, to promote a workplace free of sexual harassment and to adopt a sexual harassment policy.

Recommended Procedure for Filling Vacancies

1. A notice of vacancies in the collector's office should be published in the local newspaper and posted in some public place in the city or town. In anticipation of the need to fill vacancies, the collector should:
   a. Prepare and maintain a job description.
      (1) Identify essential job functions.
      (2) Identify additional work tasks.
   b. Prepare and maintain an application for employment.
2. In all hirings, the collector must:
   a. Comply with the Equal Opportunities Employment Affirmative Action Act [42 USC §2000e et seq.], the Immigration Reform and Control Act [8 USC §1101 et seq] and the American with Disabilities Act [42 USC §12101 et seq], as well as with Massachusetts' maternity leave requirements [149:105D] and Small Necessities Leave Act [14952D].
   b. Thoroughly check all references of a selected and an alternate candidate.
   c. Make certain the applicant is bondable.

d. Ensure status of employee as exempt or non-exempt under provisions of the Fair Labor Standards Act [29 USC §201 et seq.].

e. Comply with the privacy requirements of Ch. 214 §1B and the anti-discrimination requirements of Ch. 151B §§4(9), 4(9A) and 4(16).

Security

Security of Cash

1. At the end of each day, cashiers should balance bills, checks, cash, receipts and petty cash, and submit an accounting to the collector. Overages should be included in the day's receipts and noted as such. Shortages should be noted, as well. The collector should make sure to maintain particularly good records concerning shortages since such records become very important if disciplinary action against an employee becomes necessary. The collector should ensure particular care during peak collection periods.
2. The collector should periodically conduct an unannounced audit by counting the petty cash and reconciling each cashier's cash drawer.

Security within the Collector's Office

1. The collector's office should be laid out with a system of exclusions or barriers, such as a cashier's window, lockable drawers or registers, a vault and an alarm system, in order to discourage potential robberies.
2. To provide protection on nights and weekends, the collector should consider protecting the office, safe or vault with:
   a. An approved alarm system connected to the police station or an alarm company.
   b. Alarm buttons at strategic points within the office which, when activated, would notify the police of a threatening situation.
3. The collector should maintain accurate records of those to whom building or office keys are issued.
4. Upon the termination of an employee, the collector should obtain all keys in the employee's possession. If the employee has access to any safe with a combination lock, the collector should have the unlocking code changed. In any case, only a minimum number of staff should know the combination.

Insurance Coverage and Other Protective Measures

In addition to a performance bond, the collector should consider obtaining the follow insurance coverage:

1. Public Employee Blanket Bond

   This kind of insurance provides coverage for employee dishonesty. It provides protection for all of the insured's employees except those expressly required by law to file their own performance bonds. Coverage is available on either a “per loss” or a “per employee” basis.

2. Position Bond

   This type of bond protects municipalities from loss through agency activity, as in the case of tax monies collected by deputy collectors or student activity funds collected by school principals.

3. Money & Securities Broad Form Coverage

   This insurance covers money & securities inside and outside the collector's office premises and “mysterious disappearance” of monies and securities. Coverage under this section should be reviewed to provide for increased coverage during peak collection periods.

4. Counterfeit Insurance

   This coverage ensures reimbursement for any counterfeit monies accepted by the collector's office. Because the Treasury Department confiscates counterfeit money, any such monies accepted would otherwise constitute a loss to the municipality.

Other Protective Measures

The collector's bond is a protection for the municipality rather than the collector. If a situation occurs whereby the city or town is reimbursed under the collector's bond, then the surety will, in turn, look to the collector for reimbursement. It might be prudent, therefore, to consider acquiring personal liability insurance in the amount of the collector's bond to cover this contingency. However, such personal liability insurance must be paid for by the collector and is not reimbursable by the municipality.

Preparation of the Budget

Preparation of the annual budget for the collector's office is an important duty which should receive the special attention of the collector. The following is an overview of the most important areas to consider in budget preparation.

