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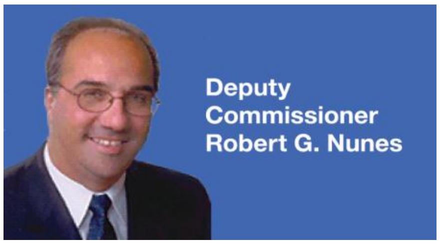
City & Town

Amy Pitter, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



Local Officials Directory

Municipal Calendar

IGR's & Bulletins

Workshops, Seminars & Events

What's New

DOR 360

MUNICIPAL DATA BANK

***City & Town* is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.**

In this Issue:

Part 3: Proposition 2 1/2's Levy Limit Components and a Statistical Review Over the Last Decade: Does Your Community "Tax to the Max?"

Joe Markarian - Former MDM/TAB Director of Financial Management Assistance, Tom Guilfoyle - BOA Supervisor of Accounting and Tony Rassias - BOA Deputy Director

This is the third and final part in this series reviewing Prop 2 1/2's levy limitation components along with statistics from FY2004 to FY2013. Part Three will focus on the maximum allowable levy, the common and not-so-common exclusions that allow the levy limit and levy ceiling to be exceeded, completion of an FY2014 maximum allowable levy calculation, and finally tax levies and "excess levy capacity." The levy limit calculation shown in all parts is organized on the basis of the levy limit worksheet found on Gateway's levy limit report page.

The passage of Proposition 2 1/2 on the November 1980 ballot was enormous. The new law changed the way cities, towns and districts budget to the present day. - A Sketch of the History of the Massachusetts Bureau of Accounts and Related Matters in the Growth and Development of Municipal Finance by Anthony A. Rassias

In November of 1980, the people of Massachusetts passed by ballot vote Proposition 2 1/2 (Chapter 580 of 1980), a law that, among other things, placed constraints on city and town property tax levies beginning in FY1982.

Since that time, these levies have been limited by the law's provisions and approved by the Bureau of Accounts as part of the annual tax rate certification process. Even 33 years since its passage, Prop 2 1/2 initiates considerable discussion and debate.

The Maximum Allowable Levy

The property tax levy is the revenue a community raises through real and personal property taxes each fiscal year when it sets its tax rate. The law established three types of annual levy limits: a levy limit, a levy ceiling and a maximum allowable levy. The levy limit is incremental and allows a permanent but controlled annual increase to the tax levy. The levy ceiling caps the levy limit for that fiscal year at 2.5 percent of the current fiscal year's total assessed full and fair cash value for real and personal property. The levy limit may be increased or decreased by locally adopted referenda, but may not exceed the levy ceiling. The levy ceiling may be increased temporarily by certain locally adopted exclusions. The maximum allowable levy is the maximum amount of property tax a community may raise in a fiscal year.

The maximum allowable levy may or may not be greater than the levy ceiling. If the community has not voted any locally adopted exclusions to the levy limit, the lesser of the levy limit or levy ceiling becomes the maximum allowable levy. In any case, the actual tax levy for the fiscal year, as reported on the annual Tax Rate Recapitulation form, cannot exceed the maximum allowable levy.

Exclusions that Impact the Maximum Allowable Levy

Apart from the debt and capital expenditure exclusions, the other maximum allowable levy components are not-so-commonly used. All of these components are considered "temporary" because the applicable dollar amounts (a) are included in the annual total of tax dollars to be raised, but are not included in the Base (prior year levy limit) for calculating the following fiscal year's tax limitation and (b) have a future end date, although that date may be one year or well into the future.

Debt Exclusion: MGL c. 59, s. 21C(j,k)

The two types of debt exclusions that may be voted are:

1. For debt service on city, town and assessed regional debt incurred prior to November 4, 1980 (called Pre-Prop 2 1/2 debt);

2. For debt service on city, town or assessed regional debt issued after November 4, 1980, (initially called Post-Prop 2 1/2 debt, now simply called the debt exclusion).

