Massachusetts Department of Revenue
Division of Local Services

# LOCAL TAXES

## Tax Assessment and Collection Issues

2008

Workshop A

Navjeet K. Bal, Commissioner
Robert G. Nunes, Deputy Commissioner

www.mass.gov/dls

# Case Study
# Forest Land – Chapters 61, 61A and 61B

**This fall in the assessors' office, in addition to all the regular forest, farm and recreational land applications, you have received 2 new applications for C. 61, Forest Land classification. One is for Parcel A, and it was delivered to Town Hall on Saturday morning, September 27, 2008. The other is for Parcel B and it was received in the assessors' office on Monday, October 6, 2008.**

*(By way of background, Chapters 61, 61A and 61B of the General Laws provide special property tax classifications for qualifying forest, agricultural or horticultural, and recreational or natural open lands. A landowner must apply for the special classifications with the local board of assessors and, if approved, the land will qualify for reduced property tax assessments. These reduced property assessments result from the land being assessed based exclusively on its agricultural or horticultural "use" value, and not on its full and fair cash valuation at its highest and best use. There are provisions in each of the three statutes that require, in certain circumstances, that a landowner pay a "penalty tax" when land that has been in the program is sold for or changed to a non-qualifying use. Also, in certain circumstances, the city or town may have an option to purchase the land if it is to be sold for or converted to non-qualifying uses.*

*Forest land classified under G.L. c.61, once classified, will remain classified for the duration of its 10 year state forester's certification without the need to reapply each year to the board of assessors. Farmland and recreational land under G.L. c. 61A and 61B is classified on an annual basis and requires a timely application to the board of assessors for each fiscal year.*

*In order for forest land to qualify for the c.61 special property tax classification the land must consist of at least 10 acres of contiguous land under the same ownership and the owner must obtain the state forester's certification that the land is being managed pursuant to an approved 10 year forest management plan. The state forester has the sole responsibility for the review and certification of the land as to qualifying forest use. (The Forestry Office of the Department of Conservation and Recreation should be contacted for more information in this regard.)*

**Question 1**: **Is the Parcel A application timely?**

**Question 2**: **Is the Parcel B application timely?**

**If FY 2010 is a revaluation year, can the Parcel B application be filed late?**

**If late for c.61, does the taxpayer have any options for FY 2010?**

Chapter 61 requires that a landowner begin the application process more than a full year before the first day of the tax year for which classification is sought. However, once classified, the classification continues for a full 10 year period. (Unlike c. 61A and c. 61B, which require annual applications.) A landowner must start the process by submitting an application containing the information and materials prescribed by the State Forester to the State Forester prior to July1 a year before the July 1 start of the tax year. (A June, 2008 application to the SF would be for classification starting on July 1, 2009, which is FY 2010.) If after review the State Forester approves the forest management plan and issues a certificate, the landowner must submit an application for c. 61 classification (Form CL-1 and CL-1(61) together with the state forester's certification and a copy of the forest management plan to the local board of assessors prior to October 1. (9 months prior to the start of the tax year for which classification is sought, e.g., prior to October 1, 2008 for FY 2010.) If the application is in order and approved by the board of assessors, the land is classified under c. 61 for January 1 and assessed as classified forest land for the ensuing tax year. In the example, for January 1, 2009 and FY 2010, which commences on July 1, 2009 Once again, while the application process covers more than a year, upon classification the land will continue in classification for 10 tax years without further classification, unless removed for non-compliance.

**Question 3**: **If the assessors find that everything is in order for Parcel A, what forms are they then working with?**

For notice of action to the taxpayer, please see Form CL-2.

C. 61 also requires that a statement of classification, which constitutes a lien upon the property, be filed at the Registry of Deeds. This is Form CL-3. While all property tax assessments constitute a lien on the property assessed by operation of law, c.61 requires that there be an actual filing of a written statement of classification in order for the lien to arise. All recording fees are the responsibility of the landowner, not the city or town. At such time as there are no further potential tax liabilities under c.61, a landowner will be entitled to a release of the lien.

State Tax Form CL-1
Revised 9/2008

The Commonwealth of Massachusetts

_____
Name of City or Town

| 61 | 61A | 61B |
|---|---|---|
| Assessors' Use only | | |
| Date Received | | |
| Application No. | | |

**Fiscal Year _____ Application for**

**Forest-- Agricultural or Horticultural -- Recreational Land Classification**

**General Laws Chapter 61, §§ 1 & 2 – Chapter 61A, § 6 – Chapter 61B, § 3**

**INSTRUCTIONS:** Complete all sections that apply. Please print or type.

**A. IDENTIFICATION.** Complete this section fully.

Name of Applicant(s): _____

Mailing Address: _____
No. Street City/Town Zip Code

Property Covered by Application:

| Location | Parcel Identification (Map-Block-Lot) | Deed Reference (Book & Page/Cert. No.) | Total Acres | Acres to be Classified |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |

**B. TYPE OF CLASSIFICATION.** Check the classification you are seeking and provide the required information.

**FOREST** ☐ Attach State Forester's Certificate and Approved Forest Management Plan.

**AGRICULTURAL or HORTICULTURAL** ☐

1. **Current use of land.** List by classes established by the Farmland Valuation Advisory Commission, if applicable.

| Land Use by Class | No. of Acres | Specific Use, Crops Grown |
|---|---|---|
| a. Vegetables, Tobacco, Sod and Nursery Cropland | | |
| b. Dairy, Beef and Hay Cropland | | |
| c. Orchards, Vineyards and Blueberries Cropland | | |
| d. Cranberries | | |
| e. Christmas Trees | | |
| f. Productive Woodland (Attach copy of State Forester's Certificate and Approved Management Plan if initial application, or new/revised plan) | | |
| g. Cropland Pasture, Permanent Pasture and Necessary and Related Land | | |
| h. Contiguous Non-productive Land | | |
| i. Other Agricultural or Horticultural (Specify) | | |

2. **Statement of income in preceding year.** Supporting documentation, including copies of your federal and state tax income returns, may be requested to verify your income.

a. Gross sales from agricultural or horticultural use.....$ _____

b. Amount received under MA or US Soil Conservation or Pollution Abatement Program.....$ _____

Total (Provide a detailed description of the source of the farm income listed above).....$ _____

3. **Previous use of land.** Was the land valued, assessed and taxed as classified agricultural or horticultural land under c. 61A for the prior 2 fiscal years? Yes ☐ No ☐

If no, was the use of the land during the prior 2 fiscal years the same as the current use described above? Yes ☐ No ☐

If no, describe in detail the use of the land during the prior 2 fiscal years _____

_____

_____

If no, was your farm income during either of the prior 2 fiscal years less than the amount reported above?
Yes ☐ No ☐

If yes, list the income for the year $ _____ Fiscal year _____

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

**RECREATIONAL** ☐ *Land may qualify based on its condition or recreational use.*

1. Is the land retained in substantially a natural, wild or open condition? Yes ☐ No ☐

   Is the land in a landscaped or pasture condition or managed forest condition? Yes ☐ No ☐

   If managed forest, attach copy of State Forester's Certificate and Approved Management Plan if initial application, or new/revised plan.

   Does the land allow to a significant extent the preservation of wildlife and other natural resources? Yes ☐ No ☐

   If yes, indicate which natural resources are preserved:

| | | | | | |
|---|---|---|---|---|---|
| Ground Water/Surface Water | ☐ | Clean Air | ☐ | Vegetation | ☐ |
| Rare/Endangered Species | ☐ | Geologic Features | ☐ | Scenic Resources | ☐ |
| High Quality Soils | ☐ | Other (specify) | _____ | Other (specify) | _____ |

2. Is the land used primarily for recreational use? Yes ☐ No ☐

   If yes, indicate for which recreational activity:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Archery | ☐ | Picnicking | ☐ | Camping | ☐ | Nature Study & Observation | ☐ |
| Fishing | ☐ | Golfing | ☐ | Hang gliding | ☐ | Non-commercial Youth Soccer | ☐ |
| Hiking | ☐ | Target Shooting | ☐ | Hunting | ☐ | Private Non-commercial Flying | ☐ |
| Boating | ☐ | Skiing | ☐ | Swimming | ☐ | Horseback Riding | ☐ |
| | | | | | | Commercial Horseback Riding & Equine Boarding | ☐ |

How often is the land used for recreational activities? _____

How many people use the land for those activities? _____

Is the land open to the general public? Yes ☐ No ☐

If no, to whom is its use restricted? _____

Is the land used for horse racing, dog racing or any sport normally undertaken in a stadium, gymnasium or similar structure? Yes ☐ No ☐

**C. LESSEE CERTIFICATION.** If any portion of property is leased, the following statement must be signed by each lessee.

