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GENERAL LAWS CHAPTER 60, SECTION 93 WITHHOLDING PAYMENTS TO PERSONS WHO OWE THE MUNICIPALITY MONEY

Chapter 60, Section 93 of the General Laws of Massachusetts provides:

The Treasurer or other disbursing officer of any town may, and if so requested by the Collector shall, withhold payment of any money payable to any person from whom there are then due taxes, assessments, rates or other charges committed to such collector, which are wholly or partly unpaid, whether or not secured by tax title held by the town, to an amount not exceeding the total of the unpaid taxes, assessments, rates or other charges, with interests and costs. The sum withheld shall be paid or credited to the collector, who shall, if required give written receipt therefor. The person taxed or charged may in such case have the same remedy as if he had paid such taxes, assessments, rates or other charges after a levy upon his goods. The Collector's rights under this section shall not be affected by any assignment or trustee process or attorney's lien.

This is an effective collection tool for a municipality, but must be implemented and enforced in an equitable fashion.

Section 93 allows a municipality, acting through its Treasurer, or other disbursing officer to withhold any funds due an individual who owes the municipality:

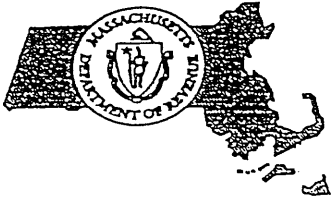
- taxes (whether real, personal or excise)
- assessments
- rates; or
- other charges (such as water, sewer, cleanup board up or demo, among others).

The municipality may then apply the withheld funds to the outstanding taxes, assessments, rates or other charges.

Some important points to remember:

1. The Collector's rights under Section 93 are not be affected by any assignment or trustee process or attorney's lien.
2. Members can not be held liable for the outstanding taxes, assessments, rates or other charges owed by LLCs;
3. Shareholders can not be held liable for the outstanding taxes, assessments, rates or other charges owed by corporations;
4. The powers pursuant to General Laws Chapter 40, Section 57 are broader than the powers pursuant to General Laws Chapter 60, Section 93. *See Letter of Harry M. Grossman, October 2, 1995 (attached hereto).*

As with any such matter, Assessors, Treasurers & Collectors should discuss the issues raised by this paper with their Tax Title Attorney and Town Counsel, City Solicitor or Corporation Counsel.



MASSACHUSETTS DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES

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MITCHELL ADAMS
Commissioner

ROBERT H. MARSH
Deputy Commissioner

October 2, 1995

C.W. Doane
Tax Collector
Main St.
P.O. Box 214
Hubbardston, MA 01452

Re: Enforcement of Delinquent Property Tax Bills
Our File No.95-974

Dear Ms. Doane:

This is in reply to your two letters of September 28, 1995 asking about the collection of delinquent corporate property taxes through the use of G.L. Ch.60 §93 and Ch.40 §57.

In our earlier letter to your predecessor (Our File No.92-597) we emphasized that a personal liability of a corporation's officers or stockholders could not be offset against a refund or other money owed to the corporation, since a corporation is a legal person distinct from its officers or shareholders. But if the corporation itself is delinquent in the payment of taxes which were assessed in its name, §93 may be used to set-off any refund owed the corporation against its outstanding tax liability to the town.

The remedy under G.L. Ch.40 §57 to deny, revoke or suspend licenses or permits is broader than the remedy under Ch.60 §93. Under §57, licenses or permits may be denied or revoked not only to an applicant who is a delinquent taxpayer, but also

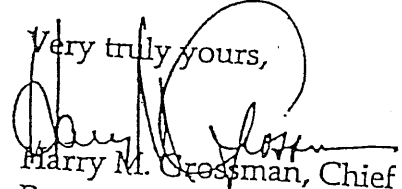
"...with respect to any activity, event or other matter which is the subject of the license or permit and which activity... is to be carried out or exercised on or about the real estate whose owner has neglected to pay any local taxes, fees, assessments, betterments or other municipal charges." Emphasis added.

The intent of this broad language is to eliminate the necessity that the delinquent taxpayer be the same legal entity as the party holding or seeking the permit or license. The scope of §57 was expanded at the end of 1993, and the section is a local option law requiring the adoption of a local bylaw ordinance to put it into effect. You should therefore check Hubbardston's

bylaws to see whether they take advantage of the increased scope of §57 since the amendment.

Please do not hesitate to contact us if we may be of further assistance.

Very truly yours,



Harry M. Grossman, Chief
Property Tax Bureau