



Betterments and Special Assessments

Assessment and Collection Procedures

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BETTERMENTS AND SPECIAL ASSESSMENTS

Assessment and Collection Procedures

I. NATURE OF ASSESSMENT

A. Special Property Tax

A betterment or special assessment is a special property tax that is permitted where real property within a limited and determinable area receives a special benefit or advantage, other than the general advantage to the community, from the construction of a public improvement. If properties abutting or nearby the improvement are specially benefited, all or a portion of the cost of making that improvement may be assessed on those properties. Union Street Ry. v. Mayor of New Bedford, 253 Mass. 304 (1925).

B. Assessment Standard

Assessments of the project costs must be reasonable and proportional and not substantially in excess of the special benefits received from the improvement.

1. Definition: A special benefit is defined as an enhancement of the value or use of property due to the construction of the improvement.
2. Measurement: A special benefit is measured by how much the particular improvement has increased the fair market value of the property, as between a willing buyer and seller considering all present and future uses to which the property is or may be reasonably adapted in the hands of any owner. Driscoll v. Northbridge, 210 Mass. 151, 155 (1911); Union Street Ry. at 309-312.

C. Exemptions

Properties owned by governmental entities for public purposes are exempt from betterments and special assessments, but individuals, and charitable, religious or other organizations, ordinarily eligible for full or partial exemptions from annual property taxes are not exempt.

II. AUTHORITY TO LEVY ASSESSMENTS

The Commonwealth, a county, city, town or district must have statutory authority to impose a betterment or special assessment for a public improvement.

A. Betterments

The cost of all or a portion of a public improvement made upon formal order or vote of a board of officers of the Commonwealth, a county, city, town or district may be assessed as betterments. G.L. Ch. 80 §1. This typically applies to improvements involving eminent domain takings such as street layouts.

B. Water Special Assessments

Cities, towns and districts may assess all or a portion of the cost of installing water distribution system plant in public and private ways. This includes the cost of pipes, other materials and labor and other incidental expenses. G.L. Ch. 40 §42G.

In order to make the assessments, the city council, town meeting or district meeting must accept G.L. Ch. 40 §§42G, 42H, 42I and 42K (to use uniform unit method) and authorize the assessments for the project by vote, ordinance or by-law.

C. Sewer Special Assessments

Cities and towns may assess all or a portion of the costs of sewer system plant and facilities. This includes the cost of general benefit facilities, such as pumping stations, trunk and force mains, and special benefit facilities, such as mains serving adjacent properties. G.L. Ch. 83 §15.

City council or town meeting authorization by vote, ordinance or by-law is required to make the assessments.

D. Sidewalk Special Assessments

Cities or towns may assess no more than fifty percent of the cost of sidewalk original construction or reconstruction with material of more permanent character, and may by ordinance or by-law limit the amount assessed on each parcel to no more than one percent of preceding year's assessed valuation. G.L. Ch. 83 §26.

III. ASSESSMENT PROCEDURE

A. Ordering Improvement and Assessment

The Assessing Board (City/Town Council, Board of Selectmen, Water/Sewer/Road Commissioners) must formally adopt an order for construction of the improvement that describes the area to be benefited by the particular project and states that betterments or special assessments will be levied for the improvement.

1. Betterments: The order must describe the area to be benefited, referring to a plan of the area, and contain an estimate of the betterments to be assessed on each parcel within the area. G.L. 80 §2.
2. Water Assessments: The order must identify the ways in which the pipes will be laid and describe the parcels not abutting the ways that will be assessed. G.L. 40 §§42G and 42I.
3. Sewer/Sidewalk Assessments: The order must identify the ways in which sewer/sidewalk is located. G.L. Ch. 83 §§25 and 27.

B. Creating Lien

A special assessment or betterment is a lien on the property benefited. In order to enforce collection, the Assessing Board must establish a valid lien. The property owner is not personally liable for the assessment.

1. Recording Requirements

In order to create a lien, the Assessing Board must record the following information at the Registry of Deeds:

- a. Betterments: Order, plan and estimates within 90 days of (1) date order adopted or (2) town acceptance of street layouts, relocation or alterations, if acceptance required. G.L. Ch. 80 §2.
- b. Water Assessments: Order, list of ways and parcels not abutting the ways to be assessed (identify in same way as of prior January 1 for tax purposes using assessors' maps) and list of owners of each parcel to be assessed (as of prior January 1 for tax purposes) "forthwith." G.L. Ch. 40 §42I.
- c. Sewer/Sidewalk Assessments: Order and list of ways "forthwith." G.L. Ch. 83 §27. Should also record list of owners of each parcel to be assessed (as of prior January 1 for tax purposes).

2. Deferred Recording Procedure

The Assessing Board may defer recording the required information for betterments authorized by G.L. Ch. 80, and sewer or sidewalk assessments authorized by G.L. Ch. 83, until after the project is completed, assessments are made, and bills issued and then only for those properties where the assessment was not paid in full within the 30 day period for paying without incurring interest. Use of this option requires city council, town meeting or district meeting authorization. G.L. Ch. 80 §12.

3. Duration of Lien

- a. Arises: The lien exists from the time the recording is made. G.L. Ch. 80 §12; G.L. Ch. 40 §42I; G.L. Ch. 83 §27.
- b. Terminates: The lien terminates two years from October 1 of the year (1) the entire assessment is first added to the tax bill or (2) the last apportioned amount appears on the tax bill, whichever is later, if there has been a recorded alienation during that time. If there has been no recorded alienation during that period, the lien continues until there is a recorded alienation.

