

LOCAL TAX COLLECTION FAQs

Billing FAQs

Published in [City & Town – December 3, 2015](#)

1. What are the collector's responsibilities in sending out property tax and excise bills?

The assessors commit the tax list and issue a warrant to collect the tax to the collector. After that, the collector is responsible for sending proper notice of the local tax or excise due. The General Laws, however, do not specifically state who is responsible for *producing* the bills. Absent a charter provision, ordinance or bylaw setting forth the responsibility for preparing the tax bills, the responsibility belongs to the collector or other department with funds budgeted for that purpose. Regardless of the department that produces the bills, the collector is responsible for ensuring the bills are proper and sending them. The collector should prepare an affidavit of mailing for each property tax or excise mailing. The affidavit constitutes prima facie evidence that the bills were sent on that date. [MGL c. 60, sec. 3](#) and [sec. 3A](#).

2. Is the collector required to verify the address of each person to whom a property tax or excise bill is sent?

Sending the bills to the proper addresses is legally the collector's responsibility. [MGL c. 60, sec. 3](#).

It is reasonable for the collector to assume that the owner resides at the parcel in the absence of information to the contrary. However, if a taxpayer has given written notice to the collector or to the assessors, who typically maintain ownership and address information for tax bills, to direct all tax bills to an alternate address, the bill should be mailed to that address in order to be considered properly issued under the statute.

The Registry of Motor Vehicles provides address information for motor vehicle excise bills, based on the address given by owners when they register their vehicles. [MGL c. 60A, sec. 6](#). Boat owners are required to file a form of list which provides their addresses. [MGL c. 60B, sec. 2](#). Other ownership information about boats subject to the excise is available from the harbormaster and Environmental Police.

3. What information must the property tax and excise bills contain?

Property tax bills "must be in a form approved by the Commissioner of Revenue." [MGL c. 60, sec. 3A\(a\)](#). In the spring of every year, the Department of Revenue issues separate Informational Guideline Releases (IGRs) setting forth the requirements for tax bills for each property tax payment system. There also are IGRs that set forth the requirements for the content of motor vehicle and boat excise bills. Collectors should review the IGRs relevant to their communities to make certain that tax and excise bills conform to the requirements. All IGRs are available on the [DLS website](#).

4. Can inserts be included with the property tax bills?

Yes. With the approval of the selectboard or the mayor, the collector may include non-political municipal informational material with the property tax bills so long as such inserts do not cause an increase in the postage required for mailing the tax bill. [MGL. c. 60, sec. 3A\(d\)](#). Non-political information means information or material that does not advocate for, or seek to advance or influence a particular policy position or candidate. Municipal informational material means information or material that originates with the municipality and relates directly to municipal operations, services and programs. For example, printed messages that disseminate facts about the municipality's recycling program or schedule would be proper insert material. Also see [Annual tax bill IGRs](#) for information about tax bill inserts.

5. Must the collector send property tax and excise bills by United States mail?

No. With the approval of the selectboard or mayor, the collector may issue real and personal property tax bills in an electronic form. Any e-billing program must be voluntary. Only taxpayers who agree may be sent their bills electronically. [MGL. c. 60, sec. 3A\(b\)](#). Statutes concerning other tax bills, such as excises or betterments, also require a bill to be sent but not necessarily through the United States mail. The collector may also establish a voluntary e-billing program for those bills, with the approval of the selectboard or mayor. [MGL. c. 60, sec. 3A\(e\)](#). Also see [Annual tax bill IGRs](#) for information about e-billing.

6. What happens if a property tax or excise bill is properly sent by the collector but the taxpayer never receives the bill?

The failure to receive the tax bill does not affect the validity of the tax or proceedings to collect. [MGL c. 60, sec. 3](#); [MGL c. 60A; sec. 2](#).

Property Tax Payment FAQs Published in [City & Town – January 7, 2016](#)

7. What is the collector required to do with payments received?

The collector must record the date of payment and pay over to the treasurer once each week, or more, often all money received for taxes and excises. [MGL c. 60, sec. 2](#).

8. Can a collector accept payments before the tax bills are issued?

Yes, if the collector has received the tax commitment list and the warrant signed by the assessors. If not, the assessors may issue a special warrant to authorize the collector to accept voluntary tax payments before the tax commitment for the year. [MGL c. 60, secs. 3 and 19](#); State Tax Form 64B.