I hereby certify that the property I lease is being used as described in this application and that I intend to use the property in that manner during the period to which the application applies.

| Lessee | Date |
|---|---|
| | |
| | |
| | |

**D. SIGNATURE.** All owners must sign here to complete the application.

This application has been prepared or examined by me. Under the pains and penalties of perjury, I declare that to the best of my knowledge and belief, it and all accompanying documents and statements are true, correct and complete. I also certify that I have signed and attached a Property Owner's Acknowledgement of Rights and Obligations under classified forest, agricultural or horticultural or recreational land programs, as part of this application.

| Owner | Date |
|---|---|
| | |
| | |
| | |

*If signed by agent, attach copy of written authorization to sign on behalf of taxpayer.*

DISPOSITION OF APPLICATION (ASSESSORS' USE ONLY)

| | | | |
|---|---|---|---|
| Ownership ☐ | All ☐ | GRANTED | Date Voted/Denied _____ |
| Min. Acres ☐ | Part ☐ | | Date Notice Sent _____ |
| Use/Condition ☐ | Deemed ☐ | | Board of Assessors |
| Gross Sales ☐ | | | |
| | All ☐ | DENIED | |
| | Part ☐ | | |
| | Deemed ☐ | | Date |

State Tax Form CL-1(61)

Revised 9/2008

The Commonwealth of Massachusetts

_____

Name of City or Town

# Property Owner's Acknowledgement of Rights and Obligations under Classified Forest Land Program

*This form must be submitted as part of your application for classification*

**QUALIFICATIONS.** I understand that property must consist of at least 10 contiguous acres of land under the same ownership, be devoted to the growth of forest products and be managed under a 10 year management plan approved and certified by the State Forester in order to qualify for and retain classification as forest land under Massachusetts General Laws Chapter 61. I understand that buildings and other structures located on the property, as well as the land on which a residence is located or regularly used for residential purposes, do not qualify for classification and will continue to be assessed a regular local property tax.

**APPLICATIONS.** I understand that for property to be classified as forest land under Chapter 61, I must submit a written application to the State Forester before July 1 of the year before the start of the fiscal year for which taxation as classified land is sought. (*The fiscal year of cities and towns begins July 1 and ends the following June 30.*) The application must be made in accordance with all rules and regulations established by the State Forester. The State Forester will certify whether the property qualifies as forest land and is being managed under an approved 10 year forest management plan. I must then submit before October 1 of the same year a written application for classification to the board of assessors of the city or town in which the property is located. The application must include the State Forester's certification and a copy of the approved forest management plan. I understand that classification of the land as forest land will be effective as of January 1, and taxation of the property under Chapter 61 will begin the following July 1, which is the start of the next fiscal year. The parcel will remain classified as forest land provided I file with the assessors a new certification by the State Forester and an approved forest management plan every 10 years, and the land otherwise continues to qualify under Chapter 61. I further understand that the property cannot be classified as forest land if I do not comply with all application deadlines and procedures.

**LIEN.** I understand that once my application for classification has been approved, the board of assessors will record a statement at the Registry of Deeds indicating that the land has been classified as forest land under Chapter 61. That statement will constitute a lien on the land for all taxes due under Chapter 61. I understand that I must pay all fees charged by the Registry for recording or releasing the lien.

**APPEALS.** I understand that if the board of assessors concludes that any land included in my application for classification, or any land already classified under Chapter 61, is not being managed under the approved management plan, is being used in a manner incompatible with forest production, or does not otherwise qualify for classification, it may file an appeal with the State Forester by December 1. Appeals must be made in writing and sent by certified mail to the State Forester, with a copy to me sent by certified mail. The State Forester must notify the assessors and me of his decision by March 1 of the following year. The assessors and I may appeal that decision by notifying the State Forester by April 15. The appeal will be heard by a three person regional panel convened by the State Forester by May 15. The assessors and I will be notified of the decision within 10 days after the conclusion of the hearing. The panel's decision may be appealed to the Superior Court or the Appellate Tax Board. This appeal must be filed within 45 days of receiving notice of the panel's decision. In addition, the State Forester may remove the land from classification if he believes it is not being managed according to the approved management plan or does not otherwise qualify for classification.

**ANNUAL TAXATION.** I understand that I must pay an annual property tax to the city or town in which the classified land is located. The tax will be assessed on the use value of the land for forestry purposes, rather than fair market value based on the land's highest and best use as would be the case if the land were not classified. In determining the valuation of my land, the board of assessors will consider the range of forest land use values established by the Farmland Valuation Advisory Commission together with their knowledge, judgment and experience regarding forest land values. The commercial property tax rate for the fiscal year will be applied to that value, unless the city or town has accepted a local option to apply the open space property tax rate. The tax will be due in the same number of installments and at the same time as other local property tax payments are due in the city or town. Interest will be charged on any overdue taxes at the same rate applicable to overdue local property taxes.

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

**MUNICIPAL OPTION TO PURCHASE.** I understand that the city or town has an option to purchase any classified land whenever I plan to sell or convert it to a residential, commercial or industrial use during a fiscal year it is classified, or within 1 full fiscal year after it is removed from classification. I must notify by certified mail or hand delivery, the mayor and city council or the selectmen, assessors, planning board and conservation commission of the city or town, and the State Forester of my intention to sell or convert the land to those uses and provide certain information regarding the intended sale or conversion. If I plan to sell the land, the city or town has the right to match a bona fide offer to purchase it. If I plan to convert it, the city or town has the right to purchase it at its fair market value, which is to be determined by an impartial appraisal. The city or town may also assign its option to a non-profit, conservation organization, the Commonwealth or any of its political subdivisions. I understand that I may not sell or convert the land until at least 120 days after I provide a notice that fully complies with the requirements of Chapter 61 or until I have been notified in writing that the option will not be exercised and the notice is recorded at the Registry of Deeds, whichever is earlier.

This option is not available to the city or town and the notice requirement does not apply if the forest land certification is simply discontinued, or I plan to build a residence for my use, or the use of my spouse or my parents, grandparents, child, grandchild, brother or sister, the surviving spouse of any of those relatives, or an employee working full time in the forest use of the land.

**PENALTY TAX.** I understand that I must pay one of two alternative penalty taxes whenever any of the land is no longer used for, or maintained in, a use or condition that would qualify the land for classification as forest land under Chapter 61, agricultural or horticultural land under Chapter 61A, or recreational land under Chapter 61B. Payment of a penalty tax applies in that case whether or not the land is subject to the purchase option and notice requirement. I must pay a roll-back tax for a 5 year period if the use of the land changes to a non-qualifying use or condition. If the change in use or condition occurs when the land is classified, the tax will be imposed for the current fiscal year and the 4 prior years. If the land is not classified at that time, the tax will be imposed for the 5 prior years. In either case, the tax will be the difference between the amount I would have paid in annual property taxes on the land if it had been taxed at its fair market value and the amount of the taxes I paid on the land under Chapter 61 during the same time. The roll-back tax also includes interest at the rate of 5% per year on each year's tax savings.

However, I must pay the alternative conveyance tax instead if the land is sold for or converted to a non-qualifying use within 10 years of the date I acquired it, or the earliest date of its uninterrupted forest use by me, whichever is earlier, and the conveyance tax is greater than the roll-back tax that would be due. The conveyance tax will be equal to the conveyance tax rate applied to the sales price of the land, or if converted, to the fair market value of the land as determined by the assessors. The conveyance tax rate will be 10% if the land is sold or converted within the first year of ownership, 9% if sold or converted within the second year, and so on with the rate declining each year by one percentage point until it is 1% in the 10th year of ownership. After this 10 year period has expired, I will not be liable for any conveyance taxes, but will remain liable for roll-back taxes if there is a change to a non-qualifying use or condition of the land. In addition, for any land in classification before the fiscal year that began on July 1, 2008, I will pay a roll-back tax, not a conveyance tax, upon any change in use.

**ABATEMENTS.** I understand that I may contest my annual property tax or any penalty tax assessed under Chapter 61 by applying for an abatement. Applications for abatement must be made in writing **on an approved form** and must be filed with the assessors within 30 days of the date I am notified of the tax. If I disagree with the assessors' decision, or the assessors do not act on my application, I may appeal to the Appellate Tax Board within 30 days of the date I am notified of the assessors' decision, or 3 months from the date my abatement application was filed, whichever is later. I further understand that the assessors cannot grant any abatement if I do not comply with all application deadlines and procedures.

