

MUNICIPAL MODERNIZATION ACT FAQs

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1. What is the deadline for taxpayers to apply for personal exemptions from taxes assessed on their domiciles?

Beginning with this fiscal year, FY2017, taxpayers have until April 1 to apply to the assessors for personal exemptions whenever the actual tax bills are mailed on or before January 1. If the bills for any year are mailed after January 1, however, taxpayers will have three months from the date of mailing to apply for that year.

This deadline applies regardless of the billing system the city or town uses, i.e., semi-annual or quarterly, and applies to:

1. Personal property tax exemptions for veterans, blind persons, seniors, surviving spouses and other individuals ([MGL c. 59, sec. 5, Clauses 17, 17C, 17C½, 17D, 18, 22, 22A, 22B, 22C, 22D, 22E, 22F, 37, 37A, 41, 41B, 41C, 41C½, 42, 43, 52, 53, 56 and 57](#));
2. Deferrals of property taxes for seniors or individuals experiencing hardships ([MGL c. 59, sec. 5, Clauses 18A and 41A](#));
3. Residential exemptions adopted as part of annual tax classification decisions, unless the city or town has a special act setting a different deadline ([MGL c. 59, sec. 5C](#));
4. Small commercial exemptions adopted as part of annual tax classification decisions ([MGL c. 59, sec. 5I](#));
5. Community preservation surcharge exemptions ([MGL c. 44B, sec. 3](#)); and
6. Municipal water infrastructure surcharge exemptions ([MGL c. 40, sec. 39M](#)).

2. What change has been made to the amount of the Residential Exemption?

The selectmen or mayor, with the approval of the city council, may adopt a residential exemption for all Class one, residential properties that are the principal residence of the taxpayer on January 1. [MGL c. 59, sec. 5C](#). The adoption is made annually, usually at the same time as the adoption of the residential factor which determines the percentages of the local tax levy to be borne by each class of real property under [MGL c. 40, sec. 56](#). See [Section IV-C of Informational Guideline Release \(IGR\) 16-402](#). However, the residential exemption may be adopted before or after the adoption of the residential factor.

On or after November 7, 2016, a city or town may adopt a residential exemption for this fiscal year, FY2017, of up to 35% of the average assessed value of all Class One, residential properties, unless it has a special act setting a different limit. See secs. 124 and 247 of [c. 218 of the Acts of 2016](#) (the Municipal Modernization Act). Previously, the maximum exemption was 20% of the average assessed value of all Class One, residential properties. As noted above, the deadline for taxpayers who did not receive adopted residential exemptions in their actual tax bills is April 1 beginning in FY2017, unless the city or town has a special act setting a different deadline. The recent

amendments to [MGL c. 59, sec. 5C](#) do not amend these special acts. Consequently, communities with special legislation must adhere to the provisions of their acts regarding the maximum exemption and the application deadline.

Additional information on the residential exemption may be found in the *Ask DLS* published in the [September 1, 2016 issue of City and Town](#).

3. If a community has accepted the Community Preservation Act (CPA), are applications for surcharge exemptions open to public inspection? If a surcharge exemption application is denied, can the applicant appeal to the Appellate Tax Board (ATB)?

Cities and towns accepting the CPA can adopt any of four optional full or partial exemptions from the CPA surcharge. In addition, taxpayers granted property tax exemptions receive a reduction in their assessed CPA surcharges in proportion to their reduced property taxes. [MGL c. 44B, sec. 3](#). However, the CPA does not currently contain any application deadlines or procedures for taxpayers seeking these reductions.

As explained above, amendments made by the Municipal Modernization Act and effective November 7, 2016 will give taxpayers until April 1 to apply to the assessors for a CPA surcharge exemption (or 3 months after the actual tax bills are mailed, if later). Taxpayers who want to contest the action by the assessors on their applications will also be able to appeal to the ATB in the same manner and by the same deadline as property tax appeals under [MGL c. 59, secs. 64, 65, 65A and 65B](#). In addition, CPA applications will be exempt from public disclosure just like applications for property tax abatements or personal exemptions as provided in [MGL c. 59, sec. 60](#).

4. What changes have been made to the overlay account?

The overlay is raised by the assessors in the annual tax levy as a reserve for abatements and exemptions. [MGL c. 59, secs. 23, 25 and 70A](#). Currently, there is a separate overlay reserve account for each fiscal year to cover property tax abatements and exemptions granted by the assessors or ordered by the Appellate Tax Board for just that fiscal year.

