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MA DEPARTMENT OF REVENUE



[Local Officials Directory](#)

[Municipal Calendar](#)

[IGR's & Bulletins](#)

[Workshops, Seminars & Events](#)

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.

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In this Issue:

- [Uncollected Property Taxes and Excises in Cities and Towns](#)
- [Ask DLS](#)
- [Register Now for the New Officials Finance Forum](#)
- [Municipal Health Annual Reporting Requirement Eliminated](#)
- [MassDEP Launches Program Supporting Lead Testing in Public School Drinking Water](#)
- [MOD Available to Help Establish Local Commissions on Disability](#)

Uncollected Property Taxes and Excises in Cities and Towns

Susan Whouley - Bureau of Accounts Analyst and David Guzman - Bureau of Accounts Field Representative

This is the first of a two-part review of uncollected real estate, personal property and motor vehicle excise taxes as reported by cities and towns to the Bureau of Accounts for FY2015.

This first part is dedicated to FY2015 uncollected property taxes for real estate, personal property and tax titles; the second part will be about FY2015 uncollected motor vehicle excise tax.

For all Massachusetts communities, the FY2015 real estate and personal property tax levy totaled over \$14.5 billion, and for most communities, the tax levy represents the largest revenue source of the general fund. Apart from property taxes abated, exempted, or placed in deferred or in litigation status, the balance of the tax levy, in budgetary terms, is assumed to be collected in its entirety within the fiscal year.

But collecting all property taxes is highly unlikely, despite any municipal collector's best efforts. Collection of outstanding property taxes, which has a process that collectors and treasurers must follow, becomes critically important for improving a community's free cash position and its cash flow.

For more information on the tax collection process, see the *Ask DLS* articles in the following editions of *City & Town*: [December 3, 2015](#), [January 7, 2016](#), [February 4, 2016](#), [March 3, 2016](#), [April 7, 2016](#) and below in this edition.

Schedule of Outstanding Receivables

As part of the free cash certification process, the Bureau of Accounts receives a Schedule of Outstanding Receivables¹ that matches the receivables on the Collector's and Treasurer's books with the Accountant's general ledger to show that proper controls are in place. Any variance causes a reduction to free cash, but free cash is not a replacement for the variance and reconciling the variance must still be attempted.

The Schedule shows the amount of personal property taxes yet to be collected and the amount of real estate taxes yet to be collected and/or placed into tax title as of June 30th.

The **Tables** used in this article indicate June 30th, 2015 data as received by the Bureau of Accounts from 341 communities on an unaudited basis.

Total Outstanding Property Taxes (excluding tax titles)

Table 1 details outstanding real and personal property taxes for cities and towns. The negative shown due to cities for prior fiscal years reflects amounts deemed owed back to taxpayers.

Table 1

Outstanding Real and Personal Property Taxes (in \$ millions)			
	Cities	Towns	Cities and Towns
<i>Real Estate</i>			
due for FY2015	\$85.9	\$106.7	\$192.6
due for prior fiscal years	(\$7.8)	\$24.6	\$16.8
Subtotal Real Estate	\$78.1	\$131.3	\$209.4
<i>Personal Property</i>			
due for FY2015	\$9.7	\$5.1	\$14.8
due for prior fiscal years	\$39.5	\$14.4	\$53.9
Subtotal Personal Property	\$49.2	\$19.5	\$68.7
Total Real and Personal	\$127.3	\$150.8	\$278.1
# communities reporting	53	288	341

Source: DLS Gateway

Unfortunately, because real estate taxes shown in Table 1 are reported net of amounts transferred to tax title, collection rates cannot be determined from this form.

Outstanding Property Taxes by Population

Table 2 illustrates how population impacted FY2015 outstanding property taxes showing that:

- The median percentage of outstanding property taxes was less in communities with populations greater than 10,000 than those with populations less than 10,000.
- As populations decrease, the median percentages of outstanding property taxes increase up to almost two-and-a-half times that of communities with populations greater than 10,000.

Table 2

FY2015 Outstanding Property Taxes by Population					
	Median Percentages - Massachusetts		Median Population 10,350		
	pop > 10,000	pop < 10,000	pop < 5,000	pop < 3,000	pop < 1,000
Real Estate	1.3%	2.2%	3.0%	3.2%	3.3%
Personal Property	1.2%	0.9%	0.9%	1.1%	0.9%
All Real and Personal	1.4%	2.1%	2.9%	3.1%	3.1%
# reporting	53 cities	168 towns	101 towns	73 towns	25 towns
	120 towns				

Source: DLS Gateway

The higher percentages in lower populated communities may be reflective of insufficient time, budget or staff to pursue outstanding taxes, a furthering of the collection process after June 30th, a combination of all of the above, or possibly other reasons exclusive to the community.

