

City and Town

Navjeet K. Bal, Commissioner • Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs



A Publication of the Massachusetts Department of Revenue's Division of Local Services

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Senior Circuit Breaker Tax Credit, Municipal Tax Amnesty Program, offer tools for taxpayers and town treasuries

[The Senior Circuit Breaker Tax Credit](#) is a highly effective, targeted tax credit for any owner or renter 65 year or older who meets the income and property value guidelines – and, unlike other types of local property tax exemptions – the state pays for it. The maximum credit in the coming tax year will be \$970.

[DOR](#) has just released the [rules and regulations](#) for the program in tax year 2010. To qualify, an owner or renter's total income cannot exceed \$51,000 for a single individual; \$64,000 for a head of household; and \$77,000 for a married couple filing a joint return. The property's assessed valuation cannot exceed \$764,000.

As you can see from these limits, a great number of senior homeowners and renters may qualify for this refundable tax credit against personal income taxes.

I would urge local officials to take a moment to make sure that staffs in treasurers, collectors and assessors offices are able to point potential taxpayer beneficiaries to it. The program is also retroactive for three years, so taxpayers who find themselves eligible in tax year 2010 may also be in line for credits for previous tax years. This credit last year delivered nearly \$60 million in tax credits to more than 77 thousand eligible taxpayers.

While we are on the subject of property taxes, I would also like to point out the recent guidelines DLS has issued for the [Municipal Tax Amnesty Program](#). This program, approved as part of the [2010 Municipal Relief Act](#), requires enactment of a city or town's legislative body. The program does not waive payment of unpaid local taxes, but it does provide for the waiver of interest, penalties and collection costs owed on those delinquent taxes. This could well be a useful tool for cities and towns in search of tax revenue.

Robert G. Nunes

[Deputy Commissioner & Director of Municipal Affairs](#)

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Charitable Occupancy

James Crowley, Esq., [Bureau of Municipal Finance Law](#)

There were two relatively recent [Appellate Tax Board \(ATB\)](#) decisions regarding charitable exemptions. The first case is [Trustees of Boston College v. Board of Assessors of Boston](#), which was decided in February of this year. The case concerns [Boston College](#) and its new Brighton campus, which was purchased from the Archdiocese of Boston.

Boston College (BC) purchased 43 acres of the [St. John's Seminary](#) property in June 2004 for \$99 million. Additional land was acquired from the Archdiocese in 2006 and 2007, but this case concerns the land sold to BC in June 2004. During its ownership by the Archdiocese, this property had been exempt from tax. As you might know, July 1 is the qualification date for exemption. The [City of Boston](#) decided to place BC's new campus on the tax rolls as of July 1, 2004. The City of Boston taxed the Foster Street portion of the Brighton campus for fiscal year 2005. For fiscal years 2005 to 2007 inclusive the City of Boston also taxed the Commonwealth Avenue portion of the land. For these three fiscal years BC paid the taxes on both parcels, and filed timely abatement applications which were not approved. Further appeals were then made to the ATB. BC timely filed its form of list ([Form 3ABC](#)) together with the public charities form ([form PC](#)) for each of these fiscal years. Hence, BC satisfied all the procedural requirements for exemption.

The City of Boston taxed BC's Brighton campus on the theory that BC had no certain fixed plans for the recently acquired property. Secondly, the City contended that any present use of the property by BC was trivial and incidental and did not justify an exemption. Third, the City argued that an exemption should be denied on policy grounds citing the large impact which tax exempt organizations have on the City's tax base.

The ATB recognized that for the parcel to be exempt, BC would have to satisfy the substantive tests for a charitable exemption under [Chapter 59 Section 5 Clause 3](#). Clause 3 exempts real estate owned by a charitable organization and occupied by it or by another charitable organization for its charitable purposes. Alternatively, Clause 3 exempts real property purchased by a charitable organization with the purpose of removal thereto, until such removal, but not for more than two years after such purchase. Relying on the evidence presented, the ATB ruled that the Brighton parcels were owned and occupied by BC for charitable purposes. Consequently, it was not necessary for the ATB to decide whether BC had removed its operations to the site within two years of its purchase.

