



Informational Guideline Release

Bureau of Municipal Finance Law
Informational Guideline Release (IGR) No. 21-20
July 2021

Supersedes IGR 02-210 and Inconsistent Prior Written Statements

SENIOR CITIZEN AND VETERAN PROPERTY TAX WORK-OFF ABATEMENT PROGRAMS

(G.L. c. 59, § 5K and G.L. c. 59, § 5N)

This Informational Guideline Release (IGR) informs local officials about an increase in the maximum abatement that may be earned by seniors and veterans under the local acceptance property tax work-off program. It also explains the standards and procedures that apply to those local acceptance property tax work-off abatement programs.

Topical Index Key:

Abatements and Appeals
Tax Bills

Distribution:

Assessors
Collectors
Treasurers
Accountants and Auditors
Selectmen/Mayors
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels

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**SENIOR CITIZEN AND VETERAN
PROPERTY TAX WORK-OFF ABATEMENT PROGRAMS**

(G.L. c. 59, § 5K and G.L. c. 59, § 5N)

SUMMARY:

This Informational Guideline Release (IGR) informs local officials about two local acceptance statutes that allow cities and towns to establish property tax work-off programs for senior citizens and veterans.

The board of selectmen, town council or mayor with the approval of the city council in a community that has accepted [G.L. c. 59, § 5K](#) or [G.L. c. 59, § 5N](#) may establish a property tax work-off program for taxpayers who are over 60 years old or veterans. The statutes for the senior and veteran work-off abatement must be separately accepted by the municipality's legislative body. Under those programs, the senior or veteran "volunteers" his or her services to a city or town and earns a reduction in his or her property tax bill.

These guidelines supersede prior guidelines on the property tax work-off abatement program and any inconsistent prior written statements or documents. The guidelines also update the features and operation of the local option [G.L. c. 59, § 5N](#) for veterans and address the features and operation of both programs generally.

GUIDELINES:

I. LOCAL ACCEPTANCE

A. Acceptance

Acceptance of [G.L. c. 59, § 5K](#) (seniors) or [G.L. c. 59, § 5N](#) (veterans) is by vote of the municipality's legislative body, subject to charter. [G.L. c. 4, § 4](#).

A municipality may accept either, both or neither of the two statutes.

B. Effective Date

The acceptance vote should explicitly state the fiscal year in which the program under the particular statute will first be available.

C. Revocation

Acceptance may be revoked, but the city or town must wait until at least three years after acceptance. Revocation is also by vote of the legislative body, subject to charter. [G.L. c. 4, § 4B](#).

D. Notice of Acceptance or Revocation

The city or town clerk should notify the [Municipal Databank](#) if [G.L. c. 59, § 5K](#) (seniors) or [G.L. c. 59, § 5N](#) (veterans) is accepted or revoked. The notification should be made as soon as possible after the vote.

II. SCOPE OF ABATEMENT

A. Seniors

An individual must be over 60 years of age to earn a property tax abatement under a program for seniors established under [G.L. c. 59, § 5K](#).

B. Veterans

An individual must be a “veteran” as defined in [G.L. c. 4, § 7, Clause 43](#) to earn a property tax abatement under a program for veterans established under [G.L. c. 59, § 5N](#). If the veteran has a service-connected disability or is deceased, the veteran’s spouse or surviving spouse may earn the abatement instead.

C. Ownership

Volunteers must be the assessed owner of the property on which the tax to be abated is assessed or have acquired ownership before the work is performed and the abatement applied. If the property is subject to a trust, the volunteer must have legal title, i.e., be one of the trustees, on the applicable January 1 assessment date, or at the time the work is performed.

More than one qualifying owner of the parcel may earn an abatement, unless local program rules limit multiple abatements on a parcel.

If both spouses own the property and each would qualify separately for a work-off abatement program, then either one could work the entire number of hours or each could work half or some other part of the time to make the total number of hours. In addition, under that program the number of volunteer hours do not necessarily have to be worked in full, and the taxpayer may be entitled to a partial abatement based on the reduced hours worked up to the cut-off date to apply the abatement to the tax bill.