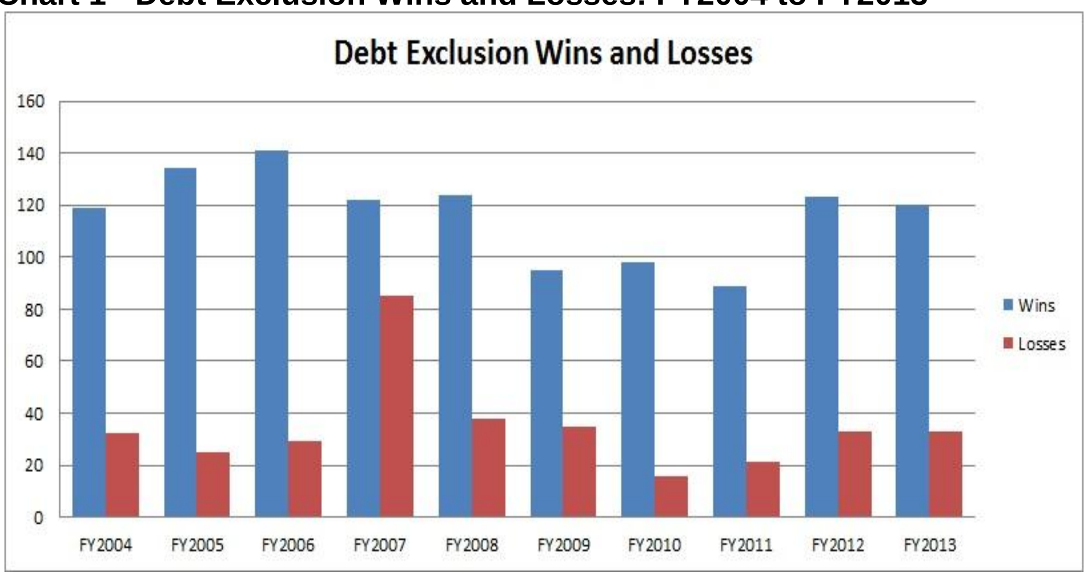
This section will review only Post-Prop 2 1/2 debt exclusion votes. Few pre - Prop 2 1/2 debt exclusion votes were taken and none since the mid-1980s.

The debt exclusion has been and continues to be by far the most frequently used form of exclusion. A debt exclusion requires a two-thirds vote of the board of selectmen, or town or city council (with the mayor's approval if required by law) to be placed on a ballot. A majority vote of the electorate is required for approval. Once voted, the debt exclusion allows the community to raise the additional tax revenue needed to pay debt service for each fiscal year on the borrowing issued to fund the specified project until the debt is retired. The excluded amount is offset by any reimbursements and certain premiums received per Bureau instruction. See Bulletin 2013-01B. The debt exclusion:

- must be presented using wording specified by the law which includes only the borrowing purpose;
- applies to temporary or permanent debt service;
- may be negative if reimbursements in any year exceed debt service;
- must be reserved for the following fiscal year if the amount of debt service excluded exceeded the amount expended;
- is reduced if excluded debt proceeds are transferred to a non-excluded project.

Chart 1 indicates debt exclusion votes taken between FY2004 and FY2013. There were 1,512 debt exclusion votes taken, of which 1,165 or 77 percent were wins and 347 or 23 percent were losses.

Chart 1 - Debt Exclusion Wins and Losses: FY2004 to FY2013



	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	#	%
Wins	119	134	141	122	124	95	98	89	123	120	1,165	77
Losses	32	25	29	85	38	35	16	21	33	33	347	23
Totals	151	159	170	207	162	130	114	110	156	153	1,512	100

Source: DLS Data Bank

Fiscal Facts:

- Total excluded dollars grew about 25 percent from $314 million in FY2004 to $391.7 million in FY2013;

- For the decade, the largest total debt exclusion was in FY2013 for Wellesley ($10,322,960) and the smallest, also in FY2013, was for Wakefield ($120);

- Of the 120 winning votes for FY2013, 65 were for schools, 17 for public safety, 15 for construction and repairs to town owned buildings, 12 for public works and 11 for assorted other purposes;

- Of the 33 losing votes for FY2013, eight were for schools, seven for public works, five for public safety, six for construction and repairs to town buildings, and seven for assorted other purposes;

- For FY2013, 287 or 82 percent of all cities and towns had at least one active debt exclusion, which when combined, totaled about $391.7 million.