9. May a collector waive interest and charges on late tax payments?

Collectors may waive interest and charges whenever the amount of interest **and** charges due **total** \$15 or less. If the total of interest and charges exceeds \$15, the collector may **not** waive any amount. [MGL c. 60, sec. 15](#). This provision is for the administrative convenience of collectors, i.e., so they will not have to enforce the collection of small amounts that may be due when payments arrive a day or so after the due date. Therefore, any allowed waiver of interest and charges is at the sole discretion of the collector. Taxpayers have no right to a waiver.

10. Must a collector accept a partial payment of a property tax?

A collector must accept a partial payment of a real estate tax up to the date that an advertisement is prepared for the sale or taking of the parcel so long as the amount tendered is at least \$10 and not less than 10% of the total tax. A collector must accept a partial payment of a personal property tax up to the date that a warrant is issued or other process commenced to collect the tax so long as the payment is at least \$10 and not less than 10% of the total tax. [MGL c. 60, sec. 22](#).

11. How should collectors apply partial payments?

The real estate or personal property tax assessed for each fiscal year is a distinct legal obligation. A taxpayer can tender a payment directed toward a particular tax obligation. However, the collector must then apply amount tendered in the following order:

1. Any accrued interest on the tax obligation;
2. Any collection costs added to the tax obligation; and
3. The tax obligation.

The taxpayer cannot direct that a partial payment be applied to the tax obligation first. [MGL c. 60, sec. 3E](#).

12. How should collectors deal with dishonored checks?

Collectors who receive dishonored checks back from banks must reverse the payment and reestablish the receivable as an unpaid balance. Collectors may also impose a penalty of 1% of the amount of the check, or \$25 for a check of less than \$2,500. Collectors should not issue municipal lien certificates reflecting payments based upon checks that have not yet cleared. [MGL c. 60, sec. 57A](#).

13. Should a collector pay interest on refunds of taxes where the amount of tax originally assessed has been overpaid?

No. Sometimes both an assessed owner and a mortgagee will pay a tax bill, or two co-owners such as spouses, will pay the same bill. Whenever the total payments exceed the entire committed tax, the collector must refund the excess, since the municipality has no right to retain money in excess of the amount committed by the assessors. Whenever the assessors abate a tax to an amount below the amount paid, however, the overpayment must be refunded with interest. [MGL c. 59, sec. 69](#). But where an overpayment results from

payments by the taxpayer or others, rather than from an abatement, there is no legal basis for paying interest on the refund.

14. Where more than one party has made payments on an account that is overpaid, who should get the refund?

Any refund for a tax that has been abated should be made to the successful applicant for abatement. A check for a refund of an overpaid tax that has not been abated should ordinarily be issued to the current owner of the property. However, if the collector knows of a dispute among parties over who is entitled to a refund, the refund check may be issued in the names of all the parties who made payments with respect to a particular tax that has been overpaid, unless all the parties agree on who should get the refund and so notify the collector.

Delinquent Real Estate Tax Collection FAQs
Published in [City & Town – February 4, 2016](#)

15. If a real estate tax remains unpaid, what is the first step for the collector to enforce collection?

The collector should send a demand to the assessed owner after the due date for payment of the last installment of the tax, i.e., May 2 or one day after the final due date, if later than May 1. The demand is sent to the assessed owner's last or usual place of business or abode, or alternatively, to the address best known to the collector. [MGL c. 60, sec. 16](#). The demand is a prerequisite to a valid tax taking.

16. What happens if a real estate tax is not paid after the demand is sent?

The collector should perfect the municipality's lien on the real estate by a tax taking.

The collector must wait at least 14 days after the demand is mailed. [MGL c. 60, sec. 17](#). If the taxes still are unpaid, the collector must give notice of intent to take by (1) publishing notice in a newspaper published in the city or town, or, if there is no paper published in the city or town, in a newspaper published in the county, and (2) posting notice in two or more public places. The publication and postings need not be made on the same date but all must occur at least 14 days after the demand is mailed. The notice must contain a description of the property to be taken, the amount of taxes and other charges for which the property will be taken, the names of all owners known to the collector, and the time and place of the taking. [MGL c. 60, secs. 1, 40](#) and [53](#).

