



DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

Workshop E

Municipal Law Conference 2024

Question 1

The town is experiencing serious cash flow problems and significant sums are due very soon.

A. Can the treasurer remedy the situation by “borrowing” internally from the town’s municipal light plant funds?

B. Could the treasurer “borrow” internally from the town’s Stabilization Fund or Perpetual Care Fund?

C. If there is an internal “borrowing”, when must the amount be repaid?

G.L. c. 44 § 20A

Question 2

The new town administrator reviewed the town's books and records and saw that some personal property accounts were outstanding as far back as fiscal year 2017.

A. Can the assessors on their own authority abate the personal property taxes? What procedure must be followed?

B. What collection remedies are available to the collector?

C. In his defense, the collector claimed many of the outstanding bills were for small amounts. Can the assessors establish a minimum tax of \$50 regardless of the value? Do the assessors have discretion not to assess personal property taxes on small personal property accounts?

G.L. c. 59 § 71

G.L. c. 59 § 5(54)

Question 3

A taxpayer who owned multiple parcels sent a check for \$40,000 with no instructions how to apply payment. The check was for less than the amount owed on all the parcels. The collector recently issued a municipal lien certificate (MLC) which showed an outstanding balance for fiscal year 2024 taxes for the 25 Main Street parcel. The taxpayer has requested the collector to reverse entries and show the 25 Main Street parcel to be paid in full.

A. How should the collector correctly apply the \$40,000 payment?

B. Should the collector reverse the entries and show the subject parcel to be paid in full?

Spinney v. Freeman, 230 Mass. 356 (1918)

Warren Brothers Co. v. Sentry Insurance, 13 Mass. App. 431 (1982)

Cressey Dockham & Co. v. Assessors of Andover, ATB docket #141825, (1989)

Question 4

Robert is the assessed owner of 9 Devonshire Street. On June 5, 2024 the collector issued a municipal lien certificate which showed the fiscal year 2024 taxes to be paid in full. In fact, the 4th quarter bill was outstanding. The MLC was duly recorded. On June 12, 2024 Robert sold the subject parcel to Richard.

A. Has the town lost its lien on the Devonshire Street parcel?

B. What is the recourse for the collector?

G.L. c. 60 § 23

G.L. c. 60 § 35

Question 5

Mary Hayes purchased 89 Washington Street in 2021. She later married Edward Baxter in 2023. For fiscal year 2025, she requested the collector to send the tax bill in the name of Mary Baxter.

A. Should the collector comply with the request and send the tax bill in the name of Mary Baxter?

B. Mary sold the house in July 2024 to Robert Benson. Benson asked the collector to update his records and send the fiscal year 2025 tax bill in his name. What should the collector do?

G.L. c. 59 § 11

G.L. c. 60 § 3

Question 6

In August 2024 an order for relief was entered in the U.S. Bankruptcy Court under Chapter 11 on behalf of the Acme Corporation. Fiscal year 2024 taxes remain unpaid.

What should the collector do?

G.L. c. 60 § 37A

G.L. c. 60 § 95

Question 7

John Green is the owner of a construction company as of January 1, 2022. He incorporates in February 2022 under G.L. c. 156B. Green is a 100% shareholder of the corporation.

A. Green complained to the collector that the FY 2023 personal property tax bill was assessed in his name and not the corporation. Was the tax bill correct?

B. Is the subsequent owner (the corporation) entitled to an abatement or exemption of the personal property taxes?

C. For fiscal year 2024, personal property taxes were assessed to the corporation on heavy construction equipment which it leased to customers. Green ignored the tax bill and did not file for an abatement. Can the collector successfully pursue collection?

G.L. c. 59 § 18

G.L. c. 59 § 5(16)

Tax Collector of Braintree v. J.G. Grant & Sons, Inc., 26 Mass. App. Ct. 731 (1989)

Question 8

By deed recorded November 15, 2020, Mary Cavendish conveyed her house at 35 Main Street to Robert Smith, Trustee of the 35 Main Street Trust. Under the terms of the declaration of trust, Mary Cavendish is listed on the Schedule of Beneficiaries as having one third voting rights and a one third beneficial interest.

In September 2022 the attorney for the trust notified the collector that a new trustee, Thomas Wright, had been appointed.

What documentation should the attorney provide? Should the collector comply? What name should appear on the fiscal year 2024 tax bill?

