



August 2nd, 2018

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Important Dates & Information

DLS Employment Opportunity – Worcester Office

The DLS Bureau of Accounts (BOA) is seeking a field representative in its Worcester office to work with municipalities, special districts and regional school districts on accounting, reporting, and financial management through regulatory review and technical support.

Please view the posting by clicking this [Mass Careers Job Opportunities link](#). Applications must be submitted online to be considered. Related questions should be directed to BOA Director Mary Jane Handy at handym@dor.state.ma.us.

Registration Now Open for "What's New in Municipal Law"

The Division of Local Services

Discussing Community Preservation

Jared Curtis – Bureau of Accounts Field Representative

Tony Rassias – Bureau of Accounts Deputy Director

Each year, the Bureau of Accounts distributes a [Budget Bulletin](#) in the spring addressing issues that cities, towns, regional school and other districts should consider for the upcoming fiscal year's revenue and expenditure budgeting and other related matters.

One particular topic that appears annually in the Bulletin and always generates inquiries is the [Community Preservation Act](#) (CPA) as it relates to state matching funds estimate for cities and towns. The following represents a discussion between Tony Rassias, Deputy Director of the Bureau of Accounts, and Jared Curtis, the Bureau's subject matter expert, covers a variety of topics related to the CPA. We hope you find it helpful.

Tony Rassias: Jared, for cities and towns that haven't accepted the CPA, could you first explain what the Act is all about?

Jared Curtis: Sure. Cities and towns that accept the CPA impose a surcharge on each parcel of taxable real estate up to an additional 3% of the bill, less any exemption to the surcharge adopted by the city or town as allowed by the CPA law. Total surcharges received are then reserved into a local CPA fund for community preservation purposes to preserve open space and historic resources, create affordable housing and develop outdoor recreational facilities. A state trust fund, created from recording fees at the Registry of Deeds and Land Court, provides an additional source of revenue to the local CPA fund through state matching funds.

TR: How do cities and towns accept the Act?

JC: Cities and towns have two acceptance options. Under the first option, the CPA is accepted under [M.G.L. c. 44B](#), §3(b) and a surcharge up to 3% of the tax assessed on each parcel of taxable real estate is approved. This is called the "traditional" CPA. Under the second option, the CPA is accepted under G.L. c. 44B, § 3(b1/2) and (1) a surcharge of at least 1% is approved and (2) an appropriation of other municipal revenue is made into the Community Preservation Fund (CPF) which when added together with the surcharge will not exceed 3% of the taxes assessed on real property. This is called the "blended" CPA.

Legal Staff will offer its annual seminar "What's New in Municipal Law" for local officials on Thursday, September 27, 2018 at The Lantana in Randolph and Thursday, October 4, 2018 at the Log Cabin Banquet & Meeting House in Holyoke.

Please click the following for the [agenda](#) and [registration form](#).

Registrations must be received by Wednesday, September 19, 2018. Pre-registration is required. If you have any questions about these seminars, please contact DLS Training Coordinator Donna Quinn at 617-626-3838 or dlsregistration@dor.state.ma.us.

The Massachusetts Association of Assessing Officers (MAAO) will grant four (4) hours of continuing education credits to assessors attending this program.

OSD: Latest Issue of *Buy the Way Now Available*

Don't miss the July 2018 edition of [Buy the Way](#), the monthly newsletter of the Operational Services Division (OSD).

Click [here](#) to get news and updates from OSD delivered to your inbox.

DLS Releases New Budget and Tax Rate Planning Tool

The Division of Local Services has released a new Excel-based tool for assisting cities, towns and districts with tax rate planning and analysis. This Excel workbook can be used in tandem with DLS Gateway to analyze the impact of municipal finance decisions on the estimated property tax levy for any fiscal year.

If a city or town has adopted a "traditional" CPA, it must follow the amendment procedure under [M.G.L. c. 44B](#), § 16(a) to adopt the "blended" CPA. Adoption of the CPA under both options requires either (1) legislative body approval and voter approval of a ballot question or (2) a petition process and voter approval of a ballot question.

TR: What happens to the CPA surcharge receipts?

JC: Surcharges, and the other revenue appropriated to the Community Preservation Fund by a "blended" CPA community, are credited to the local CPF and may be appropriated on the recommendation of the Community Preservation Committee for community preservation purposes under the CPA law.

TR: What are state matching funds?

JC: A Community Preservation Trust Fund is established at the state level which is funded by surcharges on recording fees at the Registry of Deeds and Land Court. All municipalities imposing a surcharge the previous year receive a first round state match.

