



Informational Guideline Release

Property Tax Bureau
Informational Guideline Release (IGR) No. 03-211
August 2003

(Supersedes IGR 03-207)

MUNICIPAL TAX AMNESTY PROGRAM

Chapter 46 §113 of the Acts of 2003
(Amending Chapter 4 §73 of the Acts of 2003)

This Informational Guideline Release (IGR) informs local officials about an amendment to the temporary tax amnesty program enacted earlier this year that extends the deadline for completing the program to June 30, 2004.

Topical Index Key:

Accounting Policies and Procedures
Collection Procedures
Fees and Charges
Tax Bills

Distribution:

Collectors
Treasurers
Accountants/ Auditors
Selectmen/Mayors
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels

(Supersedes IGR 03-207)

MUNICIPAL TAX AMNESTY PROGRAM

**Chapter 46 §113 of the Acts of 2003
(Amending Chapter 4 §73 of the Acts of 2003)**

SUMMARY:

Cities and towns were authorized by recent legislation to enact a temporary tax amnesty program that provides for the waiver of all or part of all interest, collection costs and penalties accrued on delinquent property taxes, motor vehicle excises or boat excises. Enactment of the program is by vote of town meeting, town council or city council with the approval of the mayor. The taxpayer must pay the underlying tax or excise within the amnesty period established under the program.

The deadline for completing amnesty programs has now been extended to June 30, 2004. Previously, the program had to end by December 31, 2003. Cities and towns that have already enacted programs may extend their amnesty periods to a date not later than the new deadline. The extension would be voted in the same manner as the original deadline.

These guidelines update those issued earlier this year when the amnesty program was enacted to reflect the new deadline. See Property Tax Bureau Informational Guideline Release No. 03-207, *Municipal Tax Amnesty Program* (March 2003). No changes were made in other provisions.

GUIDELINES:

A. LOCAL ENACTMENT

A local tax amnesty program is established by the "local enacting authority," which is defined as town meeting, town council, or city council with the mayor's approval. Policy decisions regarding the scope of the program, the period it will run and taxpayer eligibility requirements are to be made by the enacting authority and cannot be delegated to the collector, treasurer or other board or officer.

1. Amnesty Coverage

An amnesty program may provide for the waiver of all or a uniform percentage of the total amount of accrued interest, collection costs and penalties owed on a delinquent property tax, motor vehicle excise or boat excise upon full payment of the outstanding tax or excise, and all interest, collection costs and penalties not waived, by the end of the amnesty period established under the program.

The local enacting authority **must specify** the scope of the program in its vote, including:

- a. **The type of local tax liabilities for which a waiver may be obtained.** The program may apply to any or all of the following types of local tax liabilities: real estate and personal property taxes assessed under G.L. Ch. 59, motor vehicle excises assessed under G.L. Ch. 60A or boat excises assessed under G.L. Ch. 60B.

Communities may choose to include all or specified categories of those liabilities within the scope of the program. For example, a community could vote to have the amnesty apply to:

- real estate and personal property taxes assessed for any fiscal year
- real estate taxes in tax title or assessed on owner-occupied residential properties
- motor vehicle excises assessed for calendar year 2000 and before, or
- boat excises assessed for fiscal years 2000 to 2004.

- b. **The percentage of accrued interest, collection costs and penalties that will be waived on the particular tax or excise liability.** The program may provide for a waiver of any percentage up to 100% of the total amount of accrued interest, collection costs and penalties owed on a particular liability (the "covered amount"). **A community must waive the same percentage of the covered amount on all liabilities included within the program.**

2. Amnesty Period

The local enacting authority **must specify** in its vote the period of time the amnesty program will be in effect. The beginning date cannot be earlier than the effective date of the vote and the ending date cannot be later than **June 30, 2004.**

3. Amnesty Eligibility

The local enacting authority **must specify** in its vote any requirements taxpayers must meet in order to obtain an amnesty waiver. Eligibility requirements may include, for example:

- a. **Application requirements.** A community may require taxpayers to specifically apply for an amnesty waiver or may provide that the waiver shall automatically apply to any taxpayer who pays outstanding liabilities included within the program during the amnesty period and meets any other eligibility requirements.
- b. **Payment Procedures.** A community may require taxpayers to make full payment of the liability, and any percentage of the covered amount that is not waived, in a single installment or may permit them to make payment in more than one installment, **provided full payment is made before the end of the amnesty period.** A particular method of payment may also be required, *e.g.*, payment must be by money order or certified check.
- c. **Full settlement requirements.** The community may require taxpayers to pay all outstanding liabilities included in the program in order to obtain any waiver. For example, if the community's program includes all property taxes, motor vehicle excises and boat excises, the community may require taxpayers who owe any of those liabilities for any years to pay them all in full in order to obtain a waiver of the chosen percentage of the covered amount on each particular liability.

In addition, the community may require taxpayers to pay certain outstanding amounts other than those for which a waiver may be obtained. For example, if the community's program includes real estate taxes, it may require taxpayers to pay any delinquent water, sewer or other liens added to those taxes in order to obtain a waiver of the chosen percentage of the covered amount on the real estate taxes.

Attached is sample language that may be used for as a model for local program votes. (See attached "*Sample Local Tax Amnesty Program Vote*").

B. IMPLEMENTATION

The collector, or treasurer in the case of real estate taxes covered by a tax title, must grant amnesty to any taxpayer who meets the eligibility requirements set forth in the program approved by the enacting authority. In implementing that program, the following definitions and guidelines apply.

1. **Taxpayer**

The *taxpayer* is the person assessed the tax or excise and personally liable for its payment. In the case of real estate taxes, the taxpayer may also be the administrator of the estate or executor of the will of the assessed owner, the current owner of the parcel, a tenant obligated to pay more than half the taxes on the parcel or anyone else who has an interest in or possession of the property.

Payment, and any application that may be required under program rules, may be accepted from the taxpayer, or anyone acting on the taxpayer's behalf.

2. **Liability**

The *liability* is the principal amount of the tax or excise included within the program that is overdue and unpaid. It does not include any water, sewer or other liens added to and a part of the tax for collection purposes. A taxpayer who had a delinquency, made a partial payment sufficient to pay the principal amount of the tax or excise and now owes only the accrued interest, collection costs and penalties does not have an unpaid liability and may not receive a waiver of the balance due.

3. **Covered and Waived Amount**

The *covered amount* is the total of all accrued interest, collection fees and charges, and penalties that become part of the particular tax or excise liability by law as a result of the taxpayer's failure to timely pay the liability, are unpaid and are required to be paid for that tax or excise to be considered paid in full.

The *waived amount* is determined by applying the chosen percentage to the covered amount.

4. **Payment**

A taxpayer who fails **to pay timely and fully** all amounts required under the program is automatically ineligible for amnesty. Any payment made will be applied to the covered amount first, and the taxpayer will remain liable for the balance as well as any additional interest, collection costs and penalties that may accrue. **To be timely, a payment must be received by the collector or treasurer on or before the close of business on the date it is due under the program rules. As with any local tax and excise payment, it is not sufficient simply to mail the payment, or send it by delivery agent other than the United States Postal Service, on or before the due date.**

5. **Amnesty Documentation**

Collectors, and treasurers in the case of taxes covered by a tax title, should provide taxpayers who pay all amounts required under the program with a written waiver and acknowledgment that the particular liabilities are considered paid in full.

No particular form is required. A notation on a municipal lien or tax title redemption certificate might suffice in the case of real estate taxes, or a separate document could be prepared specifically for this program. If an application is required under the program rules, it could also be used to notify the taxpayer of the action taken.

The waivers should be considered part of the collection or tax title records of the community and should be retained by the collector or treasurer for the same period of time as those records.

6. **Abatements**

Taxpayers who participate in the amnesty program do not forfeit local abatement rights.