The collector must then wait at least 14 days after the later of the publication or posting of the notice of intent to take. The collector then makes the taking at the time and place in the notice and records or registers an instrument of taking at the Registry of Deeds within 60 days of the date of taking. The instrument of taking must include a description of the property, the name of the assessed owner or owners, and the taxes and charges for which the property was taken. [MGL c. 60, secs. 53](#) and [54](#).

Example
Tax Taking Timetable

Last tax installment due	May 1	Earliest May 1
Demand Mailed	May 10	Earliest May 2 (at least 1 day after May 1 due date)
Notice of Intent to Take Posted	May 28	Earliest May 25 (at least 14 days after May 10 demand)
Notice of Intent to Take Published	May 30	Earliest May 25 (at least 14 days after May 10 demand)
Taking Made	June 20	Earliest June 14 (at least 14 days after May 30, later of publication and posting)
Instrument of Taking Recorded	June 20	Latest August 19 (within 60 days after June 20 taking)

17. What happens after the collector makes and records the tax taking?

By perfecting the real estate tax lien, the collector has created a tax title which becomes the responsibility of the city or town treasurer. If the treasurer receives full payment of the total amount in tax title as of the payment date, then the treasurer issues a redemption certificate. If full payment is not received, the treasurer can institute a proceeding to foreclose the taxpayer's right to redeem by filing a petition in Land Court. [MGL c. 60, sec. 65](#).

18. If subsequent years' taxes are unpaid on a parcel in tax title, what happens to these taxes?

There can only be one tax title on a parcel. Therefore, if the taxpayer does not pay the taxes assessed for a subsequent fiscal year, the collector certifies those unpaid taxes to the tax title account. [MGL c. 60, sec. 61](#). The taxpayer has the right to pay the current year's tax without incurring interest. Therefore, the certification cannot be made until after the due date for the last installment payment for the fiscal year.

19. Should preliminary taxes be certified to a tax title account?

No. The statute, [MGL c. 60, sec. 61](#), speaks of "taxes assessed subsequently." That means the taxes established by an actual assessment and commitment, and not a preliminary or estimated tax. It is the actual commitment that fixes the tax liability of each taxpayer for the year. The commitment of the actual tax supersedes the preliminary or estimated tax commitment, and the actual tax could be lower or higher than the preliminary or estimated tax.

20. Can the collector make a tax taking if the taxpayer has filed an abatement application with the assessors or appealed an adverse decision of the assessors to the Appellate Tax Board?

The filing of the abatement application with the assessors, or a further appeal to the Appellate Tax Board, does not stay proceedings for the collection of the tax. The collector should make the tax taking to perfect the municipality's lien. However, the treasurer should not petition the Land Court for foreclosure until the abatement issue has been ultimately resolved and the tax for the year determined, as it impacts the amount the taxpayer must pay to redeem.

Municipal Lien FAQs
Published in [City & Town – March 3, 2016](#)

21. What is a lien?

A lien is an encumbrance on specific real estate for payment of a debt or obligation. Municipalities (and tax levying districts such as water or fire districts) have liens to secure payment of real estate taxes and some other assessments or charges.

22. How are municipal liens created?

Municipal liens can arise by operation of law or by recording an instrument.

A) Operation of Law -The real estate tax lien arises automatically by operation of law each January 1 assessment date and is a very effective tool for the collection of real estate taxes. [MGL c. 60, sec. 37](#). The lien is superior to other interests in the property, such as mortgages and other liens, and takes precedence over the rights of co-owners who are not assessed as well as heirs, even if those interests were created before the tax lien arose.

Liens for municipal or district utility charges, such as water, sewer, light plant and solid waste charges, arise by operation of law the day after they are due. However, to have liens for these charges the municipality or district must accept certain statutes, record a certificate of acceptance and meet other requirements. [MGL c. 40, secs. 42A-42E](#); [c. 44, sec. 28C\(f\)](#); [c. 83, secs. 16A-16E](#); [c. 164, secs. 58B-58F](#).

B) Recorded Instrument – Liens for betterments, special assessments, demolition charges and other municipal charges arise upon recording a lien statement. [MGL c. 40, sec. 58](#); [c. 40, 42I](#); [c. 80, sec. 12](#); [c. 83, sec. 27](#); [c. 111, sec. 125](#); [c. 111, sec. 127B](#); [c. 139, sec. 3A](#); [c. 143, sec. 9](#); [c. 148, sec. 5](#).