Let's assume an FY2014 debt exclusion of $550,000.

Capital Expenditure Exclusion - MGL c. 59, s. 21C (i1/2)

Enacted by Chapter 562 of 1986, this exclusion has been less popular than the debt exclusion, but has been used more often than other maximum allowable levy components. It allows additional funds to be raised for any item for which the city or town could borrow, but has chosen to fund by appropriation, or for the city or town's apportioned share of a regional capital expenditure. This exclusion requires a two-thirds vote of the board of selectmen, or town or city council (with the mayor's approval if required by law) to be placed on a ballot. A majority vote of the electorate is required for approval. Once voted, the capital expenditure exclusion allows the community to raise the amount included in the vote, or the amount appropriated, whichever is less, minus any state or federal reimbursement received for the acquisition or purpose for the year voted. In addition, the capital expenditure exclusion:

- must be presented using wording specified by law including a dollar amount, purpose(s) and fiscal year;

- authorizes a temporary tax increase to the lesser of the levy limit or levy ceiling;

- has the same wording as an override and must be properly distinguished to the electorate.

Table 1 indicates capital expenditure exclusion votes taken between FY2004 and FY2013. In total, there were 318 votes taken; 219 or 69 percent were wins and 99 or 31 percent were losses.

Table 1: FY04 - FY13 - Capital Expenditure Exclusion Wins and Losses

	Capital Expenditure Exclusion Votes - FY2004 to FY2013											
	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009	FY2010	FY2011	FY2012	FY2013	#	%
Wins	20	34	31	23	26	24	25	15	10	11	219	69
Losses	11	16	12	14	15	9	7	7	7	1	99	31
Totals	31	50	43	37	41	33	32	22	17	12	318	100

Source: DLS Data Bank

Fiscal Facts:

- For the decade, the largest number of capital exclusion votes was in FY2009 at $5,770,361 and the smallest in FY2004 at $2,200,283;

- For the decade, about 67 percent of wins were for public safety, public works, schools and road repairs;

- For the decade, the largest capital exclusion vote was $2,360,000 for Dennis in FY2009 and the least was $5,000 for Cummington in both FY2011 and FY2012;

- For FY2013, there were 11 winning votes taken by 10 towns totaling $3,050,000;

- For FY2013, winning votes included three for public safety, two for library, two for public works and three for assorted other purposes. The lone loss involved renovation of an athletic field.

Let's assume an FY2014 capital expenditure exclusion of $100,000.

Other Adjustment - Cape Cod Commission

Chapter 716 of the Acts of 1989 created the Cape Cod Commission, a regional planning and land-use regulatory agency that serves Barnstable county. All Barnstable county towns have individually voted to become members of the Commission. Pursuant to s. 18 of the enabling Act, the annual assessment by the Commission to a member is exempt from Prop 2 1/2 and no further local action is necessary.

Let's assume for FY2014 that this provision is not applicable, $0.

Other Adjustment - Chapter 111 s. 127B1/2 and Other Special Legislation

Chapter 111, s.127B 1/2 exempts from Prop 2 1/2 any city or town tax levy appropriation or debt service for the purpose of municipal removal of a residential underground fuel storage tank, the removal of dangerous levels of lead paint as determined by MGL c. 111 s. 194, or repair, replacement or upgrade of a home's septic system required by MGL c. 21A s. 13. No further local action is necessary. For FY2013, only Marion and Wrentham used the Chapter 111 exclusion.

Special legislation approved for Wellesley in 2007 excluded funding for its

Other Post-Employment Benefits obligations.

Let's assume for FY2014 that these provisions are not applicable, $0.

Other Adjustment - Regional Refuse Management Districts

The Greater New Bedford Refuse Management District (Chapter 652 of 1987) and the Martha's Vineyard Regional Refuse Disposal District (Chapter 303 of 1985) assess debt service upon their respective member communities and pursuant to their legislation, their debt service assessments are excluded from Prop 2 1/2. No further local action is necessary.