The Next Step

Collection methods for outstanding personal property taxes are different than those for outstanding real estate taxes because for personal property, there is no lien that the collector may execute. Collection methods for personal property allowed by law include:

- civil suit
- distress or seizure and sale of goods
- public auction
- taxpayer imprisonment
- license or permit refusal
- withholding sums due the taxpayer

Collection of outstanding real estate taxes involves a "tax title" or "tax taking" process. This process allows the collector to perfect the community's lien to secure the payment of real estate taxes. See the *Ask DLS* article below on Tax Collections for a description of how the collector perfects the community's tax lien.

After the taking, interest accrues at a 16% annual rate until payment, with advertising and instrument preparation charges added. A tax title account is created for the property and responsibility to collect the

delinquent tax transfers from the collector to the treasurer.

Tax titles are reported on the Schedule of Outstanding Receivables in total for all fiscal years. **Tables 3 and 4** detail tax title and personal property receivables broken out by cities and towns.

Table 3

Outstanding Tax Titles (in \$ millions)			
	Cities	Towns	Cities and Towns
<i>Tax Titles</i>	\$167.1	\$174.1	\$341.2
<i># communities reporting</i>	53	288	341

Source: DLS Gateway

Table 4

Outstanding Real and Personal Property Taxes (in \$ millions)			
	Cities	Towns	Cities and Towns
<i>Real Estate</i>	\$78.1	\$131.3	\$209.4
<i>Personal Property</i>	\$49.2	\$19.5	\$68.7
<i>Tax Titles</i>	\$167.1	\$174.1	\$341.2
<i>Total Real, Personal and Tax Titles</i>	\$294.4	\$324.9	\$619.3
<i># communities reporting</i>	53	288	341

Source: DLS Gateway

Additional Statistics

- As a result of taxes subsequently collected, abated or transferred to tax title, \$266.1 million in outstanding property taxes as of June 30th, 2014 fell \$195.5 million, or 73%, to \$70.6 million as of June 30th, 2015.
- As a result of taxes not being collected, abated or transferred to tax title, \$207.4 million in FY2015 property taxes became outstanding as of June 30th, 2015.
- Tax titles of \$336.4 million as of June 30, 2014 increased \$4.7 million, or 1.4%, to \$341.1 million as of June 30th, 2015.
- In 98 of 332 cases, a community's total outstanding taxes exceeded its free cash amount certified as of June 30th, 2015.

Conclusion

What does this all mean?

1. Collection of real estate, personal property, and tax titles has a process that collectors and treasurers must follow in meeting the fiduciary responsibilities of their positions, improving a community's level of free cash and maintaining proper cash flow.
2. To ensure the availability of funds for appropriation and proper cash flow, collectors and treasurers in less populated communities may have increased responsibilities or challenges in collecting outstanding taxes.
3. The collection process for outstanding personal property taxes requires different methods than for outstanding real estate taxes because there is no similar lien.
4. Outstanding property taxes, whether placed into tax title or not, remain uncollected and weaken the community's financial position.

The second part of this series will review motor vehicle excise tax receivables.

To learn more about the tax collection process, see the [Massachusetts Collector's Manual](#) and the [Massachusetts Treasurer's Manual](#). To view the data used for this article, [click here for the FY14 Outstanding Receivables Report](#) and [here for FY15 Outstanding Receivables Report](#).

(1This Schedule is found in the Tax Rate Module in [Gateway](#) under "Misc. Forms.")

Ask DLS

[EDITOR'S NOTE: Due to technical difficulties, readers may be unable to access the MGL citation links in this article.]

This month's *Ask DLS* features frequently asked questions regarding tax titles. Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

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 the *Ask DLS* published in [City & Town on February 4th, 2016](#) for details about demand and notice requirements.

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.

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 percent 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 percent 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.

Register Now for the New

Officials Finance Forum

Division of Local Services

The Department of Revenue's New Officials Finance Forum will be held on Wednesday, June 1st at the College of the Holy Cross in Worcester. This course is intended for recently elected or appointed local municipal finance officials. With an emphasis on the basics, it's designed to foster a team approach to municipal finance by developing an understanding of the responsibilities of the various offices as well as their interrelationships.

The day will begin with Senior Deputy Commissioner Sean R. Cronin's opening remarks and topics will include an overview of municipal government, the budget process, the tax recapitulation process, and reserve and debt policies. We encourage municipalities to forward this information to any and all new officials who would benefit from attending.

The registration form and \$50 registration fee must be received by May 23rd. [Click here for the registration form.](#)

For additional information, contact Donna Quinn at (617) 626-3838 or quinnd@dor.state.ma.us.