D. Domicile

The volunteer does not have to be domiciled on their property to qualify for either volunteer work-off abatement program unless the municipality adopts a local rule requiring domicile.

E. Maximum Abatement and Hourly Rate

The maximum abatement volunteers may earn for a fiscal year is \$1,500 for seniors and \$1,500 for veterans.

Volunteers cannot receive credit for their services at an hourly rate higher than the state's minimum wage.

Cities and towns should also set the hourly rate no lower than the federal minimum wage unless advised by the Wages and Hours Division of the United States Department of Labor that the federal fair labor standards act does not apply to the program.

F. Personal Exemptions and Deferrals

Volunteers may earn abatements under the work-off program in addition to any property tax exemptions they may be eligible for under other statutes, such as personal exemptions under [G.L. c. 59, § 5](#) or residential exemptions under [G.L. c. 59, § 5C](#). They may also defer the balance of their taxes under [G.L. c. 59, § 5, Clause 41A](#) if they are eligible to do so.

The senior exemptions and deferral contained in [G.L. c. 59, § 5, Clauses 41, 41A, 41B, 41C and 41C ½](#) require the applicant to be an owner of the property on July 1. That is a different standard from the requirement to have a legal obligation to pay the tax in [G.L. c. 59, § 5K](#) and [G.L. c. 59, § 5N](#).

G. Multiple Employers

There is an opinion issued by the State Ethics Commission (EC-COI-04-4) that indicates that municipal employees may participate in a property tax work-off abatement program under certain circumstances. The opinion can be accessed at: <https://www.mass.gov/files/documents/2016/08/sd/rulings-04.pdf>.

Municipal employees seeking to participate in the program are advised to check with municipal counsel or the State Ethics Commission.

H. Proxies

The person performing the work must have a legal obligation to pay the tax. However, a city or town, by vote of its legislative body, subject to its charter, may vote to allow an approved representative to perform the services for an eligible taxpayer physically unable to provide services to the city or town.

Treasurers in a community that adopts this option should consult with the United States Internal Revenue Service (IRS) regarding the proper reporting procedure when the earnings result from work performed by a proxy.

I. Trusts

Being a trustee of the property on which the tax to be abated is assessed is sufficient for the senior or veteran to participate in property tax work-off programs under [G.L. c. 59, § 5K](#) or [G.L. c. 59, § 5N](#) because the trustee is under a legal obligation to pay the tax on the property.

J. Volunteer Employment Limitations

Eligible taxpayers must provide services to the city or town to which they owe taxes in order to earn a property tax credit under either program. Eligible taxpayers may not provide services to a regional school district since they do not owe tax to the district which will employ them or to a non-profit organization.

III. ADOPTION OF LOCAL PROGRAM RULES

After acceptance of the statute, the selectmen, town council or mayor with approval of the city council may establish a senior or veteran work-off program consistent with any local rules and procedures the municipality may adopt by by-law or ordinance. Those officials should coordinate the assignment of program participants to the various municipal departments where they will perform their volunteer services.

All program expenses are budgeted in the overlay rather than through appropriations. Therefore, the amounts needed to operate the programs should be considered when the municipal budget is developed. The assessors should factor in the amounts needed to fund the programs when determining overlay needs each year.

A municipality should adopt rules to determine:

- The hourly rate at which the tax reduction is to be computed;
- Any eligibility date;
- Any income asset limitations on eligibility;
- Any limitation of eligibility to a tax reduction on a volunteer's domicile;
- Any limitations on the number of volunteers or the types of work they may do;
- The use, if allowed, of approved representatives to perform the services for volunteers physically unable to perform the work themselves;
- Any other restrictions or regulations consistent with the intent of the law it elects to implement.