Courts in the Commonwealth have defined the term "occupancy" to mean use for the purpose for which the charitable organization was formed. In numerous decisions Massachusetts courts have given great deference to a charitable organization's use of property provided the organization acts in good faith and not unreasonably. According to the ATB, strict necessity does not govern what should be considered a charitable use of property. In the case at hand, evidence was presented that BC students used the vacant land on the Brighton campus for informal recreational activity. The college's rugby and track teams also used the property for training. In accordance with an earlier Supreme Judicial Court decision of [Emerson v. Trustees of Milton Academy, 185 Mass. 414 \(1904\)](#) which concerned the recreational use of school property, the ATB held that BC's use of the Brighton land promoted physical training and social and moral advancement of the students. The ATB therefore concluded this portion of the land was occupied for charitable purposes.

In discussing the Archbishop's former residence, the ATB determined the building was used in the fiscal years in question for one fundraising event and several trustees' meetings. On this evidence, the ATB ruled these uses of the building were in furtherance of BC's charitable purpose.

With regard to the parking lots, the ATB found that the Foster Street lot was used by BC employees who worked on the Brighton campus. In addition, paved areas on the Commonwealth Avenue side of the site were used for overflow parking for home football games, parents' weekend and the college's annual commencement exercises. In the ATB's view, use of all the Brighton parking lots facilitated college operations and furthered the college's charitable purposes.

Evidence was also presented that BC used portions of the Foster Street parcel and the Commonwealth Avenue/Residence parcels to maintain open, green space and serve as a buffer zone between the college and the Brighton residential neighborhood. In the ATB's view, this green space promoted the "aesthetic advancement" of the college; minimized any town-gown conflict, and thereby constituted a charitable occupancy.

The ATB held that BC had used the Brighton property for charitable purposes for the fiscal years in question. It did not matter that the uses may have been temporary or that BC's plans for the property continued to evolve over the years. The ATB also rejected the City's claim that BC's use of the property was trivial and did not warrant exemption. On the contrary, the ATB held that BC's various uses of the Brighton campus had advanced the charitable purposes of the college in a meaningful way. The ATB also dismissed the city's policy argument that granting a charitable exemption would undermine the City's tax revenues. According to the ATB, such policy arguments should be addressed to the Legislature. In fact, however, the Brighton property had been exempt for decades while it had been owned by the Archdiocese, and continuing the exemption under BC ownership would not result in any further decrease of the City's tax base.

Consequently, the ATB held that the Brighton campus was totally exempt under Clause 3 and BC received abatements and refunds for the years involved.

On the same date as this case was decided, the ATB rendered another charitable exemption decision entitled [Bridgewater State College Foundation v. Board of Assessors of Bridgewater](#). [Bridgewater State College Foundation](#) is a Massachusetts charitable foundation formed in 1984 under [Chapter 15A of the General Laws](#) for the exclusive benefit of Bridgewater State College. The Foundation owned six parcels of land which were contiguous to Bridgewater State College. The [Town of Bridgewater's](#) assessors taxed the parcels for fiscal years 2007 and 2008. For FY 2007 the Foundation paid the taxes and followed the ordinary abatement route. For FY 2008 the Foundation chose not to pay the taxes and filed a direct appeal to the ATB pursuant to [Chapter 59 Section 5B](#). Form 3ABC and the PC form were filed for both fiscal years.

What is interesting about this case is the discussion of the term "occupancy." As discussed in the BC case, a parcel must be owned by a charitable organization and occupied by that charitable organization or by another charitable organization for its charitable purposes in order to enjoy exemption under Clause 3. The Bridgewater assessors taxed the Foundation's parcels because they were occupied by Bridgewater State College, which is a governmental entity and not a charitable organization as required by Clause 3.

The Foundation's vacant parcels were used for recreational purposes by students and student groups. The buildings owned by the Foundation were used as offices by the Foundation itself or were used by staff of Bridgewater State College. Regarding all the parcels, the ATB held there was occupancy by the Foundation in furtherance of its charitable purpose. The ATB blurred the ownership/occupancy test by holding that it does not matter which persons or entity uses the property, "so long as such inhabitation or use is consistent with the purpose of the charitable organization that owns the property." The ATB used a functional analysis to determine eligibility for exemption. Broadly reading the statute and prior court decisions, the ATB held that a parcel is exempt under Clause 3 "so long as it is used to further the organization's charitable purpose." In this case, the ATB believed denial of the charitable exemption would frustrate the purpose of Clause 3.

Consequently, the Foundation was granted the charitable exemption but it remains to be seen whether the [Supreme Judicial Court](#) will so apply a functional analysis test in other charitable exemption cases.