C. **ACCOUNTING PROCEDURES**

1. **Amnesty Collections**

a. **Collections in Fiscal Year 2003**

Amnesty payments of property taxes and excises that are received on or before June 30, 2003 will be reflected in the fund balance on June 30, 2003, the audited financial statements as of that date and the free cash certified as of July 1, 2003 and available for appropriation during FY04.

b. **Collections in Fiscal Year 2004**

(1) **Use as FY04 Estimated Receipts**

Amnesty payments of **excises** that are received between July 1, 2003 and the time the FY04 tax rate is set may be recognized as estimated receipts on page 3 of the tax rate recapitulation with supporting documentation.

(2) **Certification as Free Cash**

Excise collections not included as estimated receipts in the setting of the FY04 tax rate, and **all** collections of prior year **property taxes**, received on or after July 1, 2003 will be reflected in the fund balance on June 30, 2004 and the free cash certified as of July 1, 2004 and available for appropriation during FY05.

The Bureau of Accounts will recognize these amnesty collections as an update to the July 1, 2003 free cash certification in order to make them available for appropriation during FY04. A community may request a free cash update at the same time the June 30, 2003 balance sheet and supporting documentation is submitted for free cash certification, or at a later date.

Any update will be based on actual collections, not projections. Therefore, communities that plan to use amnesty collections to support FY04 appropriations should consider choosing an amnesty period that ends earlier than June 30, 2004 so that the collections can be documented and the Bureau can complete the free cash certification and update in sufficient time for any local action required before the tax rate is set and tax bills are issued.

2. **Amnesty Report**

Accounting officers must include a report on collections under their amnesty program with their year-end reports to the Bureau of Accounts. (See attached "*Report of Collections under Local Tax Amnesty Program*"). A report will have to be submitted at the end of both FY03 and FY04 if the community's amnesty period runs during both years.

SAMPLE
LOCAL TAX AMNESTY PROGRAM VOTE
(For Illustration Purposes Only)

ARTICLE/ORDER. To see if the city/town will enact a temporary tax amnesty program, in accordance with Chapter 4 §73 of the Acts of 2003, as amended by Chapter 46 §113 of the Acts of 2003, or take any other action relative thereto.

VOTED: That the city/town enact the following tax amnesty program, in accordance with Chapter 4 §73 of the Acts of 2003, as amended by Chapter 46 §113 of the Acts of 2003, in order to encourage the payment of certain delinquent tax obligations.

Section 1. Amnesty Period: The amnesty program shall begin on _____ and end on _____.

[Mandatory for community to specify amnesty period. Program cannot end any later than June 30, 2004.]

Section 2. Program Scope. A taxpayer [who meets all eligibility requirements set forth in Section 3] shall receive a waiver of _____ % of the total accrued interest, collection costs and penalties owed on any of the following types of tax liabilities upon full payment of the outstanding liability [and all interest, collection costs and penalties not waived] by the end of the amnesty period:

[Insert (1) tax and/or excise liabilities included within the program and (2) waiver percentage.]

[Mandatory for community to specify (1) tax and/or excise liabilities for which an amnesty waiver may be received and (2) percentage of interest, collection costs and penalties that will be waived.]

Section 3. Eligibility Requirements. To obtain the waiver set forth in Section 2, the taxpayer must meet all of the following requirements:

[Insert any discretionary local eligibility requirements.]

**Bureau of Accounts
Division of Local Services, Department of Revenue**

REPORT OF COLLECTIONS UNDER LOCAL TAX AMNESTY PROGRAM
Chapter 4 §73 of the Acts of 2003 as amended by Chapter 46 §113 of the Acts of 2003

City/Town of _____
Fiscal Year Ended June 30, _____

AMNESTY PROGRAM DEFINITION. Attach copy of legislative body vote.

<u>Collections:</u>	<u>BY COLLECTOR</u>	<u>BY TREASURER</u>
Real estate taxes	\$	\$
Personal property taxes	\$	
Motor vehicle excises	\$	
Boat excises	\$	

Revenue waived (estimated):

Interest	\$	\$
Charges, fees and penalties	\$	\$

Completed by:

Collector

Date

Treasurer

Date

Accounting Officer

Date