2022 Municipal Law Seminar
WORKSHOP B
Treasurer and Collection Issues

DISCUSSION SUMMARY
(Prepared For Informational and Training Purposes Only)

This summary of the informal discussion presented at Workshop B is provided for educational and training purposes. It does not constitute legal advice or represent Department of Revenue opinion or policy, except to the extent it reflects statements contained in a public written statement of the Department of Revenue.

LOCAL TAXES & CHARGES FOR CHAPTERLANDS

1. A farmer built a deluxe farmstand on a one-acre portion of his 200-acre farm which is classified under Chapter 61A. The town had declined to exercise its right of first refusal to purchase the property.

    a. How were the penalty taxes calculated? What would be the rate of interest, if any, in the calculation of the penalty tax?

    The assessors will impose either conveyance taxes or rollback taxes, whichever is higher. The conveyance tax will be imposed if the one-acre parcel is sold or converted to a nonqualifying use within ten years of acquisition or continuous use as forest, or agricultural or horticultural, if earlier. In this instance, the conveyance tax would be calculated using the one acre's value multiplied by the conveyance tax rate which declines from ten percent to one percent over the ten-year period. If the conveyance tax does not apply, then rollback taxes would be imposed over a five- year period. The rollback tax for each year would be calculated by subtracting the actual Chapter 61A taxes on the one-acre parcel from what would have been the Chapter 59 full value taxes. The interest on the amount saved each year is calculated at the rate of 5 percent. There is an exemption from interest if the land was classified as of July 1, 2006 and had been continuously owned since that date by the July 1, 2006 owner, or that owner's spouse, parent, grandparent, child, grandchild, brother, sister or surviving spouse of any of those deceased relatives.

b. The taxpayer ignored the penalty tax bill. What is the rate of interest on the unpaid penalty tax? Can the interest be waived?

The interest on the unpaid bill would be 14 percent. There is no waiver of interest provision other than G.L. c. 60, § 15 which allows the collector, in his discretion, to waive interest, charges and fees when the total amount thereof is $15 or less.

c. What recourse does the town have if payment of the penalty taxes is never made?

The collector would make a tax taking for the unpaid penalty taxes. The treasurer could then pursue foreclosure of the tax title in Land Court.

G.L. c. 61A, §§ 13, 14
G.L. c. 59, § 57
G.L. c. 60, § 53

2. The owner of a 100- acre farm is planning to sell the farm. He has met with members of a Chapter 180 nonprofit corporation. They have expressed an interest in building a private elementary school on the site. After extensive negotiations, a purchase and sale agreement has been signed.

a. The land is classified under Chapter 61A. Does the town have a right of first refusal? Are penalty taxes owed?

There is a penalty tax or right of first refusal since the purchaser would change the use of the parcel to a nonqualifying use, i.e., a commercial, industrial, or residential use.

b. The nonprofit school recorded a deed to the property in May 2022. Is the parcel exempt for fiscal year 2023?

The parcel would be eligible for a Clause 3 charitable exemption as of July 1, 2022 (the exemption qualification date for fiscal year 2023) if the school made diligent efforts to construct the school and remove to the parcel within two years of acquisition. In this instance, the school would have to be operational by May 2024.

G.L. c. 61A, § 12 & 13
G.L. c. 59, § 5(3)

3. An owner of a 60-scre parcel filed for Chapter 61A classification as horticultural land in September 2020 for FY 2022. The land has been continuously farmed since the 1980s. The assessors denied the Chapter 61A application since a subdivision plan was filed and the Planning Board had classified the land as industrial in June 2020. In December 2020 the taxpayer requested a redetermination or modification of the assessors' denial which the assessors denied in March 2021. The assessors reasoned that even if the parcel may be used for growing crops, its primary use was not horticulture, but rather as land for sale as industrial lots. The taxpayer appealed to the Appellate Tax Board (ATB).

    a. How did the ATB decide this appeal? Does this land qualify for classification under Chapter 61A as of January 1, 2021 for FY 2022?

    The Appellate Tax Board in the Wetstone case held that the land qualified for Chapter 61A classification. The owners were looking to the future and making preliminary plans for the land. At the present time, however, the owners did not change the use to an industrial park. According to the ATB, the assessors should look not at the highest and best use of the land, but rather determine whether the parcel is being used for farming purposes. The owners met the gross sales requirement of Chapter 61A which is $500 for the first 5 acres and $5 for each additional acre.

