

LOCAL TAX COLLECTION FREQUENTLY ASKED QUESTIONS (FAQs)

Frequently asked questions (FAQs) published by the Division of Local Services (DLS) within the Department of Revenue provide general information about Massachusetts municipal tax and finance laws and DLS policies and procedures in effect when published. They do not answer all questions or address complex issues about their topics. FAQs are not public written statements of the Department. They are informational only as described in [830 CMR 62C.3.1\(10\)\(c\)](#), and do not supersede, alter or otherwise change any Massachusetts General Law, Department public written statement or other source of law.

Billing FAQs

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. [G.L. c. 60, § 3](#) and [§ 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. [G.L. c. 60, § 3](#). The mailing address is the (1) residential address of the person assessed the tax if known, (2) address of the real or personal property that is the subject of the bill or (3) other address provided by the person assessed the tax to the collector by the time and in the manner the collector requires. If the person assessed the tax is not the owner when the bills are mailed, the bill may be mailed in care of the current owner(s). In that case, the bill must show the name of the person(s) assessed the tax and the name(s) and mailing address of the current owner(s).

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. [G.L. c. 60A, § 6](#). Boat owners are required to file a form of list which provides their addresses. [G.L. c. 60B, § 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." [G.L. c. 60, § 3A\(a\)](#). In the spring of every year, the Division of Local Services (DLS) 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. The annual tax bill IGRs are available on the [DLS website](#).

4. What payment or abatement application due date should be shown on the bills when the date falls on a day municipal offices are closed?

[Bulletin 2015-05B, Abatement/Exemption Application and Payment Due Dates on Non-business Days](#) provides detailed information about due dates that fall on non-business days. As it explains, if the statutory due date for a property tax payment (or abatement application) falls on a day city or town offices are ordinarily closed for municipal business (Saturday, Sunday or legal holiday) or are unexpectedly closed for business due to a weather or public safety emergency, the due date automatically becomes the next following business day. [G.L. c. 59, §§ 57 and 57C](#).

The due dates for property tax installment payments depend on the type of payment system the community uses and when the bills are mailed. [G.L. c. 59, §§ 57 and 57C](#). As explained in our annual tax bill [IGRs](#), the billing and appeals rights notice (bill reverse side) should continue to contain the statutory due dates as prescribed by applicable IGR. However, the front of the bills must display the exact due date of the installment payments, as determined by the date the collector actually completes the mailing of the bills. The due date of the first actual tax installment is also the due date for abatement applications, [G.L. c. 59, § 59](#), and that due date must be stated on the front of the actual bills as well. Therefore, whenever the law extends these due dates, the extended date is the actual due date and must be printed instead.

Note that other closures of municipal offices do not extend the due date. If their offices will be closed for all or part of a due date, assessors and collectors should be proactive in making taxpayers aware when applications or payments may be made in person, and the availability of alternatives to apply or pay on time. The tax bill [IGRs](#) require the collector's office hours to be printed on the bill. Any message section on the bill may be used to provide the assessors' hours or provide notice of office closures on the due date. Other means may be used to disseminate information about making timely applications or payments as well, including, for example, a tax bill stuffer, the municipality's website, the local newspaper, the local cable access channel and social media.

5. Must the collector's name appear on the property tax bill?

No. The collector's name is not required under [G.L. c. 60, § 3A\(a\)](#). Therefore, the annual tax bill [Informational Guideline Releases \(IGRs\)](#) do not direct that it appear as well and the absence of the collector's name on the bills does not invalidate them. The bills must state, however, that they are from the office of the collector and payment is to be made in the name of the city or town.

6. 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. [G.L. c. 60, § 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. [G.L. c. 60, § 3A\(e\)](#). Also see [Annual tax bill IGRs](#) for information about e-billing.

7. 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. [G.L. c. 60, § 3](#); [G.L. c. 60A; § 2](#).

8. What does the collector 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. For example, 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, 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, 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 in A above, 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.

- 9. Does a city or town that accepts a local option statute or obtains a special act, that permits using a voluntary tax bill check-off for taxpayers to make contributions to certain public purposes, *e.g.*, the education or scholarship fund under [G.L. c. 60, § 3C](#) or elderly or low-income disabled persons tax aid fund under [G.L. c. 60, § 3D](#), have to get specific approval from the Department of Revenue to add the check-off to its bills?**

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](#).