I certify that I have examined this general statement of the requirements and obligations of Chapter 61 and acknowledge that it is my responsibility as an applicant for classification to fully understand and satisfy all requirements of Chapter 61. I also certify that I will notify the board of assessors immediately in writing of any circumstances developing after this date that may cause a change in the use of the property from that described in my application for classification.

| Owner(s) | Date |
|---|---|
| | |
| | |
| | |

State Tax Form CL-2
Revised 9/2008

The Commonwealth of Massachusetts

_____
Name of City or Town

Office of the Board of Assessors

_____
Date

## Notice of Action on Application for Forest-Agricultural or Horticultural-Recreational Land Classification

This notice informs you of the action taken by the Board of Assessors on your application of _____ , _____ for the valuation, assessment and taxation of the property described below as classified forest☐ agricultural or horticultural☐ recreational☐ land under the provisions of General Laws Chapter 61☐ 61A☐ 61B☐ .

☐ **ALLOWED.** ☐ All ☐ part of your application was allowed by vote☐ inaction ☐ of the assessors on _____, _____. This classification is effective January 1, _____ for the fiscal year beginning July 1, _____.

☐ **DISALLOWED.** ☐ All☐ part of your application was disallowed by vote☐ inaction☐ of the assessors on _____, _____ for the following reason(s):

If all or part of your application was disallowed, you may appeal that decision by filing a notice with:

☐ The State Forester, by certified mail with a copy to the Board of Assessors, by December 1,_____ . (Forest Land)

☐ The Board of Assessors within 30 days of the date of this notice. (Agricultural or Horticultural Land)

☐ The Board of Assessors within 60 days of the date of this notice. (Recreational Land)

| Location | Parcel Identification (Map-Block-Lot) | Deed Reference (Book & Page/Cert. No.) | Total Acres | Classified Acres | Disallowed Acres |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

_____

_____

_____

Board of Assessors of

_____

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

State Tax Form CL-3
Revised 9/2008

The Commonwealth of Massachusetts

_____
Name of City or Town

Office of the Board of Assessors

## Classified Forest-Agricultural or Horticultural-Recreational Land Tax Lien

The Board of Assessors in the city/town of _____ hereby states it has accepted and approved the application of _____ owner(s) of the real property described below, for the valuation, assessment and taxation of that property as classified forest ☐ agricultural or horticultural ☐ recreational ☐ land under the provisions of General Laws Chapter 61 ☐ 61A ☐ 61B ☐ . This classification is effective as of January 1,_____ for the fiscal year beginning July 1,_____ .

DESCRIPTION OF PROPERTY

(The description must be sufficiently accurate to identify the property. In the case of registered land, the Certificate of Title Number and the Registry Volume and Page must be given.)

_____

_____

_____

_____

This statement made on the _____ day of _____, _____ constitutes a lien upon the property as provided in General Laws Chapter 61, § 2 ☐ 61A, § 9 ☐ 61B, § 6 ☐.

_____

_____

_____
Board of Assessors

The Commonwealth of Massachusetts

_____ ss.

On this _____ day of _____, _____, before me, the undersigned notary public, personally appeared _____, as Board of Assessors for the city/town of _____ , proved to me through satisfactory evidence of identification, which were _____, to be the persons whose names are signed on the preceding document in my presence, and acknowledged to me that they signed it voluntarily for its stated purpose.

_____
Notary Public

My commission expires _____

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

**Question 4:** **What is the appropriate disposition of the application for Parcel B?**

Please see new Form CL-10.

**Question 5:** **The owner of Parcel A has also included on his application 20 acres in Part B, Line 1(h), contiguous non –productive land. May this land qualify under c. 61?**

**Question 6:** **If Parcel A qualifies, what would its classification code be?**

**Question 7:** **The owners of Parcel A then wish to know how much they will save by being in C. 61. They ask what the valuation of their 40 acre parcel will be and what the tax rate will be? What can you tell them?**

Significant changes were made by Ch. 394 of the Acts of 2006 with respect to the valuation and taxation of forest land classified under c. 61 These changes become fully effective for FY 2009 in all cities and towns.

First, the forest products tax, or so-called "stumpage tax", has been eliminated. Prior to amendment, c.61 required that an owner of classified forest land pay an annual products tax based on the amount of the products cut in the prior calendar year. The amount of the tax was computed by multiplying 8% times the "stumpage value" of the products cut from the classified land. This forest products tax was assessed in addition to the reduced "land" tax provided for under c. 61. (*Each year, by April 1, a board of assessors was required to send an owner of classified forest land a notice of their obligation to report their cuttings and pay the products tax. Annually, by May 1, the landowner was required to file a return with the assessors reporting the amount of forest products cut from the classified land in the prior calendar year. On the basis of the return and any other available information, the assessors would annually compute and assess the forest products tax.*) **The products tax provisions were repealed by Ch. 394 and there is no longer a products tax beginning in FY 2009.**

The second major change in the c. 61 provisions relates to the valuation of classified forest land for purposes of the annual, reduced "land" tax. Generally, c.61 provides for a

State Tax Form CL-10
9/2008

The Commonwealth of Massachusetts

_____
Name of City or Town

Office of the Board of Assessors

_____
Date

**Notice of Late Application for**
**Forest-Agricultural or Horticultural-Recreational Land Classification**
**Fiscal Year _____**

This notice informs you that your application for the valuation, assessment and taxation of the property described below as classified forest ☐ agricultural or horticultural ☐ recreational ☐ land under the provisions of General Laws Chapter 61 ☐ 61A ☐ 61B ☐ for fiscal year _____ was received by the board of assessors after the year's filing deadline of _____, _____.

By law, if an application is not filed on time, you are not entitled to classification for the year and the assessors have no authority to act on your application.

| Location | Parcel Identification (Map-Block-Lot) | Deed Reference (Book & Page/Cert. No.) | Total Acres | Classified Acres | Disallowed Acres |
|---|---|---|---|---|---|
| | | | | | |
| | | | | | |
| | | | | | |
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_____
_____
_____

Board of Assessors of

_____

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

# CHAPTER 61, 61A, 61B PROPERTY

Forest, Agricultural/Horticultural and Recreational lands valued according to M.G.L. Chapters 61, 61A 61B are not specifically included in any of the four major classifications. The commercial property tax rate, however, is the applicable rate for land under these chapters.

## CODE 6

### Forest Land

601..... All land designated under Chapter 61

## CODE 7

### Agricultural/Horticultural

All land that has been designated under Chapter 61A. (Land devoted to this use must be in excess of 5 acres and meet other requirements of the law.)

### 71 Productive Land

710..... Cranberry Bog
711..... Tobacco, Sod
712..... Truck Crops - vegetables
713..... Field Crops - hay, wheat, etc.
714..... Orchards - pears, apples, etc.
715..... Grape Vineyards
716..... Tillable Forage Cropland
717..... Productive Woodland - Christmas trees, woodlots
718..... Pasture
719..... Nurseries

### 72 Non-Productive Land

720..... Necessary related Land - farm roads, ponds, land under farm buildings
722..... Wet land, scrub land, rock land

## CODE 8

### Recreational Land

All property that has been designated under Chapter 61B. (If an area has more than one use according to the codes below, use the code which represents the primary use of the land).

801 .....Hiking - trails or paths
802 .....Camping - areas with sites for overnight camping
803 .....Nature Study - areas specifically for nature study or observation
804 .....Boating - areas for recreational boating and supporting land facilities
805 .....Golfing - areas of land arranged as a golf course
806 .....Horseback Riding - trails or areas
807 .....Hunting - areas for the hunting of wildlife
808 .....Fishing Areas
809 .....Alpine Skiing - areas for "downhill" skiing
810 .....Nordic Skiing - areas for "cross-country" skiing
811 .....Swimming Areas
812 .....Picnicking Areas
813 .....Public Non-Commercial Flying - areas for gliding or hand-gliding
814 .....Target Shooting - areas for target shooting such as archery, skeet or approved fire-arms

preferential property tax assessment of classified forest land based solely upon its "use value" for forestry purposes, rather than at "full and fair cash valuation" based upon the property's highest and best use. Prior to amendment, c.61 prescribed that this forest "use" value be computed by applying the commercial tax rate to 5% of the fair cash value of the property. In effect, the assessed value would be discounted by 95%. The resulting use value, however, could not be less than $10 per acre. These original forest land valuation provisions have been removed and c. 394 has introduced a valuation methodology for c. 61 forest land similar to that for c.61A farmland. **Beginning with FY 2009, the special land tax assessed under the provisions of c. 61 will be determined for classified forest land by the same process that is used under c.61A for classified farmland. Under c.61A, the Farmland Valuation Advisory Commission (FVAC) considers the farm "use" value of land in the Commonwealth and annually determines a range of agricultural and horticultural use values on a per acre basis for the various categories of classified farmland. The recommended FVAC farmland values are published annually and used by local boards of assessors, together with their knowledge, judgment and experience regarding farmland values, in making c. 61A assessments**. C. 394 makes this same process applicable to c. 61 forest land commencing in FY 2009. To this end, Ch. 394 first added the Commissioner of the Department of Conservation and Recreation to the FVAC to provide additional expertise and experience with respect to the forestry industry and the value of land in forestry use. Ch. 61 was also amended so as to clearly provide that forest land classified under Ch. 61 would be assessed solely on the basis of its value for forest production purposes. Finally, the law now provides that the FVAC will issue annual recommended ranges of value for classified forest land to be used by local assessors in the same manner as the FVAC farmland values are used for agricultural or horticultural land classified under C. 61A. .In February of 2008, the FVAC for the first time included in their annual recommendations value ranges for classified forest land.