Exceptions: The lien will continue: (1) even if there is a recorded alienation, if a suit is brought to challenge the validity of the assessment, for a year after the validity is finally determined; (2) if a sale or taking cannot be made because of federal or state law or proceeding and the collector files a statement at the Registry of Deeds to continue the lien, until payment or abatement; and (3) if time for payment is extended and the collector files a statement at the Registry of Deeds, until payment or abatement.

- c. Dissolves: The lien dissolves upon recording in the Registry of Deeds a certificate from the collector that the assessment, interests, costs have been paid or abated. A charge of \$4 is imposed for each certificate the collector issues to be paid over to the general fund.

C. Assessing Costs

Once the project is completed, the Assessing Board determines the actual benefits to and assesses the cost of the project among the properties.

In some cases, the methods to be used to determine the benefits and allocate the costs are prescribed by statute. If not, the Assessing Board may adopt any method that is reasonably calculated to determine the benefits received so long as it does not result in the assessments being substantially in excess of or disproportionate to those benefits. For example, a frontage, area and/or valuation formula may be appropriate methods for apportioning the cost of various improvements. In addition, it may be permissible to classify properties for assessment purposes into those receiving direct or remote benefits.

1. Betterments: Assessments must be made within six months of project completion. G.L. Ch. 80 §1. No method is prescribed by statute. The amount assessed cannot exceed the estimate recorded. G.L. Ch. 80 §2.
2. Water Assessments: Assessments should be made within a reasonable time after project completion. A city, town or district may adopt by ordinance, by-law or vote one or more of the following statutory methods: frontage, area within fixed depth of way, assessed valuation, or uniform unit (number of existing and potential water units based on existing zoning). G.L. Ch. 40 §§42H and 42K.
3. Sewer Assessments: Assessments should be made within a reasonable time after project completion. A city or town may adopt one of the following statutory methods: fixed uniform rate (frontage, area within fixed depth of way or both frontage and area) or uniform unit (number of existing and potential residential equivalent sewer units based on existing zoning). G.L. Ch. 83 §15.
4. Sidewalk Assessments: Assessments should be made within a reasonable time after project completion. No method is prescribed by statute.

D. Committing Assessments

Within a reasonable time after making the assessments, the Assessing Board certifies them to the assessors. The assessors then commit the assessments to the collector with a warrant. G.L. Ch. 80 §4.

Because interest on unpaid betterments accrues from the 30th day after the commitment not the mailing of betterment notices (See Section IV below), the assessors should not make this formal commitment until the collector has prepared the betterment notices for mailing.

IV. COLLECTION PROCEDURE

A. Assessment Notice

After receiving the commitment, the collector sends a bill showing the amount of the assessment to the owner of each parcel assessed. G.L. Ch. 80 §4.

The collector should include an explanation of the property owner's options and provide a form to request an apportionment from the assessors.

B. Payment/Appportionment

The property owner may pay the assessment in full within 30 days after the assessments are committed to the collector (not after the bills are mailed) without interest. Alternatively, the property owner can pay some or none of the assessment and request an apportionment of the unpaid amount into a maximum of 20 equal portions. The request for an apportionment is made to the assessors. G.L. Ch. 80 §13.

C. Adding Assessments to Tax Bill

The collector must certify the unpaid assessments to the assessors before they complete the annual real estate tax commitment list for the year the assessments will first appear on the tax bill. Any unpaid or apportioned assessments are then collected by adding them to the real estate tax bill and collecting them as part of the tax. G.L. Ch. 80 §13.

1. Timing

Assessments originally committed to the collector on or before January 1 must be added to a tax no later than the tax assessed as of that date.

Example: Assessments committed during calendar year 2000 (*i.e.*, on or before January 1, 2001, which is the assessment date for FY2002 taxes) must be added to a tax commitment no later than the FY2002 commitment and bills.

Assessments committed during calendar year 2000 (*i.e.*, before January 1, 2001) may be added to the FY2001 tax commitment and bill so long as property owners have an opportunity to pay the full assessment without incurring interest before the addition.

2. Amount

- a. Apportionment Requested: If the property owner requested an apportionment, the assessors will add one of the portions with interest.
- b. Apportionment Not Requested: If the property owner did not pay the assessment in full and did not request an apportionment, then the assessors will add the amount of the entire assessment that remains unpaid with interest or may apportion the assessment on their own and add one of the portions with interest.

3. Committed Interest

- a. First Year: In the first year, the entire or apportioned amount is committed with interest on the amount of the entire assessment that remains unpaid calculated from the 30th day after the original commitment until October 1.

Example: The assessments are originally committed on April 1, 2000. They are first added to the taxes assessed as of January 1, 2001 for FY2002. Interest is computed from May 1, 2000 until October 1, 2001. If they were first added to FY2001 taxes, interest would be computed from May 1, 2000 to October 1, 2000.

- b. Subsequent Years: In subsequent years, the apportioned amount is committed with interest on the unpaid balance calculated from October 1 to October 1.

4. Rate

The interest rate to be applied is five percent per year unless (a) a city or town has voted the optional rate, which is two percent above the rate charged the city or town if it borrowed for the project, or (b) a special act establishes another rate. G.L. Ch. 80 §13.

D. Suspensions/Deferrals

1. Suspensions

If the assessed parcel is vacant, then the Assessing Board may extend the time for paying the assessment until the land is built upon or for a fixed time. Interest on a suspended assessment accrues at the rate of four percent per year. For water assessments, payment of both the assessment and interest is suspended. In all other cases, only payment of the assessment is suspended. The property owner must pay the interest annually. Payment of the suspended amount is due within three months after the land is built upon or the fixed time period expires, which applies. G.L. Ch. 80 §13A; G.L. Ch. 40 §42I; Ch. 83 §19.