    NMB Wetstone v. Board of Assessors of East Longmeadow, (docket # 141874, ATB July 28, 1987)

4. A small farm has been sold to the owner's brother in a cash sale transaction. The buyer has begun to build a commercial automotive shop on the parcel. The deed has been recorded and notice of the sale was not sent to the town.

    a. Is the sale valid? What can the town officials do?

    This is a cash sale so there is no bank halting the sale due to the Chapter 61A lien. The town attorney should seek a court injunction to stop construction of the automotive shop and compel the owner either to offer a right of first refusal to the town or pay penalty taxes.

5. A wealthy money manager purchased a mansion property containing 27 acres of land. The new owner now describes himself as a farmer and has applied to the local assessors for Chapter 61A agricultural/horticultural classification. By this means he seeks to reduce his property tax bill.

    a. Is the property eligible for Chapter 61A classification?

    The parcel does not qualify since it does meet the gross sales requirement for the two immediately preceding tax years.

    b. Assume the Chapter 61A application was denied. What would you suggest so that this taxpayer can receive savings on his property taxes?

The owner should consider Chapter 61B for the land if it is kept in substantially a natural, wild, or open condition or in a landscaped or pasture condition.

G.L. c. 61A, §4
G.L. c. 61B, §1

6. A taxpayer purchased a colonial house on 7 acres of land. Some of his neighbors have their property in Chapter 61A. The taxpayer visited the assessors' office and learned the town had 5-acre zoning.

    a. Does the parcel meet the size requirement for Chapter 61A?

    Chapter 61A and local zoning provisions are not identical. The parcel would satisfy Chapter 61A's 5-acre requirement if the owner farmed up to the backdoor.

    b. Does the parcel meet the size requirement for Chapter 61B?

    The owner would also satisfy the Chapter 61B 5-acre requirement if the natural, wild, open, or landscaped area contained 5 acres.

    c. Can the parcel be subdivided?

    The parcel could not be subdivided.

G.L. c. 61A, §3
G.L. c. 61B, §1

7. An owner of Chapter 61 forest land seeks to install solar arrays on the property.

    a. If a solar facility is installed, would the parcel still qualify for Chapter 61?

    There is no solar energy provision in Chapter 61. The assessors should contact the State Forester about the installation of the solar facility which could lead to removal of the land from classification and trigger a right of first refusal or penalty taxes since the parcel has been converted to a nonqualifying commercial use.

    b. What would your answer be if the parcel was classified under Chapter 61A?

    Chapter 61A land is deemed to be in agricultural or horticultural use if used simultaneously to site a renewable energy generating source. Presently, the facility cannot produce more than 125 percent of the annual energy needs of the land and farm where located.

G.L. c. 61A, § 2A

8. What part of the following property owned by Ocean Spray Inc. would qualify for Chapter 61A status?

    a. Land under Storage Barn

    b. Land under Bee-Keeping Hives

    c. Land under Juice Factory

    d. Farm Roads

    e. Sand Pits

    f. Land under Corporate Headquarters

    g. Cranberry Bogs

    h. Irrigation Ponds

    i. Adjacent Woodland

    Land not cultivated but used in a manner customary and necessary to raising agricultural or horticultural produce, or preparing them for market, is land actively devoted for farm purposes and included in the calculation of the minimum acreage required for classification. The land under the juice factory and under the corporate headquarters would not qualify for Chapter 61A status. Whatever is the amount of productive land, the same amount of nonproductive contiguous land would be classified under Chapter 61A. The adjacent woodland could be classified under Chapter 61A.

9. Taxpayer owns 15-acres of land which are used for boarding horses and riding stables. The outdoor area is used primarily for horseback riding and consists of paddocks, riding rings, riding trails and open lands. The indoor area consists of barns, riding rings, arenas, and similar facilities.

    a. Does the property qualify for Chapter 61A?

    Chapter 128, § 1A defines agriculture for purposes of zoning to include "the keeping of horses as a commercial enterprise." Chapter 61A, however, is a production statute which means horses must be raised for sale in the regular course of business. The taxpayer then does not qualify for Chapter 61A.

b. Would the parcel qualify for Chapter 61B?

The parcel's vacant land would qualify for Chapter 61B if there were 5 acres of land for pasture or unpaved riding trails. Buildings and other structures would not qualify for Chapter 61B since they would interfere with environmental benefits. Chapter 61B, § 1 includes with recreational activities "commercial horseback riding and equine boarding."