PATRICK- MURRAY ADMINISTRATION RELEASES \$10 MILLION FOR THE OPERATION AND DEVELOPMENT OF REGIONAL 911 CALL CENTERS

Third straight year grants distributed for development of regional 911 answering points

BOSTON - Thursday, September 30, 2010 - Continuing the Patrick-Murray Administration's commitment to improving public safety and increasing efficiency in state government, Governor Deval Patrick today released a total of \$10 million in grants to communities developing, or studying the feasibility of developing, public safety answering points (PSAPS). These PSAPS, or call centers, will enhance 911 and emergency dispatch communications centers, improve public safety and save money for taxpayers. An additional \$2 million in development grant funds is expected to be released later in October for a total of \$12 million this year.

"With these funds, we are giving our municipal partners the tools they need to both effectively respond to public safety situations and efficiently manage taxpayer dollars," said Governor Patrick.

"As our Administration continues to work with cities and towns to promote regionalization, these grants are an effective resource that will provide municipalities with supportive tools to develop more efficient and responsive shared emergency call centers," said Lieutenant Governor Timothy Murray, who chaired the Regionalization Advisory Commission this past year.

"Our public safety resources are limited," said Public Safety Secretary Mary Beth Heffernan. "Regionalization combines 911 emergency operations and their costs providing a vehicle to more effectively utilize personnel and funding for training and supervision and purchase and maintain emergency communications equipment."

The grants, distributed by the State 911 Department, will fund regionalization projects stretching from the Cape to the Berkshires. Projects include building regional emergency communications centers, purchasing call center equipment, improving the infrastructure of existing regional 911 communications departments and conducting feasibility studies for regionalizing services.

Governor Patrick first announced grant funding in 2008, when he signed a law establishing the State 911 Department and creating a fund to pay for enhanced training, upgrading equipment and creating incentives to regionalize 911 operations. Under both state and federal law, these funds can only be used to support the 911 system.

Since its inception, the fund has provided over \$66 million in support grants to 262 call centers across the Commonwealth, including \$14 million in training grants to train 911 call takers, \$27.5 million in development grants and more than \$14.5 million in other support funding for the Administration's regionalization efforts.

Ten of the call centers receiving awards this year will use the funding to purchase new state of the art equipment, perform architectural or engineering work at existing call centers or begin construction on a new regional call center. The remaining ten recipients will undertake studies to determine if regional call centers are feasible in their communities.

Worcester is among the communities seeking to begin construction of a regional call center this year with its awarded of \$1.6 million. Once up and running, the call center would serve Worcester and as many as 10 communities surrounding the City. A grant of \$1.3 million will go to a regional call center in Berkshire County that supports 22 communities, and will allow for improvements in mission critical radio communications.

State funding will also support projects in Barnstable County, Douglas, Essex County, Franklin, Hingham, Middlesex County, Monson, Norfolk County, Revere, Sudbury, Wrentham, Dukes County, Nantucket, Rutland, New Braintree, Shelburne Falls and the Southeastern Regional Planning and Economic Development District.

The first regionalization project funded through the development grant program is expected to be in full service by early 2011. The project has been awarded approximately \$5.3 million in development grants over three years and will service the communities of Hingham, Cohasset, Hull and Norwell.

State House Notes Turns 100 and Becomes Free

Nick DeChillo,
DLS Intern

The State House Notes program (SHN) is older than the Division of Local Services (DLS). It has been a longstanding program within the State Department of Revenue, inherited by a newly created DLS in the early 1980s. As of January 1, 2011, the program will mark its one hundredth anniversary. It was initially established by the Massachusetts Legislature in Chapter 616 of the Acts of 1910 and made free of charge by Governor Deval Patrick's Municipal Relief Act of 2010. The program is administered by the Bureau of Accounts within Local Services.

The Bureau of Accounts provides certification services for municipal issuers, predominantly Massachusetts' smaller towns and districts. The certification is, in effect, a guarantee of the genuineness of the note. While it is not a certificate of the legality of the loan, the Director of the Bureau of Accounts (currently Gerry Perry) is required to withhold his certification signature if the laws relating to municipal indebtedness have not been complied with, or if it appears that the proceeds of the note are not to be used for the purpose specified in the vote authorizing the loan.

Similar to years past, the State House Note Program in Fiscal Year 2010, saw a wide variant in the types of communities and entities applying for notes and for what amount. During FY10, there were a total of 407 notes with 210 municipal entities responsible for the payments.