IV. CERTIFICATION OF SERVICE

The board, officer or department supervising the taxpayer's volunteer services must certify to the assessors the hours of services performed by the taxpayer **before** the actual tax for the fiscal year is committed. The certification must state the amount actually earned as of that time. Services performed after that date are credited toward the next

fiscal year's actual tax bill to the extent consistent with the program rules established by the municipality.

A copy of the certification must also be given to the taxpayer before the actual tax bill is issued. (See attached model that may be adapted to suit local needs).

V. TREATMENT OF "EARNED" AMOUNT

A. Treatment for State Tax Purposes

The amount of the property tax reduction earned by the taxpayer under this program is not considered income or wages for purposes of **state** income tax withholding or workmen's compensation. Zeroes may be inserted into the state wages box on the Forms W-2 for seniors and veterans who have participated in the property tax work-off programs under [G.L. c. 59, § 5K](#) and [G.L. c. 59, § 5N](#). The state wages box on the Form W-2 is for reporting the total amount of taxable wages earned in the state. [G.L. c. 59, § 5K](#) and [G.L. c. 59, § 5N](#) both provide that the income "earned" under the programs is not subject to state income tax.

B. Treatment by Federal Government

The IRS, however, has ruled that under current federal law the abatement amount is included in the taxpayer's gross income for both federal income tax and Federal Insurance Contribution Act (FICA) tax purposes. In addition, if the community pays the taxpayer's share of FICA taxes, that amount is also income subject to federal income tax. Treasurers should verify with the IRS that their procedures comply with all applicable federal laws regarding income, Social Security and Medicare tax withholding on abatements earned under these programs, including issuance of a W-2.

Here, the "earnings" will have to be run through the payroll system in order to generate proper withholdings and reports to the IRS. Manual adjustments and reversing entries will then have to be made in order to have accurate state tax reports and have the earned amounts charged to the overlay account for abatements rather than salary appropriations.

VI. ACCOUNTING FOR ABATEMENTS

A. Credit Applied to Actual Tax Bill

Earned reductions must be applied to the actual tax bills for the fiscal year. The assessors must commit the full tax for the year and process the gross amount earned as certified by the board, officer or department supervising the taxpayer's volunteer services as an abatement to be charged against the overlay account. The taxpayer's actual tax bill, however, should only show a credit for the amount earned net of any federal withholdings. The municipal share of federal Social Security and Medicare taxes may also be charged to the overlay unless the community has otherwise provided.

B. Example:

Abatement Earned:	\$750.00
Less: Social Security	\$46.50
Less: Medicare at 1.45%	\$10.88
Credit to tax bill:	\$692.62

Since the amounts earned under [G.L. c. 59, § 5K](#) or [G.L. c. 59, § 5N](#) must be applied to the actual tax bills for the fiscal year as abatements, no checks should be issued to volunteers for return or deposit. Even if a municipality's computer system must generate a check for W-2 purposes, no checks should be issued to the volunteers.

C. Municipal Accounting for Credits

The gross amount earned should be paid out of the overlay. An actual abatement, however, should be processed only for the net amount. The difference attributable to federal tax withholdings should be transferred by the accountant to the agency account for the taxes. The treatment is analogous to employee salaries: the gross amount is charged to the salary budget, but the employee is paid the net amount, with withholdings held in an agency account until paid over to the taxing authority. The employer's FICA share should ordinarily be paid out of the regular appropriation that the municipality has for that purpose. However, if the community did not budget the FICA expense for the Senior or Veteran Work Program, that amount may be charged to the overlay account.

D. Community Preservation Surcharge Reduction

The community preservation surcharge should be reduced to reflect a work-off abatement. The abatement should be treated the same as other property tax abatements or exemptions for purposes of calculating the surcharge.

E. Banking of Credits Not Permitted

Earned reductions must be applied to the actual tax bills for the fiscal year in which they are earned. Services performed in the current fiscal year after the actual tax bills are issued must be credited toward the next fiscal year's bills. Excess reductions earned in the current fiscal year before the actual tax bills are issued may not be "banked" and applied to actual tax bills of future years.