10. Robert Green owns a 4-acre parcel on which hay is raised. He also owns a 3-acre parcel one half a mile away which he also uses to grow hay.

    a. Would the two parcels qualify for Chapter 61A classification?

    G.L. Ch. 61A, § 4 defines contiguous land as land that abuts and is separated only by a public or private way or waterway, e.g., land across the road that would touch but for the road. It would include land abutting at a corner but divided by a highway, with no intervening ownership. In this instance, the two parcels are not contiguous and neither one of the parcels meets the 5-acre requirement of the statute.

G.L. c. 61A, § 4

11. A farmer whose land is in Chapter 61A has decided to cease farming. He has no immediate plans for the land. He did not file a Chapter 61A application for fiscal year 2023.

    a. Does the taxpayer owe penalty taxes? Does the town have a right of first refusal?

    The taxpayer does not owe penalty taxes and there is no right of first refusal since there is no unqualified use. The parcel is not being converted to a residential, commercial, or industrial use.

    b. How would the parcel be assessed as of January 1, 2022 for fiscal year 2023?

    The parcel would be assessed at full value under Chapter 59 and classified as developable land.

G.L. c. 61A, § 14
G.L. c. 59, § 2A(b)

12. A farmer who owns a 200-acre farm has decided to convey land to his daughter who will build a house for herself and her family.

    a. Does the town have a right of first refusal? Does the farmer owe penalty taxes on the land conveyed to the daughter?

G.L. Ch. 61A, § 14 provides there is no right of first refusal if the parcel is used to construct a house for a family member. The ATB in the Ross case disallowed rollback taxes in a situation like this since there was, according to the ATB, no change in land use for purposes of G.L. Ch. 61A, § 13. The Appeals Court in the Westport case disallowed conveyance taxes since building a personal; residence on one's own agricultural land did not constitute a change in use under Chapter 61A.

b. How much land can be conveyed to the daughter and still be exempt from penalty taxes?

It could be what is allowed as a house lot under zoning, or it could be any amount of land. In the Ross decision from the ATB, the taxpayer conveyed 17 acres of his 77-acre farm to his son for a residence.

G.L. c. 61A, § 14
Adams v. Assessors of Westport, 76 Mass. App 180 (2010) (conveyance tax)
Ross v. Assessors of Ipswich, (docket #F239496, ATB November 21, 2000) (rollback tax)

13. South Shore Tennis and Swim Club, Inc.(South Shore) is a private exclusive members only swim and tennis facility located in your community. South Shore is a Chapter 180 nonprofit corporation formed to promote the game of tennis and to foster and promote the sport of swimming and to provide tennis and swim instruction and lifeguard training. The subject parcel consists of indoor and outdoor tennis courts, indoor and outdoor swimming pools, an administrative building, and a club house for members with a restaurant and spa. There are also 23 acres of undeveloped land which the members can frequent for hikes and picnics.

a. Would the parcel qualify for Chapter 61B?

The 23 acres of vacant land would qualify under Chapter 61B since it is recreational land used for hiking and picnics which are permitted uses as provided in G.L. c. 61B, § 1. In accordance with Chapter 61B, the vacant land is open to members of a non-profit organization, including a corporation organized under Chapter 180.

b. Is the parcel tax exempt?

The property is not eligible for a charitable exemption since there is no benefit to an indefinite class of the public. The situation is like that in the Lancaster case. According to the ATB in that case, the taxpayer failed to demonstrate that the promotion of soccer was a traditional or an accepted charitable purpose. In fact, the organization operated primarily for the benefit of elite soccer players.

G.L. c. 61B, § 1
Massachusetts Youth Soccer Association, Inc. v. Board of Assessors of Lancaster, (docket ##F299524, F299525, ATB May 16, 2012)

14. A nonprofit charitable corporation for years had 120 acres of land classified under Chapter 61. The corporation had hired an independent licensed forester to prepare a forest management plan. There was a Chapter 61 lien on the property and a 10-year forest management plan. The assessed taxes were reduced due to its Chapter 61 classification. The taxpayer recently claimed the land was tax exempt conservation land, and that it could avoid the time and expense of applying for Chapter 61 status.

    a. Was the land eligible for a charitable exemption as claimed by the taxpayer?