Assessments on classified forestland, except those for the installation of water pipes to provide fire protection to the forestland, are suspended during the time the land is classified. G.L. Ch. 61 §5. If the assessment is on classified agricultural or horticultural land, the assessment and interest on the assessment may be suspended upon application by the property owner until the use of the land changes. G.L. Ch. 61A §18. If the assessment is on classified recreational land, however, only payment of the assessment may be suspended until the land use changes. The property owner must pay the interest annually. G.L. Ch. 61B §13.

2. Deferrals

If the city or town accepts the provisions of G.L. Ch. 80 §13B, the Assessing Board may permit the deferral of betterment and special assessments for elderly property owners in the same manner as property taxes are deferred.

Only property owners who are eligible for a deferral of their property taxes under G.L. Ch. 59 §5(41A) may defer assessments. They must apply to the Assessing Board for a deferral within six months of the date the assessment notices were sent by the collector. If approved, the Assessing Board will enter into a deferral and recovery agreement with the property owner and will record the agreement in the Registry of Deeds.

E. Prepayment of Apportioned Assessment

After an assessment has been apportioned, the property owner may choose to pay all or a part of the assessment. If a property owner makes a written request to prepay the assessment, the assessors commit the amount of the prepayment, with interest, to the collector with a warrant. If no apportioned amount has been added to the tax, the interest is calculated from the 30th day after the date the assessment was originally committed until the date of prepayment. If an apportioned amount has been added to the tax, then the interest is calculated from October 1 of the year the last portion was added until the date of prepayment and the prepayment will be applied to the final year(s) so as to reduce the payment period. G.L. Ch. 80 §13.

V. **PROPERTY OWNER REMEDIES**

A. **Abatement**

1. **Deadline**

The property owner may seek an abatement of the assessment by filing an application with the Assessing Board within six months of the date the collector mailed the assessment notice. G.L. Ch. 80 §5.

Exception: If a suit challenging the validity of an assessment is brought during the 6 month filing period or within six months after the determination of an earlier lawsuit involving the same challenge, brought within that timeframe, which was dismissed on certain jurisdictional or procedural grounds, the deadline for filing an abatement application is extended until six months after the final determination of the lawsuit. G.L. Ch. 80 §6.

2. **Grounds**

The grounds for an abatement are that the amount of the assessment (1) is more than the enhanced value of the property attributable to the improvement or (2) reflects a disproportionate allocation of the cost of the project in relation to the enhanced value of the property when compared to other benefited property. Whiting v. Boston, 106 Mass. 89, 97 (1870); Driscoll at 154; Union Street Ry. at 312.

If the value or use of the property is enhanced by the improvement, it does not matter that the property owner did not request or may not use the improvement.

3. **Assessing Board Action**

The Assessing Board has four months from the date the application is filed to consider the merits of the property owner's claim and to act on the application by granting or denying the abatement. The Assessing Board must notify the property owner within ten days of its decision. G.L. 80 §§5 and 10A.

4. **Approved Abatement Applications**

If the Assessing Board grants an abatement, the assessors are notified so that they can process the abatement. The assessment as abated is then collected in the same manner as the original assessment. However, if the property owner had paid the assessment in full he is entitled to a refund in the amount of the abatement with interest at the rate of six percent calculated from the date the assessment was paid. G.L. Ch. 80 §5.

5. Appeal of Denied Abatement Applications

- a. Denied: If the Assessing Board denies the application, the property owner may appeal that decision to the County Commissioners or the Superior Court. The appeal must be filed within 30 days after the property owner is notified of the Assessing Board's decision. G.L. Ch. 80 §§7, 10.

If the property owner chooses to appeal to the County Commissioners, he must give notice to the city, town or district within ten days of filing the appeal by mailing a copy, registered mail, to the Assessing Board or the city, town or district clerk. G.L. Ch. 80 §10.

- b. Deemed Denied: If the Assessing Board did not act on the application within four months of the date it was filed, then the application is denied by operation of law and the property owner may appeal in the same manner as if the application had been denied, except that he has 60, rather than 30, days to file the appeal. In addition, if the assessment has been paid in full, the property owner cannot appeal after ten months from the date the assessment was paid. G.L. Ch. 80 §10A.

B. Other Remedies

The property owner may challenge the validity of the assessment because the applicable recording requirements were not met or other procedures for ordering and constructing the improvement or assessing the costs were not followed. If so, an abatement proceeding is not the appropriate remedy.

1. Before Commitment

Before the commitment of the assessments to the collector, the property owner may challenge the validity of an assessment by bringing a civil action in the nature of certiorari, G.L. Ch. 249, §4; Chilson v. Mayor of Attleboro, 247 Mass. 191, 202 (1924), or for a declaratory judgment, California Village Corporation v. Town of East Longmeadow, 4 Mass. App. Ct. 128, 130 (1976); Zambernardi v. Selectmen of Wilmington, 2 Mass. App. Ct. 873 (1974).

These remedies are separate and distinct from an abatement proceeding and the property owner may bring a suit challenging the validity of the assessment and file for an abatement in order to challenge the amount of the assessment. Chilson at 202-203; Hitchcock v. Aldermen of Springfield, 121 Mass. 382, 386 (1876).

2. After Commitment

After the assessments have been committed to the collector, the property owner is limited to the abatement and appeal procedure, Gallo v. Division of Water and Pollution Control, 374 Mass. 278, 288-289 (1978); Gudanowski v. Northbridge, 17 Mass. App. Ct. 414, 421 (1984), and, where the assessment is wholly void, to an action to recover an unlawful tax under G.L. Ch. 60, §98, Wheatland v. City of Boston, 202 Mass. 258 (1909); California Village Corporation at 129.