For FY2013, Dartmouth, a member of the Greater New Bedford District and four members of the Martha's Vineyard District used this exclusion.

Let's assume for FY2014 that these provisions are not applicable, $0.

The Water/Sewer Rate Shift, MGL c. 59 s. 21C(n)

The board of selectmen, the town or city council (with the mayor's approval where required by law) may vote to exclude water and sewer debt service. No further local action is required. If voted, the city or town:

- recovers water and sewer debt service costs from the property tax rather than from user charges;
- must then reduce its water and sewer charges by the amount of the debt service being transferred to the tax levy;
- may choose either an all taxpayers or residential taxpayers only option.

Once adopted, the percentage or stated amount of the exclusion remains the same unless changed by a new vote of the board of selectmen, town or city council (with the mayor's approval where required by law). IGR 93-207 has further details.

For FY2013, there were 13 Water/Sewer Rate Shifts totaling about $13.3 million. One community, Winchester, used the residential taxpayers-only option.

Let's assume that the FY2014 water/sewer debt shift was voted as $150,000.

Calculating the Maximum Allowable Levy: Assumptions Continued from Part 2

Step 1:	The FY2013 Base (Prior Year Levy Limit)		$10,000,000
Step 2:	*Add* Amended Prior Fiscal Year New Growth	+	$ 3,500
Step 3:	*Subtotal* Steps 1 and 2	=	$10,003,500
Step 4:	*Multiply* subtotal by 2.5 Percent	x then +	$ 250,088
Step 5:	*Add* FY2014 New Growth	+	$ 336,000
Step 6:	*Subtract* FY2014 New Growth Adjustment	-	$ 157,594
Step 7:	*Add* FY2014 Override	+	$ 100,000
Step 8:	*Subtract* FY2014 Underride	-	$ 20,000
Step 9:	*Subtotal* Steps 3 through 8	=	$10,511,994
Step 10:	*Compare* to current fiscal year's levy ceiling @ 2.5 percent of $421,200,000	=	$10,530,000

If no further components are applicable, the tax levy reported on the Tax Rate Recapitulation form cannot exceed the lesser amount shown in either Step 9 or 10 above. Otherwise, the calculation continues with the lesser amount.

From Step 9:			$10,511,994
Step 11:	*Add FY2014 Debt Exclusion*	+	$ 550,000
Step 12:	*Add FY2014 Capital Expenditure Exclusion*	+	$ 100,000
Step 13:	*Add FY2014 Other Adjustment – Cape Cod Comm.*	+	$ 0
	Add FY2014 Other Adjustment – Chapter 111 s127B½	+	$ 0
	Add FY2014 Other Adjustment – Special Legislation	+	$ 0
	Add FY2014 Other Adjustment – Reg. Refuse Mgt.	+	$ 0
Step 15:	*Add FY2014 Water/Sewer Debt Shift*	+	$ 150,000
Step 16:	*Calculate FY2014 Maximum Allowable Levy*	=	$11,311,994

Steps 11 through 15 recur annually, but do not add to the Base for the following fiscal year.

Step 16 reveals the maximum allowable levy which the tax levy reported on the Tax Rate Recapitulation form cannot exceed.