    In the Hawley case the Supreme Judicial Court held that conservation land is eligible for a Clause 3 charitable exemption. According to the Court, Chapter 61 and Chapter 59 Section 5 Clause 3 serve distinct purposes but the statutes are not mutually exclusive. Safeguarding the environment and natural resources furthered governmental conservation objectives as expressed in Article 97 of the State Constitution. Preservation of land also benefited an indefinite number of people.

G.L. c. 59, § 5(3)
New England Forestry Foundation, Inc. v. Board of Assessors of Hawley, 468 Mass. 138 (2014)

15. It is rumored that a new production of "State Fair" by Rodgers and Hammerstein will be filmed in the western part of the Commonwealth. The movie will center around activities at the Eastern States Exposition.

    a. Do you know what State statute provides an exemption for the real estate and personal property of incorporated agricultural societies?

    Chapter 59 Section 5 Clause 4A provides exemption for land used for agricultural exhibition purposes.

    b. Do you know what State statute provides reduced taxation for any person, not including a corporation, engaged principally in agriculture, and also for individuals under the age of 18 who raise livestock in connection with an agricultural youth program?

    Chapter 59 Section 8A (Farm Animal and Machinery Excise) provides a reduced taxation in the situations presented.

    c. Do you know what State entity annually adopts a range of recommended values for land classified under Chapter 61 and Chapter 61A as well as recommended value for farm animals?

The Farmland Valuation and Advisory Commission provides recommended values as described in Chapter 61A Section 11.

G.L. c. 59, § 5 (4A)
G.L. c. 59, § 8A
G.L. c. 61A, § 11

ACQUISITION AND DISPOSITION OF MUNICIPAL LAND

TAX BILL INSERTS, CHECK-OFFS AND ERRORS

1. The town of Pawnee, Massachusetts acquired a parcel of land by purchase to be used for a new park in town. The property was purchased on December 20th 2021, and the previous owner, a dentist named Dr. Jam, paid the quarter one and quarter two taxes but not quarters 3 and 4. Can the town of Pawnee abate the taxes for quarters 3 and 4?

   The Legislature has conferred upon cities and towns the power or duty to: Acquire any land, easement, or right on the territory within its boundaries for any public purpose. (G.L. c.40, § 14) The acquisition may be made by the means of an outright purchase, by an eminent domain taking, by gift, or by tax title. (G.L. c. 60, §§ 64-69).

   Chapter 59 Section 72A contemplates that taxes on real property acquired by purchase (other than eminent domain) or acquired by gift can be abated from the date of acquisition to the end of the fiscal year, and if the transaction occurs after January 1, the taxes can be abated for the subsequent fiscal year. The parcel will not appear on the tax rolls if the municipality owns it on the January 1 assessment date and on the following July 1 exemption qualification date. So, here, Pawnee is able to abate the remainder of the taxes from the December 20th purchase date until the end of Fiscal Year 2022. And the parcel will not appear on the tax rolls for FY23 because Pawnee will own it on January 1, 2022.

   The assessors should remove any parcel acquired by purchase or gift from the tax rolls beginning in the fiscal year after title passes. Taxes assessed for the fiscal year the transaction occurs, however, are allocated between the assessed owner and the town, and the unpaid amount attributable to the town's ownership should be abated by the assessors upon request of the board or officer having control of the property. G.L. c. 59 §72A. The assessors may also abate any taxes inadvertently assessed for a subsequent fiscal year. Any abatement is charged to the overlay account in the same manner as any other property tax abatement. G.L. c. 59 §. 25. At DLS we routinely see requests for abatement under G.L. 58, § 8 for taxes on municipally acquired real property and we routinely deny these types of requests because, as mentioned, the municipality already has the ability to address the outstanding obligation locally.

   G.L. c. 40, § 14
   G.L. c. 60, §§ 64-69
   G.L. c. 59, § 72A
   G.L. c. 59, § 25
   G.L. c. 58, § 8

2. The Board of Water Commissioners in Pawnee approve a taking by eminent domain for property for water protection purposes. This was approved on April 5th, 2022. The Pawnee assessors want to know how long the property will remain taxable?

   If the town acquires real property by eminent domain, the entire tax assessed for the fiscal year of the taking remains the personal liability of the assessed owner. The reason is that the eminent domain statute includes its own mechanism for allocating the taxes between the parties through the award of compensatory damages. Specifically, Pawnee is required to include as a separate element of damages payable to the Pawnee property owner, the current fiscal year 2022 taxes pro-rated from the date of taking until the end of that year which is July 1, 2022. G.L. c. 79 § 12. This reimburses the taxpayer for paying the portion of the taxes allocable to Pawnee's ownership of the property.