TR: Our Budget Bulletin begins with a total number of cities and towns that have accepted the CPA that are eligible for state matching funds in the upcoming fiscal year. How does BOA know the correct number of acceptances and are they all eligible for state matching funds?

JC: Once the CPA has been accepted by either (1) a majority vote of the municipal legislative body followed by a majority vote of the electorate or by (2) a majority vote of the electorate after filing a local ballot question petition signed by at least 5% of the municipality's registered voters, municipal clerks are required to submit a CPA Notification of Acceptance form to the [Municipal Databank in the Division of Local Services \(DLS\)](#). This notification is important, not only for tracking acceptances, but for distributing the state matching funds because the Municipal Databank is responsible for the distribution.

Because a municipality must commit one fiscal year of surcharges prior to receiving a state match, cities and towns where the CPA takes effect on July 1, 2018 will receive their first state match distribution in November of 2019, in FY2020. In FY2018, 172 municipalities committed the CPA local surcharge and will be eligible for the State match in FY2019. In FY2018, 162 cities and towns received just over \$24 million for the FY2018 state match.

TR: The Bulletin then indicates a percentage first round state match as determined by the Municipal Databank. Why is this estimate so important?

JC: The CPA calls for up to three distribution rounds. All cities and towns that

To view this new resource, please visit our [Financial Tools, Calculators and Templates webpage](#).

MUNICIPAL Databank



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imposed a surcharge the previous fiscal year will receive first round match distributions. The estimate is important for local Community Preservation Committees to properly budget revenue to be received from the State's Trust Fund in the upcoming fiscal year. For FY2019, the Databank has estimated a first round match of 11.5% of the municipality's surcharge imposed in FY2018.

TR: How is the first round match estimate determined?

JC: The process of estimating the first round match is a bit complicated, but here is a very basic overview. The Databank estimates the match by:

- reviewing the balance in the state trust fund as of March 15th
- estimating deposits into the fund through October of the next fiscal year
- splitting 80% of the projected fund balance, after administrative expenses, among the eligible cities and towns
- estimating growth in the local surcharge commitments

TR: Why did our first round percentage estimate drop from FY2018 to FY2019?

JC: The FY2018 first round estimate was 15%, but the actual match was 17.2%. The actual percentage exceeded our estimate. But for FY2019, the estimate is 11.5%. I see two reasons for the estimate's decline. The first and main reason is that recent legislative changes to the CPA have attracted 10 additional cities and towns, including several larger cities, to accept the law and these entities are now eligible to receive a state match in FY2019. The second reason is that fees taken in by the Registry of Deeds and Land Court that provide revenue for the match have remained stable. As a result, the percentage of the state match has decreased.

TR: As for the other distribution rounds, which cities and towns are eligible?

JC: We already know that municipalities that imposed a surcharge in the prior fiscal year are eligible for the first round distribution. If monies remain, there is a second or equity round and a third or surplus round distribution to cities and towns that have adopted the maximum 3% surcharge. The most a city or town may receive in state matching funds in any year is 100% of the total surcharge it assessed in the previous fiscal year.

TR: How is the state match determined for a "blended" CPA municipality?

JC: For these cities and towns, the state match is based on surcharge collections in the previous fiscal year plus the amount of the additional revenue appropriated by the municipality to the CPF by June 30 of that fiscal year. To be eligible for additional rounds of state matching funds, the "blended" CPA municipality must have appropriated additional municipal revenue to the CPF so that the total funds, additional appropriated municipal revenues plus surcharge, equal 3% of the real estate tax levy. The most a "blended" CPA city or town may receive in state matching

funds in any year is 100% of the total surcharge assessed in the previous fiscal year plus additional funds appropriated in that fiscal year to the CPF.

TR: How many cities and towns have accepted the 3% maximum surcharge?

JC: Currently, for the 172 municipalities that have accepted the CPA, the breakdown of percentages accepted is:

- 75 at 3%
- 15 at 2%
- 39 at 1.5%
- 1 at 1.25%
- 1 at 1.10%
- 40 at 1%
- 1 at .5%

Included within the 1% and 1.5% categories are five municipalities that have adopted or amended their CPA adoption to a “blended” CPA.

TR: The Bulletin says that the equity and surplus distributions will increase a city or town’s reimbursement depending upon their decile and total surcharge amount. What is a decile, and why will reimbursements increase because of it?

JC: It would probably help if I explain how the second and third rounds work. The 20% reserved in the state trust fund before the first round is calculated is used to determine the second or equity distribution round by dividing the remaining fund balance by the number of cities and towns receiving distributions. This result is called the “base.”

