

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

Property Tax Bureau
Informational Guideline Release No. 88-234 Overlay Surplus
December 1988

OVERLAY SURPLUS

[This I.G.R. supplements I.G.R. 88-215]
§2 of Ch. 712 of the Acts of 1987
(Amending G.L. 59, S. 25)

SUMMARY:

A recent change in the law requires boards of assessors to determine the amount of overlay which can be transferred to overlay reserve within ten days of a written request by the chief executive officer of the city or town. A question has arisen regarding the process whereby assessors calculate this excess amount. Must assessors declare as surplus an excess for a particular fiscal year when there exists a potential, unfunded liability in the overlay for some other fiscal year?

Consistent with its policy to promote prudent fiscal management, the Division of Local Services concludes that assessors need only declare an overlay surplus when the excess amounts in overlay accounts for all years exceed the potential liabilities against these amounts for all years.

GUIDELINES:

1. Within ten days of a request in writing by the chief executive officer of a city or town, the assessors must provide a certification of the amount of any excess in the overlay account, and this amount shall be transferred to the overlay reserve.
2. In their calculations, the assessors shall consider overlay accounts for the current and all preceding years for which an overlay account exists.
3. The assessors shall also consider all pending Appellate Tax Board and court cases which relate to abatement and exemption issues.
4. The assessors need only certify as excess that amount by which the sum of all overlay accounts exceeds the sum of all potential liabilities against all overlay accounts.
5. Upon request by the chief executive officer of a city or town or by the Commissioner of Revenue, the assessors shall provide documentation which substantiates their determination of the amount, if any, of surplus in the overlay accounts.
6. Although the assessors may consider all overlay accounts as an aggregate for the purpose of their calculations, overlay monies shall be accounted for separately each fiscal year; they shall not be commingled into a single fund.
7. If a dispute arises between the chief executive officer regarding the amount, if any, which represents a surplus in the overlay accounts, the dispute may be arbitrated by the Commissioner of Revenue.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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