   The tax status of the property for the fiscal year after the taking depends on several factors. If the taking occurred between July 1 and December 31, the parcel is to be removed from the tax rolls for that next fiscal year. Where the taking occurs between January 1 and June 30, however, the eminent domain statute requires that the damages also include taxes for the next year. The assumption is that the property owner will be assessed as of January 1 for that year and therefore, will remain personally liable for paying those taxes as well. In our experience, it appears many governmental entities assume that all parcels taken will be treated as exempt in the next fiscal year because few seem to include taxes for that year in their damage awards. As a practical matter then, we think the assessors should go ahead and remove any parcel taken by the town from the next year's tax rolls, provided the damages did not include taxes for the year. And again, the previously mentioned G.L. Ch. 59 section 72A does not apply to eminent domain.

   G.L. c. 79, § 12
   G.L. c. 59, § 72A

3. Ron Swanson owned a log cabin in Pawnee, isolated away from the rest of the city. Because Mr. Swanson is a proud anti government libertarian, he did not pay his taxes for many years. Pawnee had to issue a tax title foreclosure and acquired the log cabin and land by this method. When should Pawnee remove the property from the tax rolls?

   Real property acquired by Pawnee as the result of tax title foreclosure should not be removed from the tax rolls for the fiscal year after the year the foreclosure decree is entered by the Land Court since Ron Swanson has the right to petition Land Court to vacate the decree within one year after the final entry of the decree as provided in G.L. Ch. 60, § 69A. This does not mean any tax assessed on the property for a subsequent fiscal year should be abated. Instead, the tax, including interest and charges, should be certified by the Pawnee collector to the Pawnee treasurer and accounting officer and transferred to the tax possession account. Any taxes that remain on the collector's books because they were not certified to the tax title account before the foreclosure decree was issued should also be certified and transferred to the tax possession account pending a final disposition of the property. In our opinion, Pawnee should be able to require payment of these amounts in

addition to those for which the foreclosure decree was entered if Ron Swanson seeks to vacate the decree and redeem the property.

G.L. c. 60, § 69A

4. The local dentist from question 1, Dr. Jam, decides to uncharacteristically donate a parcel of land he owns to the town of Pawnee. Everyone is really shocked by his generosity. It turns out, Dr. Jam donated the parcel because there are multiple liens and the parcel of land has been under tax taking for many years now. What is the best course of action for Pawnee?

   One option is a deed in lieu of foreclosure pursuant to 60:77C. Pawnee may accept title from Dr. Jam for this property on which there are municipal liens as an alternative to tax taking and foreclosure proceedings. Properties accepted under this option are then treated as if a tax title foreclosure has been completed. Liens for outstanding real estate taxes or other municipal liens must exist on the parcel at the time title is accepted, but the parcel does not have to be in tax title.

   Title to the parcel may be accepted, however, subject only to municipal liens. This means that all other liens or encumbrances, such as mortgages, mechanics or other liens, will ordinarily have to be cleared before Pawnee may accept the deed. Alternatively, the deed may be accepted if all mortgagees, lien holders and others with interests in the parcel convey their interests to Pawnee.

   To protect the municipality, all parties with interests in the parcel will have to be identified and, therefore, a title examination may be required. Pawnee's legal counsel should be consulted regarding any proposed transaction. Municipalities should adopt policies regarding the circumstances under which they will accept title to a parcel.

   Acceptance should generally be limited to parcels with a current fair cash value of at least the amount owed unless a parcel is being acquired for a public use or enforcement of personal liability against the assessed owner is unlikely or impossible. The assessed owner of a parcel that is worth less than the amount outstanding will otherwise realize a windfall since acceptance discharges the owner from personal liability and the municipality cannot recover any deficiency as would be the case after an ordinary tax title foreclosure.

   All municipal taxes and charges outstanding as of the date the deed is recorded are deemed paid in full at that time. This includes the full amount of taxes assessed for the current fiscal year, as well as all accrued interest and collection costs, owed as of that date. As such, assessors are to remove the parcel from the tax roll beginning in the fiscal year after the title is transferred to Pawnee. DLS IGR 2021-22 concerns this topic. Otherwise, Pawnee could always refuse to accept the gifted parcel and pursue foreclosure in Land Court or through the Land of Low Value procedure with DLS…and Jam would be jammed.

