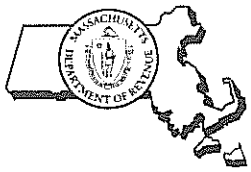
Massachusetts Department of Revenue Division of Local Services
Navjeet K. Bal, Commissioner Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



Bulletin

2009-10B

FY2010 BUDGET ISSUES AND PROCEDURES

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TO:	Mayors and Selectmen	City and Town Managers
	Boards of Assessors	Executive Secretaries and Finance Directors
	Auditors and Accountants	City Solicitors and Town Counsels
	Collectors	Regional School District Committees
	Treasurers	Regional School District Superintendents

FROM: Gerard D. Perry, Director of Accounts

DATE: March 2009

SUBJECT: FY2010 Budget Issues

This *Bulletin* addresses several issues that cities, towns, regional school and other districts may consider for FY2010 revenue and expenditure budgeting and for accounting purposes.

FY2009 Local Aid Reductions

In January, the Bureau of Accounts issued Bulletin 2009-04B that discussed the budgetary and financial implications of FY2009 local aid reductions and addressed several actions that may be taken by cities and towns to avert a FY2009 revenue deficit that otherwise must be provided for in FY2010. Here is some additional guidance regarding a revenue deficit.

- *Calculating a revenue deficit:* A revenue deficit occurs when actual revenues and expenditures (exclusive of legal appropriation deficits) compare unfavorably to budgeted non-property tax revenues and appropriations. If appropriation turn-backs are insufficient to cover the non-property tax revenue shortfall, a revenue deficit exists that must be provided for in the following fiscal year no later than the setting of the following fiscal year's tax rate.

- *Averting a revenue deficit prior to June 30, 2009:* A revenue deficit is not finalized until the fiscal year's books are closed. Therefore, action to avert such a deficit before June 30, 2009 can only be estimated. Any estimate made closer to June 30th will likely be more accurate.

- Bulletin 2009-04B indicated several suggestions on how to avert this deficit prior to June 30, 2009. In addition, Boards of Selectmen with the agreement of the Finance Committee may consider their appropriations transfer option pursuant to G.L. Chapter 44, § 33B (see Informational Guideline Release (IGR) 06-209) in this case. If this option is considered, the Bureau recommends that the Board transfer a sufficient amount of unspent appropriations to a budget line item which will continue to go unspent through the end of the fiscal year.

- *Extinguishing a revenue deficit by appropriation after June 30, 2009:* Before June 30, 2009, communities may appropriate free cash certified as of July 1, 2008 to a stabilization fund to be used for appropriation after June 30, 2009 to extinguish a FY2009 revenue deficit (see IGR 04-201). A stabilization fund has dollar limits per G.L. Chapter 44, § 5B that can only be increased by permission of the Director of Accounts.

  In addition, free cash certified as of July 1, 2009, the tax levy or other legal funding source may be appropriated after June 30, 2009 to extinguish this deficit.

- *Raising a revenue deficit on the FY2010 Tax Rate Recapitulation form (Recap):* A revenue deficit as of June 30, 2009 may be raised on page 2, Part IIB, line 6 of the FY2010 Recap.

Storm Damage Deficits

The Bureau issued Bulletin 2009-01B in January 2009 regarding financing damage expenses from the December 2008 ice storm. All expenses paid as of June 30, 2009 and (1) not provided for by borrowing as indicated in the Bulletin or by appropriation and (2) not reimbursed by the time the FY2010 Recap is submitted to the Bureau of Accounts for tax rate certification must be provided for on page 2, Part IIB of the FY2010 Recap. Treasurers are advised that an expected cash shortfall caused by these expenses may be relieved through the provisions explained in the Bulletin and not through normal tax anticipation borrowing.