23. How long does the lien for real estate taxes stay in effect?

The lien for real estate taxes expires three years and six months from the end of the fiscal year for which the taxes were assessed, or upon a recorded transfer of the property, whichever is later. [MGL c. 60, sec. 37](#). This means real estate tax liens last for a minimum of five calendar years, arising on the January 1 assessment date and ending on the fifth December 31 after the assessment date. The lien continues indefinitely when perfected by a timely tax taking or sale. A taking or sale within five years of the assessment date is timely. A later taking or sale may still be timely if made before a recorded transfer of the property.

For example, the lien for Fiscal Year 2017 real estate taxes arises by law on the FY2017 assessment date of January 1, 2016. At a minimum, the lien exists during the assessment date calendar year (2016) and the subsequent four calendar years (2017, 2018, 2019 and 2020). The lien expires on December 31, 2020 if the property was sold and the lien was not perfected on or before that date. If not sold before December 31, 2020, the lien expires when the property is sold unless it was perfected before the sale.

24. How long do liens for other assessments or charges stay in effect?

Liens vary in duration. The governing statute must be followed to ensure that the delinquent assessments or charges are added to the real estate tax, and the collector perfects the lien for those assessments or charges by a tax taking or sale, before the lien expires. For collection purposes, perfected real estate tax liens secure not only real estate taxes but also unpaid betterments, special assessments and municipal charges that constitute liens and have been added to and committed with the tax by the assessors. Liens also secure the interest and collection charges that accrue by law. In municipalities that have tax-levying districts, such as water or fire districts, tax takings or sales will perfect liens for district as well as municipal taxes and charges.

25. What is a municipal lien certificate and who is responsible for preparing one?

A municipal lien certificate (MLC) is a listing of all taxes, assessments and charges that constitute liens on a parcel of real estate at the time of issuance. [MGL c. 60, secs. 23, 23A](#) and [23B](#). It is generally requested when a property is being sold or the mortgage refinanced.

The collector is responsible for preparing the certificate. In a municipality with a population over 5,000, the collector must furnish the MLC to an applicant within ten days of the written request. Where the municipality's population is 5,000 or fewer, the collector must provide the MLC within 20 days of the written request.

26. What happens to the liens for taxes, assessments and charges that the collector fails to list on the MLC?

Generally, liens for unpaid real estate taxes that have been committed to the collector will be discharged if the taxes are left off a municipal lien certificate that is recorded at the Registry of Deeds or registered in the Land Court section of the Registry within 150 days of its issuance. [MGL c. 60, secs. 23, 23A](#) and [23B](#). In municipalities or districts that have accepted the statutes creating liens for water, sewer, light or solid waste charges, the liens are also lost if left off timely recorded municipal lien certificates.

However, liens for taxes, betterments, assessments and other charges like water and sewer are not discharged if a tax taking or a statement to continue municipal lien has been previously recorded or registered. The reason is that the world is put on notice of the existence of the lien on the property and the law requires that specific instruments must be recorded to discharge these liens. For example, a tax title can only be discharged by an instrument of redemption under [MGL c. 60, sec. 62](#). Betterments and special assessments can only be discharged by certificates under [MGL c. 80, sec. 12](#). A renunciation of rights is required to dissolve a statement to continue a municipal lien. [MGL c. 60, sec. 37A](#).

27. If the collector issued an erroneous municipal lien certificate that is timely recorded and the lien is discharged, is the unreported tax or charge uncollectible?

Not necessarily. Even if a lien is lost, the underlying tax or charge is still due. Except for betterments and special assessments, the assessed party remains personally liable for payment of the tax or charge. The personal liability may be enforced by any of the other collection remedies available to a collector. The collector can bring a civil action against the

assessed owner. [MGL c. 60, sec. 35](#). The collector must bring a court action before the six year statute of limitations on civil actions expires. [MGL c. 260, sec. 2](#). Alternatively, the collector can withhold any money owed by the municipality to the taxpayer and set it off against the obligations of the taxpayer under [MGL c. 60, sec. 93](#). Thirdly, the municipality can deny, revoke or suspend certain municipal licenses and permits if it has accepted [MGL c. 40, sec. 57](#).

Because the lien is such an effective collection mechanism, it is obviously best not to lose it. The risk of losing municipal liens can be reduced by perfecting them promptly. Once a lien has been perfected, any subsequent erroneous lien certificates and transfers of the property will have no effect on the lien's status or enforceability.