   G.L. c. 60, §77C
   Informational Guideline Release 2021-22

5. The town of Pawnee's recreation department has a very enthusiastic employee, Leslie Knope, who would like to acquire a dilapidated pit in front of a friend's home and turn it into a beautiful park for recreational purposes. She has a large, organized binder outlining her plan, but she would like to use Community Preservation Funds to acquire this pit and turn it into the park. Is this allowed?

   Upon recommendation of the Pawnee Community Preservation Committee, Pawnee may acquire, or take by eminent domain, interests in real estate for allowable community preservation purposes. A two-thirds vote of Pawnee's legislative body is required to take the interest by eminent domain. G.L. c. 44B, § 5(e); G.L. c. 79. All other acquisitions require a majority vote of its legislative body.

   An acquisition of an interest in real property with community preservation funds is not subject to the procurement requirements of G.L. c. 30B, § 16; however, the price of a real property interest acquired with community preservation funds must not exceed the value of the property determined through procedures customarily accepted by appraising professionals as valid. G.L. c. 44B, § 5(f). Again, Pawnee's Municipal legal counsel should be involved whenever Pawnee proposes an acquisition or disposition of an interest in real estate

   G.L. c. 44B, § 5(e)
   G.L. c. 79
   G.L. c. 30B, § 16
   G.L. c. 44B, § 5(f)

6. Pawnee decides to go ahead and purchase the pit for recreational use. However, after many years, the community decides it no longer wants to own this park, and would like to dispose of the parcel. What can Pawnee do?

   Although acquisitions of interests in real estate with community preservation funds are specifically exempted from the procurement requirements of G.L. c. 30B, § 16, there is no similar exemption from procurement requirements for dispositions of interests in real estate acquired with community preservation funds. G.L. c. 44B, § 5(f).

   As a result, Pawnee must follow the applicable procurement procedures regarding a disposal of real estate when the real estate is acquired with community preservation funds. If the real estate will be disposed subject to the applicable restriction Pawnee must follow applicable general legal requirements regarding the disposition of municipal real estate. If Pawnee has determined to dispose of the real estate without the restriction, then the community must also follow the restriction release procedures set forth in G.L. c. 184, § 32. In addition, Article 97 of the Amendments to the Massachusetts Constitution may apply to a real estate disposition. Pawnee's Municipal legal counsel should be involved whenever Pawnee proposes an acquisition or disposition of an interest in real estate.

Additionally, the general rule concerning any proceeds obtained from the disposal of any real estate interest acquired with monies from the CP Fund is that those proceeds must be credited back to the Fund from which it came. For example, if the original financing source for the acquisition was restricted, i.e., from the open space special purpose restricted reserve, then the disposition proceeds should be credited to that special purpose restricted reserve.

G.L. c. 30B, § 16
G.L. c. 44B, § 5(f)
G.L. c. 184, § 32
Article 97 of the Amendments to the Massachusetts Constitution
Informational Guideline Release 2019-14

7. Tom Haverford, a longtime Pawnee resident would like to open his new business in an old warehouse owned by Pawnee. Pawnee has no use for this building and would like to sell the warehouse to Tom. What are the tax obligations upon Tom for the purchase of municipally owned land?

Any disposition of town owned property, regardless of how it was acquired, is subject to the requirements of G.L. c. 44 § 63A. Under that statute, Tom Haverford must make a payment in lieu of taxes before the deed is delivered. The payment for the fiscal year of the sale is pro-rated from the date title passes to June 30. If the sale occurs between January 1 and June 30, a full pro forma payment for the next fiscal year must also be made. This is because Pawnee would be the owner on the January 1 assessment date for the next fiscal year and any tax assessed in its name could not be enforced against the new owner. The computation of the "in lieu of tax" payment is based on the purchase price and the tax rate for the year the sale occurred, with credit given for any exemptions the new owner would have been entitled to if title had passed before the applicable January 1 assessment date. Sums received are credited as general funds of the town.