The Federal Single Audit Act of 1984 as amended requires a financial audit or, if properly petitioned to the appropriate federal oversight or cognizant agency, a specific program audit if $500,000 or more in federal funds are expended during any one fiscal year. The Massachusetts Emergency Management Agency's (MEMA) Disaster Recovery and Mitigation reimbursement packet included this reminder.

MTBE Litigation Settlement Proceeds

In November of 2008, the Bureau issued Bulletin 2008-13B regarding the treatment and use of these settlement proceeds during FY2009. Because these settlement proceeds are unrestricted, they belong to a city or town's General Fund pursuant to G.L. Chapter 44, § 53 even if that city or town adopted a Water department enterprise fund or has a Water department special revenue fund under G.L. Chapter 41, § 69B or special act. The city or town appropriating authority may

appropriate these proceeds for any legal purpose, which may include specific Water department activities. Proceeds appropriated to a Water department with no specific purpose must close to that department's fund balance or retained earnings. Any amount not so appropriated must be closed to the city or town's General Fund on June 30, 2009.

Revenue Budgeting for FY2010, Estimated Receipts

- *Motor Vehicle and Investment Income*: The Bureau for the second fiscal year cautions against unreasonable FY2010 estimates above FY2009 actuals which may be rejected without strong supporting documentation.

- *Municipal Medicaid*: The Bureau has been notified by the State's Office of Municipal Medicaid that unless the United States Congress takes certain action to continue benefit levels seen in prior fiscal years, FY2010 reimbursements will be significantly lower than in FY2009. The Congress is expected to consider this matter in April. Until this matter is resolved, the Bureau recommends that communities estimate this revenue source conservatively and revise the estimate upward if Congressional action warrants. The Bureau will consider for free cash update the difference between the amounts budgeted and expected (see **Free Cash Update and Non-Recurrent Distributions to Cities and Towns** below) once the expected amount has been determined.

- *Medicare Part D*: These payments belong to the General Fund whether or not the city or town has a Claims Trust Fund and may be estimated on page 3 of the Recap as "Miscellaneous Non-Recurring". The estimate will be reviewed by the Bureau using the same standard as other estimated receipts.

- *Sale of Real Estate:* Proceeds from the sale of real estate acquired by other than tax title foreclosure are not allowed as an estimated receipt on page 3 of the Recap without special legislation. These proceeds must be placed into an available fund for appropriation toward certain restricted purposes indicated in G.L. Chapter 44, § 63.

- *Marijuana Fines*: Paid civil fines imposed upon individuals for marijuana use belong to the community's General Fund and cannot be directed to any municipal department. The city or town's legislative body may raise and appropriate an amount of funds for any municipal department and offset the appropriation with an estimated receipt on page 3, line 19 of the Recap until the tax rate is certified by the Bureau.

- *Mitigation Payments*: Mitigation payments are often characterized as grants or gifts, but are generally unrestricted general receipts. (see City and Town, Focus, January 2006) They can be substantial in amount and may be used as an estimated receipt on page 3 of the Recap provided there is strong supporting documentation. Under current economic conditions, the Bureau will not generally approve a FY2010 estimated receipt from a private party where (1) FY2010 is the first year of the payment and (2) the payment is not received by the time the FY2010 Recap is submitted to the Bureau of Accounts. Once received, however, mitigation payments not included as estimated receipts on the FY2010 Recap may become part of a free cash update request (see **Free Cash Update and non-Recurrent Distributions to Cities and Towns** below).

Revenue Budgeting for FY2010, Other Receipts

- *Massachusetts School Building Authority*: As in prior years, FY2010 estimated payments will be allowed on the Recap provided (a) the amount is reported on MSBA's website, and/or (b) an additional amount is indicated in separate correspondence from MSBA apart from the website amount. See IGR 08-102 for instructions on receipt of payments and reservation for debt exclusion if applicable.