VI. ADMINISTRATIVE PROCEDURES

A. Property Divided After Assessment

As with real estate taxes, if a parcel is divided by sale, mortgage, partition or otherwise after the assessment has been made and the division has been recorded at the Registry of Deeds, the Assessing Board may, and if requested by the owner or mortgagee of any of the divided parcels, must apportion the amount of the assessment that remains unpaid, including interest and costs, among the divided parcels. The division cannot occur after the property has been advertised for sale or taking for non-payment of the assessment.

The division is to be made so that the amount assessed upon each divided parcel is proportionate to the benefit received by the divided parcel from the improvement. After the division, only that portion of the assessment, interest and costs assessed on the divided parcel constitutes a lien on it.

At least seven days before making the division, the Assessing Board is required to send a notice by registered mail to all owners of the parcel that was divided of its intention to make the division. A property owner may contest the division in the same manner as if the Assessing Board had denied an abatement application.

G.L. Ch. 80 §15.

B. Reassessment

If an assessment is invalid and it has not been paid in full, it may be reassessed by the Assessing Board in the amount the original assessment should have been made. The reassessment must be made within two years of the date of the assessment if there has been an alienation within that time. If not, the reassessment must be made at any time before the property is alienated.

If the reassessed amount has not yet been paid in full, it is a lien on the parcel and is collected in the same manner as the original assessment.

G.L. Ch. 80 §16.

VII. ACCOUNTING FOR REVENUE

Betterments and special assessments are special property taxes. Anticipated revenues from apportioned and unapportioned betterments and special assessments, including committed interest, are treated as estimated receipts when setting the tax rate and actual receipts are credited to the general fund unless:

A. Enterprise Fund

An enterprise fund has been adopted under G.L. Ch. 59 §53F½ for the capital improvement or facility for which the assessments are made. If so, the revenue belongs to the enterprise.

B. Estimated Sewer Assessments

The revenue is from estimated sewer assessments made under G.L. Ch. 83 §15B for a sewer treatment plant or facility. If so, the revenue is reserved for appropriation to pay for the cost of constructing the plant for which the assessments are made or the debt service on the plant.

C. Special Act Betterment Reserves

Special legislation specifically authorizes the betterment and special assessment revenue to be reserved for appropriation to pay for debt service or other purposes.

BETTERMENTS AND SPECIAL ASSESSMENTS
Responsibilities of Parties

I. City, Town or District (City/Town Council, Town/District Meeting)

- A. Accepts any applicable local option provisions.
- B. Authorizes assessments for water and sewer system improvements.
- C. Determines assessment method(s) and percentage of costs to be assessed for some improvements.

II. Assessing Board (Selectmen, City/Town Council, Water/Sewer/Road Commissioners)

- A. Issues order to assess betterments/special assessments for particular project.
- B. Records assessment order and other required information at Registry of Deeds.
- C. Determines benefit and makes assessments on parcels after project completed.
- D. Certifies list of assessments to Assessors.
- E. Grants or denies applications for abatement.
- F. Suspends or extends time for payment on assessments on vacant parcels until built upon or for a fixed period of time.
- G. Enters into deferral and recovery agreement if property owner is eligible for a deferral under G.L. Ch. 59 §5(41A).
- H. Divides assessments proportionately if parcel assessed is subsequently subdivided.
- I. Reassesses assessments under certain conditions.

III. Board of Assessors

- A. Commits list of assessments to Collector.
- B. Apportions assessments with or without request of property owner.

- C. Processes abatements and issues abatement certificate only when notified to do so by Assessing Board.
- D. Issues special warrant if property owner requests to prepay apportioned assessment in full or in part.

IV. Tax Collector

- A. Mails assessment notices.
- B. Certifies unpaid/unapportioned assessments to Assessors for addition to annual real estate tax.
- C. Has same powers and duties with respect to collection of assessments as with real estate taxes.

V. Property Owner

- A. Has no personal liability for assessment which is a lien on property.
- B. Pays bill in full without interest within 30 days of commitment or
- C. Requests apportionment of unpaid assessment and pays annual installments, with interest, until assessment paid in full.
- D. May file application for abatement with Assessing Board.
- E. May appeal denial of abatement to Superior Court or County Commissioners.

BETTERMENTS AND SPECIAL ASSESSMENTS

Schedule of Events

1. City/Town/District takes action required by law to impose assessments such as accepting statutes, authorizing assessments for system, deciding on method for making assessments and on percentage of costs to be assessed.
2. Assessing Board records assessment order and other required information at Registry of Deeds within 90 days of order for betterments under G.L. Ch. 80 or forthwith for water, sewer and sidewalk assessments, unless the deferred recording procedure applies and is elected.
3. Assessing Board determines benefit and makes assessments within 6 months of project completion for betterments under G.L. Ch. 80 or within a reasonable time for water, sewer and sidewalk assessments.
4. Assessing Board certifies assessments to the Assessors within a reasonable time after making them.
5. The Assessors commit the assessments to the Collector forthwith.
6. The Collector mails the assessment notices.
7. The assessments are due and payable in full within 30 days after they are committed, unless the property owner requests an apportionment. In that case, the assessments are payable in a maximum of 20 installments with interest.
8. Assessing Board records assessment order and other required information at Registry of Deeds if the deferred recording procedure applies and is elected.
9. The property owner has 6 months from the date the assessment notices are mailed to file an application for an abatement with the Assessing Board and/or to file an application for a deferral of the assessments.
10. The Assessing Board must notify the property owner within 10 days of making a decision to grant or deny the abatement request.
11. If the Assessing Board acts on the abatement application within 4 months after it is filed, the property owner has 30 days to file an appeal with the Superior Court or the County Commissioners.
12. If the Assessing Board did not act on the abatement application within 4 months after it is filed, the property owner has 60 days to file his appeal with the Superior Court or the County Commissioners.