- 10. 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. [G.L. c. 60, § 3A\(d\)](#).

- 11. What information can appear in an insert mailed with the property tax bills?**

“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.

Property Tax Payment FAQs

- 12. 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. [G.L. c. 60, § 2](#).

- 13. 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. [G.L. c. 60, §§ 3](#) and [19](#); [State Tax Form 64B](#).

- 14. May a collector waive interest and charges on late tax payments?**

Collectors may waive interest, charges and fees whenever the amount of interest, charges and fees due total \$15 or less. If the total of interest, charges and fees exceeds \$15, the collector may not waive any amount. [G.L. c. 60, § 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, charges and fees is at the sole discretion of the collector. Taxpayers have no right to a waiver.

15. 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 tax sale or taking of the parcel so long as the amount tendered is not less than 10 per cent of the total tax, but in no event less than \$10. 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 not less than 10 per cent of the total tax, but in no event less than \$10. [G.L. c. 60, § 22.](#)

16. How should collectors apply partial payments?

The real estate or personal property tax assessed for each fiscal year is a separate and 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. [G.L. c. 60, § 3E.](#)

If the taxpayer does not direct that a payment be applied to a particular obligation, the collector may apply it to any outstanding obligation. Typically, the collector applies it by type or oldest obligation first. The application to any obligation is as noted above - interest, costs and tax in that order.

17. How should collectors deal with dishonored checks or electronic payments?

Collectors who receive dishonored checks or electronic payments from banks or other financial institutions 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 or payments that have not yet cleared. [G.L. c. 60, § 57A.](#)

18. 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 or exempt a tax to an amount below the amount paid, however, the overpayment must be refunded with interest. [G.L. c. 59, § 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.

19. 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 is unsure who is entitled to a refund, e.g., buyer or seller, the collector should withhold payment of the refund until the proper party is determined.

Delinquent Real Estate Tax Collection FAQs

20. 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 residence or business, or alternatively, to the address best known to the collector. [G.L. c. 60, § 16](#). The demand is a prerequisite to a valid tax taking.

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

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

The collector must wait at least 14 days after the demand is sent. [G.L. c. 60, § 17](#). If the taxes still are unpaid, the collector must give notice of intent to take by (1) publishing a 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 a 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 sent. 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. [G.L. c. 60, §§ 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. [G.L. c. 60, §§ 53](#) and [54](#).

Example - Tax Taking Timetable

Last tax installment due	May 1	Earliest due date of last installment is May 1
Demand Mailed	May 10	Earliest demand may be sent is May 2 (at least 1 day after May 1 due date)
Notice of Intent to Take Posted	May 28	Earliest notice to take may be posted is May 24 (at least 14 days after May 10 demand)
Notice of Intent to Take Published	May 30	Earliest notice to take may be published is May 24 (at least 14 days after May 10 demand)
Taking Made	June 20	Earliest date taking may be made is June 13 (at least 14 days after May 30, which is the date of the later of the publication and posting)
Instrument of Taking Recorded	June 20	Latest date taking may be recorded is August 19 (must be recorded within 60 days of June 20 taking)

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

By perfecting and securing 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 (1) filing a petition in Land Court, [G.L. c. 60, § 65](#), or (2) if the land is low value, by auction after obtaining an affidavit from DLS within the Department of Revenue, [G.L. c. 60, §§ 79 and 80](#). See information about applying for an affidavit on this [page](#) of the [DLS website](#).

23. 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. [G.L. c. 60, § 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 subsequent fiscal year.

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

No. The statute, [G.L. c. 60, § 61](#), speaks of "taxes assessed subsequently." That means the taxes established by an actual assessment and commitment, and not a preliminary 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 tax commitment, and the actual tax could be lower or higher than the preliminary tax.

25. 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 (ATB)?

The filing of the abatement application with the assessors, or a further appeal to the ATB, does not stay proceedings for the collection of the tax. The collector should make the tax taking to perfect and secure 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.

Delinquent Personal Property Tax Collection FAQs

26. If a personal property 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 residence or business, or alternatively, to the address best known to the collector. [G.L. c. 60, § 16](#).