The Municipal Modernization Act creates a single overlay reserve to cover the costs of potential abatements or exemptions granted by the assessors or ordered by the Appellate Tax Board for any fiscal year. With a single overlay reserve, municipalities may now avoid deficits which formerly occurred when amounts abated or exempted exceeded the balance in the overlay account for that particular year. The single overlay takes effect on November 7, 2016. No local action is needed. As of that date, all balances in all overlay accounts will be merged into a single overlay account, the balance for which may be charged for abatements or exemptions granted for any fiscal year. Local assessors, however, will still need to review, as part of each year's budget

and tax rate process, whether an additional amount needs to be raised that year for addition to the single overlay account.

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5. What is the impact of [Municipal Modernization Act](#) amendments of existing general law statutes that are not applicable in some municipalities because special acts apply instead? For example, if a special act provides for a city or town to grant a residential exemption up to a certain amount and sets a deadline for exemption applications “notwithstanding” [MGL c. 59, sec. 5C](#), what is the effect of the Municipal Modernization amendment of [MGL c. 59, sec. 5C](#) regarding the amount of the exemption and deadline for exemption application on the special act?

None. A special act remains in effect and continues to govern on or after the November 7, 2016 effective date of the Municipal Modernization Act unless the community seeks to repeal it so as to operate under the amended general law. In this example, the community’s special act would determine the maximum amount of the residential exemption and the due date for residential exemption applications in that community.

6. What is the impact of [Municipal Modernization Act](#) amendments of local acceptance statutes that were accepted by municipalities before the Act’s November 7, 2016 effective date?

As a general rule, a municipality that accepts a statute accepts any amendments the legislature subsequently makes in the statute. Therefore, if a municipality has accepted a local option statute, then it operates under the statute as amended. No further action is necessary unless the legislature provides otherwise. In the Municipal Modernization Act there is one such exception, which applies to municipalities and other local entities that accepted [MGL c. 32B, sec. 20](#) to establish an Other Post-Employment Benefits (OPEB) Liability Trust Fund before November 7, 2016.

7. What action does a city or town that currently has an OPEB Fund under [MGL c. 32B, sec. 20](#) and wishes to adopt the changes made to that statute by the [Municipal Modernization Act](#) have to take?

Section 238 of the Municipal Modernization Act specifically provides that OPEB funds established before the effective date of the Act, November 7, 2016, will continue as originally established, unless the community “reaccepts said section 20 of said chapter 32B after the effective date of this act.” Therefore, to operate an OPEB fund under the amended section 20, the city or town’s legislative body would have to vote to reaccept [MGL c. 32B, sec. 20](#) after November 7, 2016.

8. How does the [Municipal Modernization Act](#) change in the treatment of premiums received when issuing debt under [MGL c. 44, sec. 20](#) apply to premiums received for borrowings authorized before November 7, 2016, the effective date of the Act?

Section 67 of the Municipal Modernization Act amends [MGL c. 44, sec. 20](#) which governs the treatment of premiums received in connection with the sale of bonds or notes. Currently, premiums (net of issuance costs) are general fund revenue. As of November 7, 2016, premiums (net of issuance costs) are: (1) used to pay project costs and to reduce the amount of the borrowing authorization by the same amount when the borrowing vote so authorizes; or (2) reserved for appropriation for capital projects for which a loan has been, or may be, authorized for an equal or longer period of time than the loan for which the premiums were received.

Bonds or notes sold before November 7, 2016. Premiums received on bonds or notes authorized and sold before the effective date of the Municipal Modernization Act are general fund revenue that may not be spent without appropriation. [MGL c. 44, sec. 53](#). However, if the borrowing is the subject of an approved Proposition 2½ debt exclusion, [MGL c. 44, sec. 20](#) requires that the amount excluded be adjusted to reflect the true interest cost of the borrowing. Therefore, general fund premiums received for debt excluded borrowings must either be (1) reserved for appropriation to offset budgeted debt service in future years for the loan, or (2) appropriated to pay project costs. In the second option, the borrowing authorization must also be reduced by the same amount. The appropriation for project costs and commensurate reduction in borrowing authorization must be included in the original legislative body vote authorizing the loan, or a subsequent vote before or after the sale.

Bond or notes sold on or after November 7, 2016. Regardless of when the city or town authorized the loan, premiums received on bonds or notes sold on or after the effective date of the Municipal Modernization Act must be: (1) used to pay project costs and to reduce the amount of the borrowing authorization by the same amount when the borrowing vote so authorizes; or (2) reserved for appropriation for capital projects for which a loan has been, or may be, authorized for an equal or longer period of time than the loan for which the premiums were received. Note, however, that a city or town receiving premiums for debt excluded bonds or notes sold on or after November 7, 2016 will need to use the option to pay project costs and reduce the borrowing authorization in order to make the required interest cost adjustment. The authorization to use that option should be included in the original legislative body vote authorizing the loan, but may also be included by an amendment of the loan authorization that is voted before the sale.