Again, the repeal of the forest products (stumpage) tax and the implementation of the new forest land valuation methodology will begin for FY 2009 (July 1, 2008 through June 30, 2009).

The recent amendments to c. 61 also added a local acceptance provision that would allow a community to tax classified forest land at the class two, open space tax rate instead of the class three, commercial tax rate that is prescribed in the law. In communities with split tax rates, the commercial tax rate is generally higher than the tax rate that is applicable to properties in the class one, residential and the class two, open space classes. If a split rate community accepts the new "open space" provision, land classified under c. 61A will be taxed at a lower tax rate applicable to open space parcels. (The acceptance of this provision will not affect the assessment of residences, residential land or buildings situated on the land.)

# CHAPTER LAND RECOMMENDED VALUES – FISCAL YEAR 2009

**PER ACRE RANGE OF VALUES**

| Land Use Category - Chapter Land 61A | Productivity Based on Dominant Soil Rating* | | | |
|---|---|---|---|---|
| | Use Code | Below Average | Average | Above Average |
| Vegetables, Tobacco, Sod and Nursery Cropland Harvested | 711, 712, 719 | $636 | $795 | $954 |
| Dairy, Beef and Hay Cropland Harvested | 716, 713 | $142 | $177 | $213 |
| Orchards, Vineyards and Blueberries Cropland Harvested | 714, 715 | $608 | $760 | $912 |
| Range of Production / Barrels Per Acre Cranberries | 710 | <=107 | 108-162 | >=163 |
| | | $1,606 | $2,008 | $2,409 |
| Christmas Trees | 717 | $108 | $108 | $108 |
| Nonproductive Land | 722 | $29 | $29 | $29 |
| Cropland Pastured, Permanent Pasture, Necessary and Related | 718, 720 | $115 | $115 | $115 |

**PER ACRE RANGE OF VALUES**

| Lands Use Category - Chapter Land 61 or 61A with a Forest Management Plan | West of the Connecticut River | | East of the Connecticut River |
|---|---|---|---|
| | Use Code | Average Per Acre Value | |
| Productive Woodland | 601, 717 | $173 | $108 |

Cropland Harvested – This land represents the highest use of land in the agricultural enterprise. All land from which a crop was harvested or hay was cut in the current year falls into this category. This includes the land in orchards, vineyards, nurseries, other perennial plantings and greenhouses.

Nonproductive Land – The land on the farm, which is devoted to woods primarily due to slope, drainage capacity, soil type or topography.

Cropland Pastured & Other Cropland – Cropland used for pasture or grazing or land considered as tillable but is kept fallow or in cover crops. It can and often is used to produce crops, but its maximum income may not be realized in a particular year. This category also includes land planted with crops, which were to be harvested after the last USDA Census of Agriculture year.

Permanent Pasture – This land is typically not tillable, but suited for grazing or possibly part of an erosion control program. This category also includes necessary and related lands.

Productive Woodland- New for this year, this category is to be used for land with a certified forest management plan classified under either chapter 61 or 61A.

**For information on soil ratings and capabilities please see our web site at*
*http://www.mass.gov/Ador/docs/dls/bla/pdfs/Soilguidefy2003.pdf*

## 23 Open Land in an Industrial Area

230..... Industrial Vacant Land (acreage without site improvements and not in commercial or industrial use)

231..... Underwater Land or Marshes not under public ownership located in industrial area

## Chapter 61, 61A, 61B Property Being Classified as Open Space

Forest, Agricultural/Horticultural and Recreational lands valued according to M.G.L. Chapters 61, 61A 61B and is being classified as open space. (Without an Open Space Classification they must be placed in Codes 6, 7 or, see page 8.)

## 26 Forest Land

261..... All land designated under Chapter 61

## 27 Agricultural/Horticultural

All land that designated under Chapter 61A. (Land devoted to this use must be in excess of 5 acres and meet other requirements of the law and is being classified as open space.) Note Non-Productive land is being coded as 29.

## Productive Land

270..... Cranberry Bog
271..... Tobacco, Sod
272..... Truck Crops - vegetables
273..... Field Crops - hay, wheat, etc.
274..... Orchards - pears, apples, etc.
275..... Grape Vineyards
276..... Tillable Forage Cropland
277..... Productive Woodland - Christmas trees, woodlots
278..... Pasture
279..... Nurseries

## Non-Productive Land

290..... Necessary related Land - farm roads, ponds, land under farm buildings
292 ..... Wet land, scrub land, rock land

## 28 Recreational Land

All property designated under Chapter 61B. (If an area has more than one use according to the codes below, use the code which represents the primary use of the land and is being classified as open space.).

281 .....Hiking - trails or paths, Camping - areas with sites for overnight camping, Nature Study - areas specifically for nature study or observation
282 .....Boating - areas for recreational boating and supporting land facilities
283 .....Golfing - areas of land arranged as a golf course
284 .....Horseback Riding - trails or areas
285 .....Hunting - areas for the hunting of wildlife and Fishing Areas
286 .....Alpine Skiing - areas for "downhill" skiing and Nordic Skiing - areas for "cross-country" skiing
287 .....Swimming Areas and Picnicking Areas
288 .....Public Non-Commercial Flying - areas for gliding or hand-gliding
289 .....Target Shooting - areas for target shooting such as archery, skeet or approved fire-arms

**<u>Question 8:</u>** **Thereafter, in FY 2012 lets say, the owners of Parcel A sell 20 acres of their c. 61 forest land for a sub-division. What is their penalty tax exposure at that time with respect to the 20 acres?**

**The remaining acreage continues in the c. 61 classification pursuant to an amendment of their forestry certificate with the State Forester until it expires in FY 2011. Do the owners have any penalty tax exposure at that time if the land remains undeveloped?**

**If the owners of Parcel A had purchased the property in FY 2004 and had it classified under c. 61 for the first time starting in FY 2006, how would that affect the penalty tax considerations on the 20 acres going for development at this time?**

Recent amendments also changed the so-called "penalty tax" provisions of c. 61. Prior to amendment, c.61 contained a "withdrawal penalty tax" provision that would require a penalty assessment upon a landowner not only due to a change in the use of the land, but also for simply withdrawing from the c. 61 program. This penalty tax could provide for the repayment of the program tax savings for each of the prior 10 years with interest on each year's amount from that year's payment dates up to the present date at a variable, compounded daily interest rate. The withdrawal penalty tax provisions were eliminated as of March 22, 2007, the effective date of Ch.394, and new penalty tax provisions were substituted.

C. 61 now contains a similar "penalty tax" structure for classified forest land as is found in c. 61A for farmland and c. 61B for recreational land. This is a structure with a more standard "roll-back" tax, or in certain circumstances a higher "conveyance tax" instead. As these are alternative taxes, when both would be applicable due to the circumstances, only the greater will be assessed. Importantly, while the roll-back or conveyance tax structure is now somewhat similar in the three chapters, each chapter's provisions are *technically* different in language and effect and must be carefully reviewed, considered and applied in any particular circumstance.

**Generally, the provisions of c. 61 now provide for a roll-back tax assessment when forest land is changed to a use or condition that would not qualify for classification**

**under any one of the three "chapterland" laws, i.e., 61, 61A or 61B. The roll-back tax is essentially a repayment by the owner of any tax savings received under the program(s) for the most recent <u>five year</u> period. The roll-back computation also includes an interest component on each year's repayment measured from the year saved up to the date of the roll-back payment at a 5% simple interest, annual rate.** This 5 year roll-back tax with 5% simple interest is now similar to the roll-back tax provisions of c. 61A and c. 61B, and again, is now assessed upon a change in the qualifying use or condition of the land and no longer on the simple withdrawal from c. 61 classified status.