27. What happens if a personal property tax is not paid after a demand is sent?

A municipality does not have a lien to secure payment of personal property taxes and therefore, cannot use the tax taking process. However, the assessed owner is personally liable for payment and the

collector may enforce the personal liability by any of the other collection remedies available. The collector can bring a civil action against the assessed owner. [G.L. c. 60, § 35](#). The collector must bring a court action before the six year statute of limitations on civil actions expires. [G.L. c. 260, § 2](#). Actions to collect personal property taxes may be brought in the small claims session of district court regardless of the amount owed. [G.L. c. 218, § 21](#). 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 [G.L. c. 60, § 93](#). Thirdly, the municipality can deny, revoke or suspend certain municipal licenses and permits if the municipality has accepted [G.L. c. 40, § 57](#). For more information, please refer to the DLS Personal Property FAQs found on our website.

Municipal Lien FAQs

28. What is a lien?

A lien is an encumbrance on specific real estate to secure 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.

29. 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. [G.L. c. 60, § 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. [G.L. c. 40, §§ 42A-42E](#); [G.L. c. 44, § 28C\(f\)](#); [G.L. c. 83, §§ 16A-16E](#); [G.L. c. 164, §§ 58B-58F](#).

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

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

The lien for real estate taxes will expire three years and six months from the end of the fiscal year for which the taxes were assessed if there has been a recorded transfer of the property within that time. If not, the lien will continue until there is a recorded transfer of the property. [G.L. c. 60, § 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. However, the lien will continue indefinitely if it is perfected by a timely tax taking or sale. A tax taking or sale within five years of the assessment date is always 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 2019 real estate taxes arises by law on the FY2019 assessment date of January 1, 2018. At a minimum, the lien exists during the assessment date calendar year (2018) and the subsequent four calendar years (2019, 2020, 2021 and 2022). The lien expires on December 31, 2022 if the property was sold and the lien was not perfected on or before that date. If not sold before December 31, 2022, the lien expires when the property is sold unless it was perfected before the sale.

31. 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, the collector's tax taking or sale should include unpaid district taxes and charges constituting liens as well and the taking will also perfect those liens.

32. 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 are due and payable and constitute liens on a parcel of real estate at the time the MLC is issued. [G.L. c. 60, §§ 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 10 days of the written request excluding Saturdays, Sundays and holidays. Where the municipality's population is 5,000 or fewer, the collector must provide the MLC within 20 days of the written request, excluding Saturdays, Sundays and holidays.

33. 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. [G.L. c. 60, §§ 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, special assessments and other charges such as demolition charges 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 [G.L. c. 60, § 62](#). Betterments and special assessments can only be discharged by certificates issued under [G.L. c. 80, § 12](#). A renunciation of rights is required to dissolve a statement to continue a municipal lien. [G.L. c. 60, § 37A](#).

34. 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. [G.L. c. 60, § 35](#). The collector must bring a court action before the six year statute of limitations on civil actions expires. [G.L. c. 260, § 2](#). Municipalities may bring actions in the small claims session of district court for any amount up to \$15,000. [G.L. c. 218, § 21](#). 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 [G.L. c. 60, § 93](#). Thirdly, the municipality can deny, revoke or suspend certain municipal licenses and permits if it has accepted [G.L. c. 40, § 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 have no effect on the lien's status or enforceability.

Tax Title FAQs

35. 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. [G.L. c. 59, §§ 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 2019 taxes were assessed to the owner of record as of January 1, 2018 which is six months before the July 1, 2018 beginning of fiscal year 2019. 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 2019 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, [G.L. c. 60, § 35](#), withholding and setting-off any money owed by the municipality to the assessed owner, [G.L. c. 60, § 93](#), and in municipalities that have accepted [G.L. c. 40, § 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. [G.L. c. 60, § 40](#). Although the statute does not define "owners," other statutory provisions provide insight. Specifically, [G.L. c. 60, § 54](#) requires the instrument of taking be in the name of the assessed owner. Another statute, [G.L. c. 60, § 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. [G.L. c. 60, § 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 [G.L. c. 60, § 40](#) is an inclusive term that refers to all owners, assessed and subsequent.

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 their financial interest in the property might be jeopardized unless they come forward to pay the amount owed.