Bond and municipal counsel should be consulted for language to be used to amend existing borrowing authorizations and to include in future authorizations in order to use premiums for project costs and reduce the amount authorized.

9. How does the [Municipal Modernization Act](#) change the use of surplus bond proceeds received before November 7, 2016, the effective date of the Act? When the Act becomes effective, how is the \$50,000 balance available for application to existing debt determined in a multi-purpose loan?

Regardless of when a city, town or district authorizes a loan for a particular purpose, project or acquisition, sold the bonds or notes, or completed the purpose, project or acquisition for which the loan was authorized, the proceeds remaining are available funds for restricted purposes under [MGL c. 44, sec. 20](#). Both before and after the November 7, 2016 effective date of the Act, the determination of available surplus proceeds for a loan is based on the amount borrowed and spent for each purpose for which the city, town or district has authorized debt. Selling bonds or notes for multiple authorized purposes at the same time does not alter the purpose, term or amount of each loan. For example, a treasurer sells multi-purpose bonds for three projects for which the city, town or district had authorized debt of \$100,000 (project 1), \$2,000,000 (project 2) and \$20,000,000 (project 3). After completion and payment of all expenses, \$750 of the proceeds remain for project 1, \$48,500 for project 2 and \$90,000 for project 3.

Use of the surplus proceeds before November 7, 2016. Before the November 7, 2016 effective date of the Act, a city, town or district may only appropriate an available surplus of (1) \$1,000 or less from a particular loan to pay debt service on that loan, or (2) any amount from any loan for any purpose for which the city, town or district may borrow for an equal or greater term than the term for which that loan was issued. Therefore, before November 7, 2016, only the \$750 available surplus for project 1 could be appropriated to pay debt service and then only on the debt service for the project 1 loan. Any other use of the available surpluses for each loan would be limited to appropriation for another purpose for which a loan can be authorized for an equal or greater term than that loan was issued.

Use of the surplus proceeds on or after November 7, 2016. On or after November 7, 2016, however, an available surplus of (1) \$50,000 or less for a particular loan may be applied to any debt service with the approval of the chief executive officer, or (2) any amount may be appropriated any purpose for which the city, town or district may borrow for an equal or greater term than the term for which that loan was issued. Therefore, on or after November 7, 2016, the available surpluses of \$750 for project 1 and \$48,500 for project 2 may be applied to the debt service on any loan with the approval of the chief executive officer. Again, any other use of the available surplus for each particular loan would be limited to appropriation for another purpose for which a loan can be authorized for an equal or greater term than that loan was issued.

10. What does a city or town that accepted [MGL c. 40, sec. 57](#), which allows the denial, suspension, revocation or non-renewal of local licenses and permits for applicants who are delinquent in paying their local taxes, charges and fees, have to do in order to take advantage of the amendments to the statute made by the [Municipal Modernization Act](#) that allow a collector to issue delinquency lists to

permitting and licensing boards more than once a year? If a special town meeting is scheduled before the Act's November 7, 2016 effective date, may the town re-accept [MGL c. 40, sec. 57](#) and amend its implementation by-law at that meeting or must it wait until November 7, 2016 to do so?

As indicated in a previous question, the legislative body of the city or town does not need to re-accept [MGL c. 40, sec. 57](#). By accepting a statute, a city or town agrees to accept all amendments the legislature may make to it in the future. An exception to this rule is where the legislature expressly provides that the amendments do not apply unless the city or town takes some additional action. For these amendments, the legislature did not require re-acceptance or other action.

However, because [MGL c. 40, sec. 57](#) requires the adoption of an implementation ordinance or by-law, a city or town that has accepted the statute will need to amend its existing ordinance or by-law to (1) eliminate the current minimum 12-month delinquency requirement and (2) direct the collector to disseminate a delinquency list to the community's permitting or licensing boards on a more frequent schedule. If a city or town does not wish to take advantage of these changes, it does not need to amend its ordinance or by-law and may continue to operate as it does now.

For a town, the effective date of new or amended by-laws is governed by [MGL c. 40, sec. 32](#). Within 30 days of the adjournment of the town meeting adopting the new or amended by-law, the town clerk must submit it to the Attorney General. The Attorney General then has 90 days to review the by-law for consistency with the Constitution and laws of the Commonwealth and issue a decision either approving or disapproving the by-law. If approved, a general by-law takes effect on the date the posting and publishing requirements of [MGL c. 40, sec. 32](#) are met, unless a later effective date is set out in the by-law. Therefore, it appears unlikely that any implementation by-law adopted at an already scheduled town meeting held before November 7, 2016 could take effect until after that date. Municipal counsel should be consulted, however, about whether to include specific language in the amended by-law in that regard. We understand from the Attorney General's office that there can be instances where by-laws are adopted to implement special legislation not yet enacted, or address other situations to occur later, and those by-laws can be approved by the Attorney General and take effect after the contingency is met.