- *Community Preservation Fund*: Of the 140 cities and towns that have voted to adopt the Community Preservation Act (CPA), 135 collected the local surcharge in FY2009 and are eligible for state matching grants in FY2010. As a result of the downward trend in the collection of Registry of Deeds' fees that provide state funding for the CPA program and the increasing number of communities participating in the program, the Division estimates that the balance in the state trust fund will be sufficient to provide a first round match of approximately 29 percent of the surcharge levied by each city and town. This will trigger a second round or equity distribution for those communities that have adopted the maximum three percent surcharge. With the equity distribution, the total state reimbursement for qualifying communities will increase, depending on the community's quartile and total surcharge amount (see FY2010 CPA Decile Report for applicable quartile). Please note that these estimates are subject to change depending on Registry collections between now and September.

- *Enterprise Retained Earnings:* In April of 2008, the Bureau issued IGR 08-101 regarding Enterprise Funds pursuant to G.L. Chapter 44, § 53F½. Included in the Guideline are significant rule changes including the proper use of retained earnings, funding a retained earnings deficit, a recommended indirect cost allocation methodology and funding for indirect costs. Local officials are strongly urged to review this IGR.

Revenue Budgeting for FY2010, Available Funds

- *Transfers to Overlay Surplus:* Overlay surplus is an available fund that is available for appropriation for any lawful purpose until June 30th, after which it must be closed to the city or town's General Fund. Assessors must exercise care in calculating the amount of each transfer from Overlay to Overlay Surplus so as to abide by G.L. Chapter 59, § 25. An IGR on this matter is expected to be released soon by the Division.

- *Pension Reserve Transfers and PERAC Approval:* Any city or town with a Pension Reserve Fund pursuant to G.L. Chapter 40, § 5D and considering a transfer from this fund pursuant to G.L. Chapter 32, § 22 part 6A(b) must first receive permission in writing to do so from the Massachusetts Public Employee Retirement Administration Commission (PERAC).

Expenditure Budgeting for FY2010

- *Other Amounts to be Raised:* During the tax rate approval process, the Bureau has noted several communities attempting to raise in the tax levy prior and current fiscal year deficit

amounts. State law allows for only certain deficits to be raised on the Recap without appropriation. Any other amounts being so raised must be supported by special legislation.

- *Court Judgments and Settlements for Judgment:* Any final court judgment or settlement for judgment rendered between July 1st and the time of setting the next tax rate must be raised on the Recap without appropriation on page 2, Part IIB, line 3 if not otherwise provided for. Any such judgment or settlement for judgment rendered (1) after the setting of the tax rate through June 30th and (2) in an amount greater than $10,000, may with the written approval of the Director of Accounts be paid from available funds in the treasury and be raised on the next fiscal year's Recap.

- *Other Post-Employment Benefits (OPEBs):* Several communities have been granted special legislation to create an OPEB account. Chapter 479 of the Acts of 2008 provided for the establishment of OPEB Liability Trust Funds in Municipalities and Certain Other Governmental Units. The Division will issue an IGR on this new fund. Local officials may wish to review the Governmental Accounting Standards Board's (GASB) current guidance in administering such an account at www.gasb.org.

- *Budgeting in Full Prior to Tax Rate Certification:* In the Bureau's opinion, although events may occur after tax rate certification that require additional budget action, the city or town budget as reported on the Recap should represent final spending authority as budgeted and appropriated. Cities and towns should not submit the form for tax rate certification with the intention of funding the remainder of the budget as funds become available.

- *Self-Insurance Plans for Employee Health Insurance:* If the June 30, 2009 Claims Trust Fund balance is in deficit for any cities, towns or regional school districts with a Claims Trust Fund, the deficit must be provided for (1) in a city or town by appropriation or by raising it on the Recap as an Other Amount to be Raised and (2) in a regional school district by providing for it in the FY2010 regional school district budget. Any such deficit is also a reduction to a city or town's certified free cash or to a regional school district's certified excess and deficiency amount.