Towns dominate the SHN program: 81.9 percent of the notes certified were for towns, while a smaller percentage was represented by districts (16.7 percent) and even fewer for cities (1.4 percent). The majority of municipal entities that borrowed using SHN did so with very few notes: 110 of the 210 municipalities that were a part of SHN had only one note. However some towns bought a relatively large number of notes: Montague (9), Hopkinton (7), Westminster (6), and Millis (6).

The FY10 notes in the State House Note Program were issued by towns for 47 different purposes. Similar purposes are grouped by DLS in our records. Examples of these lumped purposes are: Building, Departmental Equipment, Street and Highway, School, Sewer, and Water. Other popular "purposes" were: Land Acquisition, Municipal Purpose Loan, and Revenue. Municipal Purpose Loan (91) and Revenue (51) were the two highest categories. Only 39 of the 407 (10.6 percent) notes were not categorized under one of the nine purposes listed above.

The total amount of money included in notes certified through the SHN program was \$298,798,915.59. The amount of money in each note varied, ranging from a low of \$10,343.51 to a high of \$6,400,000. The largest six notes, and 12 of the top 13, notes certified through SHN were for Revenue or Municipal Purpose Loans. The smallest notes were mostly for Departmental Equipment.

Only 27 of the notes issued in fiscal 2010 will not be paid within one year. The majority (20) of these notes were serial notes, which have an average lifespan of 1,953 days. The serial notes skew the overall average time of each note. Excluding the serial notes, the average number of days per note is only 236 days. The majority of the borrowing in FY10 was for capital purposes. The only exceptions were the 51 notes for Revenue, and the 3 notes issued for Deficits.

In 2010, the Municipal State House Note Program had various banks purchasing the notes. This year 14 banks purchased a portion of the 407 notes. Only three of the banks purchased one note, while Eastern Bank and UniBank purchased the most by a great margin with 147 and 99 notes respectively.

Nick DeChillo was a summer intern within the Bureau of Accounts at the Division of Local Services. He is currently a senior at the University of Massachusetts Amherst, majoring in finance and minoring in economics.

DLS Asset Useful Life Schedules-Maximum Borrowing Terms

As authorized by the recent Municipal Relief Act (Chapter 188 of the Acts of 2010), the Division of Local Services has just published schedules establishing the maximum term for certain city, town and district loans based on the useful life of the assets being financed. See Section I of IGR 10-101, City, Town and District Debt Purposes, Terms and Payment. Click here to read more:

http://www.mass.gov/Ador/docs/dls/boa/DLSAssetUsefulLifeSchedules_MaximumBorrowingTerms.pdf

City, Town, and District Debt Purposes, Terms, and Payment

This Informational Guideline Release (IGR) informs treasurers and other local officials about changes made by the Municipal Relief Act in the purposes for which cities, towns, improvement districts and regional school districts may borrow, as well as the term and debt service schedule for those loans.

Click here to read more: http://www.mass.gov/Ador/docs/dls/publ/igr/2010/igr10_101.pdf

Originally published as DLS Alerts on October 18, 2010.

Municipal Calendar

October 1: Collector Mail Semi-Annual Tax Bills For communities using the regular semi-annual payment system, actual tax bills or optional preliminary bills should be mailed by this date.

October 1: Taxpayer Semi-Annual Preliminary Tax Bill — Deadline for Paying Without Interest According to M.G.L. Ch. 59, Sec. 57C, this is the deadline for receipt of the preliminary tax payment without interest in communities using the annual preliminary tax billing system, unless the bills were mailed after August 1. If mailed after August 1, the payment is due November 1, or 30 days after the bills were mailed, whichever is later.

October 1: Taxpayer Deadline for Applying to Have Land Classified as Agricultural/Horticultural Land or Recreational Land, M.G.L. Ch. 61A and Ch. 61B. According to M.G.L. Ch. 61A, Sections 6 and 8, and Ch. 61B, Sections 3 and 5, this is the deadline to apply to assessors to have land valued, taxed and classified as agricultural/horticultural or recreational land in the next fiscal year, unless a revaluation program is being conducted for that fiscal year. Under M.G.L. Ch. 59, Section 38 and DOR guidelines, assessor must review all property valuations and make adjustments to ensure current fair cash valuations every year. Because a revaluation program is being conducted every year, taxpayers who do not submit their applications by October 1 have until 30 days after the actual tax bills for the fiscal year are mailed to apply.