The amendment of a city's existing implementation ordinance does not need the approval of the Attorney General under [MGL c. 40, sec. 32](#). Municipal counsel should be consulted about the applicable charter provisions and best course of action regarding the timing of any amendment.

11. How does the [Municipal Modernization Act](#) impact the treatment of parking meter revenues?

Before the Municipal Modernization Act, parking meter or other parking receipts had to be reserved for appropriation under [MGL c. 40, secs. 22A](#), [22B](#) and [22C](#). As of the

November 7, 2016 effective date of the Act, however, those receipts are unrestricted and unreserved general fund revenue unless the city or town accepts provisions in those statutes in order to credit them to a “receipts reserved for appropriation” special revenue fund. Any revenue received before November 7, 2016 remains in the receipts reserved special revenue fund to be appropriated accordingly.

If a city or town wants to continue treating parking revenues as “receipts reserved for appropriation,” its legislative body must accept the provisions in the statutes. If the city or town does not use any of the parking revenues it anticipates receiving on or after November 7, 2016 as estimated receipts when setting its fiscal year 2017 tax rate, it may in an acceptance vote taken on or before June 30, 2017 provide that any revenue received on or after November 7, 2016 be credited to the receipts reserved fund. Otherwise, the acceptance will only apply to revenues received on or after the effective date of the vote, or later effective date specified in the vote.

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12. How has Appellate Tax Board jurisdiction changed under the Municipal Modernization Act?

The Municipal Modernization Act made three changes in the jurisdictional requirements for property tax appeals. These changes took effect on November 7, 2016.

First, the threshold tax amount at which payment is required in order to maintain an appeal at the Appellate Tax Board (ATB) has been raised from \$3,000 to \$5,000. Unpaid taxes of more than \$5,000 will bar an appeal, unless the three-year average of the taxes assessed against the property is \$5,000 or less. [MGL c. 59, sec. 64.](#)

Second, where the right of appeal is conditioned on the payment of tax, both the preliminary and actual tax installments must be paid by the due date without incurring interest. Failure to make a preliminary tax payment by the due date without incurring interest is now a bar to jurisdiction. [MGL c. 59, sec. 64.](#)

Third, there is now a “postmark rule” that will treat tax payments as timely for ATB jurisdictional purposes if the payment arrives in an envelope bearing a postmark date on or before the payment due date. This rule applies to the jurisdiction of the ATB, not to the date that interest on unpaid taxes begins to accrue. It provides that the date of delivery by United States mail or by an alternative delivery service to the collector is deemed to be the date of (1) the U.S. Postal Service postmark, (2) a certificate of mailing stamped and postmarked by the U.S. Postal Service, (3) a certified mail receipt provided by the U.S. Postal Service or (4) other substantiating date mark permitted by ATB rules. The burden is on the taxpayer to prove the timely mailing of any tax payment to the collector and the collector is not required to maintain envelopes or any record relative to the date the tax payment was mailed. [MGL c. 59, secs. 57](#) and [57C.](#)

13. What are the options for apportioning betterment or special assessments under the Municipal Modernization Act?

Betterment or special assessments may be apportioned or divided into as many as 20 annual installments at the request of the property owner under [MGL c. 80, sec. 13](#). Each year, an installment of the principal is added to the real estate tax, along with interest on the unpaid balance. This results in declining installments over the apportionment period. Municipal Modernization Act amendments to that statute give cities, towns and districts three alternatives for apportioning betterments or special assessments committed on or after November 7, 2016. They may opt to let taxpayers apportion their betterments or special assessments into annual installments that are:

1. Equal to the number of years for which the municipality is borrowing for the infrastructure improvement that is being financed by the assessment.
2. Equal combinations of principal and interest (level annual installments instead of level principal installments), or more repaid payments of principal.
3. Payable in the same number of preliminary and actual installments as the real estate tax in the municipality.

14. Did the Municipal Modernization Act make any changes regarding interest charged on betterment assessments under [MGL c. 80, sec. 13](#)?

Yes. Under [MGL c. 80, sec. 13](#), the interest rate on unpaid betterments or special assessments is fixed at 5%, or at the option of the city, town or district, at 2% above interest rate on the loan financing the project. For betterments or special assessments committed on or after November 7, 2016, the optional rate may now be fixed at any amount up to 2% above the interest rate the city, town or district is paying on its loan. In addition, interest will now begin to accrue on unpaid betterments or special assessments 30 days from the date the collector mailed the bill. Previously, interest began to accrue 30 days from the date the assessors committed the betterment or special assessment to the collector.

