



Informational Guideline Release

Property Tax Bureau
Informational Guideline Release (IGR) No. 04-209
December 2004

Supersedes IGR 00-207 and any prior written inconsistent statements

MOTOR VEHICLE AND BOAT EXCISE ABATEMENTS

Chapter 262 §§10 and 11 of the Acts of 2004
(Amending G.L. Ch. 60A §2 and Adding G.L. Ch. 60A §8)

This Informational Guideline Release (IGR) explains recent legislation that changes the motor vehicle and boat excise abatement application deadline and gives assessors the authority to act on late filed applications under certain circumstances. **It also informs local officials that as a result of this new legislation, the Commissioner of Revenue will not accept applications for authority to abate motor vehicle and boat excises under G.L. Ch. 58 §8.**

Topical Index Key:

Abatements and Appeals
Boat Excise
Motor Vehicle Excise

Distribution:

Assessors
Collectors
Selectmen/Mayors

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**Chapter 262 §§10 and 11 of the Acts of 2004
(Amending G.L. Ch. 60A §2 and Adding G.L. Ch. 60A §8)**

SUMMARY:

This legislation streamlines the process for addressing motor vehicle excise billing issues. Annual motor vehicle excise bills are issued by cities and towns based on ownership and address information contained in Registry of Motor Vehicle (RMV) registration records. Often, however, data originally supplied by vehicle owners at the time of registration becomes outdated during the two years most registrations are valid because the owners relocate or dispose of the vehicles. Many billing issues are not discovered until owners learn their registrations or driver licenses have been marked for non-renewal at the RMV because excise bills are outstanding. The taxpayer's right to apply for an abatement has usually expired by that time and the assessors would then seek authority from the Commissioner of Revenue under G.L. Ch. 58 §8 in order to abate in those cases. Under the amendments made by this legislation, assessors now have the power to resolve these issues on their own.

First, the legislation amends G.L. Ch. 60A §2, which sets forth the deadline by which a taxpayer may by right apply for a motor vehicle excise abatement. Abatement applications are now timely if filed within three years after the excise was due, or one year after the excise was paid, whichever is later. Previously, applications were due by December 31 of the year after the excise year, or 30 days after the bill was mailed, if later. Since most vehicle registrations are valid for two years, this new three-year deadline will allow taxpayers sufficient time to address most problems discovered in excises assessed since they last renewed their registrations.

The legislation also adds a new section 8 to Chapter 60A. Under that section, the assessors now have authority to grant discretionary abatements in certain circumstances where the taxpayer did not timely apply for an abatement. The excise must be unpaid and the abatement must be consistent with these guidelines. Assessors no longer have to obtain authority to abate from the Commissioner under G.L. Ch. 58 §8.

The assessors' decision on a late filed application is solely discretionary and cannot be appealed to any local or state board, agency or official. If the assessors do not exercise their discretionary authority, however, the taxpayer can pay the excise, file an abatement application by right within one year of the payment date and appeal any adverse decision by the assessors on the application. Previously, the taxpayer would have had no recourse if the assessors chose not to seek authority to abate from the Commissioner under G.L. Ch. 58 §8.

These changes also apply to abatements of boat excises assessed under G.L. Ch. 60B because the motor vehicle excise abatement provisions are applicable to those abatements. G.L. Ch. 60B §5.

With the issuance of these guidelines, the Commissioner of Revenue will not accept requests from assessors for authority to abate motor vehicle and boat excises under G.L. Ch. 58 §8.

GUIDELINES:

A. TAXPAYER'S RIGHT TO APPLY FOR ABATEMENT

1. Application Deadline

An application for abatement of a motor vehicle or boat excise must be received by the assessors within three years after the excise was due, or one year after the excise was paid, whichever is later.

Example

A motor vehicle excise is due on February 25, 2005.

The taxpayer pays the excise on February 20, 2005. Any abatement application is due by February 25, 2008.

If the taxpayer pays the excise on December 1, 2006, the application is still due by February 25, 2008.

If the taxpayer pays the excise on June 10, 2008, however, the application must be filed by June 10, 2009.

2. Assessors' Action on Application

Assessors have three months from the date they receive a timely filed abatement application to grant or deny an abatement.

The three-month action period can be extended by written agreement of the assessors and taxpayer. The application is deemed denied if the assessors do not act within the three month, or extended, action period.