Every municipality’s equalized valuation or EQV per capita and population is then ranked from highest to lowest and the ranks are averaged to get a “raw score.” The “raw scores” are then ranked from lowest to highest and the cities and towns are placed into what are called deciles. Each decile has 35 municipalities, except decile 1 has 36. Each one of the 10 deciles has a percentage of the base assigned to it in descending order from 140% to 50%. Decile #1 is assigned 140%, decile 2, 130% and so on.

By formula, municipalities in the lower deciles (for example 1, 2, or 3) are determined to be those most in need and will receive a greater percentage share of the “base.”

If money is still available in the state trust fund after the second round, there is a third or surplus round. A new “base” is determined just as in the second round that is then multiplied by the same decile percentage used in the second round.

TR: How about a quick example?

JC: Let’s say that Community A accepted a surcharge percentage of 3% and is

therefore eligible for three rounds of distribution and let's say that money will be available in the fund after rounds one and two.

Now, let's say that Community A collected a previous fiscal year surcharge of \$1 million and the next fiscal year's actual first round match is 17.2%. In the next fiscal year, Community A will receive a match of at least \$172,000.

In the second round, Community A's EQV and population was averaged to give it a raw score which was then ranked against all cities and towns. A base was calculated at \$45,000. Community A's ranking placed it into the fourth decile which allows an equity distribution of 110% of the base, another \$49,500 or \$45,000 times 110%. In the third round, after a new base of \$25,000 is determined, Community A's 110% decile percentage from the second round allows a surplus distribution of \$27,500, or \$25,000 times 110%. In total for the three rounds, Community A will receive a distribution of \$249,000 from the state trust fund.

TR: Finally, the Budget Bulletin indicates that the estimates are subject to change depending upon Registry of Deeds collections between the time of the Bulletin and October of that year. Why does that time frame make a difference?

JC: The time frame when we issue our Budget Bulletin through October is important because actual Registry of Deeds and Land Court fees will be deposited into the State Trust Fund. The Databank does a great job estimating the amounts that will be collected, however; the actual receipts are what the final distribution in November is based on.

TR: Is there more than one distribution in a fiscal year?

JC: The only distribution for the fiscal year is in November provided the city or town submits to the Databank forms CP-1 and CP-3. Form CP-1 is available in Gateway and form CP-3 is available from [Mass GIS](#) after entering your community's password issued by the DLS Databank. Contact the [Databank](#) to obtain a password. Any questions concerning the completion of the CP-3 should be directed to the Community Preservation Coalition at (617) 367-8998.

TR: Thank you for your explanations, Jared. I'm sure our readers will now more fully understand the Bureau's guidance.

JC: Thanks, Tony!

The authors would like to thank Lisa Krzywicki, Director Municipal Databank/Local Aid Unit, and Patricia Hunt of the Bureau of Municipal Finance Law for their help in reviewing this article.

Ask DLS: Personal Property Taxes

This month's *Ask DLS* is the last in a series of frequently asked questions about personal property taxes. This month's questions are about the collection of delinquent personal property taxes. Please let us know if you have other areas of interest or send a question to cityandtown@dor.state.ma.us. We would like to hear from you.

What remedies may be used to collect delinquent personal property taxes?

Local tax collectors must enforce the personal liability of the assessed owner in order to collect delinquent personal property taxes. The reason is that a municipality or district does not have a lien on taxable personal property to secure the payment of the assessed tax. This means that a personal property item that is taxed, e.g., a valuable work of art, cannot be taken and sold to satisfy the tax obligation. Collectors have several remedies available to collect from the assessed owner. The most commonly used are (1) civil suit, (2) set-off and (3) license and permit denial, revocation, suspension or non-renewal. Collectors are not limited to using just one of these available remedies. They may use any or all remedies available under state law in order to collect taxes owed the municipality or district.

When can a municipality sue to collect delinquent personal property taxes?

The collector may file a civil suit against the assessed owner within six years of the due date of the personal property tax. [M.G.L. c. 60, § 35](#). As a result of changes made by the 2016 Municipal Modernization Act, the collector may bring all such actions in the Small Claims Session of the District Court. Ordinarily, there is a \$7,000 limit on the value of claims that may be litigated in a Small Claims Session. [M.G.L. c. 218, § 21](#). However, tax collection suits can now be brought in this session regardless of the amount of the tax owed. The small claims procedure is designed for individuals not represented by counsel and is a fast-tracked, practical, and inexpensive process to resolve a tax delinquency. Tax collectors who obtain a judgment for a tax deficiency may then be able to collect on the judgment by levying against the delinquent taxpayer's assets.

When can a municipality withhold money it owes to a taxpayer to apply to unpaid personal property taxes?