13. If the property owner files the appeal with the County Commissioners, the property owner must notify the Assessing Board or City/Town Clerk within 10 days of filing the appeal.
14. Before the Assessors complete the annual tax assessment, the Collector certifies to the Assessors the amount of any assessments committed on or before January 1 that are unapportioned and unpaid, with interest calculated from the 30th day after the commitment to October 1.
15. The Assessors add the apportioned and unapportioned assessments, including interest, to the annual tax bill.
16. In subsequent years, the Assessors add the apportioned amount, including interest on the unpaid balance from October 1 to October 1.

EXAMPLE
Betterment Or Special Assessment
Payment - Apportionment - Interest

- Sewer assessment \$4000 committed April 1, 2000 - Due May 1, 2000.
- Payment of \$1000 made April 21, 2000 (no interest due on \$1000) leaving balance of \$3000.
- On September 1, 2000, owner wants to pay an additional \$1000. Interest is owed on \$1000 from May 1, 2000 to September 1, 2000.
- **Unpaid balance of \$2000** must be added to a tax **no later than FY2002 actual tax bill** in fall 2001 with interest (Note assessors **may add** unpaid assessments originally committed during calendar year 2000 to **FY2001 actual tax bill** so long as property owners had at least 30 days to pay full assessment without incurring interest, as is case here)
- If entire unpaid balance of \$2000 is added to FY2002 tax bill, interest on that balance would run from May 1, 2000 to October 1, 2001. (If added to FY2001 tax bill instead, interest would run from May 1, 2000 to October 1, 2000).
- **Alternatively**, the \$2000 unpaid balance can be apportioned for up to 20 years, at property owner's direction, or if no directive is given, at the assessors' option.
- **If \$2000 balance is apportioned for 10 years**, assessors must add first \$200 no later than **FY2002** actual tax bill with interest on unpaid balance of \$2000 from May 1, 2000 to October 1, 2001. In second year, \$200 would be added to FY2003 bill with one year's interest (October 1, 2001 to October 1, 2002) on unpaid balance of \$1800 (\$2000 - \$200) and so on until the final \$200 portion is added to **FY2011** tax bill with one year's interest (October 1, 2009 to October 1, 2010) on unpaid balance of \$200. (Again assessors may add apportioned assessments originally committed during calendar 2000 to FY2001 tax bill so long as property owners had at least 30 days to pay the full assessment without incurring interest, as is case here. If first \$200 was added to FY2001 bill instead, interest on unpaid balance of \$2000 would run from May 1, 2000 to October 1, 2000, etc. until final portion is added to FY2010 tax bill with one year's interest on unpaid balance of \$200 from October 1, 2008 to October 1, 2009).
- **On August 20, 2003, property owner decides to prepay in full.** Assessors commit remaining unpaid balance with interest from October 1, 2002 to August 20, 2003. Assuming that the first \$200 was added to the FY2002 tax bill, the interest would have been calculated on an unpaid balance of \$1600.

- **If instead of prepaying in full, the property owner had decided to make a partial prepayment of \$500**, the assessors would commit \$500 with interest on that amount from October 1, 2002 to August 20, 2003. The \$500 prepayment reduces the unpaid balance to \$1100, but is applied to the portions due in the final years of the original 10 year payment period. **In this case, that credit would reduce the payment period by 2 years by eliminating the \$200 portions otherwise due in FY2011 and FY2010 tax bills, and it would reduce the \$200 portion due in FY2009 to \$100.** In the meantime, the assessors would continue to add the new reduced balance in \$200 portions to yearly tax bills, but with committed interest on that balance. Here, \$200 would be added to the FY2004 tax bill with committed interest on \$1100 from October 1, 2002 to October 1, 2003, to the FY2005 tax bill with committed interest on \$900 from October 1, 2003 to October 1, 2004, and so on until the remaining unpaid balance of \$100 is added to the FY2009 tax bill with committed interest on that balance from October 1, 2007 to October 1, 2008.

BETTERMENT PAYMENT SCHEDULE

G.L. Ch. 80 §13

First apportionment added to tax assessed as of January 1 of year betterment committed

LOAN AMOUNT	\$10,000			
TERM	20 years			
COMMITTED	4/1/2001			
A	B	C	D	E
FISCAL YEAR	UNPAID BALANCE	INTEREST (x%) (on B)	PRINCIPAL	ADD TO TAX BILL (C + D)
2002	10,000	5/1/2001 to 10/1/2001	500	
2003	9,500	10/1/2001 to 10/1/2002	500	
2004	9,000	10/1/02 to 10/1/03	500	
2005	8,500	10/1/03 to 10/1/04	500	
2006	8,000	10/1/04 to 10/1/05	500	
2007	7,500	10/1/05 to 10/1/06	500	
2008	7,000	10/1/06 to 10/1/07	500	
2009	6,500	10/1/07 to 10/1/08	500	
2010	6,000	10/1/08 to 10/1/09	500	
2011	5,500	10/1/09 to 10/1/10	500	
2012	5,000	10/1/10 to 10/1/11	500	
2013	4,500	10/1/11 to 10/1/12	500	
2014	4,000	10/1/12 to 10/1/13	500	
2015	3,500	10/1/13 to 10/1/14	500	
2016	3,000	10/1/14 to 10/1/15	500	
2017	2,500	10/1/15 to 10/1/16	500	
2018	2,000	10/1/16 to 10/1/17	500	
2019	1,500	10/1/17 to 10/1/18	500	
2020	1,000	10/1/18 to 10/1/19	500	
2021	500	10/1/19 to 10/1/20	500	