15. The Municipal Modernization Act increased the maximum abatement that may be earned under [MGL c. 59, sec. 5K](#) by taxpayers over 60 years old who are participants in the Senior Work-off abatement program. What action does a city or town that previously accepted [MGL c. 59, sec. 5K](#) have to take to implement the increase in the maximum abatement from \$1,000 to \$1,500?

It depends on how the maximum abatement under the program is established. As a general rule, if a municipality has accepted a local option statute, then the community will operate under the statute as amended. Therefore, a city or town is not required to reaccept [MGL c. 59, sec. 5K](#). If the maximum amount that may currently be granted by the city or town under the program is fixed by a bylaw, ordinance or other legislative

body vote authorizing the program or establishing program rules, then the city or town must amend the bylaw, ordinance or vote. If the maximum amount is set by the selectboard, mayor or other officer administering the program, however, then the board, mayor or officer may increase the maximum abatement so long as any change is consistent with any bylaw, ordinance or vote establishing program rules, e.g., a rule establishing a limit on the aggregate amount of abatements during any fiscal year.

16. What is the local procedure required for cities or towns to use the revolving fund added to [MGL c. 40, sec. 3](#) for monies received from the lease or rental of non-school municipal property?

The Municipal Modernization Act amended [MGL c. 40, sec. 3](#) to allow a city or town that rents or leases a public building or property, or space within a building or property, other than a building or property under the control of the school committee, to deposit any monies received on or after November 7, 2016 from the rental or lease into a separate revolving fund. The board, committee or department head in control of the building or property may then spend the monies without appropriation for the upkeep of the rented building or property. The primary purpose of the fund is to provide the board, committee or department head with a revenue source to pay expenses associated with keeping the rented premises in the condition required in its capacity as a landlord, which could include custodial costs, utilities, ordinary repairs, etc. It is used to account for payments by tenants with a leasehold interest in the building or property, not fees charged for its temporary or one-time use for civic, social, educational or recreational activities, such as a library conference room for a private organization's monthly meeting. Any balance in the rental revolving fund at year-end closes to the general fund, unless the city or town accepts a local option provision that allows carry-over of the funds. If accepted, the balance remains in the account and may be spent for the upkeep and maintenance of any facility under the control of the board, committee or department head in control of the property. Before the amendment, [MGL c. 40, sec. 3](#) provided for a revolving fund only for monies received from the rent or lease of a surplus building, or surplus space within a building, under the control of the school committee.

Unlike the revolving fund required under [MGL c. 40, sec. 3](#) for monies received from the rental of buildings or space under the control of the school committee, however, the use of a revolving fund for monies received from the rental of non-school municipal property is discretionary. Therefore, if a city or town wants to use a revolving fund for the proceeds from any particular lease or rental of its real property, its legislative body must vote to establish the fund for that rental. A separate vote should be made for each separate rental or lease of a building or space, or the municipality could adopt a by-law or ordinance that sets out the rentals or leases for which a revolving fund is to be established.

Published [City & Town – January 5, 2017](#)**17. What change did the Municipal Modernization Act (Act) make in the procedure under [MGL c. 41, sec. 52](#) regarding approval of warrants for the payment of payrolls and bills?**

Under [MGL c. 41, sec. 52](#), in a town, all warrants for the payment of bills and payrolls must be approved by the selectboard, unless otherwise provided by charter. The board reviews the items on the treasury warrants and may disallow and refuse to approve for payment, in whole or in part, any claim they determine is fraudulent, unlawful or excessive. Before the November 7, 2016 effective date of the Act, approval or disapproval of treasury warrant items required action by a majority of board members at an open meeting. This could sometimes result in payment delays. The Act amended the statute to allow the selectboard to designate any one of its members to approve these warrants. To use this procedure, the board must vote the designation at an open meeting and the designated member is required to report his or her actions on the warrants to the full board at the next meeting following the actions. Each member of the board remains responsible for compliance with the provisions of section 52. This new procedure is similar to the one under [MGL c. 41, sec. 41](#), which allows a department head comprised of a multi-member board or committee to designate one of its members to make oath to departmental payrolls.

18. May the selectboard designate a back-up member to approve warrants under [MGL c. 41, sec. 52](#) in the absence of the member designated by the board?

Yes. The selectboard may vote, at an open meeting, to designate one of its members as a substitute in the event of the absence or other inability of the designated member to act. However, there can only be one member designated to act for the board at any one time. Therefore, the board's vote should clearly state that the back-up may only act when the designated member is unable to do so and establish the procedure for reporting that the primary designee is unable to act (e.g., notice by a certain time to the selectboard chair, town accountant, treasurer, other designated officer).

19. May the selectboard designate the town manager, town administrator or other town officer or employee to approve warrants on its behalf under [MGL c. 41, sec. 52](#)?