Question 9

Richard Smith was the owner of record of 59 Jordan Drive as of January 1, 2023. Smith sold the property to Kevin Davis in May 2023. Fiscal year 2024 taxes were assessed to Smith. The subsequent owner, Kevin Davis, filed a timely abatement application. Taxes for the fiscal year are paid. In June 2024, the assessors granted a \$400 abatement.

A. To whom should the \$400 refund be paid? Should it be paid to the assessed owner (Smith) or the current owner (Davis)?

B. Could buyer as well as the seller have filed abatement applications?

G.L. c. 59 § 59

Question 10

The town plans to take by eminent domain several parcels for a highway extension.

A. Must the collector be notified of the eminent domain taking?

B. What is the measure of damages to be paid by the town to the owners?

C. One of the owners obtained a \$700,000 judgment against the town arising out of the eminent domain takings. Before payment was made, the collector reviewed the records and discovered that the taxpayer owed \$45,000 in real estate taxes on other parcels not subject to the eminent domain takings. The tax obligations go back fifteen years. What remedy is available to the collector?

G.L. c. 60 § 35; G.L. c. 260 § 2

G.L. c. 60 § 93; G.L. c. 79 § 7F; G.L. c. 79 § 12

Boston Five Cents Savings Bank v. Boston, 318 Mass. 183 (1945)

DeCota v. Town of Stoughton, 23 Mass. App. Ct. 618 (1987)

Question 11

A parcel whose ownership has never been determined has been assessed to the heirs of Roger Post, a large landowner who died in 1900. Taxes are outstanding for over twenty years.

A. The collector made a tax taking and the treasurer plans to foreclose on the property. Could there be a problem with the taking?

B. The parcel's assessed value is \$15,000. What would you recommend to the treasurer?

G.L. c. 60 § 79

Town of Oak Bluffs v. Norton, 31 LCR 339 (2023)

Question 12

The collector sent out FY 2025 boat excise bills in August. Several taxpayers visited town hall to complain about the bills.

A. The first taxpayer complained that he had been boating for years and never received an excise bill. Is boat excise a local option tax?

B. The second taxpayer complained that he received a \$105 bill for his 25-foot boat under 4 years of age. Yet, his neighbor received a bill for a similar amount for a much more expensive boat. How was this possible? What is the maximum boat excise bill?

C. The third taxpayer wanted to know where the boat excise appeared in the books and records of the town. What would be the collector's reply?

G.L. c. 60B § 2

Question 13

XYZ Corporation owns a 20-acre parcel of vacant land. A 15-parcel subdivision plan was approved by the planning board in February 2024 and recorded in the same month. XYZ Corporation conveyed 5 parcels to different owners and the deeds were recorded in June 2024.

A. The preliminary fiscal year 2025 tax bill for the 20-acre parcel was sent in June with a due date of August 1, 2024. The five new owners have requested the collector send individual tax bills. Can the collector do that?

B. What would happen if the 20-acre parcel were in tax title?

G.L. c. 59 § 78A

G.L. c. 60 § 76A

IGR 2017-11

Question 14

A taxpayer who turned in his vehicle under the lemon law received an excise bill which the taxpayer failed to pay. The collector then sent a demand for \$15 which prompted the taxpayer to visit the collector.

A. Was the taxpayer entitled to an abatement where the vehicle was returned to the dealer?

B. Can the charge for a demand vary from community to community? Who sets the fee?

C. Can there be a sliding scale for the demand fee based on the valuation or amount due?

G.L. c. 60A

G.L c. 60 § 15

Bulletin 2008-09B

Question 15

Certain questions have been raised in town centering around the treasurer and the collector.

A. The treasurer met with the town's tax title attorney who is preparing to seek foreclosure in Land Court. One of the parcel's had the instrument of taking recorded 3 months after the taking. Is the taking valid? Can the error, if any, be corrected?

B. Another tax taking on registered land was recorded at the Registry of Deeds and not on the Land Court side. What result?

C. A taxpayer who had been living in another State for a few years returned to Massachusetts. He learned that he had been marked at the Registry of Motor Vehicles and the amount of interest, charges and fees is more than the excise itself. The taxpayer is willing to pay the bill but not the interest, charges and fees. He had a terrible argument with the collector and there was a scuffle. The taxpayer sued the collector and the town. Can the town settle the case and pay an agreed amount to the taxpayer?