(over)

First apportionment added to tax assessed as of January 1 of year after betterment committed

LOAN AMOUNT \$10,000 TERM 20 years COMMITTED 4/1/2001				
A	B	C	D	E
FISCAL YEAR	UNPAID BALANCE	INTEREST (x%) (on B)	PRINCIPAL	ADD TO TAX BILL (C + D)
2003	10,000	5/1/2001 to 10/1/2002	500	
2004	9,500	10/1/02 to 10/1/03	500	
2005	9,000	10/1/03 to 10/1/04	500	
2006	8,500	10/1/04 to 10/1/05	500	
2007	8,000	10/1/05 to 10/1/06	500	
2008	7,500	10/1/06 to 10/1/07	500	
2009	7,000	10/1/07 to 10/1/08	500	
2010	6,500	10/1/08 to 10/1/09	500	
2011	6,000	10/1/09 to 10/1/10	500	
2012	5,500	10/1/10 to 10/1/11	500	
2013	5,000	10/1/11 to 10/1/12	500	
2014	4,500	10/1/12 to 10/1/13	500	
2015	4,000	10/1/13 to 10/1/14	500	
2016	3,500	10/1/14 to 10/1/15	500	
2017	3,000	10/1/15 to 10/1/16	500	
2018	2,500	10/1/16 to 10/1/17	500	
2019	2,000	10/1/17 to 10/1/18	500	
2020	1,500	10/1/18 to 10/1/19	500	
2021	1,000	10/1/19 to 10/1/20	500	
2022	500	10/1/20 to 10/1/21	500	

EXAMPLE

BETTERMENT OR SPECIAL ASSESSMENT PAYMENT SCHEDULE -*Semi-annual Tax Payment System* **

Total Assessment:	\$10,000
Apportionment Schedule:	20 years
Annual Principal Payment:	\$500
Interest Rate:	5%
Commitment Date:	4/1/2001

OPTION 1 - First Apportionment Billed in FY2002

	FY2001	FY2002	FY2003	FY2004	FY2005
Real Estate Tax	\$2000	\$2100	\$2200	2300	2400
Special Assessment	0	500	500	500	500
Committed Interest	0	208	475	450	425
		(5 months on \$10,000) <small>(5/1/2001 to 10/1/2001)</small>	(1 year on \$9,500) <small>(10/1/2001 to 10/1/2002)</small>	(1 year on \$9,000) <small>(10/1/2002 to 10/1/2003)</small>	(1 year on \$8,500) <small>(10/1/2003 to 10/1/2004)</small>
TOTAL DUE	2000	2808	3175	3250	3325
First Half Payment	1000	1758	2075	2100	2125
Second Half Payment	1000	1050	1100	1150	1200

OPTION 2 - First Apportionment Billed in FY200 (must begin billing no later than bill for taxes assessed as of January 1, 2002)

	FY2002	FY2003	FY2004	FY2005	FY2006
Real Estate Tax	\$2000	\$2100	\$2200	2300	2400
Special Assessment	0	500	500	500	500
Committed Interest	0	708	475	450	425
		(17 months on \$10,000) <small>(5/1/2001 to 10/1/2002)</small>	(1 year on \$9,500) <small>(10/1/2002 to 10/1/2003)</small>	(1 year on \$9,000) <small>(10/1/2003 to 10/1/2004)</small>	(1 year on \$8,500) <small>(10/1/2004 to 10/1/2005)</small>
TOTAL DUE	2000	3308	3175	3250	3325
First Half Payment	1000	2258	2075	2100	2125
Second Half Payment	1000	1050	1100	1150	1200

** Betterment May be Included in Preliminary Bill if Issued

EXAMPLE

BETTERMENT OR SPECIAL ASSESSMENT PAYMENT SCHEDULE -*Quarterly Tax Payment System*)

Total Assessment: \$10,000
Apportionment Schedule: 20 years
Annual Principal Payment: \$500
Interest Rate: 5%
Commitment Date: 4/1/2001

FIRST APPORTIONMENT BILLED IN FY2002

	FY2001	FY2002	FY2003	FY2004	FY2005
Real Estate Tax	\$2000	\$2100	\$2200	2300	2400
Special Assessment	0	500	500	500	500
Committed Interest	0	208	475	450	425
		(5 months on \$10,000)	(1 year on \$9,500)	(1 year on \$9,000)	(1 year on \$8,500)
		(5/1/2001 to 10/1/2001)	(10/1/2001 to 10/1/2002)	(10/1/2002 to 10/1/2003)	(10/1/2003 to 10/1/2004)
TOTAL DUE	2000	2808	3175	3250	3325
OPTION 1	Q1	500	525	550	575
Preliminary - 50% Prior Year <u>Tax</u> Only	Q2	500	525	550	575
Actual - Current Year Betterment/Interest First Billed	Q3	904	1062.50	1075	1087.50
	Q4	904	1062.50	1075	1087.50
OPTION 2	Q1	854	1012.50	1025	1037.50
Preliminary - 50% Prior Year <u>Tax</u> Only <u>and</u>	Q2	854	1012.50	1025	1037.50
Current Year Betterment/Interest First Billed	Q3	550	575	600	625
	Q4	550	575	600	625
OPTION 3	Q1	500	702	793.50	812.50
Preliminary - 50% Prior <u>Total Due</u>	Q2	500	702	793.50	812.50
Actual - Current Year Betterment/Interest First Billed	Q3	904	885.50	831.25	850
	Q4	904	885.50	831.25	850