No. The designee must be a member of the selectboard. A charter, however, could provide that this function be exercised by a town manager, town administrator or other officer. [MGL c. 43B, sec. 20](#).

20. Did the Municipal Modernization Act made any changes to [MGL c. 41, sec. 56](#) regarding the procedures required for the approval of departmental bills?

Yes. Under [MGL c. 41, sec. 56](#), all boards, committees, department heads and officers authorized to expend money must, at least monthly, approve and transmit to the accounting officer all bills and payrolls that are chargeable to the appropriations over which they have spending authority. The approval is given only after a determination that the charges are correct and the goods, materials or services were ordered and actually received.

Effective November 7, 2016, the board or committee may designate any one of its members to approve the bills and payrolls instead of taking action on them at an open meeting. Similar to the changes described above to [MGL c. 41, sec 52](#), the designated member must report to the full board or committee on his or her actions at the next meeting following such action and each member remains responsible for compliance with the requirements of section 56. The board or committee may likewise designate a back-up member in the manner described above to act when the designated member is absent or otherwise unable to act. The board or committee may not designate a person to act for it who is not one of its members. This new procedure is similar to the one under [MGL c. 41, sec. 41](#), which also allows a department head comprised of a multi-member board or committee to designate one of its members to make oath to departmental payrolls.

21. Do the Act's changes to [MGL c. 41, sec 52](#) or [MGL c. 41, sec. 56](#) apply to the approval of bills or payrolls by a Regional District School Committee?

No. Approval of regional school bills or payrolls by a regional school committee is governed by [MGL c. 71, sec 16\(a\)](#), which provides in relevant part:

“The committee may establish a subcommittee of no less than three members for the purpose of signing payroll warrants and accounts payable warrants to allow for the release of checks; provided, however, that such subcommittee shall make available to the committee at the next meeting, a record of such actions of such subcommittee.”

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22. Did the Municipal Modernization Act make any changes regarding property tax payments?

Yes. The Municipal Modernization Act standardized the accrual of interest on overdue property tax installments. Beginning in Fiscal Year 2018, interest will accrue from the installment due date regardless of the billing system used by the city or town. Currently, interest accruals on overdue installments in semiannual payment systems relate back to the mailing of the bill. No change was made in the interest rate.

In addition, if a city or town has accepted [MGL c. 59, sec. 57A](#), small preliminary or actual bills of \$100 or less will be payable in a single installment. Previously, acceptance of [MGL c. 59, sec. 57A](#) (bills \$25 or less) or [sec. 57B](#) (bills \$50 or less) only applied to cities and towns still using the regular semiannual payment system. This change allows all communities to use this option regardless of the billing system used and updates the amount. The Municipal Modernization Act repealed [MGL c. 59, sec. 57B](#) and applies an updated amount in [sec. 57A](#) to all cities and towns that accept that statute. No further action is needed if a city or town has already accepted [MGL c. 59, sec. 57A](#). Preliminary or actual bills in those communities will be payable in a single installment if they are \$100 or less.

23. What is the impact of the amendments in the local option jet fuel excise now treated as general revenue of cities and towns that have accepted it?

The amendments do not affect most cities and towns imposing the local option jet fuel excise under [MGL c. 64J, sec. 4](#) and [sec. 13](#). They conformed the excise to a Federal Aviation Administration (FAA) rule that took effect in December 2014. Under that rule, aviation fuel taxes first imposed by a governmental entity after December 31, 1987 must be earmarked for airport purposes. States were given a period of time to develop and implement a plan to comply with the rule during which the FAA would take no enforcement action.

Local Jet Fuel Excise Imposed on or before December 31, 1987. According to our records, all but two of the municipalities currently imposing the jet fuel excise began doing so on or before December 31, 1987. Those municipalities are not subject to the FAA rule and the amendments do not affect them.

Local Jet Fuel Excise Imposed after December 31, 1987. Municipalities that began imposing the excise after December 31, 1987, including those accepting the statute in the future, must spend jet fuel excise revenues for airport purposes under the FAA rule. As a practical matter, that means they must own and operate the airport that generates the excise revenues and segregate those revenues for airport purposes by adopting a separate “enterprise” fund for airport facilities and operations under [MGL c. 44, sec. 53F½](#). Under an enterprise fund, all revenues and expenditures related to the enterprise are segregated from the general fund of the municipality and enterprise revenues may only be appropriated and spent for enterprise purposes. A city or town that cannot spend excise revenues for airport purposes because the airport within their borders is owned by another municipality or governmental entity will not be able to impose the excise in future fiscal years. Only a municipality owning and operating an airport can accept the statute to impose the excise and it may do so whether the airport is located within its borders or in another city or town.

24. How may a municipality account for insurance, restitution or other third party payments it receives for injuries to police officers and firefighters?