October 15: Superintendent Submit School Foundation Enrollment Report to DESE

October 31: Accountant Submit Schedule A for Prior Fiscal Year This report is a statement of the revenues received, expenditures made and all other transactions related to the town's finances during the previous fiscal year. The Schedule A classifies revenues and expenditures into detailed categories that will provide information essential for an analysis of revenues and expenditures generated by various departments. This data, like other financial information reported to DOR, is entered into DOR's Municipal Data Bank; as such, the Department may provide time series, comparative and other types of analyses at the request of a city or town. This information is also sent to the US Census Bureau and eliminates a prior federal reporting requirement. Failure to file by October 31 may result in withholding major distributions of state aid until the Schedule A is accepted by BOA.

October 31: Selectmen Begin Establishing Next Fiscal Year Budget Guidelines and Request Department Budgets

October 31: Assessors Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for annual preliminary tax bill communities) A community that uses the annual preliminary tax bill system (on a quarterly or semiannual basis) should begin gathering tax recap information in order to have enough time for the tax rate to be set and tax bills mailed by December 31. See August's Complete Tax Rate Recapitulation Sheet.

November 1: Taxpayer Semi-Annual Tax Bill — Deadline for First Payment According to M.G.L. Ch. 59, Sec. 57, this is the deadline for receipt of the first half semi-annual tax bills or the optional preliminary tax bills without interest, unless bills were mailed after October 1, in which case they are due 30 days after mailing.

November 1: Taxpayer Semi-Annual Tax Bills — Application Deadline for Property Tax Abatement According to M.G.L. Ch. 59, Sec. 59, applications for abatements are due on the same date as the first actual tax installment for the year.

November 1: Taxpayer Quarterly Tax Bills — Deadline for Paying 2nd Quarterly Tax Bill Without Interest

November 1: Treasurer Deadline for Payment of First Half of County Tax

November 15: Treasurer First Quarter Reconciliation of Cash

November 15: DESE Notify Communities/Districts of Any Prior Year School Spending Deficiencies By this date, or within 30 days of a complete End of Year Report (see September 30), ESE notifies communities/districts in writing of any additional school spending requirements.

November 30: Selectmen Review Budgets Submitted by Department Heads This date will vary depending on dates of town meeting. statement of the prior year's net Community Preservation Surcharge levy, and is used to distribute state matching funds on October 15.

Complete October 2010 Edition

December 15: Taxpayer Deadline for Applying for Property Tax Exemptions for Persons

If tax bills are mailed after September 15, taxpayers have 3 months from the mailing date to file applications for exemptions.

December 15: Accountant/Superintendent/School Committee Submit Amendments to End of School Year Report to DESE

Last filing date to impact next year's Chapter 70 State Aid.

December 31: State Treasurer Notification of Quarterly Local Aid Payments on or Before December 31

December 31: Water/Sewer Commissioners Deadline for Betterments to be Included on Next Year's Tax Bill (M.G.L. Ch. 80, Sec. 13; Ch. 40, Sec. 42I and Ch. 83, Sec. 27)

December 31: Selectmen Begin to Finalize Budget Recommendation for Review by Finance Committee

December 31: Assessors Mail 3-ABC Forms to All Eligible Non-Profit Organizations

December 31: Collector Deadline for Mailing Actual Tax Bills

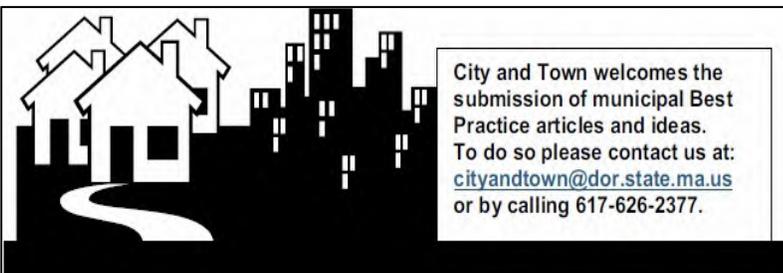
For communities using the annual preliminary billing system on a quarterly or semi-annual basis, the actual tax bills should be mailed by this date.

Mark Your Calendar

Registration open: Course 101 Fall 2011 will be held as a day course in Springfield on October 20, 27 and November 3rd. This basic assessor training course is mandatory for all newly elected or appointed assessors. To register please read our at http://www.mass.gov/Ador/docs/dls/publ/bull/2010/2010_07B.pdf. For more information regarding this training opportunity please contact Donna Quinn, Training Coordinator at 617-626-3838 or quinnd@dor.state.ma.us.



Please remember to update the online Local Officials Directory so that both municipal and state officials have accurate contact information.



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