G.L. c. 60 § 54

G.L. c. 60 § 37

G.L. c. 44 § 31

Question 16

May a tenant in Anytown pay the taxes on property they occupy to avoid a license being denied under G.L. c. 40 § 57?

Could the tenant in Anytown in the above scenario file for an abatement on the taxes?

G.L. c. 40 § 57

G.L. c. 59 § 59

Question 17

Do taxpayers have a right to interest waiver?

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

G.L. c. 60 § 15

G.L. c. 60 § 62A

Question 18

A Taxpayer makes a partial payment and would like the partial payment to be applied to the tax obligation first. May the collector do so?

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

G.L. c. 60 § 62

G.L. c. 60 § 65

G.L. c. 60 § 3E

IGR 2003-210

Question 19

Fire Trucks R Us is well known for the quality and customization of its trucks. Given the level of customization, Trucks R Us has now included a provision for prepayment into their contract, and the contract that Anytown Fire Department signed includes this. Does having this provision in the contract make payment before delivery permissible?

The Town of Safety is aware that the cost of a brand-new fire truck with the customization required is just under two million. The Safety Fire Department is wondering about progress payments. Are progress payments permissible?

G.L. c. 41 § 56

**August 4, 2022 City & Town, Ask DLS: Prepayment
2022 Municipal Law Seminar Workshop C**

Question 20

A special town meeting in Anytown authorized a borrowing of \$20 million for a school project. Anytown would now like to know if it may rescind the authorization. Is this possible?

Is there a process for rescinding a debt exclusion?

Adams v. Townsend Schoolhouse Committee, 245 Mass. 543

(1923)

IGR 2022-2

Section III. H of Proposition 2 ½ ballot question book

Question 21

Voters in Happyville approved a debt exclusion referendum question for the construction of their new library. The borrowing was authorized for \$8 million, but due to construction costs and some necessary scope changes, the cost has increased to \$11 million.

Happyville is now wondering whether the additional amount is covered by the approved Proposition 2 ½ debt exclusion.

Is there any other option for Happyville in the above scenario?

**IGR 2022-14
G.L. c. 59 §21C(k)**

Question 22

Happyville has finally completed their new library. The Library Trustees have approved a new speaker series for the library which includes amongst its authors several local Massachusetts authors. There is a great deal of support and excitement within the community regarding both the new library and speaker series. Could funds from a premium received on a bond sold on or after December 13, 2021 be used to pay for the speaker series?

Could a premium received on a bond that is the subject of an approved Proposition 2 ½ debt exclusion be reserved for appropriation for capital purposes?

G.L. c. 44 § 20

IGR 2022-2

Question 23

A. Beachtown is a municipal member of a Regional School District. The Regional School District Committee authorized the debt for a Middle School project and all municipal members approved the borrowing. Of note, the project will not be receiving any financial assistance from the Massachusetts School Building Authority. Beachtown excluded the project under G. L. c. 59, § 21C(k). By the time the note was issued, the interest had grown.

A. Does Beachtown need to go back to Town Meeting for the increase?

B. Beachtown is authorizing indebtedness for another project within the debt limit which results in 4.9% of the equalized valuation of the town. Is this permissible?

C. If Beachtown is authorizing indebtedness for either the project described above or for another project within the debt limit which results in 6% of the equalized valuation of the town. Is this permissible?

G.L. c. 44 § 10.

Question 24

A. May the assessor commit a tax list to the collector before the bonds of the collector and town treasurer have been given?

B. One person holds the combined office of collector-treasurer in Anytown. Must the person in this scenario have two bonds?

C. Who pays for the bond: the treasurer-collector or the municipality?

D. What about assistant collectors and assistant treasurers, must they be bonded as well?

G.L. c. 59 § 53

G.L. c. 60 § 13

G.L. c. 41 § 35

G.L. c. 41 § 46

G.L. c. 41, § 109A

G.L. c. 41 § 39A

G.L. c. 41 § 39C

Question 25

Happyville has a policy of not accepting cash for payment of taxes or other obligations. Is this acceptable?

A disgruntled taxpayer in Happyville has resorted to bringing in several buckets of unrolled coins, especially pennies, to pay the taxes. This typically will occur just prior to close of business on a due date. What can the Happyville collector do?

31 U.S. Code § 5103

Any questions?