Tax Title FAQs

Published in [City & Town – April 7, 2016](#) and [May 5, 2016](#)

28. Should the collector include the assessed owner's name in a published notice of intent to take a parcel into tax title if the assessed owner sold the parcel before the advertisement for a tax taking was prepared or even before the taxes for the fiscal year were committed?

Yes. Real estate taxes are assessed to the owner of record of the property as of the January 1 before the start of the fiscal year. [MGL c. 59, secs. 11](#) and [21](#). The assessors cannot assess taxes to a subsequent owner instead of the owner as of the assessment date. For example, fiscal year 2016 taxes were assessed to the owner of record as of January 1, 2015 which is six months before the July 1, 2015 beginning of fiscal year 2016. An assessment in the name of a subsequent owner who acquired title after that January 1 assessment date would be invalid. The assessed owner is personally liable for the tax even if the property is sold after January 1. If the fiscal year 2016 taxes are unpaid, for example, the collector should perfect the lien through a timely tax taking. However, the collector may enforce the personal liability of the assessed owner through other collection remedies. For example, if a lien is lost through the issuance and recording of an erroneous municipal lien certificate, the collector may enforce the personal liability through other available collection remedies. These include bringing a suit against the assessed owner, [MGL c. 60, sec. 35](#), withholding and setting-off any money owed by the municipality to the assessed owner, [MGL c. 60, sec. 93](#), and in municipalities that have accepted [MGL c. 40, sec. 57](#), and adopted an implementing ordinance or bylaw, denying, suspending, not renewing or revoking municipal licenses and permits held or sought by the assessed owner.

When the collector publishes the notice of intent to take real property for nonpayment of tax, the notice must include all owners known to the collector. [MGL c. 60, sec. 40](#). Although the statute does not define "owners," other statutory provisions provide insight. Specifically, [MGL c. 60, sec. 54](#) requires the instrument of taking be in the name of the assessed owner. Another statute, [MGL c. 60, sec. 56](#), provides that the instrument of taking may be in the name of any assessed owner. The demand, which is the first step in the tax taking procedure, must also be made to the assessed owner. [MGL c. 60, sec. 16](#). The Supreme Judicial Court has interpreted the statute to mean that "no demand on any person other than ... the person assessed as owner, was necessary." [City of Boston v. Lynch](#), 304 Mass. 272 at 276 (1939).

Given this statutory framework, the word “owners” in [MGL c. 60, sec. 40](#) is an inclusive term that refers to all owners, subsequent and assessed.

Note that a private agreement between a buyer and seller about the real estate tax does not discharge the assessed owner from responsibility for the tax. Regardless of the terms of the agreement, the collector can bring a civil action, or use other available remedies, against the assessed owner. As a practical matter, the assessed owner’s name should be included in any tax taking notice since the rights of other parties might be affected. For example, if only the name of a subsequent owner was published, banks and mortgage companies that are not aware of the sale of the property might not realize that the tax taking could jeopardize their financial interest in the property.

29. Does the failure to observe the notice requirements have an effect on the validity of a tax title?

Yes. The Land Court, which has jurisdiction over tax title foreclosure petitions, could declare the tax taking invalid. There are many examples of fatal flaws in the tax taking process. For example, the taking would be invalid if the collector did not send the demand to the assessed owner, sent the demand to an incorrect address or did not record the instrument of taking within 60 days of the taking as required by [MGL c. 60, sec. 54](#). If there is an error in the tax taking procedure, the collector should disclaim the taking and retake within 90 days and the lien will be valid. [MGL c. 60, sec. 37](#). If the taking is invalid due to an error in the assessment, however, an assessment is made to a non-owner as of the January 1 assessment date, for example, the collector should disclaim the taking and the assessors should reassess the unpaid taxes to the actual owner. Under [MGL c. 59, sec. 77](#), the reassessed tax is a lien for the same period and under the same conditions as the original tax. If the lien for the reassessed tax is valid and the reassessed tax remains unpaid, the collector should send a demand to the reassessed owner and then make a new tax taking.

30. After the collector has perfected the lien through a tax taking, who is responsible for the foreclosure or redemption of the tax title?