36. 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 [G.L. c. 60, § 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. [G.L. c. 60, § 37](#). If the taking is invalid due to an error in the assessment, such as an assessment made to a non-owner as of the January 1 assessment date, the collector should disclaim the taking and the assessors should reassess the unpaid taxes to the actual owner on January 1. Under [G.L. c. 59, § 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.

37. After the collector has perfected the lien through a tax taking, who is responsible for the redemption or foreclosure 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. With some exceptions, the treasurer must wait six months after the tax taking to file a petition in Land Court to foreclose all rights of redemption. [G.L. c. 60, § 65](#). Exceptions include where a taxpayer has a tax deferral (six months after the property is sold or taxpayer dies, [G.L. c. 59, § 5, Clauses 18A and 41A](#)) and the buildings on the parcel are abandoned (immediately after recording of affidavit from the building inspector, [G.L. c. 60, § 81A](#)).

Once the petition is filed, the Land Court will 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. [G.L. c. 60, § 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 decree. [G.L. c. 60, § 69A](#).

38. 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. [G.L. c. 60, § 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 [G.L. c. 60, § 61](#) means the actual taxes assessed and committed, not preliminary taxes, for any fiscal year after the fiscal year for which the taking was made. The taxpayer has the right to pay the current year's tax without incurring interest. 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.

39. 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 [G.L. c. 60, § 43](#) or a tax taking under [G.L. c. 60, § 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. [G.L. c. 60, §§ 40 and 42](#).

A tax taking, however, requires notice by (1) posting and (2) either publication, as provided in [G.L. c. 60, § 40](#), or service in the manner required by law for the service of subpoenas on witnesses in civil cases. Consequently, demands and these notices are statutory prerequisites for a valid tax taking and cannot be waived.

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

Yes. Under [G.L. c. 60, § 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 treasurer's right to petition for foreclosure of the tax title. The written extension is important to the taxpayer. Absent a legally binding written "forbearance" agreement, the treasurer may file a foreclosure petition in Land Court as soon as six months after the tax taking. [G.L. c. 60, § 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. [G.L. c. 60, § 3E](#). The taxpayer cannot direct that a partial payment be applied to the tax obligations first.

41. 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 [G.L. c. 60, § 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 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 Section I of [Informational Guideline Release \(IGR\) No. 05-208, *Payment Agreements and Tax Receivable Assignments*](#) for information about tax title payment plans.

Tax Title Foreclosures

42. If the Land Court issues a foreclosure decree, or the treasurer forecloses by sale of land of low value after auction, 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. 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.

43. What happens to taxes owed that were not part of the tax title account when the tax title was foreclosed?

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 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.

44. 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. [G.L. c. 60, § 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.

45. 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, [G.L. c. 60, § 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 [G.L. c. 60, § 77B](#). Alternatively, the municipality may sell the property in any other manner authorized by law. See, *e.g.*, [G.L. c. 40, § 3](#); [G.L. c. 30B, § 16](#). Proceeds from the sale become part of the municipality's free cash. [G.L. c. 59, § 23](#). This is unlike the proceeds from the sale of municipal real property acquired other than through tax foreclosure. Those proceeds are credited to the sale of real estate fund and can only be appropriated for certain limited purposes. [G.L. c. 44, § 63](#).

46. What is the deed in lieu of foreclosure alternative to a tax taking and foreclosure?

Communities may accept title from the owners of properties on which there are liens for outstanding real estate taxes and other municipal charges as an alternative to tax taking and foreclosure proceedings. [G.L. c. 60, § 77C](#). Properties accepted under this option do not have to be in tax title, but they are then treated as if a tax title foreclosure has been completed, *i.e.*, as tax possession properties. Acceptance of title to the parcel is by majority vote of the municipal legislative body, *i.e.*, town meeting or city or town council. The vote should specifically state that the acceptance is under [G.L. c. 60, § 77C](#). The property is treated in the same manner as if a tax title foreclosure had been completed. All taxes and charges outstanding as of the date the deed is recorded are considered paid in full at that time.

47. 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 [G.L. c. 60, § 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 the remaining amounts must be brought within the six year statute of limitations on civil suits under [G.L. c. 260, § 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.