Now, an alternative penalty tax, the conveyance tax, may be assessed under Ch. 61 in certain circumstances, but only when it would be greater than the amount of the roll-back tax. The conveyance tax is triggered by either (1.) a sale for a non-qualifying use, or (2.) a conversion by the current owner to a non-qualifying use; and the **sale or conversion occurs within 10 years of the owner's acquisition of the property**. The conveyance tax is computed by multiplying the sales price or the fair market value of the classified land (depending upon whether the activity is a sale or a conversion) by a conveyance tax rate that starts at 10% in the first year of ownership and steps-down by one percentage point per year over the first ten years of ownership. After this 10 year period has run, the conveyance tax will not be applicable for that ownership, and only roll-back tax exposure will remain. Ch. 61 contains a number of new conveyance tax provisions regarding family transfers, sales to continue a qualifying use, acquisitions by governmental or nonprofit conservation organizations, and **a "grandfather" exemption from the new conveyance tax provision for forest land classified *for or before FY 2008,*** and it is important that these provisions be carefully reviewed regarding the penalty tax consequences of any particular transaction relating to classified forest land.

State Tax Form CL-6
Revised 9/2008

The Commonwealth of Massachusetts

_____
Name of City or Town

Office of the Board of Assessors

_____
Date

## Certificate of Penalty Tax for Classified Forest-Agricultural or Horticultural-Recreational Land

The Board of Assessors hereby certifies the conveyance or roll-back tax for the real property described below and classified as forest ☐ agricultural or horticultural ☐ recreational ☐ land under the provisions of General Laws Chapter 61☐ 61A☐ 61B☐ .

Assessed Owner _____ Current Owner (if different) _____
Address _____
First Year of Classification _____
Statement of Lien Filed _____ Book and Page _____
Assessors' Parcel Identification _____
Acres Currently Classified _____ Acres Being Removed from Classification _____
Description of Property Being Removed From Classification _____

**CONVEYANCE TAX** ☐

| | | |
|---|---|---|
| Sales Price ☐ | Fair Market Value ☐ | |
| | Applicable Percentage | |
| | Tax Due | |

**ROLL-BACK TAX** ☐

@ 5% simple interest

| Fiscal Year | Full Value | Use Value | Difference | Tax Rate | Tax | Interest | Total |
|---|---|---|---|---|---|---|---|
| 2009 | | | | | | | |
| 2008 | | | | | | | |
| 2007 | | | | | | | |
| 2006 | | | | | | | |
| 2005 | | | | | | | |
| | | | | | | ax Due | |

| | |
|---|---|
| Tax Due | $ |
| Certificate Fee | $ |
| Total Due | $ |

_____
_____
_____
Board of Assessors

| | |
|---|---|
| Payment of | $ |
| Received on | |

_____
Collector of Taxes

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

Except for 61A PROPERTIES in FY 2007 and same owner

## Miscellaneous C. 61/A/B and F.A.E. Questions

**Question 9:** **A local farmer with land in c. 61A visits the assessors office and inquires about the " big changes to C. 61A" that he has heard about. What might you tell him??**

Abatement applications: 30 days not 60 days
Open space tax rate option
Roll-back taxes include 5% interest (grandfather exemption)

**Question 10** **The farmer also asks why he is actually paying more taxes on his farm animals and equipment under G.L. c. 59, §8A than he otherwise would under the regular personal property tax? What if any options are available?**

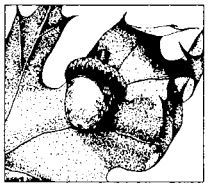
Chapter 310 of the Acts of 2008:
**SECTION 2.** Section 8A of chapter 59 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:- The local appropriating authority, as defined in section 21C, may, by a two-thirds vote, seek voter approval to not impose the excise established by this section.

**Question 11** **This week in the assessors' office, you also had a strange occurrence. A landowner dropped off a C. 61B application for recreational land classification that had a forest land certificate and forestry management plan approved by the State Forester attached. What do we do with this application?**

dcr

# FOREST MANAGEMENT PLAN

Submitted to: Massachusetts Department of Conservation and Recreation
For enrollment in CH61/61A/61B and/or Forest Stewardship Program



## CHECK-OFFS

| CH61 | CH61A | CH61B | STWSHP | C-S |
|---|---|---|---|---|
| cert. ☐ | cert. ☐ | cert. ☐ | new ☐ | EEA ☐ |
| recert. ☐ | recert. ☐ | recert. ☐ | renew ☐ | Other ☐ |
| amend ☐ | amend ☐ | amend ☐ | Green Cert ☐ | |
| | | | Conservation Rest. ☐ | |
| Plan Change: _____ to _____ | | | CR Holder _____ | |

## Administrative Box

| | | | |
|---|---|---|---|
| Case No. | _____ | Orig. Case No. | _____ |
| Owner ID | _____ | Add. Case No. | _____ |
| Date Rec'd | _____ | Ecoregion | _____ |
| Plan Period | _____ | Topo Name | _____ |
| Rare Spp. Hab. | _____ | River Basin | _____ |

## OWNER, PROPERTY, and PREPARER INFORMATION

Property Owner(s) _____

Mailing Address _____ Phone _____

Property Location: Town(s) _____ Road(s) _____

**Plan Preparer** _____ Mass. Forester License # _____

Mailing Address _____ Phone _____

## RECORDS

| Assessor's Map No. | Lot/Parcel No. | Deed Book | Deed Page | Total Acres | Ch61/61A 61B *Excluded* Acres | Ch61/61A 61B **Certified** Acres | Stewshp *Excluded* Acres | Stewshp Acres |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | TOTALS | | | | | |

**Excluded Area Description(s)** **(if additional space needed, continue on separate paper)**

## HISTORY

Year acquired _____ Year management began _____

Are boundaries blazed/painted? Yes ☐ No ☐ Partially ☐

What treatments have been prescribed, but not carried out (last 10 years if plan is a recert.)?

stand no. _____ treatment _____ reason _____

(if additional space needed, continue on separate page)

Previous Management Practices (last 10 years)

| Stand # | Cutting Plan # | Treatment | Yield | Value | Acres | Date |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |

Remarks: (if additional space needed, continue on separate page)

(Form revised February 2008)



Page _____ of _____

# SEPTEMBER 2008 FORM REVISIONS
## CLASSIFIED LAND – CHAPTERS 61, 61A AND 61B

| FORM NAME | NUMBER | PREPARER | RECIPIENT | LAST REVISED | REVISIONS |
|---|---|---|---|---|---|
| Application for Forest-Agricultural or Horticultural-Recreational Land Classification | CL-1 | Taxpayer | Assessors | 10/93 | Section B- Type of Classification – Agricultural and horticultural land section use categories revised consistent with current Farmland Valuation Advisory Commission (FVAC) categories.<br>Recreational land section revised for new allowable uses or conditions (pasture, managed forest, non-commercial youth soccer, commercial horseback riding and equine boarding.) |
| Property Owners' Acknowledgement of Rights and Obligations under Classified Forest Land Program | CL-1(61) | Taxpayer | Assessors | 10/93 | Sections on applications, appeals, annual taxation, municipal option to purchase, penalty tax, and abatements revised to reflect changes in law. Section on annual return eliminated due to repeal of products tax. Taxpayer certification also revised. |
| Property Owners' Acknowledgement of Rights and Obligations under Classified Agricultural/Horticultural Land Program | CL-1(61A) | Taxpayer | Assessors | 10/93 | Sections on annual taxation, municipal option to purchase, penalty tax, and appeals and abatements revised to reflect changes in law. Taxpayer certification also revised. |
| Property Owners' Acknowledgement of Rights and Obligations under Classified Recreational Land Program | CL-1(61B) | Taxpayer | Assessors | 8/94 | Sections on qualifications, lien, annual taxation, municipal option to purchase and penalty tax revised to reflect changes in law. Taxpayer certification also revised. |

| FORM NAME | NUMBER | PREPARER | RECIPIENT | LAST REVISED | REVISIONS |
|---|---|---|---|---|---|
| Notice of Action on Application for Forest - Agricultural or Horticultural - Recreational Land Classification | CL-2 | Assessors | Taxpayer | 10/93 | Appeal rights language revised to reflect new 30 day appeal period for classified farm land (61A). |
| Classified Forest - Agricultural or Horticultural - Recreational Land Tax Lien | CL-3 | Assessors | Registry of Deeds | 10/93 | Acknowledgement - Revised to reflect standards for notaries public under Executive Order 455 (03-13). |
| Return of Forest Products Cut From Classified Forest Land | CL-4 | | | | Eliminated. Products tax (61) repealed effective beginning in FY2009. |
| Notice of Failure to File Return of Forest Products Cut From Classified Forest Land | CL-5 | | | | Eliminated. Products tax (61) repealed effective beginning in FY2009. |
| Certificate of Penalty Tax for Classified Forest - Agricultural or Horticultural - Recreational Land | CL-6 | Assessors, Collector | Taxpayer | 10/93 | Revised to reflect elimination of withdrawal tax for classified forest land (61) and standardization of 5 year roll-back tax, or 10 year conveyance tax, as penalty taxes for each chapter (61, 61A and 61B). |
| Application to Modify a Decision – Abate Tax on Classified Forest - Agricultural or Horticultural - Recreational Land | CL-7 | Taxpayer | Assessors | 10/93 | Section C- Action Sought – Abatement – Type of Taxes revised to reflect elimination of withdrawal and products taxes for classified forest land (61). |
| Notice of Action on Application to Modify a Decision - Abate Tax on Classified Forest - Agricultural or Horticultural - Recreational Land | CL-8 | Assessors | Taxpayer | 10/93 | No changes. |
| Release of Classified Forest - Agricultural or Horticultural - Recreational Land Tax Lien | CL-9 | Assessors | Registry of Deeds | 10/93 | Acknowledgement - Revised to reflect standards for notaries public under Executive Order 455 (03-13). |
| Notice of Late Application for Forest - Agricultural or Horticultural - Recreational Land Classification | CL-10 | Assessors | Taxpayer | | New form. |