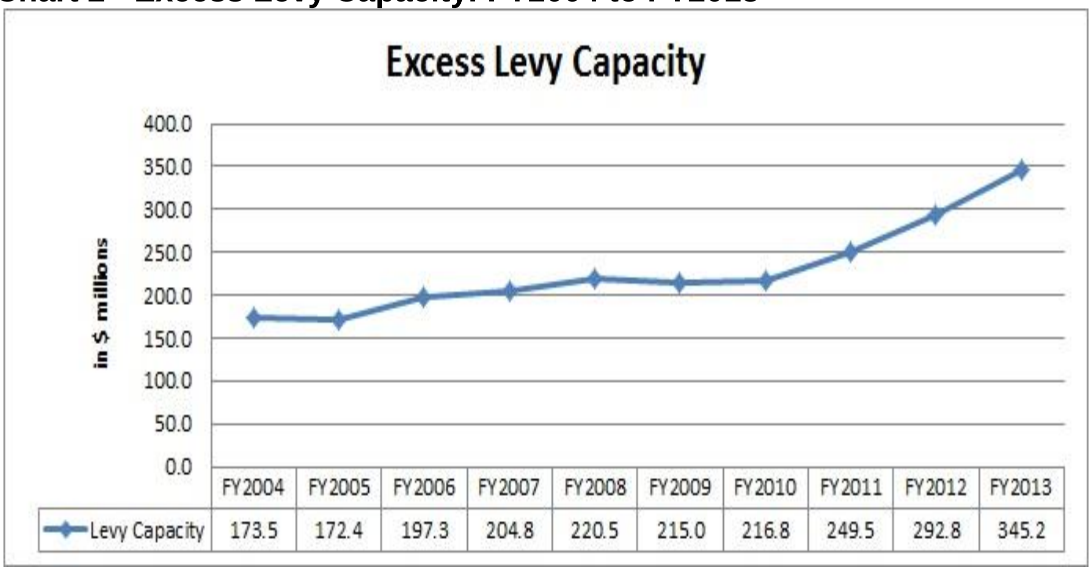
The Tax Levy and Excess Levy Capacity

The tax levy is the annual amount of taxes assessed upon real and personal property in the city or town as reported on the Tax Rate Recapitulation form. The levy cannot exceed the maximum allowable levy as calculated above. The dollar difference, or "excess levy capacity," is the amount by which the community may have legally levied, but chose not to do so.

Depending upon the actual tax levy amount, excess levy capacity may or may not be forever lost. For example, if this fiscal year's actual tax levy is $10,500,000, this fiscal year's excess levy capacity is $811,994 ($11,311,994 - $10,500,000). The difference between $10,511,994 and $10,500,000, or $11,994, is lost for the current fiscal year but returns in the following fiscal year as part of the Base that begins with $10,511,994. The remainder, $800,000, is lost forever.

Chart 2 shows the growth in excess levy capacity from FY2004 to FY2013. The greatest amount of excess levy capacity during this decade was in FY2013 at $345.2 million and the least amount in FY2005 at $172.4 million.

Chart 2 - Excess Levy Capacity: FY2004 to FY2013



Source: DLS Data Bank

Fiscal Facts:

- For the decade, the greatest amount of excess levy capacity was for Cambridge, in FY2013, at $104,103,959 and the least was for Freetown, in FY2006, at $11;
- For the decade, the median average for excess levy capacity was about $24,000;
- For FY2013, the median average for excess levy capacity was about $52,000;
- For FY2013, five communities had excess levy capacity greater than $10,000,000; Marlborough had greater than $20,000,000 and Cambridge had greater than $100,000,000.

Conclusion

This concludes the three Part series on Prop 2 1/2's levy limit components along with statistics from FY2004 to FY2013. Please visit the [Division of Local

Services' website and create your own customized financial, demographic and economic reports. You can also review publications such as Informational Guideline Releases, Bulletins and other annual guidance for more details on tax levies, levy limits, levy ceilings, new growth, ballot questions and more.

For further information, see the Division of Local Services Publications Levy Limits: A Primer on Proposition 2 1/2 and Proposition 2 1/2 Ballot Questions - Requirements and Procedures. For Part One of this series, click here. For Part Two, click here.

BLA Updates

Bureau of Local Assessment

Last week, Chris Reidy, Assessment Director of the Town of Shrewsbury, arranged a tour for Bureau of Local Assessment staff at the ConEdison Development, Shrewsbury Solar LLC solar farm, with a nameplate capacity of 3.326 megawatts. Many commercial scale farms are being built throughout the state and there have been many questions from local assessors about them. The onsite tour provided staff a clear picture of the operations and will assist us with further understanding the complexity and issues of this industry. Many thanks to company representative Dennis Brennan for his assistance with the tour.

