

Tax and Excise Collections

Because the financial success of a community is based on bringing in the revenues necessary to support the operating budget each year, it is essential that the collector establishes and maintains reliable record keeping systems and enforces a timely collections process.

All amounts committed must be supported with a warrant and a detailed listing of all amounts due. From this, bills are generated and mailed. Typically, payments are made by escrow service, lockbox, Internet, mail and over the counter. All money received should be turned over (MGL Chapter 60, Section 2) to the treasurer's office frequently—at least once a week or daily during heavy collection periods—so they may be deposited in the bank timely. With each turnover, the collector provides a report, summarizing the receipt by payment type and fiscal year, to both the treasurer and the accountant/auditor. The treasurer uses the report to verify the amount of funds turned over while the accountant uses the report to track what has been paid and what receivables remain outstanding.

Unfortunately, municipal receivables are not always paid in a timely manner. Beginning in FY06, the actual real estate bill for a parcel must include a notice [\[1\]](#) if other taxes and charges that are not on the bill and are liens on the parcel are more than 90 days overdue. It is designed to put the taxpayer on notice of other charges due and to encourage payment before additional interest, charges or other fees are added to the account. Failing to receive timely payments, the collector must use other avenues to pursue delinquent accounts.

For property taxes, a collector typically uses the following actions to collect outstanding payments.

Demand	When a tax bill becomes past due, the collector sends a demand notice requesting payment. The collector is required to issue a demand before initiating a tax taking.
Tax taking	When a municipality levies a tax upon a parcel of real property, a lien for that tax arises automatically on the parcel. Unless the tax collector perfects this lien, however, it may be lost if the tax remains delinquent and the property subsequently changes ownership (MGL Chapter 60, Section 37). A tax collector may avoid the loss of such a tax lien by placing the subject property into tax title within five calendar years from the January 1 assessment date of the tax; this process perfects the lien. Each year, if the demand notice does not result in payment, the collector should initiate tax taking procedures promptly rather than letting the outstanding charges linger. For properties already in tax title, the new outstanding amount should be added to the account before the close of the fiscal year. For new takings, the collector should advertise and then make tax takings in the fall. After a property is placed in tax title, the collection responsibility is transferred from the collector's office to the treasurer's.
Foreclosure	The treasurer must wait at least six months from the date of a tax taking to initiate Land Court foreclosure proceedings. By initiating foreclosure proceedings, especially on properties of high value, the community will convey the message to taxpayers that the community is serious about collecting overdue taxes. Both processes allow the town to take title and possession of a parcel, which can then be auctioned to recover the taxes and interest owed, or preserved as town-owned land. Each year, the treasurer should identify at least the 10 largest tax title accounts ripe for foreclosure and proceed in Land Court in an aggressive fashion. After 90 days from the date of taking, the treasurer may work with the assessors to pursue land of low value foreclosure (MGL Chapter 60, Section 79) through DOR. Annually, DLS publishes the maximum valuation of parcels qualifying for the land of low value foreclosure procedure. The goal should be to move into the foreclosure phase of the collection process promptly each year for newly created tax titles and not have them languish for years.

DEPARTMENT OF REVENUE

DIVISION OF LOCAL SERVICES

TECHNICAL ASSISTANCE SECTION

In addition to issuing a demand (similar to the step noted above), the collector uses the following practices for collecting outstanding motor vehicle excise.

Deputy collector	If 14 days after the mailing of a demand payment is not received, the collector may issue warrants to one or more deputy collectors authorizing them to collect delinquent motor vehicle excise. The deputy may mark licenses/registrations or provide evidence (e.g., death absence, poverty, insolvency or other inability of the persons assessed to pay) that the accounts are uncollectable. All amounts collected by the deputy collector should be deposited to a municipal bank account from which the deputy may be paid his fees by check signed by the collector once the tax payments have cleared (MGL Ch. 60, Section 92).
Non-Renewal Program	Upon request, the Registry of Motor Vehicles marks the license and registration of delinquent excise payers for non-renewal. This program has proved particularly effective.

There are other ways of securing amounts due a community, which are at the discretion of the collector and/or subject to the adoption of enabling legislation by a community.

Dunning letters	As a way of encouraging payments, the collector may issue dunning or reminder letters of amounts that are delinquent. While it is a courtesy, there is no requirement to issue correspondence of this type.
Suspending local licenses and permits	A community may establish an ordinance/bylaw that enables it to deny an application for, or revoke/suspend, some local licenses or permits issued for any delinquent taxpayer (MGL Chapter 40, Section 57). Annually, the collector must furnish each licensing authority with a list of all delinquent taxpayers.
Bulk sale of tax receivables	A community may make bulk assignments of its delinquent property tax receivables and liens (MGL Chapter 60, Section 2C) to third parties. DLS recommends that municipal officers discuss whether to use this authority and what receivables would be assigned.
Municipal charges lien	For delinquent water (MGL Chapter 40, Sections 42 A, B, C, D, E, F), sewer (MGL Chapter 83, Sections 16 A, B, C, D, E, F), and trash (MGL Chapter 44, Section 28C(f)) charges, a community may lien these amounts on the property tax provided the enabling legislation is accepted and a certificate of acceptance is on file at the Registry of Deeds. For other unpaid local charges and fees, a community may adopt MGL Chapter 40, Section 58 separately for each purpose in order to lien each upon the property tax. The lien is created by recording a listing of a particular type of charge or fee (by parcel of land and by name) at the Registry of Deeds.
Late Interest	When taxes and excise are overdue, late interest accrues automatically. For fees and charges, a community may establish an ordinance/bylaw to charge interest on overdue accounts to encourage timely payments (MGL Chapter 40, Section 21E). In the ordinance/bylaw, the community must establish due dates and set an overdue interest rate not to exceed the rate that applies to overdue taxes (currently 14 percent annually).
Deputy collector	The collector also may issue warrants to one or more deputy collectors authorizing them to collect delinquent taxes and other excises.
Civil lawsuit	A town can also bring a civil lawsuit against a tax delinquent, but only when the individual is personally liable for an unpaid excise or tax. This method of collection is most frequently used in situations involving personal property and excise. Only when a tax lien has been lost would a tax collector typically utilize this method to enforce collection of the real estate taxes.

It has been our observation that successful collectors/treasurers are those who aggressively pursue the collection of delinquent accounts. The execution of a systematic and deliberate program to collect taxes owed is intended not only to capture revenue, but also to establish a clear policy that tax delinquents will be aggressively pursued. Timely execution of

collection remedies such as issuance of demands immediately after bills become past due and initiating tax taxing shortly afterwards dramatically increases the rate of collection of municipal monies, thereby assisting in the financial stability of a community.

[1] For real estate parcels, the bill must include a general statement of delinquency if: 1) any real estate taxes assessed for any prior fiscal year; or 2) any other taxes, betterments, special assessments, or charges not added to the current year's tax that constitutes liens on the same parcel, are overdue.