Use of Prior Year's Budget

1. In preparing an annual budget, the collector should carefully consider the prior year's budget, analyzing it as to format, content and amounts. A line item budget should match the prior year's actual expenditures with the next year's budget requests. The collector should determine which categories were appropriately funded, which areas were weak or deficient,

where overestimates occurred and in which cases monies were turned back to surplus revenue.

2. The collector should take into account any significant changes in office operations, such as going from semi-annual to quarterly billing or having to print bills, postage rate changes, etc.

Salary and Leave Schedule

1. Yearly Increments or Steps

   If wage increases for members of the staff are predicated on a pay plan with yearly increments or steps, the collector must know the date when each office employee is entitled to the next step, as well as the amount of that step. The collector should also ascertain whether or not a cost of living allowance (COLA) must be factored into the salaries for the coming year. No budget can accurately be prepared without this knowledge. If the salary budget falls under the jurisdiction of a personnel board and a pay plan, this plan might be appended to each department's request.

2. Longevity Payments

   The collector should be familiar with longevity increments, i.e., additional amounts of compensation for length of service, if such provisions are part of the local salary or personnel schedule.

3. Vacation Time

   Vacations vary according to an employee's length of service. Provisions should be made not only for vacation absences, but for costs of additional help, if supplemental coverage is required.

4. Overtime

   Unless expressly exempted from the provisions of the Fair Labor Standards Act, an employee must be paid 1½ times the employee's regular rate of pay for any time the employee works in excess of 40 hours in a week.

5. Leave

   Under the Family and Medical Leave Act [29 USC §2611 et seg.], an employee may take up to 12 weeks of leave in any 12 month period for the birth or adoption of a child, the care of a child, spouse or parent with a serious health condition, or the receiving of a child for foster care. To be entitled to this benefit, an employee must have worked for at least 52 weeks and at least 1,250 hours.

Office Expense Journal

A valuable tool in preparing a budget is the office expense journal which identifies items purchased. This journal is a helpful resource in assessing future needs. The collector should maintain a record in this journal of prices quoted by competitive vendors.

Awareness of Cost Increases

1. Collectors should be constantly aware of price increases for such commodities as telephone, postage, stationary, etc.
2. The collector should maintain in a budget file pertinent clippings on cost increases. This information will assist the collector in making presentations at budget hearings.

Budget Format and Deadlines

1. Format

   Since each city or town in the Commonwealth determines its own budget format, the collector should be familiar with the municipality's procedures and follow them explicitly.

2. Deadlines

   The collector should strive to present each budget document to the proper municipal authority prior to the deadline established by statute, bylaw or local ordinance.

Purchasing

Ch. 30B, the Uniform Procurement Act, establishes procedures to use when contracting for supplies, equipment, services and real property.

Centralized

Many municipalities have established centralized purchasing; indeed, Ch. 30B calls for the appointment of a Chief Procurement Officer. In some communities, the manager or executive secretary serves as the purchasing agent. Authority can be delegated by the Chief Procurement Officer. In some cases, cities and towns also participate in a county or regionalized purchasing program.

Non-Centralized

Municipalities not using centralized purchasing should implement strict and demanding procedures, carefully adhering to the standardized rules set forth in Ch. 30B.

Ch. 30B Levels of Formality

1. A procurement in the amount of less than $5,000 must be obtained using sound business practices.

2. A procurement in the amount $5,000 or more but less than $25,000 requires the municipal purchaser to obtain quotations from at least three qualified suppliers and award the contract to the lowest responsible bidder.
3. For procurements in the amount of $25,000 or more, the purchaser must comply with all of the formalities of competitive sealed bids set out in Ch. 3OB. The purchaser must solicit sealed bids or proposals. In the case of a bid, the purchaser must award the contract to the lowest bid that meets the specifications. In the case of a proposal, the purchaser must award the contract to the most advantageous offer that meets qualification criteria and price.

Record Keeping

1. Inventory

   The collector should set up a revolving inventory system of office supplies and services whenever possible and maintain a count of each item on hand. Every purchase should be added to the count, so the collector can establish the amount of each item used over a given period of time by subtracting the count of the present inventory from the total. With this type of inventory control, the collector can avoid overstocking little used supplies and prevent running out of necessary items at inopportune times. This process will also help to establish average annual usage figures which may enable the ordering of an annual supply at a significant cost savings.