Municipal Health Annual Reporting Requirement Eliminated

Executive Office for Administration and Finance

The annual reporting requirement has been eliminated from the municipal health insurance reform regulations (801 CMR 52:00 Municipal Health Insurance). Local governments are no longer required to submit each year by June 30th a report on whether they have taken action to address health insurance costs.

The elimination of this annual requirement is a result of the Baker Administration's year-long review of all executive department regulations. When this initiative was announced in March 2015, it was stated that the goal was to make sure state government speaks with one voice and that this review will make Massachusetts a better place for job creation, business development, and managing local affairs. Based on the feedback from local officials throughout the review process, elimination of the municipal health insurance annual reporting requirement was a priority.

The updated municipal health insurance regulation is available online

by clicking [here](#).

MassDEP Launches Program Supporting Lead Testing in Public School Drinking Water

Massachusetts Department of Environmental Protection

Earlier this week, the Massachusetts Department of Environmental Protection (MassDEP), in partnership with the Massachusetts Department of Elementary and Secondary Education, released a Request for Interest (RFI) soliciting interest by public schools and public early education and childcare facilities in receiving technical assistance and sample analysis services for lead and copper in drinking water. This new program is part of a continued effort by the Baker-Polito Administration and State Treasurer Deb Goldberg to ensure safe drinking water in schools and early education and childcare facilities around the Commonwealth. Under this program, MassDEP will provide technical assistance and laboratory analysis services to public schools and public early education and childcare facilities to ensure that taps and water fountains in these facilities can be sampled, and to identify any results that show lead and copper contamination over the action level.

Responses to the RFI must be submitted no later than May 27, 2016 at 5:00 pm. The RFI, as well as other information about this program, can be found by clicking [here](#). More information about this program will continue to be added to this web page in the near future.

MOD Available to Help Establish Local Commissions on Disability

David D'Arcangelo - Director of the Massachusetts Office on Disability

The [Massachusetts Office of Disability \(MOD\)](#) is reaching out to cities and towns to offer support and provide guidance in forming local Commissions on Disability. This is an important step toward ensuring equal access and opportunity for Persons with Disabilities. Recently, the MOD sent "COD Formation in Your Community" packets to local officials across the Commonwealth.

Currently, there are about 150 communities throughout the Commonwealth that do not have an established COD and MOD

available to assist all interested municipalities. To form a COD, a municipality must adopt [MGL c. 40 sec. 8J](#) either at town meeting or through action by the city council and mayor.

The mission of a COD is to promote the inclusion and integration of persons with disabilities in the activities, services and employment opportunities of the community.

CODs can also:

- Advise and assist municipal officials in ensuring compliance with federal and state disability laws
- Attain the ability to allocate funds from handicapped parking fines for the benefit of persons with disabilities
- Provide research, information, advocacy and technical assistance to individuals, businesses and organizations in disability-related matters
- Coordinate the activities of other local groups organized to meet the needs of persons with disabilities

CODs consist of no less than five and no more than nine members. The majority of the appointed members must be persons with disabilities and one may be a member of the immediate family of a person with a disability. Also, at least one member must be an elected or appointed municipal official.

To learn more about establishing a COD or to become a member on a COD in your community, please feel free to contact me directly at (617) 979-7317 or david.darcangelo@state.ma.us.

May Municipal Calendar

May 1

Taxpayer

Deadline for Payment of Semi-Annual and 4th Quarterly Tax Bill Without Interest

According to MGL Ch. 59, Sec. 57, this is the deadline for receipt of the 2nd half actual tax payment, or the actual tax payment if an optional preliminary bill was issued. According to MGL Ch. 59, Sec.

		57C, this is the deadline for the 4th Quarter tax payment.
May 1	Treasurer	Deadline for Payment of Second Half of County Tax
May 1	Accountant/Treasurer	<p>Notification of Amount of Debt Due in Next Fiscal Year</p> <p>As required by MGL Ch. 44, Sec. 16, the Accountant or Treasurer must notify the Assessors of all debt due in the next fiscal year because the municipality is required to pay its debts, appropriated or not.</p> <p>Since all debt service must be paid, any debt service not covered by appropriations is added to the "Other Local Expenditures" category, found on 2 of the Tax Recapitulation Sheet. It is important that the Assessors have this information in order to avoid setting a tax rate lower than required and raising insufficient revenue to cover the municipality's expenditures.</p>
May 15	DOR/BLA	Commissioner Determines and Certifies Telephone and Telegraph Company Valuation
Final Day of Each Month	State Treasurer	<p>Notification of monthly local aid distribution.</p> <p>Click www.mass.gov/treasury/cash-management to view distribution breakdown.</p>

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