# CHAPTER LANDS COMPARISON

## As Amended by Chapter 394 of the Acts of 2006

| COMPARISON | CHAPTER 61 - FOREST LAND | CHAPTER 61 A AGRICULTURAL/HORTICULTURAL | CHAPTER 61B - RECREATIONAL LAND |
|---|---|---|---|
| **QUALIFICATION** | 10 contiguous acres – Same ownership<br>10 year management plan certified by state forester<br>Recertified every 10 years<br>Timely application<br>***c.394, no more fee to state.***<br>***c.394, state forester has sole responsibility for determining land use, may include "accessory" land.*** | 5 acres, same ownership, "actively devoted" to A/H.<br>2 prior years A/H use<br>Gross sales in the regular course of business, starts at $500 for initial 5 acres, $5 per extra acre, and .50 for forest land.<br>Additional, contiguous and non-productive land may qualify but only up to 100% of productive land.<br>Forest land, certified by state forester, will qualify. | 5 acres, same ownership, and:<br>Condition - natural, wild, open or landscaped or<br>Use-devoted to a recreational use as listed in the statute and available to the general public or to the members of a non-profit organization.<br>***c. 394, adds "commercial horseback riding and equine boarding" c. 394 adds "managed forest" land with a state forester's certification.*** |
| **APPLICATION PROCEDURE** | (prior to)<br>JULY 1- application to state forester<br>***c.394, prior to OCTOBER 1 (no longer September 1) certificate & plan submitted to assessors.***<br>JAN 1- listed as classified<br>JULY 1- taxation under Ch 61 commences | Annual Application by October 1 to Board of Assessors on Form CL-1<br>Revaluation year filing extension provided.<br>Application deemed allowed if no action in 3 months | Annual Application by October 1 to Board of Assessors on Form CL-1.<br>Revaluation year filing extension provided.<br>Application disallowed if no action in 3 months. |
| **RECORDING REQUIREMENTS** | RECORD a statement of lien on Form CL-3<br>Collect recording fees<br>Copies of lien to landowner and state forester. | RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership.<br><br>Collect all recording fees. | RECORD a statement of lien on Form CL-3, if first application, after a lapse when not classified, or after a change of record ownership.<br><br>***c.394, Collect all recording fees.*** |
| **APPEAL OF** DETERMINATION | (on or before)<br>DECEMBER 1- to state forester<br>MARCH 1- forester's decision will issue<br>APRIL 15- appeal to 3 person regional panel<br>MAY 15- panel hearing<br>Appeal to ATB or Superior Court within 45 days of notice of decision. | Landowner may appeal a determination to:<br>***c. 394, Board of Assessors-within 30 days, (previously 60 days) of notice, then to***<br>Appellate Tax Board-within 30 days of notice of decision or 3 months of application, whichever is later | landowner may appeal a determination to:<br>Board of Assessors-within 60 days of notice (not changed by c. 394), then to<br>Appellate Tax Board-within 30 days of notice of decision or 3 months of application, whichever is later |
| **TAXATION** | SPECIALIZED VALUATION<br>***c. 394, new provisions begin for FY 2009.***<br><br>***c. 394, Assessed at its FOREST "USE" VALUE. Values for forestland will now be published annually by the FVAC, and be used as a guide. (After FY 2008, no longer any stumpage tax)***<br><br>Commercial rate (class 3) applied to Forest "USE" value.<br>Buildings, residences and land accessory to their use are taxed at regular, full value.<br><br>***c. 394, "OPEN SPACE" local option. If city or town accepts c.61, §2A, classified forest land will be classified as "open space" and taxed at residential tax rate.*** | SPECIALIZED VALUATION<br><br>Assessed at its A/H "USE" VALUE.<br>Values published annually by F.V.A.C., used as a guide.<br><br>Commercial rate applied to A/H Use value.<br><br>Buildings, residences and land accessory to their use are taxed at regular, full value.<br>Change in ownership alone will not affect classification.<br><br>***c. 394, "OPEN SPACE" local option. If city or town accepts c.61A, §4A, classified farmland will be classified as "open space" and taxed at residential tax rate.*** | SPECIALIZED VALUATION<br><br>Assessed at its RECREATIONAL "USE" VALUE<br>However, assessed "use" value may not exceed 25% of the full and fair cash value.<br><br>Commercial rate applied to CH61B value.<br><br>Buildings, residences and land accessory to their use are taxed at regular, full value.<br>Change in ownership alone will not affect classification.<br><br>***c. 394, "OPEN SPACE" local option. If city or town accepts c.61B, §2A, classified recreational land will be classified as "open space" and taxed at residential tax rate.*** |

| | | | |
|---|---|---|---|
| **PENALTY TAXES** | *c. 394, replaces the prior withdrawal penalty tax plus compounded interest with alternative roll-back or conveyance tax provisions.*<br><br>*c. 394, Roll-back tax imposed upon a change to a non-qualifying use of the land. c. 394, A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B. c. 394, Roll-back recovery period is FIVE (5) YEARS.* (previously up to 10 years) *c. 394, SIMPLE INTEREST at 5% over recovery period.*<br><br>*c. 394, Conveyance tax, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition. Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) Only assessed if more than roll-back.*<br>*c. 394, "grandfather" exemption from conveyance tax for an owner in program for/before FY 2008.* | Alternative taxes-only the greater will be imposed<br><br>Roll-back tax imposed upon a change to a non-qualifying use. *c. 394, A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B.* Roll-back recovery period is FIVE (5) YEARS. *c.394, SIMPLE INTEREST at 5% over recovery period.*<br><br>Roll-back tax for each year:<br>TAX: Ch 59, full value taxes<br>- Ch 61A, reduced A/H "use" taxes<br>= the difference (with 5% interest)<br><br>*c. 394, "grandfather" exemption from INTEREST on roll-back tax for a parcel classified for FY 2007 and still owned by 7/1/2006 owner or certain specified close relatives.*<br><br>Conveyance tax, *c. 394, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of acquisition.* Tax = price or value x conveyance tax rate. C.T. rate 10% to 1% (rate decreases 1% per year of ownership.) Only assessed if more than roll-back. | Alternative taxes-only the greater will be imposed.<br><br>Roll-back tax imposed upon a change to a non-qualifying use. *c. 394, A non-qualifying use means a use or condition that would not qualify under the definitions of either 61, 61A or 61B.*<br><br>*c.394. Roll-back recovery period is FIVE (5) YEARS.* (previously 10 years) *c.394, SIMPLE INTEREST at 5% over recovery period.*<br><br>Roll-back tax for each year:<br>TAX: Ch 59, full value taxes<br>- Ch 61B, reduced rec. "use" taxes<br>= the difference (with 5% interest)<br><br>Conveyance tax, *c. 394, imposed when sold for or converted to non-qualifying use (61, 61A or 61B) within 10 years of first classification.* Tax = price or value x conveyance tax rate. C.T. rate 10% within first 5 years, 5% within years 6-10. Only assessed if more than roll-back. |
| **APPEAL OF ASSESSMENT** | *c. 394, ABATEMENT-apply to Board of Assessors within 30 days (previously 60 days) of notice of tax*<br>APPEAL TO A.T.B. within the later of 30 days of notice of decision, or 3 months of application. | *c. 394, ABATEMENT-apply to Board of Assessors within 30 days (previously 60 days) of notice of tax*<br>APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application. | ABATEMENT-apply to Board of Assessors within 60 days of notice of tax. (not changed by c. 394)<br>APPEAL TO A.T.B.-within the later of 30 days of the notice of decision, or 3 months of application. |
| **BETTERMENT AND SPECIAL ASSESSMENTS** | *c. 394, subject to assessment only to "pro-rata" extent improves forest use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during forest use. Suspended amount due and payable upon a change in use of land.* | *c. 394, subject to assessment only to "pro-rata" extent improves A/H use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during A/H use. Suspended amount due and payable upon a change in use of land.* | *c. 394, subject to assessment only to "pro-rata" extent improves recreational use capability or provides personal benefit to the landowner. Assessment may be suspended without interest during recreational use. Suspended amount due and payable upon a change in use of land.* |
| **CERTIFICATE OF TAXES DUE** | not applicable | Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. $6 charge. If recorded, fixes liability and payment terminates all liens. | Indicates potential conveyance or roll-back tax liability. Must be issued within 20 days of request. $6 charge. If recorded, fixes liability and payment terminates all liens. |