Under [MGL c. 41, sec. 111F](#), a police officer or firefighter incapacitated while performing public safety functions, i.e., in the line of duty, is entitled to leave without loss of pay while recovering from those injuries. If a non-municipal third party, such as a motorist, caused the injuries, the municipality may seek damages against that party. It may recover all of its costs from that third party, including medical and leave costs, payments for backfilling to cover the absence of the employee, loss of income to the employee, including income from work details and overtime, and an amount to cover pain and suffering for the employee.

The Municipal Modernization Act amended [MGL c. 41, sec. 111F](#) to include a new local acceptance paragraph. If accepted, the city or town may establish a “Special Injury Leave Indemnity Fund” and may appropriate monies into the fund. In addition, the fund may be credited with any insurance or restitution monies received from third parties for injuries to police officers and firefighters. Monies in the fund may be spent with the approval of the chief executive officer and without further appropriation for paying expenses incurred under [MGL c. 41, sec. 111F, i.e., salary and other](#) compensation, medical bills and replacement services for the injured police officers and firefighters. The balance in the fund carries carry over from year to year, unless the chief executive officer finds that an amount is not needed to pay current or foreseeable future expenses and therefore, may be released to the general fund.

25. What change did the Municipal Modernization Act make in the procedure for the transfer of taxes to the taxes in litigation account to protect the collector on the bond when bankruptcy or other reasons prevent perfection of the tax lien?

Under [MGL c. 60, sec. 37A](#), a tax collector may record a statement to continue the lien on real property when the collector cannot perfect the lien by a tax taking because of bankruptcy or other legal proceedings. During the time the expiration of the lien is suspended, the collector’s obligation under a fidelity bond is also suspended and the outstanding taxes are transferred to the “taxes in litigation” asset account. [MGL c. 60, sec. 95](#). The Municipal Modernization Act eliminated the requirement that tax collectors obtain authorization from the Department of Revenue in order to make that transfer. That amendment took effect on November 7, 2016. To effectuate a transfer on or after that date, collectors need only to provide the accounting officer with a copy of the recorded statement and the amount to be transferred. The accounting officer will then make the transfer based on the recording of the statement.

26. If a parcel has been subdivided after the January 1 assessment date and there has been an actual sale, then the real estate taxes on the original parcel, to the extent unpaid, may be apportioned or allocated between the assessed owner of the original parcel and the purchaser(s) of a part of the parcel. The assessors

must make the apportionment if a request in writing has been made by one of the parties. What is the recourse for a party who disputes the amount of the apportioned bill?

The Municipal Modernization Act amended [MGL c. 59, sec. 81](#) to extend the time period for a party who disputes an apportionment to appeal to the Appellate Tax Board. Appeals may now be taken within 30 days of the apportionment. Previously, the appeal had to be made within seven days of the apportionment.

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27. When are betterment and special assessment payments reserved for appropriation?

Revenues from estimated sewer assessments are required to be reserved for appropriation under [G.L. c. 83, sec. 15B](#).

Additionally, the [Municipal Modernization Act](#) added [G.L. c. 44, sec. 53J](#), which requires that betterment and special assessment payments must be reserved for appropriation to pay debt service “in any city, town...that borrows money to pay for improvements for which betterments or special assessments are assessed....” As a result, when a borrowing is authorized on or after the November 7, 2016 effective date of the Municipal Modernization Act to pay for the improvements for which the betterments or special assessments are assessed, a reservation is required for the revenues from such betterments and assessments.

28. What is the new local option to promote creation of middle income housing?

Under G.L. c. 40, sec. 60B, cities and towns may, through their respective legislative bodies, provide for Workforce Housing Special Tax Assessments (WH-STA's) as incentive to create middle-income housing. [St. 2016, c. 218, sec. 39](#). Unlike other property tax incentives, such as economic development tax increment finance (TIFs) agreements, no state-level approval is required. Local WH-STA plans may allow for exemptions as great as 100% of the fair cash value of the property during the first 2 years of construction. Over a 3 year stabilization phase following construction, the exemptions are available in declining maximum percentages of the fair cash value.

To use this incentive, a city or town must designate one or more areas that present exceptional opportunities for increased development of middle income housing as WH-STA zones. The plan must describe in detail all construction activities and types of residential developments intended for the WH-STA zone. The city or town must also promulgate regulations establishing eligibility requirements for developers to enter into WH-STA agreements. The regulations must address procedures for developers to apply for a WH-STA; the minimum number of new residential units to be constructed to qualify

for WH-STA tax incentives; maximum rental prices and other eligibility criteria to facilitate and encourage construction of workforce housing.

The city or town may then enter into tax agreements with property owners in WH-STA zones that will set maximum rental prices that may be charged by the owner to create middle income workforce housing.