G.L. c. 44, § 63A

8. How would Pawnee account for proceeds of the sale?

The general rule is that all money received by Pawnee must be paid into the general fund unless otherwise provided by statute or special act. G.L. c. 44, § 53. However, proceeds of municipal real estate sales, not including real estate acquired by tax title foreclosure, if greater than $500, must first be applied to the debt or sinking fund associated with the expense of acquiring the real estate, if any. If none, any balance remaining may be appropriated for any purpose for which the city or town could borrow five years or more or for the payment of indebtedness for any land acquisition or, in general, public building improvement purpose.

Additionally, any proceeds over $500 from the sale of park land must only be used to acquire park land or for capital improvements to park land. G.L. c. 44, § 63.

G.L. c. 44, § 53
G.L. c. 44, § 63

9. There is another plot of land in Pawnee that the recreation department has advocated for purchasing for use of the park. The land is very small in size, and not very highly valued. The taxes have not been paid on the parcel for many years. The owner has moved away and cannot be located. Does Pawnee have any options?

   Pawnee may utilize the land of low value procedure under G.L. c. 60, § 79 to foreclose on a tax title property through a public auction by applying to the commissioner of the department of revenue for an affidavit. The value of the land must not exceed the land of low value threshold, currently $ 24,804 for calendar year 2022.

   G.L. c. 60, § 79
   Informational Guideline Release 2021-22

10. Pawnee has a new Tax Collector, April Ludgate. April's former boss, Leslie Knope, a current Parks and Recreation Department employee, is running for Town Council. Leslie has been a mentor to April for many years and would like to send a letter of her endorsement to the residents of Pawnee. The tax bills are due soon and as a way to save time and money April would like to send her endorsement letter along with the tax bills. Is this allowed?

    No. 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. G.L. c. 60, § 3A(d). "Non-political" information means information that does not advocate for or seek to advance or influence a particular policy position or candidate. Municipal informational material means information that originates with the municipality and relates directly to its own operations, services or programs. For example, printed messages that disseminate facts about the municipality's recycling program or schedule would be proper insert material. April's endorsement of Leslie is a violation of 60:3A.

    G.L. c. 60, § 3A

11. There is a new veteran assistance fund being established in Pawnee. April Ludgate, the collector would like to have a check off section on this year's tax bills to allow Pawnee residents to check off if they would like to donate to this newly established fund. Is this allowed?

    Yes. Cities and towns may designate a place on the property tax bill (or design a separate form to be mailed with the tax bills) for taxpayers to check off amounts to donate to (1) scholarship and education funds authorized by G.L. c. 60, § 3C, (2) fund to assist low income elderly or disabled persons pay their property taxes authorized by G.L. c. 60, § 3D, and (3) veteran assistance fund authorized by G.L. c. 60, § 3F. They may also include check-offs for other donations when authorized by special act. The local funds check-off may also appear on or accompany the preliminary tax bill and demand notice.

All funds check-offs must conform to the proper format, with only those funds accepted by Pawnee's legislative body or authorized by a special act appearing in line 2. If the check-off appears on a separate form, rather than the tax bill or demand, the form may also include instructions to taxpayers on how to contribute to the funds by completing and returning the form with their tax payments. No other information regarding the funds may be placed on a check-off form.

Only bills or forms that meet these requirements may state "Approved by the Commissioner of Revenue."

G.L. c. 60, § 3C
G.L. c. 60, § 3D
G.L. c. 60, § 3F

12. The Pawnee Veteran's Agent discovers the check off option for the veteran assistance fund. The Pawnee Veterans Agent has been accepting donations for the purpose of constructing a particular war memorial in town and they already have a gift account established for the purpose. Can they transfer these funds into the new Veterans Assistance Fund?

    The purpose of the donations currently received by Pawnee are to fund a particular war memorial. Those purposes are narrower than the purposes would be for the new tax check-off which is for the creation and restoration of monuments and other activities in Pawnee that honor the contributions and sacrifices of veterans living there. Therefore, because Pawnee must spend gifts and donations according to the intent of the donor, they cannot deposit those funds into another donation account for broader and different purposes. The donations they have on hand may only be spent to construct a particular new memorial. Additionally, private donations for the war memorial were not received as part of any tax bill check-off procedure under G.L. c.60 and should be deposited and remain in a gift account, under G.L. c. 44, s. 53A, and spent through that procedure.

    G.L. c. 60
    G.L. c. 44, § 53A

13. Donna, a local non profit volunteer working to support animals in Pawnee reaches out to the Collector's office because they are interested in including on local property tax bills and/or excise tax bills a checkoff box to allow residents to donate money for the purpose of helping animals, which may be more limited to spay and neuter services. Is this allowed?