NOTE: All Examples Uses 50% of Prior Year for Preliminary Taxes, but May Increase to Reflect 50% of Annual 2.5% Levy Limit Increase, Overrides & Exclusions

(over)

FIRST APPORTIONMENT BILLED IN FY2003 (Must Begin Billing No Later Than Bill for Taxes Assessed as of January 1, 2002)

	FY2002	FY2003	FY2004	FY2005	FY2006
Real Estate Tax	\$2000	\$2100	\$2200	2300	2400
Special Assessment	0	500	500	500	500
Committed Interest	0	708	475	450	425
		(17 months on \$10,000)	(1 year on \$9,500)	(1 year on \$9,000)	(1 year on \$8,500)
		(5/1/2001 to 10/1/2002)	(10/1/2002 to 10/1/2003)	(10/1/2003 to 10/1/2004)	(10/1/2004 to 10/1/2005)
TOTAL DUE	2000	3308	3175	3250	3325
OPTION 1					
Q1		500	525	550	575
Preliminary - 50% Prior Year <u>Tax</u> Only	Q2	500	525	550	575
Actual - Current Year Betterment/Interest First Billed	Q3	1154	1062.50	1075	1087.50
	Q4	1154	1062.50	1075	1087.50
OPTION 2					
Q1		1104	1012.50	1025	1037.50
Preliminary - 50% Prior Year <u>Tax</u> Only <u>and</u>	Q2	1104	1012.50	1025	1037.50
Current Year Betterment/Interest First Billed	Q3	550	575	600	625
	Q4	550	575	600	625
OPTION 3					
Q1		500	827	793.50	812.50
Preliminary - 50% Prior <u>Total Due</u>	Q2	500	827	793.50	812.50
Actual - Current Year Betterment/Interest First Billed	Q3	1154	760.50	831.25	850
	Q4	1154	760.50	831.25	850

DLS' UPDATE

Senior Citizen Deferrals

Local officials from a community that is constructing a new sewer system recently asked the Division about the administration of two local option statutes, M.G.L. Ch.80 Sec.13B and Ch.83 Sec.16G. If accepted, these two statutes will permit low income senior citizens to defer payment of betterments and other special assessments and sewer user charges. Specifically, the officials were interested in knowing how the local option deferrals for sewer user charges (or water user charges under M.G.L. Ch.40 Sec.42J) and for betterments and special assessments operate in relation to the property tax deferral provided by M.G.L. Ch.59 Sec.5 Cl.41A. The property tax deferral was discussed in detail in the November 1994 edition of City & Town (Vol. 7 No. 11).

The local option user water and sewer charge deferrals are both administered in conjunction with the Cl.41A property tax deferral. Eligibility to defer user charges is limited to those senior citizens who qualify for and are actually receiving a tax deferral. In the first year a deferral of user charges is sought, the ratepayer would apply to the water or sewer commissioners within the same time limit as for applying for tax deferral, i.e., by December 15, or three months **after the property tax bills** are mailed, whichever is later. If the ratepayer qualifies, the water or sewer commissioners notify the assessors of the amount of user charges to be deferred for the year. The assessors add those charges to and commit them as part of the annual property tax on the property, and defer them along with the tax.

Payment of the deferred charges is secured by the same lien statement recorded by the assessors under Cl.41A; no additional or separate statement is executed or recorded. The deferred charges are added to the Cl.41A tax deferral account established by the collector in the first year the tax deferral was granted. User charges in subsequent years are certified to the assessors by the water and sewer commissioners and deferred in the same manner so long as the ratepayer continues to qualify for a tax deferral. Deferred charges accrue interest at the same rate of 8% per year as deferred taxes and are due and payable at the same time as those taxes, i.e., upon the sale of the property or the taxpayer's death, unless the surviving spouse qualifies and enters into a new tax deferral agreement. However, unlike Cl.41A, there is no limit on the total amount of user charges that may be deferred. In addition, the deferred user charges added to the tax deferral account are not considered when determining whether the Cl.41A tax deferral cap, which is 50% of the taxpayer share of the full and fair cash value of the property, has been reached.

The local option betterment and special assessment deferral, on the other hand, is administered separately from the Cl.41A property tax deferral. Senior citizens do not have to be recipients of tax deferrals in order to defer a betterment or special assessment, but they must satisfy the same criteria as to age, ownership, domicile, residency and gross receipts. Moreover, even if they are receiving Cl.41A tax deferrals, they must enter into separate agreements with the board that assessed the betterment or special assessment for its deferral and recovery. A sepa-

rate lien statement to secure payment of the deferred assessment is also recorded and interest on the deferred assessment accrues at the same betterment and special assessment rate that applies to assessments for the project generally. As with the user charge deferral, however, no limit is placed on the amount that may be deferred.

There are also some differences between the collection procedures that apply to deferred user charges and deferred betterments and special assessments. Because the Cl.41A tax deferral account into which deferred user charges are added is treated as a tax title, the treasurer becomes responsible for collecting all user charges added to the account, as well as the deferred taxes, and the usual tax title interest rate of 16% applies to the charges after they become due and payable upon the sale of the property or the taxpayer's death. If the deferral account is not paid in full when due, the treasurer can proceed with foreclosure proceedings in the Land Court six months after the property sale or taxpayer's death. A deferred assessment account, however, does not have tax title status. Therefore, if the deferred assessment is not paid after it becomes due and payable, it would first have to be added to the next tax assessed on the property, along with the accrued interest, so that the collector could make a tax taking, or certify the amount to an existing tax title account. The treasurer could then proceed with the usual foreclosure process.