MUNICIPALITY'S RIGHT OF FIRST REFUSAL: *c. 394 makes significant changes to the "first refusal option" that applies when a landowner decides to sell classified land for a residential, commercial or industrial use, or convert it to such a use, and makes the option provision uniform in all three chapters. It also extends the operation of the first refusal option for one full tax year after a property is removed from classification. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. It also spells out in greater detail than before the notices required, the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion. The revised assignment provision now authorizes a city or town to assign its option to a nonprofit conservation organization or to the Commonwealth or any of its political subdivisions under the terms or conditions that the mayor or board of selectmen may consider appropriate, provided that no less than 70% of the land is maintained in forest, agricultural or horticultural, or recreational use.*

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

# Bulletin

2008-13B

## CLASSIFIED FOREST, FARM AND RECREATIONAL LAND FORMS

TO: Assessors and Collectors

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: September 2008

SUBJECT: Classified Land Forms

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This *Bulletin* provides you with new or revised forms approved by the Commissioner of Revenue for use in the administration of G.L. c. 61, 61A and 61B, which provide for the preferential taxation of classified forest, farm and recreational land. G.L. c. 58 § 3; c. 61, §§2 and 3; c. 61A, § 22; c. 61B, § 18. The forms have been revised to reflect changes in the classified land statutes that were enacted in 2006, with those changes that relate to the valuation and taxation of the land first applying in fiscal year 2009.

The new and revised forms (State Tax Forms CL-1, CL-1(61), CL-1(61A), CL-1(61B), CL-2, CL-3, CL-6, CL-7, CL-9 and CL-10) can be found on our website. The attached chart describes the revisions made. Also posted on the website is form CL-8, which was not revised.

As usual, you may decide with your vendor the size and color, as well as the typeset and spacing, for the forms. You may also adapt the format as needed to generate or provide the forms electronically. The size and spacing shown in the forms result from our technical limitations and are not intended to prevent you or your vendor from developing a hard copy or computerized format that better suits your needs. In developing your format, the primary consideration should be ease of use by taxpayers and other users.

If you have any questions, please contact the Bureau of Municipal Finance Law staff at 617-626-2400.

The following table may serve as an additional guide to determine where the value of a particular parcel might fall with a use range.

Crop Development Time Periods *

| Crop | Development Time Periods |
|---|---|
| Tobacco | Annual |
| Truck Garden, Vegetables and Flowers | Annual |
| Strawberries | 1 year |
| Asparagus | 1 year |
| Cranberries | 2 years |
| Grapes | 3 years |
| Pears | 5-6 years |
| Blueberries | 5-6 years |
| Plums | 5-6 years |
| Apples | 6-7 years |
| Christmas Trees | 8 years |
| Nursery Stock | |
| Ground Cover | 2 years |
| Deciduous Flowering Shrubs | 2-3 years |
| Broadleaf Evergreen | 3-4 years |
| Shade and Flowering Trees | 4-5 years |
| Evergreens | 7-10 years |
| Shade Trees | 8-10 years |

* Source: Dr. N.E. Engel, Dept. of Food and Resource Economics, University of Massachusetts, Amherst, 1974.

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

# Bulletin

2008-10B

## DUE DATES

TO: Assessors, Collectors, Finance Directors, Mayors, Selectmen and City/Town Managers

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: August 2008

SUBJECT: Application and Payment Due Dates on Non-business Days

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This *Bulletin* explains the law that applies to tax payments, or abatement or exemption applications, when their statutory due dates fall on non-business days, as will occur in fiscal year 2009.

### DUE DATES

If the due date for any local tax payment, or abatement or exemption application, falls on a **Sunday or legal holiday**, it is automatically extended by law to the next business day. G.L. c. 4, § 9. Where municipal offices are closed on **Saturday,** as determined by the municipality's legislative body, any applications or payments due on a Saturday may also be made on the next business day. G.L. c. 41, § 110A. **A due date falling on any other day is not extended, for any reason, including, the closure of municipal offices for all or part of that day.**

### PROPERTY TAX BILL REQUIREMENTS

The **front** of **preliminary and actual property tax bills** must display the amounts and due dates of the installment payments under the particular type of billing system used by the community. The **actual** dates the installment payments are due must be shown, as determined by the date the collector actually completes the mailing of the bills. These requirements are explained in the property tax bill guidelines we issue annually for each billing system. **Where the law extends the due date, then the extended date is the actual due date and it must be printed instead.**

In addition, the **front** of the **actual tax bills** must state the last date abatement applications can be filed with the assessors for the fiscal year. G.L. c. 60, § 3A. Abatement applications are due the same date that the **first actual** installment payment for the year is due. G.L. c. 59, § 59. Therefore, the date printed for the abatement application due date must be the **same** as the due date printed on the front of the bill for the first actual installment payment. These requirements are also explained in the annual tax bill guidelines.

## OFFICE HOUR NOTICE

In order to assist taxpayers apply for abatements or exemptions or pay bills in a timely manner, assessors and collectors should adjust their ordinary office hours wherever possible. If their offices will be closed for all or part of the applicable due dates, however, they should take appropriate measures to make taxpayers aware when applications or payments may be made in person, and any alternatives available to apply or pay on time. The tax bill guidelines require the collector's office hours to be printed on the bill. Any message section on the bill may also be used to provide the assessors' hours or provide notice of office closures on the due date. Other means may be used to disseminate information about making timely applications or payments as well, including, for example, a tax bill stuffer, the community's website, the local newspaper and the local cable access channel.

Any questions you have about tax billing should be directed to the Division's legal staff at 617-626-2400 or DLSLAW@dor.state.ma.us.

## CASE STUDY 1

John Hastings acquired a 7,500 square foot landlocked vacant parcel in 1936. He paid the property taxes for many years. In the 1960s the assessors ceased to tax the parcel and wrote on the valuation card that the parcel was "exempt." No other explanation was provided.

A. For FY 2009 the assessors now seek to tax the parcel. They believe an Owner Unknown assessment should be made. Do you agree?

B. Can the assessors make assessments to recoup lost tax revenue for prior years due to the erroneous exemption?

C. Assume the parcel was taxed to John Hastings for FY 2009. The assessors later learn from *Banker & Tradesman* that the actual owner, Hastings' grandson, sold the parcel. What should the municipal officials do?

G.L. Ch. 59 §11
IGR 87-238
G.L. Ch. 59 §75
G.L. Ch. 59 §77

## CASE STUDY 2

The Republic of France purchased in February 2008 a new residence for its consul general. The French government paid $2,750,000 for a 5,353 square foot parcel improved by an eleven room Colonial on Main Street.

A. The second half fiscal year 2008 real estate tax bill remains unpaid. What should the collector do with regard to the FY 2008 taxes? What about the FY 2009 taxes?

B. The consul general and employees of the consulate registered motor vehicles in their own names. The collector is hesitant about sending the excise bills. Should these bills be exempted?

Vienna Convention on Consular Relations

## CASE STUDY 3

There have been newspaper stories that a soccer star will retire and open a school in Massachusetts with a strong emphasis in competitive soccer. As of September 2008, a three hundred acre parcel in your town is under a purchase and sale agreement. This soccer academy is not a new concept. Similar schools in Florida offer superb coaching and advanced training methods at facilities which can only be described as world class. The proposed school would not ignore academics. Students will be offered several educational options including both traditional educational programs and online college preparatory courses.

A. The campus is quickly constructed and the soccer camp/academy will begin operations in May 2009. Will the school be exempt for FY 2010?

B. After lengthy negotiations, a local liberal arts college purchased a large building near its main campus on June 30, 2008. The college intends to expand its curriculum to include architecture and engineering. The college plans to remodel the newly acquired building to provide faculty office space and classrooms for these new subjects. The building is presently being occupied by commercial tenants, most with one year leases. Could the building be exempt for FY 2009?