Under [M.G.L. c. 60, § 93](#), money owed by a municipality to a delinquent taxpayer may be withheld in order to set off the tax delinquency. The municipal treasurer may set-off monies owed to the taxpayer on his or her own initiative and must do so upon the tax collector's request. There is no time limit or statute of limitation on the use of set-off as a collection remedy. *Decota v. Stoughton*, 23 Mass. App. 618 (1987). This remedy might be used, for example, where the taxpayer is owed an abatement refund or payment for goods or services provided to the city or town under a contract.

When can a municipality use license or permit denial, revocation, suspension or non-renewal to collect delinquent personal property taxes?

Under [M.G.L. c. 40, § 57](#), a municipality may deny, revoke, suspend or not renew certain local licenses and permits to applicants who are delinquent in payment of their local taxes or charges. In order to use this collection remedy, however, the municipality must accept [M.G.L. c. 40, § 57](#) and adopt an implementation by-law or ordinance. Acceptance is by vote of the legislative body subject to charter. [M.G.L. c. 4, § 4](#). Tax collectors then provide their licensing and permitting boards and departments annually, or on a more frequent period as established in the implementation by-law or ordinance, with the names of delinquent taxpayers. A taxpayer has a right to a hearing with the licensing or permitting authority and opportunity to enter into a payment agreement in order to obtain the license or permit.

What does the collector do when personal property taxes cannot be collected after diligent collection efforts?

The collector cannot on his or her own authority write-off a tax committed for collection. Uncollectible personal property receivables are cleared from the books by the assessors abating the tax, with the abated tax charged to the overlay. Therefore, if after diligent collection efforts, the tax collector finds that a personal property tax is uncollectible, the collector can follow one of two procedures to have the assessors abate the tax. The abatement procedure followed depends on the reason the taxes are uncollectible.

A personal property tax may be uncollectible because the assessed owner is dead, is unable to pay due to bankruptcy, poverty or other reason, or has relocated out of state or otherwise disappeared. In that case, under [M.G.L. c. 59, § 71](#), the collector gives a written notice to the assessors, who have 30 days to process the abatement. The assessors may inquire about the reasons during that 30 day period, but the collector decides that the taxes are uncollectible. The assessors abate within 30 days and certify the abatement to the collector, who is then no longer obligated to collect the tax. [State Tax Form 380/166](#) is used for this procedure.

If a personal property tax is uncollectible for some other reason, the collector may ask the assessors to obtain authority to abate the tax using the procedure under [M.G.L. c. 58, § 8](#). Under that statute, the Commissioner of Revenue may authorize the assessors to abate in circumstances where they do not have jurisdiction. The primary purpose it was enacted was to enable local tax collectors to clear uncollectible receivables from the books and protect them on their bonds. Although it is within the assessors' sole discretion to use the so-called "8 of 58" procedure to obtain authority to abate, they should use this procedure in order to abate personal property taxes that will never be collected.

August Municipal Calendar

1	Taxpayer	Deadline for Paying 1st Quarterly Tax Bill Per <u>M.G.L. c. 59, § 57C</u> , this is the deadline to pay the 1st quarter preliminary tax payment without interest for bills that were mailed by July 1. If the bills were mailed between July 2 and August 1, this payment is due 30 days after the mailing date, and the 2nd quarterly payment is due November 1. If the bills were mailed after August 1, the preliminary tax is due as a single installment on November 1 or 30 days after the bills were mailed, whichever is later.
1	Taxpayer	Deadline for Submitting Annual Boat Excise Return
10	Assessors	Deadline for Appealing EQVs to the ATB (even-numbered years only)
15	Assessors	Deadline to Vote for Optional Preliminary Tax Bills In a regular semiannual community, Assessors have until this date to vote on the option under <u>M.G.L. c. 59, § 23D</u> to request BOA's authorization to issue preliminary bills. After receiving approval, Assessors must submit a Pro Forma Tax Rate Recap to BOA and mail the bills by October 1.
31	Assessors and Accountant	Begin Working on the Tax Rate Recapitulation Sheet (the recap) Semiannual communities that do not send annual or optional preliminary bills should begin the recap process by this date.
31	Accountant	Close Prior-Year Books by this Date
31	State Treasurer	Notification of Monthly Local Aid Distributions , see monthly breakdown by program is available <u>here</u> .

Editor: Dan Bertrand

Editorial Board: Sean Cronin, Anthonia Bakare, Linda Bradley, Deb Joyce, Theo Kalivas, Patricia Hunt and Tony Rassias

Contact *City & Town* with questions, comments and feedback by emailing us at cityandtown@dor.state.ma.us.

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