The Commissioner of Revenue has not prescribed separate forms for use in the administration of the user charge or betterment and special assessment

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Municipal Fiscal Calendar

February 1

Taxpayers: *Deadline for* Payment of 3rd Quarterly Tax Bill Without Interest (if mailed before January 1)

February 15

Treasurer: *2nd Quarter* Reconciliation of Cash (due 45 days after the end of the quarter)

February 28

Finance Committees: *Continue Budget Review and* Develop Recommendations (This date will vary depending on dates of town meeting.)

March 1

DOR/MDM-TAB: *Notification of* Cherry Sheet Estimates for the *Following* Year (pending action taken by the Legislature)

The Cherry Sheet is an estimate of: 1) Receipts - local reimbursement and assistance programs as authorized by law and appropriated by the General Court and; 2) Assessments - state and county assessments and charges to local governments. All amounts listed on the Cherry Sheet are estimates. Actual receipts and charges are based on formulas or guidelines for each program. Copies are mailed to all financial officials. If a member of a regional school district, municipalities also receive a copy of the region's cherry sheet and analysis sheet.

Personal Property Owners: Submit Form of List

This is a listing of all personal property filed by the owner with the Assessors each year for the purpose of taxes in the next fiscal year.

Non-Profit Organizations: *Final Filing* Date for 3-ABC Forms

These must be filed on or before March 1 or later if extended by the Assessors. In no event should they be filed later than 30 days after the tax bill is first mailed.

March 31

State Treasurer: *Notification of* Quarterly *Local Aid* Payment on or Before March 31

8.7M-7/95-12028

City & Town

Division of Local
Services
PO Box 9655

Boston, MA 02114-9655

Address Correction Requested

DLS Update

-continued from page six

deferrals. However, local officials may develop them by making appropriate modifications in the various forms used under Cl.41A. Those forms include a deferral application (State Tax Form 97-1), deferral and recovery agreement (State Tax Form 97-2), lien statement and release (State Tax Forms 972 and 97-4) and deferral certificate (State Tax Form 97-3).

The accompanying chart on page seven summarizes the differences and similarities in the operation of the three types of deferrals available to senior citizens.

CITY & Tom Editorial Board

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Senior Citizen Deferrals of Property Taxes — User Charges — Betterment Assessments

Deferral Type	Local Acceptance	Application Procedure	Eligibility Criteria	Deferral Agreement and Lien Statement	Maximum Deferral Amount	Interest	Administration
Property Tax M.G.L. Ch. 59 Sec.5 (41A)	No	Annual Application by 12/15 or 3 Months After Tax Bills are Mailed	Be 65 or older as of 7/1 Domiciled in Mass. for Prior 10 Years Owned and Occupied Property as Domicile on 7/1, and Owned and Occupied It, or Any Other Property in Massachusetts, as Domicile for at Least 5 Years Annual Income of \$20,000 or Less (or Local Limit which Cannot Exceed \$40,000)	Deferral Agreement Signed First Year Only Unless Change in Persons with Property Interest Lien Statement Recorded First Year	Deferred Taxes and Interest Cannot Exceed 50% of Taxpayer's Share of the Full and Fair Cash Value of Property	8% Per Annum 16% Per Annum from Date Property Sold or Taxpayer Dies	Assessors Grant or Deny Annual Application, Sign Deferral Agreement, Record Lien Statement, Issue Deferral Certificate/Denial Notice to Taxpayer Collector Certifies Deferred Tax to Tax Deferral Account Treasurer Releases Lien Upon Payment of Entire Tax Deferral Account
Water/Sewer User Charge M.G.L. Ch. 40 Sec.42J M.G.L. Ch. 83 Sec. 16G	Yes	Application in First Year Deferral Sought by 12/15 or 3 Months After Tax Bills are Mailed	Must Receive 41A Tax Deferral for Year's Water/Sewer Bills to be Deferred	41A Deferral Agreement and Lien Statement Covers Deferred Water/ Sewer Charges	None	8% Per Annum 16% Per Annum from Date Property Sold or Taxpayer Dies	Water/Sewer Commissioners Grant or Deny Application, Notify Assessors Annually of Charges to be Deferred Assessors Add Charges to Year's Tax and Defer if Taxpayer Qualifies for 41A, Notify Sewer Commissioners if Taxpayers Does Not Qualify for 41A Collector Certifies Deferred Charges to Tax Deferral Account
Betterment/ Special Assessment M.G.L. Ch. 80 Sec.13B	Yes	Application to Defer Full Assessment by 6 Months After Assessment Bills Are Mailed Application to Defer Apportioned Assessment By 6 Months After Tax Bills on Which Apportionment Appears are Mailed	Must be Eligible to Receive 41A Tax Deferral	Deferral Agreement Signed First Year Only Unless Change in Persons with Property Interest Lien Statement Recorded First Year	None	Application Rate on Betterment/Special Assessment (5% or if Voted by Legislative Body, 2% Points Above Rate Paid by City/Town on Funds Borrowed for Project)	Officials Making Assessment Grant or Deny Application, Sign Deferral Agreement, Record Lien Statement, Issue Deferral Certificate/Denial Notice to Property Owner, Notify Assessors/ Collector of Assessment or Apportionment to be Deferred Collector Releases Lien Upon Payment of Entire Assessment Deferral Account