G.L. Ch. 59 §5 Cl. 3
The Skating Club of Boston v. Board of Assessors of Boston, (ATB, docket ## F276938 and F277905, March 7, 2007)

## CASE STUDY 4

The new tax collector posed the following situations and requested your advice.

A. The collector met with certain citizens about including with tax bills a request for donations to a local nonprofit social services organization. Can the collector comply with the request? Can the town meeting directly appropriate money for this charitable organization?

B. The collector wants to write a column for the local newspaper where he will list the names of tax delinquents together with their liabilities. Do you foresee any difficulties?

C. The collector was confronted by an angry taxpayer who was concerned about rising taxes. The taxpayer wanted more information on the tax bills. Can the property tax bills show as a separate charge the amount of additional taxes assessed because of the debt exclusion for the construction of a new school?

G.L. Ch. 60 §3A
Article 103 of the Articles of Amend. to State Const.
G.L. Ch. 60 §105

## CASE STUDY 5

The following situations arose about boat excise.

A. Green, the owner of a new boat, is a commercial fisherman. The boat is occasionally used for sightseeing trips. Is Green exempt from boat excise?

B. Alexander sold his boat in August 2008 to his brother. Is the purchaser subject to FY 2009 boat excise? Can Alexander receive an abatement? Is there a minimum abatement rule for boat excise?

C. What remedies does the town have when a taxpayer refuses to pay the boat excise?

G.L. Ch. 60B § 3
G.L. Ch. 60B § 2
G.L. Ch. 60B § 5

## CASE STUDY 6

An owner of a small tax delinquent parcel with an assessed value of $12,000 wants to donate the land to the town. The parcel abuts town conservation land.

A. What should the town do? Should the taxes be abated?

B. The town has declined the gift of the land and the owner has no further interest in the property. Can the town offer the parcel to abutters who have met with selectmen about acquiring it?

C. No action has been taken. The collector has recently certified subsequent taxes to the tax title account. What would you recommend to the treasurer?

G.L. Ch. 60 § 77C
G.L. Ch. 60 § 79
G.L. Ch. 60 § 77B
G.L. Ch. 30B

## CASE STUDY 7

A taxpayer owns two houses. One house is in Boston and the other house is in Boca Raton, Florida. Annually, he lives in one house for 5 months, lives in the second house for 5 months and travels for 2 months.

A. Boston has the residential exemption. Is the taxpayer eligible for the residential exemption? What proof should be furnished?

B. Can the taxpayer receive a Clause 22 veterans exemption since he is a Purple Heart veteran? Would it matter if he entered military service from New York?

G.L. Ch. 59 § 5C
G.L. Ch. 59 § 5 Cl. 22

## CASE STUDY 8

The collector learned from *Banker & Tradesman* that John Wainwright had filed a petition in bankruptcy on September 17, 2008.

A. The FY 2008 taxes on Wainwright's house are unpaid and there is no tax title. Can the collector make a FY 2008 tax taking?

B. Assume the subject parcel is already in tax title for FY 2007 taxes. Can the collector now certify the FY 2008 taxes to the tax title account?

C. What can the town do if his water and sewer bills for FY 2009 are not paid? What effect does the bankruptcy have on Wainwright's unpaid excise bills?

11 USC 362
G.L. Ch. 60 § 37A
11 USC 362 (a)
G.L. Ch. 40 § 42B
G.L. Ch. 83 § 16B

## CASE STUDY 9

A town official was planning to build a new house or remodel his existing house. He began his search for architects by consulting the Yellow Pages. He discovered that a town resident was operating an architectural business out of his residence.

A. The assessors learned of the in-home business from the town official. Business personal property taxes have never been assessed. Can the assessors make an assessment for FY 2009? What about prior fiscal years?

B. The taxpayer received a FY 2009 personal property tax bill. He objected to the $15,000 valuation on the tax bill since he claimed to own only a computer and some office furnishings. Can the taxpayer file an abatement application?

C. A tax advocacy group is interested in the contents of forms of list filed by businesses and nonprofit organizations. Are forms of list open to public inspection?

G.L. Ch. 59 § 75
G.L. Ch. 59 § 29
G.L. Ch. 59 § 61
G.L. Ch. 59 § 32

## CASE STUDY 10

The collector made a tax taking on a parcel owned by a well-known developer. The Land Court ultimately issued a foreclosure decree in February 2008.

A. The collector never certified the fiscal year 2008 taxes to the tax title account. What happens to the FY 2008 taxes?

B. Should FY 2009 taxes be assessed? Is the parcel exempt?

C. At the time of foreclosure the parcel was worth $10,000 but the amount in tax title was $17,000. What should the treasurer do?

G.L. Ch. 60 § 61
G.L. Ch. 60 § 69A
G.L. Ch. 60 § 35
G.L. Ch. 260 § 2
Boston v. Gordon, 342 Mass. 586 (1961)

## CASE STUDY 11

Robert Barnes owned a two family house. He resided in one apartment and his daughter resided in the other apartment. From a forms book he copied a master deed to create two condominiums. The master deed and two unit deeds were recorded in April 2007.

A. How should the property have been assessed for FY 2008? Can the daughter receive her own FY 2008 tax bill?

B. The father has received Clause 41C elderly exemptions for many years and his daughter is the spouse of a Clause 22 Purple Heart veteran. Can Barnes and his daughter receive personal exemptions for FY 2008?

C. Robert Barnes in September 2008 conveyed his condominium to his son for nominal consideration. The son applied to a bank for a home improvement loan to upgrade the property. A title examiner for the bank discovered there was a FY 2000 tax title. The son believed his sister should pay the delinquent taxes since she was residing in the house at the time. The son visited the treasurer for a release of lien on his condominium. What can the treasurer do?

G.L. Ch. 59 § 78A
G.L. Ch. 60 § 76A

## CASE STUDY 12

The collector met with an angry taxpayer concerning an overdue excise bill. The taxpayer believed that 100% disabled veterans like him no longer had to pay excise.

A. Are 100% disabled veterans automatically exempt from excise?

B. Are there hardship abatements for excise if special circumstances are demonstrated?

C. Is a collector required to accept a partial payment of an excise bill?

G.L. Ch. 60A

## CASE STUDY 13

In August 2008 a fire severely damaged a house which was being renovated. The total parcel was worth $3,000,000 which consisted of a $2,200,000 dwelling value and a $800,000 land value. The fire department and building inspector declared the house to be a total loss.

A. How should the parcel be assessed for FY 2009?

B. What would be the tax consequences for FY 2008 and FY 2009 if the fire occurred in February 2008?

C. Would your answers be different if the owner tore down the house to build an even larger house?

G.L. Ch. 59 § 2A
G.L. Ch. 59 § 2D

## CASE STUDY 14

The town is installing new water meters that collect usage information via a radio frequency which can be collected by a water department van driver as he traverses town streets. Recently the water department discovered that more than a few customers owed substantial sums of money due to faulty meters or prolonged estimated billings. The large overdue water bills range from $7,000 to $18,000.

A. The collector as town collector receives payment of all accounts, including water bills. There has been friction, however, between the town collector and the water department over billing. Who is responsible in the town for sending water bills?

B. How should these recent water bills have been calculated, i.e., old rates or new rates? Does the town have valid liens for water?

C. Would your answer about the water liens be different if some parcels had been sold or municipal lien certificates had been issued?

G.L. Ch. 41 § 38A
G.L. Ch. 60 § 23

## CASE STUDY 15

It has been reported that two parcels in town may be sold and developed.

A. The first parcel is a virtually empty industrial park which has been on the sale block for some time. General Motors has expressed an interest in acquiring the property to build a factory which would supply hybrid cars for the region. This report has been met with skepticism by some and with strong support by others. The subject parcel is in tax title and the seller has urged the selectmen to support the acquisition by agreeing to abate some of the tax title amount and by entering into a tax agreement with the buyer for future tax years. How could this be accomplished?

B. The second parcel contains 35 acres and abuts town conservation land. The town attempted to buy the land for $600,000 but this offer was rejected. For fiscal year 2007 the town assessed the land and a house thereon for $740,000. When the town began its negotiations with the owner, a town appraisal valued the land at $1,485,000 and the house at $485,000. It seems the owner has entered into a purchase and sale agreement with a developer who plans to build 200 apartment units on the land and 25% of the units will be affordable. Many people do not approve of this plan. What can the town do to block the development?

G.L. Ch. 60 § 62A
G.L. Ch. 40 §59
G.L. Ch. 23A § 3E
G.L. Ch. 61A
G.L. Ch. 79