2. Accurate Purchasing Records

   The collector should maintain accurate purchasing records, including delivery slips or copies of invoices accompanying vouchers when presented for payment. The per item cost information derived from these records can be a useful cost reference for future orders as well as for budgetary purposes.

Other Procedures

1. Before making any purchases for the office, the collector should prepare a list of all the items most likely to be purchased over the year. The list should define the number, color, size and identifying features of these items.
2. It is good business to purchase locally whenever possible, as long as prices are competitive. This makes the local vendor aware that the collector is price conscious and attempts to keep the municipality's tax dollars in the local community.

Annual Report

Form and Content [40:49]

1. The collector should prepare his report in a manner which communicates the most important information to the taxpayers and interested parties. The report should list the amounts collected by classification of revenue during the reporting period. In some cases, they also reflect the uncollected amounts in the same categories. More and more municipalities are moving away from the traditional format of mere statistical reporting and are adding pertinent editorial comments. Whatever form of annual reporting the collector uses, the report should be understandable, accurate, and reflect the conduct and activity in the collector's office over the course of the reporting period.
2. Whether a collector reports on a calendar or fiscal year basis, the books of original entry should be totaled on June 30th as well as December 31st so that figures can be readily put together either on a calendar or fiscal basis.

Other Records To Be Maintained

Appropriation and Office Expense Journals [44:31]

No department financed by municipal revenue may incur a liability in excess of the appropriation voted for that department, each item voted constituting a separate appropriation. Therefore, collectors must maintain complete and accurate records of all appropriations and amounts expended. (As noted earlier, these records constitute a valuable asset during the budget preparation process.)

Employee Payroll Records

In the absence of a payroll department or personnel system, the collector should maintain a complete and accurate employment and payroll record for each employee. These records can be maintained with a separate section for each employee which reflects the number and dates of any sick leave, vacation or personnel days taken by that employee. This record should also reflect the number of days allotted and remaining. Further, the collector should periodically confer with each employee to keep him informed as to the balances. If another department keeps employee records, the collector should periodically reconcile his records with those of that department.

Public Relations

Collector-Mortgage Bank Relationship [59:12B, 104 of 1974]

1. In collecting tax escrow monies monthly from their customers, mortgage companies perform a service not only to the taxpayer, but also, to the cities

and towns. However, problems occur when collectors receive payments without all the bills or other identification attached.

2. Mortgage companies do not always receive bills from taxpayers; therefore, they are unable to determine the exact amounts owed. Whenever possible, collectors should cooperate with these companies to ensure that copies of the bills are made available to them.

3. Many computerized communities are able to provide banks and tax services with a tape of their clients, simplifying the identification process for them. Both the bank and the collector should cooperate to achieve their mutual goal, the payment of taxes relating to identifiable accounts.

With Other Department Heads

1. Developing good relationships with other municipal officers, especially the assessors, treasurer, and accountant, is both wise and mutually beneficial. Collectors should take whatever steps are necessary to cultivate these valuable relationships since critical information might not be readily obtainable except from another municipal official. Understanding and cooperation between all municipal officials make the performance of their collective duties an easier task.

2. Frequent interdepartmental meetings to discuss common problems and issues provide an effective means to assist government to operate efficiently.

In General

1. The role of a tax collector is clearly not a popular one. However, by fairly and competently performing the duties of the office, a tax collector can earn the respect of the community.

2. The collector and staff should remember the importance of being courteous when dealing with taxpayers and others, both in person and on the telephone. They should respond to all inquiries calling for a reply, whenever possible, and should not miss an opportunity for personal contact with taxpayers. All taxpayers should be treated equally.

3. Collectors may use the local media to communicate important office happenings. They may wish to communicate results of increased collection efforts or to communicate pertinent information regarding collector responsibilities.

4. Collectors should strive to make citizens more aware of the duties of the collector's office and of the benefits the community derives from the work of that office. The more a community understands the importance of a collector's role in local government, the more willing it may be to compensate the collector appropriately.