    The information that may appear on a tax bill is specifically prescribed by statute. G.L. c. 60, § § 3 and 3A. The only voluntary donation check offs that may appear are those authorized by statute. See local acceptance statutes G.L. c. 60, §3C, which authorizes a voluntary check off box to be placed on tax bills for donations to a scholarship or education fund and G.L. c. 60, §3D, which allows a voluntary check off box for donations to an elderly and disabled taxation fund. No other requests for donations may appear on the town's tax bills. To add the proposed check-off box for donations to animal-welfare charities, Pawnee would need special legislation. The

form and content of property tax bills are highly regulated by statute, G.L. c. 60, § 3A(a), so a tax bill check-off for local contributions must be authorized by a general law or special act. However, the Department of Revenue does not approve the format on an individual community by community basis. The check-off is considered approved so long as it conforms to the requirements specified in the annual tax bill IGRs. The situation at hand would likely not be allowed as this is a private group and therefore could be a violation of a proper public purpose. Even if Pawnee did try and get special legislation passed to allow this, it remains to be seen whether it would be approved by the legislature as they may see it as a precedent to allow communities to ask for donations for private entities which, again, seemingly is a not a proper public purpose.

G.L. c. 60, § 3C
G.L. c. 60, §§ 3 & 3A
G.L. c. 60, § 3D

14. April Ludgate's husband Andy is known as the Pawnee goofball. She was feeling overwhelmed by her work this year, and asked for Andy's assistance in sending out the tax bills. It was later discovered that, perhaps unsurprisingly, there were several errors made in the bills. What does April Ludgate have to do if the following errors are discovered after the actual tax bills for the year are mailed?

In all cases, the collector has the option to reissue the incorrect bills. Reissuing the bills may establish new payment and abatement application due dates for those taxpayers depending on the payment system the community uses. if the community uses the quarterly payment system and the reissued bills are mailed after December 31, May 1 becomes the due date for the balance owed and abatement applications.

A) The tax rate was not printed on some or all bills. The bills are valid and do not have to be reissued if both the commitment and bills display the correct valuations and assessed taxes for the year for the properties so that the correct applicable tax rate can be derived. However, Pawnee taxpayers should be informed of the omission and the year's rates through appropriate means. Those could include, for example, the municipality's website, the local newspaper, Perd Hapley could announce this on the local cable access channel, social media or mail/email notices to taxpayers, particularly to out of town taxpayers who would not have access to public information provided locally.

B) Last year's tax rate (or other wrong rate) was printed on some or all bills. The bills are also valid and do not have to be reissued if both the commitment and bills display the correct valuations and assessed taxes for the year for the properties, but the correct applicable rate derived from them differs from the displayed rate. The discrepancy could be resolved on inquiry by taxpayers; however, there is potential for confusion and taxpayers must be notified of the error through appropriate means, as explained earlier, as soon as possible.

C) The wrong valuations or assessed taxes were printed on some or all bills. The bills are not valid and must be reissued if they display wrong valuations or assessed taxes for the fiscal year for the properties. Taxpayers who received those bills were not provided with adequate notice of their tax liability under G.L. c. 60A, § 3A(a). Without the correct valuation or assessed taxes, they cannot make informed decisions about applying for abatement and may make insufficient payments.

If the commitment for the bills is also incorrect and understates the valuations or assessed taxes for some properties, the assessors may revise the valuations or assessed taxes for just those properties under G.L. c. 59, § 76 and commit the revisions with a warrant to the collector. The reissued bills would show the correct valuation or assessed taxes, based on the original and revised commitment. Otherwise, the assessors would rescind the erroneous commitment and issue a new one before the reissued bills can go out.

D) The wrong address was used on a bill. Taxpayers are presumed to have received a tax bill sent to their correct address. Even if a properly addressed bill is not actually received, the taxpayer is liable for the tax, plus interest and fees if not paid when due. However, if the bill was misaddressed, e.g., the taxpayer provided a timely change of address, but the bill inadvertently showed the prior address, interest does not accrue (and abatement rights are not triggered) until a properly addressed bill is issued under G.L. c. 60, § 3. The tax is valid and the taxpayer is responsible for its payment, but no interest accrues if payment is made within the due date established by the mailing of the properly addressed bill.

G.L. c. 60, § 3A
G.L. c. 59, § 76
G.L. c. 60, § 3