

TO: Boards of Assessors, Collectors, Treasurers, Accountants/Auditors, Boards of Selectmen and Mayors

FROM: Joseph J. Chessey, Jr., Deputy Commissioner

DATE: January 1999

SUBJECT: Budgeting for Expense of Tax Titles and Foreclosures

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For many years the tax rate approval process has provided for inclusion of "Amounts certified for tax title purposes" among "Other amounts to be raised" as distinct from amounts appropriated by the city council or town meeting. The practice derives from two provisions of law:

Chapter 60 §37B provides that "[t]he collector of taxes shall certify in writing to the board of assessors the amounts necessary for the taking of land ... . The board of assessors shall include the amounts so certified in computing the amount to be raised... ."

Similarly, Chapter 60 §50B provides that "[e]very city or town shall include in its annual budget the amount estimated by its treasurer as the amount necessary for land court proceedings for tax title foreclosure... . If in any year the amount so estimated is not included in the budget as finally passed the treasurer shall certify in writing to the assessors such portion of the amount estimated ... as has not been provided and the assessors shall raise in the assessment for such year the amount certified to them by the treasurer and thereupon said amount shall be added to the treasurer's appropriation ... ."

(over)

In the approval of tax rates for FY1998 and FY1999, it has become evident that the practice varies widely with respect to raising amounts for the collector and the treasurer. Many cities and towns include no amount under these provisions, but rather include the amount in the budget of the collector or treasurer. Other cities and towns include amounts for staff time, employees of the city solicitor or town counsel, consultants, outside vendors and similar expenditures.

We believe the amounts which may be raised without appropriation are out-of-pocket expenses such as:

- filing and recording fees, including examiner's costs required by the land court
- advertising and publishing costs
- certified mailings.

Amounts such as the following should be appropriated:

- staff expenses of the collector and treasurer
- staff expenses of the city solicitor or town counsel
- outside counsel fees
- consultants or service bureaus retained for record-keeping
- custodial costs and costs for maintaining or insuring property
- costs of sale or auctioning the property after foreclosure.

Budgets for FY2000 should follow this *Bulletin*. The tax rate approval forms and instructions for FY2000 to be issued in the summer of 1999 will reflect these practices.