3. Taxpayer's Right to Appeal

A taxpayer aggrieved by the assessors' action or failure to act on a timely filed abatement application may appeal to the county commissioners or the state Appellate Tax Board (ATB). The appeal must be filed within three months of the date the assessors granted or denied the abatement, or the date the application was deemed denied if they did not act.

B. DISCRETIONARY ABATEMENTS

1. Abatement Requirements

Assessors may abate motor vehicle and boat excises in certain circumstances where the taxpayer did not timely file for an abatement.

a. Excise Unpaid

The excise must be unpaid. No discretionary abatement may be granted for any portion of an excise that is paid.

b. Abatement Policy

The reason for the abatement must be within the established policy of the assessors. Each board of assessors must adopt a policy governing the exercise of their discretion in order to ensure equitable treatment of taxpayers with similar motor vehicle and boat excise billing issues. The scope of the policy is solely within the discretion of the assessors, but should be designed to promote a fair and prompt resolution of common and recurring excise billing issues.

For example, the assessors may adopt a broad policy of granting abatements in all cases where an abatement would be granted if the taxpayer were to pay the tax and apply by right within one year. They may also adopt a narrower policy of only granting abatements where the circumstance would result in abatement of the entire excise, such as where a taxpayer sold the vehicle or relocated to another state in the prior year.

Assessors should ensure that their policy is transparent and available so that taxpayers can determine the procedure they should follow to resolve their excise billing problems and assessing staff can properly advise them.

2. Recommittal

If the excise is abated because another city or town should have assessed it, the assessors must notify the assessors of that community within 60 days of the date the abatement is granted. This notice must include the taxpayer's current address if different from the address to which the bill should have been originally sent.

Assessors receiving notice of an erroneously assessed excise must recommit it as soon as practicable. See Property Tax Bureau Informational Guideline Release 94-202, *Recommitment of Motor Vehicle Excise Bills*.

3. Recordkeeping

The excise abatement records should cite G.L. Ch. 60A §8 as the authority under which any discretionary abatement is granted.

Assessors should also generate at the end of every fiscal year separate reports for motor vehicle and boat excises that show the total number of excise abatements they granted during that year and of that total, the number of discretionary abatements granted under G.L. Ch. 60A §8. The annual reports should be retained by the assessors for audit purposes.

4. Appeal

Any action on a late filed application is within the sole discretion of the assessors and their decision cannot be appealed to any local or state board, agency or official. The taxpayer's recourse is to pay the excise and file an abatement application within one year of the payment date. See Section A above.

C. UNCOLLECTIBLE EXCISES

1. Abatement Requirements

Assessors may abate motor vehicle and boat excises upon the collector's certification that they are uncollectible after due diligence in pursuing available collection remedies.

a. Inability to Pay

Excises that are uncollectible because the taxpayer is dead, absent, bankrupt, insolvent or otherwise unable to pay may be abated. G.L. Ch. 60A §7.

b. Settlement of Levy

Excises that are uncollected more than three years after billing may be abated using the assessors' discretionary authority in order to close the levy. G.L. Ch. 60 §95; Ch. 60A §8.

2. Abatement Procedure

The assessors should review the collector's request, and certify any abatements they grant to the collector, within 30 days of the request. The certification discharges the collector from any further obligation to collect the abated excise at that time.

3. Future Collection

If due to RMV marking, notice to the harbormaster or otherwise, the excise becomes collectible in the future, the assessors must issue a new commitment to the collector for the collection of that excise.

ATTACHMENT:

Attached is a chart that can be used to determine the assessors' jurisdiction to act on a taxpayer's application for a motor vehicle or boat excise abatement and the taxpayer's ability to appeal the assessors' decision on the application.

JURISDICTIONAL CHART
TAXPAYER APPLICATIONS
TO
ABATE MOTOR VEHICLE AND BOAT EXCISES

Was application filed within 3 years of excise due date?

IF YES

Assessors have jurisdiction to act on application.
Taxpayer may appeal decision.

IF NO↓



Is excise unpaid?

IF YES

Assessors may grant discretionary abatement based on adopted policy.
Taxpayer may NOT appeal decision.

IF YES AND NO ABATEMENT GRANTED

Taxpayer may pay excise and file application within 1 year of payment date.
Taxpayer may appeal decision on that application.

IF NO↓



Was application filed within 1 year of payment date?

IF YES

Assessors have jurisdiction to act on application.
Taxpayer may appeal decision.

IF NO

No abatement may be granted.