Local Assessment staff Debra Joyce and Donna Demirai recently taught a specialty course at the 59th Annual School for Massachusetts Assessing Officers held at UMASS Amherst. It covered updating and reviewing procedures with assessors on required forms for Non-Certification communities - Interim Year Forms, LA3 Sales Coding, LA15 Analysis, LA4 & New Growth. A copy of the slides from this very informative presentation can be found by clicking here.

Register Now for "What's New in Municipal Law"

The Division of Local Services Legal Staff will offer its annual seminar "What's New in Municipal Law" for local officials on Thursday, September 25, 2014 at The Log Cabin Banquet & Meeting House in Holyoke and Thursday, October 2, 2014 at The Lantana in Randolph.

The general session in the morning will review new legislation and recent court decisions pertaining to local government.

The afternoon session will consist of three concurrent workshops on the following topics: (1) qualification of charitable, religious and other non-profit organizations for local tax exemptions, (2) expenditures for public purposes and administration of trust funds, and (3) potential pitfalls when local officials or employees wear multiple hats.

Please click the following for the agenda and registration form. Registrations must be received by Wednesday, September 17, 2014. Pre-registration is required.

If you have any questions about these seminars, please contact DLS Training Coordinator Donna Quinn at 617-626-3838 or by email at dlsregistration@dor.state.ma.us.

$3M in Community Innovation Challenge Grant Funding Now Available

Executive Office for Administration and Finance

Recently, Secretary of Administration and Finance Glen Shor announced the fourth round of Community Innovation Challenge (CIC) grants for Fiscal Year 2015. Building upon the success of the three previous rounds of CIC grants, up to $3 million will be made available to support local government innovations through regional collaborations.

"Over the past three years, the Patrick Administration has supported our municipal partners in driving change and developing new and efficient models of service delivery," said Secretary of Administration and Finance Glen Shor. "This additional funding provides municipalities with another opportunity to participate in the CIC program to further highlight best practices for all 351 of our cities and towns."

CIC grants provide financial support for one-time or transition costs related to innovative regionalization and other efficiency initiatives in local governments. By improving effectiveness and efficiency of services, the Commonwealth is able to spend taxpayer money more efficiently, maximizing the impact of every dollar spent.

Since the launch of the CIC program in 2012, the Patrick Administration has invested $10.25 million in 74 unique projects which involve 242 cities and towns, or 69 percent of the Commonwealth's municipalities. In addition to enabling savings, the program has allowed cities and towns to continue or restore core services and increase the efficiency of their operations. Nearly four million Massachusetts residents live in a city or town that participates in the CIC program.

Along with the announcement of a fourth round of funding, Secretary Shor also announced that FY 2013 project success stories are now available on the CIC program website.

"These reports, along with the 27 reports for FY 2012 projects, will provide all municipal officials in the Commonwealth with roadmaps to develop innovative, regional projects," said Secretary Shor.

The reports include step-by-step implementation guides, line item budgets, measurable outcomes and discussions of challenges faced and solutions achieved. Regionalization efforts have been increasingly critical on the local level. Providing municipalities with the resources to collaborate on shared initiatives allows for reduced costs, improved services and increased efficiency in the delivery of services.

"The Community Innovation Challenge grant project facilitated by the City of Chelsea in partnership with Revere and Everett benefits our communities as funding allows for outside - impartial resources- to assist us with problem identification and solution development related to the quality of crime data. Crime data is a critical element for government officials to consider as we attempt to increase quality of life in our communities. Funding for this project is allowing the cities to conduct pilot data audits to identify and correct crime data reporting discrepancies that will establish a process for adoption by other municipalities in the Commonwealth - ultimately leading to enhanced data driven decision-making strategies and use of data for performance management that are comparable form community to community," said Brian Kyes, Chief of Police for the City of Chelsea.

"The CIC program has enabled Hawlemont Regional Elementary School to accelerate the development of an innovative agriculturally-based curriculum. The students are buzzing with excitement about school at an unprecedented level. I anticipate Hawlemont will lead the way for other rural elementary schools across the Commonwealth and beyond," said Michael Buoniconti, Superintendent for the Hawlemont Regional School District.

How to Apply

Applications, information session dates and times, and guidelines are now available on the CIC program website: www.mass.gov/ANF/CIC.