The city or town treasurer is responsible for management of tax titles. If the owner pays all amounts owed, then the treasurer issues a certificate of redemption. If the amount in tax title is not paid, then the treasurer can seek to enforce the lien through foreclosure. The treasurer must wait six months after the tax taking to file a petition in Land Court to foreclose all rights of redemption. [MGL c. 60, sec. 65](#). The Land Court will then appoint a title examiner to identify all interested parties in the property. The parties will be notified of the proceedings by registered mail in order to respond to the petition or redeem the tax title. [MGL c. 60, sec. 66](#). If the tax title is not redeemed or the tax taking is not successfully challenged, the Land Court will issue a decree of foreclosure. The decree vests title to the property in the city or town. If the owner files a petition within one year and pays all amounts outstanding, the Land Court may vacate the foreclosure. [MGL c. 60, sec. 69A](#).

31. If a parcel is in tax title, what should the collector do if taxes for a subsequent fiscal year remain unpaid?

The collector should certify the subsequent fiscal year taxes to the tax title account by September 1 of the year after assessment. [MGL c. 60, sec. 61](#). According to the Supreme

Judicial Court's interpretation of the statute, the September 1 date is directory and not mandatory. [Boston Five Cents Savings Bank v. City of Boston](#), 318 Mass. 183 (1945). The phrase "taxes assessed subsequently" in [MGL c. 60, sec. 61](#) means the actual taxes assessed and committed, not estimated or preliminary taxes, for any fiscal year after the fiscal year for which the taking was made. Consequently, the collector should not certify the taxes for a subsequent fiscal year until after the due date for the last installment payment for the year, which would ordinarily be May 1, and continued non-payment after demand.

32. Can a collector create a valid tax title without sending a demand for payment and advertising the property as being tax delinquent?

No. A collector seeking to perfect a real estate tax lien must either make a tax sale under [MGL c. 60, sec. 43](#) or a tax taking under [MGL c. 60, sec. 53](#) after making a demand on the assessed owner for payment of the tax. A tax sale requires notice of the sale by both (1) publication and (2) posting. [MGL c. 60, secs. 40](#) and [42](#). A tax taking, however, requires notice by (1) posting and (2) either publication, as provided in [MGL c. 60, sec. 40](#), or service in the manner required by law for the service of subpoenas on witnesses in civil cases. Consequently, demands and notices are statutory prerequisites for a valid tax taking and cannot be waived. See FAQs published in [City & Town February 4, 2016](#) for details about demand and notice requirements.

33. May a treasurer accept partial payments when a parcel is in tax title?

Yes. Under [MGL c. 60, sec. 62](#), a treasurer may accept installment payments of the amount in tax title. Upon accepting an installment payment, the treasurer may extend by written agreement for up to two years the right to petition for foreclosure of the tax title. The written extension is important to the taxpayer. Absent a legally binding written agreement, the treasurer may file a foreclosure petition in Land Court as soon as six months after the tax taking. [MGL c. 60, sec. 65](#). Any partial payment of the tax title must be applied first to the accrued interest, second to accrued collection charges and then to the tax or taxes in the chronological order of the year committed to the collector. [MGL c. 60, sec. 3E](#). The taxpayer cannot direct that a partial payment be applied to the tax obligations first.

34. Can the treasurer waive interest or collection charges on delinquent taxes in a tax title account?

A treasurer may waive interest on a tax title account only as authorized by an ordinance or bylaw adopted by the municipality under [MGL c. 60, sec. 62A](#). Municipalities may by ordinance or bylaw provide for payment agreements between the treasurer and taxpayers entitled to redeem parcels in tax title. The payment agreements can last up to five years, and waive up to 50 per cent of the interest that would otherwise be owed if the taxpayer complies with the payment schedule in the agreement. Upon execution of the agreement, the taxpayer must pay at least 25 per cent of the total amount needed to redeem at that time. The ordinance or bylaw must establish the parameters of the payment agreements, including the categories of eligible tax titles (e.g., residential or owner-occupied residential property, or commercial property) and the term and interest waiver that applies to agreements for those categories. The ordinance and bylaw cannot modify the statutory interest rate or waive any collection costs or charges. The treasurer also cannot file a foreclosure petition in Land Court as long as the taxpayer adheres to the payment schedule and remains current on municipal

taxes and charges assessed after the agreement. See [Informational Guideline Release No. 05-208](#) for information about tax title payment plans.