- *Cherry Sheet Assessments and the Overlay:* Cherry Sheet assessments and the Amount provided for Abatements and Exemptions (Overlay) do not require appropriation. Although the amounts should be included as part of the city or town's FY2010 overall spending plan, we recommend they not be included as items in the budget. If they are appropriated as part of the budget, however, then care must be taken to avoid raising the amounts as both overlay and appropriations.

- *The Overlay*: Adequate provision must be made in the FY2010 Overlay to cover potential abatements on taxes assessed to telecommunications companies for poles and wires erected upon public ways, construction work in progress and other taxable property in place but not in service. In recent telephone central valuation cases, the Appellate Tax Board (ATB) has ruled that this property is taxable, but appeals are expected (see Bulletin 2008-03B). Until this litigation is final, the Bureau will review form OL-1 submitted with the Recap to ensure the Overlay is adequate in the event the ATB's rulings are not upheld.

Certification of City, Town, District and Regional School District Notes and Receipt of Audit Reports

Audit reports of cities, towns and districts are required if expenditure of federal funds exceed threshold amounts promulgated by the federal Office of Management and Budget. Audits of regional school districts are required under provisions of G.L. Chapter 71, § 16A. For FY2010, the Bureau of Accounts will not certify revenue notes of a city, town, district or regional school district if a required audit for the period ended June 30, 2008 has not been submitted.

Free Cash Update and Non-Recurrent Distributions to Cities and Towns

The Bureau will continue its policy to allow cities and towns an opportunity to request from the Director authority to reserve and appropriate non-recurrent distributions over a certain period of time through the free cash update process.

For cities and towns, state law permits inclusion of receipts attributable to prior years, principally collection of property taxes, up to March 31st. This update to the amount previously certified provides additional spending authority based on such items, but must first be certified by the Director prior to appropriation. The Director will not certify an additional amount if use of such funds could, in the Director's opinion, result in a negative free cash as of the following June 30th. Only one request may be made by a city, town per fiscal year. If an amount is certified by the Director and a negative free cash as of the following June 30th results, the city or town may not request a similar update for the following fiscal year.

Regional School District Balance Sheet Required

Regional school districts must submit a Balance Sheet to the Bureau for certification of excess and deficiency as of June 30th. The Board of the Department of Elementary and Secondary Education (DESE) regulations indicate that if a Balance Sheet is not filed timely, the DESE Commissioner may request of the Commissioner of Revenue to withhold all or some part of the quarterly distribution of state aid for that school district until a Balance Sheet is submitted.

State law and the Board's regulation require such a Balance Sheet to be submitted to the Bureau on or before October 31st of each year. Annual Bureau instructions indicate the submission requirements. Audited Balance Sheets are not required, but the submission must be in a format that will allow the Bureau to calculate an excess and deficiency amount.

Levy Limits on the Website

FY2010 preliminary levy limits for budget planning purposes and instructions will be available soon on the Division's website. The levy limit calculation is the same as in FY2009 unless otherwise noted in the instructions' cover letter.

Gateway: FY2010 Tax Rates and FY2009 Schedule A's

For Tax Rate and Schedule A form completion during FY2010, forms will be on-line for direct data entry, review, retrieval, signing and submission by authorized local officials. The data may then be entered once with immediate feedback on potential problems. At the same time, *Gateway* has an internal tracking system to more efficiently move workflow through the people involved in form approval.

For FY2009, 87% of cities and towns submitted Recap forms directly on *Gateway* while 67% submitted FY2008 Schedule A's. Enhancements suggested by Assessors and Accountants will be rolled out this spring. The Excel-based Recap and Schedule A programs will remain available, but local officials should realize that they are uploaded to the *Gateway* database and their status is visible to authorized local users.

End of year accounting forms or upload links are also available on *Gateway* under Misc Forms for CP1, CP2, Snow & Ice, Cash Reconciliation, Statement of Indebtedness, Outstanding Receivables, Quarterly Cash Report, and Balance Sheet Checklist.