August Municipal Calendar

August 1	**Taxpayer**	**Quarterly Tax Bills - Deadline for Paying 1st Quarterly Tax Bill Without Interest** According to M.G.L. Ch. 59, Sec. 57C, this is the deadline for receipt of the 1st Quarter preliminary tax payment without interest, unless the preliminary bills were mailed after July 1. If mailed by August 1, the 1st Quarterly payment is due August 1, or 30 days after the bills were mailed, whichever is later, and the 2nd Quarterly payment is due November 1. If mailed after August 1, the preliminary tax is due as a single installment on November 1, or 30 days after the bills were mailed, whichever is later.
August 1	**Taxpayer**	**Annual Boat Excise Return Due**
August 1	**Accountant**	**Notification of Total Receipts of Preceding Year** The total actual local receipts (e.g., motor vehicle excise, fines, fees, water/sewer charges) of the previous fiscal year must be included on Schedule A of the Tax Rate Recapitulation Sheet (Recap) which is submitted by the Assessors to DOR. On the Recap, the Accountant certifies the previous fiscal year's actual revenues, and the Assessors use this information to project the next fiscal year's revenues. Any estimates of local receipts

		on the Recap that differ significantly from the previous year's actual receipts must be accompanied by documentation justifying the change in order to be approved by the Commissioner of Revenue.
August 10	**Assessors**	**Deadline for Appealing EQVs to ATB** (even numbered years only)
August 10	**Assessors**	**Deadline for Appealing SOL Valuations to ATB** (every fourth year after 2005)
August 15	**Assessors**	**Deadline to Vote to Seek Approval for Authorization to Issue Optional Preliminary Tax Bills** For semi-annual communities issuing optional preliminary property tax bills, the Assessors must vote to seek authorization to issue the bills from DOR by this date. After receiving approval, Assessors must submit a Pro-forma Tax Rate Recap Sheet to DOR for review and issue the tax bills by October 1.
August 31	**DOR/BOA**	**Issue Instructions for Determining Local and District Tax Rates** A copy of the Tax Rate Recap Sheet and its instructions are forwarded to the community.
August 31	**Assessors**	**Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for semi-annual bills)** Until the Tax Rate Recap Sheet is completed and certified by the Commissioner of Revenue, the community may not set a tax rate nor send

		out its property tax bills (unless it issues preliminary quarterly tax bills or requests from DOR the authority to send out preliminary tax notices if DOR requirements are met). Communities should begin gathering the information in enough time for the tax rate to be set and tax bills mailed by October 1. The Tax Rate Recap Sheet provides Mayors or Selectmen with a ready-made financial management tool because the town's most important financial management information is summarized on this form. The Mayor or Selectmen should review the Recap Sheet in preliminary form in order to understand the following financial information: **Page 1 (Tax Rate Summary) -** The proposed tax levy should be compared to the levy limit. If a community does not levy to its limit, the remaining levy is referred to as excess levy capacity. Excess levy capacity is lost to the community for the current fiscal year although it will always remain in the levy limit calculation. **Page 2 (Amount To Be Raised) -** This section includes appropriations and other local expenditures not appropriated. These include overlay deficits, revenue deficits, state and county charges, Cherry Sheet offset items, and the allowance for abatements and exemptions. By comparing this information to the prior year(s), any significant changes can be determined.

		Page 2 (Estimated Receipts & Revenues From Other Sources) - In particular, Section C shows the amount appropriated from free cash and other available funds. By comparing the amounts appropriated to the balances in these accounts (available from the Accountant/Auditor), the Mayor or Selectmen can get a sense of how their non-property tax revenues are being used. **Page 3, Schedule A (Local Receipts Not Allocated) -** By comparing these figures to prior year(s), the Mayor or Selectmen can determine any changes in these revenues. **Page 4, Schedule B (Certification of Appropriations and Source of Funding) -** This section includes financial votes of City/Town Council or Town Meeting not previously reported on last year's recap.
Final Day of Each Month	**State Treasurer**	**Notification of monthly local aid distribution.** Click www.mass.gov/treasury/cash-management to view distribution breakdown.