29. What changes did the Municipal Modernization Act regarding Community Preservation Act (CPA) funds appropriated to an affordable housing trust?

Under [G.L. c. 44B, sec. 5](#), cities and towns that have adopted the CPA may appropriate CPA funds for the following affordable housing purposes: (1) the acquisition, creation, preservation and support of community housing; (2) the rehabilitation or restoration of community housing acquired or created with CPA funds and (3) to an affordable housing trust fund created under [G.L. c. 44, sec. 55C](#) through special legislation. Under [G.L. c. 44, sec. 55C\(a\)](#), which allows for the creation of a Municipal Affordable Housing Trust Fund, monies in the fund may be spent for creation and preservation of housing for the benefit of low and moderate income households. Once the CPA-designated affordable housing funds became part of the affordable housing trust fund assets, they could be spent for trust purposes. In some cases, those purposes might not have otherwise been a CPA eligible purpose.

The Municipal Modernization Act amended [G.L. c. 44B, sec. 55C](#) to include CPA community housing purposes within the purposes of the affordable housing trust. Moreover, it now requires that any CPA monies appropriated to the trust remain subject to all CPA restrictions and accounted for separately. The trust must also provide the community preservation committee with a report at the end of the fiscal year that shows all expenditures from CPA funds the trust made during the year.

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30. What is the District Improvement Financing Program?

Under [MGL c. 40Q](#), cities and towns may create one or more improvement districts within their boundaries to promote increased residential, industrial, and commercial activity. Development districts are created by action of the mayor and council in cities, and town meeting in towns.

The centerpiece of the district improvement financing (DIF) program is the “District Development Program,” which is a statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within a development district. Development programs may also include means and objectives to increase residential housing, both market rate and affordable. Every development program must include a financial plan, which is a statement of the costs and revenue sources needed to carry

out development programs, to include (1) cost estimates for the development program; (2) the amount of indebtedness to be incurred; and (3) sources of anticipated capital. [MGL c. 40Q, sec. 2.](#)

31. How is municipal financing of improvements under the DIF program different than financing of other improvements?

A unique financing option involves setting aside all or a portion of the additional taxes, generated by the public improvements entailed in the development program. Districts that set aside a portion of the rise in property tax revenues (the “increment”) to finance the development program are referred to as “invested revenue districts.” General obligation or revenue bonds can be issued in anticipation of higher property tax revenues spurred by the development program in the district.

The revenue from the retained tax increment is reserved and credited to two accounts. [MGL c. 40Q, sec. 3.](#) First in priority is the “development sinking fund account” that is used to cover payment of interest and principal on debt taken out to fund the program. Second priority goes to “a project cost account” to cover separate project costs as outlined in the financial plan for the program. An amendment made by the Municipal Modernization Act provides that the requirement to reserve the increment ends when sufficient monies have been reserved to cover the full, anticipated liabilities of both these accounts. [MGL c. 40Q, sec. 3\(d\).](#)

32. How is the District Improvement Financing Tax Increment Calculated?

The Municipal Modernization Act amended the calculation of the tax increment reserved for debt service and project costs in cities and towns with invested revenue districts under [MGL c. 40Q](#). It will now equal the actual new growth increase added to the municipality’s levy limit under Proposition 2½ for the development activity and expanded tax base within the district. [MGL c. 40Q, sec. 1.](#) The previous formula was based on certain adjusted valuation increases that was difficult to calculate, did not correspond to the new property tax revenue generated by the program and was not fixed until the tax rate for the year was set. The amount will now be known before the rate is set since it is based on Proposition 2½ new growth. Moreover, the assessors can provide a realistic estimate of the increment for budgeting purposes. This will ensure that the revenues generated by the increment are not used to support the budget generally.

The annual increment is based on the increase in the community’s levy limit (“new growth”) attributable to real estate parcels within the district for that year, including the portion attributable to prior years with an assessment date after the base date of the program. The percentage of the increment being reserved for financing the project must be specified as part of the district financing plan.

Example

District is created April 1, 2017

Base date is January 1, 2017 (FY18)

FY19 with January 1, 2018 assessment date is first year for tax increment

\$100,000 of FY19 tax base growth is attributable to parcels in district

FY19 increment = \$100,000.

\$150,000 of FY20 tax base growth is attributable to parcels in district

FY20 increment = \$252,500 [\$102,500 (\$100,000 FY19 increment increased by 2.5%)

PLUS \$150,000 additional increment]

\$100,000 of FY21 tax base growth is attributable to parcels in district

FY21 increment = [\$358,813 [\$258,813 (\$252,500 FY20 increment increased by 2.5%)

PLUS \$100,000 additional increment]

33. What is the new local option to promote creation of middle income housing?

(Republished from [March 2, 2017 City and Town](#))

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