Tax Title Foreclosures
Published in [City & Town – July 7, 2016](#)

35. If the Land Court issues a tax title foreclosure decree, what happens to the tax title account?

The treasurer should provide a copy of the foreclosure decree to the accounting officer and assessors. The accounting officer should then transfer the amount in the tax title account (tax liens) to another account on the balance sheet called tax foreclosures (formerly called tax possessions). See [Uniform Massachusetts Accounting System \(UMAS\)](#) manual for cities, towns, regional school districts and special purpose districts (July 2014). The assessors should remove the property from the tax rolls for the fiscal year that begins the July 1 after the date the decree is entered.

36. What happens to taxes owed that were not part of the tax title account when the foreclosure decree was issued?

Taxes on the collector's books after tax title foreclosure because they were not certified to the tax title account before the foreclosure decree was issued, or were inadvertently assessed for a fiscal year after the year in which the foreclosure decree was issued, should be certified by the collector to the treasurer and accounting officer and transferred to the tax foreclosure account pending a final disposition of the property. If the disposition is for an amount below that carrying basis or there is a conversion to public use, the loss of revenue is accounted in the General Fund, not by abatement. See [Uniform Massachusetts Accounting System \(UMAS\)](#) manual for cities, towns, regional school districts and special purpose districts (July 2014).

37. Can the taxpayer petition the Land Court to vacate a tax title foreclosure decree?

Yes. The taxpayer may file a petition to vacate a tax title foreclosure decree within one year of the decree and redeem the parcel. [MGL c. 60, sec. 69A](#). If the municipality does not oppose the petition, it should request the Land Court to fix the terms of redemption to include (1) the amount required to redeem the parcel on the date of the foreclosure decree, (2) any interest that would have accrued on the tax title amount if the decree had not been issued, (3) taxes and charges that would have been owed if the decree had not been issued and (4) any costs incurred by the municipality to secure the property.

38. Can a parcel be sold after the Land Court issues a tax title foreclosure decree?

Yes. Title vests in the municipality upon issuance of the tax title foreclosure decree by the Land Court, [MGL c. 60, sec. 64](#), and the municipality may sell the property or dedicate it to municipal use. As a practical matter, however, municipalities often wait for one year before doing so in order to see whether the taxpayer will petition the Land Court to vacate the foreclosure decree and redeem.

The property may be sold at auction by the municipality's tax title custodian (who is usually the treasurer) under the procedure specified in [MGL c. 60, sec. 77B](#). Alternatively, the municipality may sell the property in any other manner authorized by law. See, e.g., [MGL c. 40, sec. 3](#); [MGL c. 30B, sec. 16](#). Proceeds from the sale become part of the municipality's free cash. [MGL c. 59, sec. 23](#). This is unlike the proceeds from the sale of municipal real property other than tax foreclosures. Those proceeds are credited to the sale of real estate fund and can only be appropriated for certain limited purposes. [MGL c. 44, sec. 63](#).

39. Does the municipality have any recourse if it cannot recover the amount owed on a foreclosed tax title because it exceeds the value of the parcel?

Yes. If the fair cash value of the property is less than the amount in the tax title account as of the date of the foreclosure decree, the municipality may bring a civil suit against the assessed owner for the deficiency. The municipality is not limited to the remedy of foreclosure of the lien.

In [Boston v. Gordon](#), 342 Mass. 586 (1961) the Supreme Judicial Court reasoned that a tax title foreclosure is analogous to a mortgage foreclosure. When there is a mortgage foreclosure, the mortgage debt is discharged to the extent of the parcel's fair cash value as of that date. If there is a deficiency, the mortgagee may enforce the personal liability. Similarly, in [Gordon](#), the Court held that a tax title foreclosure extinguishes the tax liabilities in the tax title account only to the extent of the value of the property at the time of the foreclosure decree. It does not discharge the assessed owner's personal liability for taxes and charges that are part of the account, or other amounts assessed, but not certified to the account, on or before that time. To determine the taxes for which personal liability remains, the Court interpreted [MGL c. 60, sec. 43](#) to mean that the fair cash value of the property on the date of the foreclosure is applied to the taxes and charges, including related interest and collection costs, in the tax title account in the chronological order they were committed to the collector. Any action to recover those amounts must be brought within the six year statute of limitations on civil suits under [MGL c. 260, sec. 2](#). That statute bars any contract action where the tax or charge was assessed more than six years before the commencement of the lawsuit against the assessed owner. In [Gordon](#), the assessed owner was personally liable for taxes assessed in the prior six years, including two years not certified to the tax title until after the foreclosure decree.