F. Late Notice of Work Performed

In the event that a municipal department inadvertently fails to report the hours worked by a volunteer to the assessors before the actual tax commitment, the assessors may administratively abate an amount equivalent to the hours worked.

G. Sale of Property

Persons who participate in the program should be advised that all earnings are "paid" exclusively in the form of an abatement. Therefore, if a volunteer sells the property on which the tax is to be abated due to the performance of work-off services, it is up to the seller to ensure the reduction is taken into account at the time of closing in order for the

benefit to be credited to the seller in the same manner as exemptions they are eligible for in that fiscal year.

VII. STATUS OF VOLUNTEERS

Volunteers performing services in return for property tax reductions are employees for purposes of municipal tort liability. Therefore, municipalities are liable for damages for injuries to third parties and for indemnification of the volunteers to the same extent as in the case of injuries caused by regular municipal employees.

(MODEL)

(Copy must be given to the taxpayer before the actual tax bill is mailed)

City/Town of _____
Certificate of Completion of Volunteer Services

(G.L. Ch.59 §5K)

To: Board of Assessors

_____ the owner of a parcel at _____ has completed
(Taxpayer's name) (Property address)
_____ hours of volunteer work to be credited toward the fiscal year _____ tax
assessed on the parcel at the address listed above at the rate of \$_____ per hour.

(Signature of Person Certifying Work)

(Board or Department)

(Date)

Program Name	Work-off Abatement Requires <u>Separate</u> Local Acceptance G.L. c. 59, § 5K (seniors) or G.L. c. 59, § 5N (veterans)	Municipal Employment
Assistance Type	Reduces by means of an abatement the local property tax liability of senior/veteran volunteer in exchange for volunteer service to municipality Abatement of actual tax is exclusive means of providing assistance and head of department where senior/veteran volunteer worked <u>must certify hours worked and wage rate to assessors before actual tax committed</u>	Provides supplemental income to help taxpayer pay local property taxes (or water, sewer or other local charges) Tax (or other bill) paid in part from earnings
Statutory Eligibility	Senior under G.L. c. 59, § 5K – Must be over the age of 60 Veteran under G.L. c. 59, § 5N – Must meet definition of veteran in G.L. c. 4, § 7(43) Spouse of veteran with a service connected disability or surviving spouse of veteran also eligible	Determined locally
Other Eligibility (seniors/veterans who qualify for other tax reductions or co-own with others participating in program; income or assets tests, etc.)	Determined locally	Determined locally
Application Procedure	Determined locally	Determined locally
Assistance Amount	\$1,500 maximum for seniors and \$1,500 maximum abatement for veterans (or abatement attributable to 125 hours) Maximum hourly rate for service - state minimum wage– G.L. c. 151, § 1	Determined locally
Income Tax Treatment	<i>Federal</i> – Abatement earned considered compensation subject to federal income and FICA taxes and must be reported to IRS (Treasurer should verify proper reporting procedure with IRS) <i>State</i> – Abatement earned not income for state income tax (or workmen's compensation purposes) and need not be reported to DOR	Wages income for federal and state purposes and subject to all applicable federal and state withholding and reporting requirements
Accounting	Gross earnings charged to overlay <ul style="list-style-type: none"> Assessors process abatement for earnings net of federal withholdings (as determined by treasurer) after actual tax committed and before actual bills issued Assessors notify accounting officer of gross amount to charge overlay and notify collector and accounting officer of abatement amount Collector shows abatement as credit against actual tax and calculates installment payments based on tax, as abated Accounting officer transfers federal withholdings amount to agency account for payment to United States (Municipal share of FICA taxes are charged to FICA appropriation, but may be charged to overlay if that appropriation not sufficient) 	Gross earnings charged to appropriation Municipal share of FICA taxes charged to FICA appropriation