August 25, 2011

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

The Path to Electronic Filing of Municipal Finance Audits

Ryan Horan, Bureau of Accounts 2011 Summer Intern

Where there had once been mountains of paper piled high in the Bureau of Accounts (BOA), there are now easily crested stacks thanks to a streamlined electronic filing process initiated in 2007. Massachusetts General Laws Chapter 44, § 42 requires municipalities conducting financial audits to submit documentation to the Director of Accounts within the Bureau of Accounts. In 2006, all audits received at BOA came in hardcopy from various firms. 45 firms mailed in financial statements and, when applicable, the A-133 and management letter for 528 separate governmental agencies.

The result was tens of thousands of audit pages every year accumulating at DOR and hours of staff time dedicated to the manual filing and storing of those documents for three years. Subsequently, as they are a public record, any and all Freedom of Information Act requests required laboring through file cabinets, making hard copies, and shipping of hundreds of pages, a cost incurred by the requesting entity.

In 2007, the Bureau began investigating the feasibility of transferring to electronic collection. The project was initiated by Gerry Cole, a member of the Bureau's Debt Section, and sought to set up an electronic system for these audits. The following year, Melanson Heath was chosen as the audit firm to test this new electronic system in order to determine ways to file and store audits more efficiently. Melanson Heath had generated the largest amount of audits spread throughout the Commonwealth of Massachusetts between the three BOA offices in Boston, Worcester, and Springfield, making it the suitable choice for testing. The test run proved successful and led the Bureau to conclude that electronic filing was not only an option, but the preferred means of filing.

Over the following two years, firms embraced filing in this manner, and today this system is standard. An electronic folder within the Bureau's database maintains all audits, allowing both for easier submission and retrieval. Though there are new steps regarding how the documents are processed, the overall process is more efficient, involves less paper, and reduces staff time to disseminate, file, and retain documents under the Department of Revenue's (DOR) records retention requirements.

This new system is consistent with the DOR's continued efforts to enhance technology and reduce paper processing. It has improved the way BOA administers audits while still maintaining the core review practices. In four short years, BOA transitioned a long standing practice from what had involved climbing a mountain of paper to the simple act of pushing a button.

Registration for "What's New in Municipal Law" is Now Open!

Click here to register.

The Division of Local Services Legal Staff will offer its annual seminar "What's New in Municipal Law" Friday, September 30th, 2011 at The Lantana in Randolph and Tuesday, October 4, 2011 at the Sturbridge Host Hotel and Conference Center in Sturbridge.

The morning general session will include a review of new legislation and recent court decisions pertaining to local government. The afternoon session will consist of three simultaneous workshops on the following topics: (1) local tax

issues including current tax options for economic, renewable energy and other development projects, (2) current municipal finance and accounting issues, and (3) employment benefit issues including new legislation on employee and retiree health insurance.

Advance registration is required. Registrations must be received by Thursday, September 22, 2011.

If you have any questions, contact Donna Quinn, Training Coordinator, at 617-626-3838 or by email at dlswebcontacts@dor.state.ma.us.

For What It's Worth: Public Disclosure of Proposed Property Values

Walter Sandoval Dusza, Bureau of Local Assessment

Triennial certification for FY2012 is underway and we wish to remind assessors about the public disclosure requirements. This reminder is meant to prevent delays in achieving final certification due to inadequacies in the local disclosure process. (See Guidelines for Development of a Minimum Reassessment Program, Revised July 2008, pages 21&22.)

Public Disclosure process must include the Publication of a Public Disclosure Notice in a newspaper of general circulation in the community. Disclosure starts after the notice is published. Beginning and ending dates of the disclosure period must be stated (five days at a minimum, preferably 10 working days). Valuation changes and overall effect on assessments must be explained. Location and manner by which taxpayers can obtain proposed values must be stated and taxpayers should not be told to wait until the tax bills are mailed and the abatement process has begun. Finally, the publication must include dates and times the assessors' office will be open and available for taxpayers to review, discuss and request changes in proposed values.

Communities with a large number of non-resident taxpayers should mail those taxpayers impact notices. Impact notices should include all the points listed above as well as state pertinent legal information and a schedule of public hearings on the proposed values.

It is expected that values needing adjustment resulting from the public disclosure process will occur before final certification and not wait for the abatement process after tax bills are mailed.

Public disclosure gives the assessors the opportunity to correct individual or systemic valuation matters without using valuable Overlay Account funds as happens during the abatement process. These funds can be put to far better use by the municipality. The disclosure process educates taxpayers and builds and maintains public trust and confidence in the assessment administration system.

The Bureau of Local Assessment closely monitors public disclosure and will require all municipalities to comply with the guidelines. If you have any questions please consult with your certification advisor or Walter Sandoval Dusza at (617) 626-4087.

Updated Exemption and Deferral Fact Sheets for Taxpayers

Bureau of Municipal Finance Law

The Division of Local Services has reissued its taxpayer fact sheets on personal exemptions (veterans, seniors, blind persons, surviving spouses and minors with deceased parent) and deferrals (seniors). The updated fact sheets are posted here. The fact sheet on veteran exemptions was updated to reflect the 2010 Municipal Relief Act amendment of the Clause 22E exemption for veterans with 100% disability ratings. That amendment eliminated the additional requirement that veterans be incapable of working, effective for exemptions granted beginning in fiscal year 2012. In addition, all fact sheets now include a definition of domicile, a section on "Appeals" and an "Assessment and Exemption Calendar."

Is Home Where You Make It? The Definition of Domicile

James Crowley, Esq., Bureau of Municipal Finance Law

Domicile is an important legal concept that can have tremendous tax consequences for an individual. Where a taxpayer is domiciled can have an impact on state income taxes, estate taxes and local property taxes.

Domicile or legal home is defined as consisting of three elements: (1) actual physical presence (2) at a fixed dwelling place (3) with the intention to remain permanently. An individual can have multiple residences, but it is a rule of law that a person can have only one domicile at any moment in time. Each of the three elements listed above must be satisfied to establish domicile. Mere intent to relocate to Florida, for example, is not enough to create domicile there. Not only must there be an intent to acquire domicile in another state, there must also be actual physical presence in that state.

An individual's domicile is where his or her permanent home is located. Residence, on the other hand, is a transient place of dwelling. Examples of a residence are a summer home on Cape Cod, a winter home in Orlando or an apartment in Amherst while a student is attending the University of Massachusetts. State law may require either residence or domicile as a prerequisite for an individual to enjoy a particular privilege or benefit.

At the Division of Local Services, we receive numerous inquiries about domicile in connection with eligibility for a personal or residential exemption. A taxpayer who seeks a personal real estate exemption as a veteran, senior, surviving spouse or blind person under various clauses of M.G.L. Ch. 59 Sec. 5 must establish domicile in a parcel in the community as of July 1 which begins the fiscal year. Domicile is also important if an individual owns residential real estate in a community that has adopted the residential exemption. M.G.L. Ch. 59 Sec. 5C allows local officials to shift a greater share of the residential tax burden on taxpayers who do not maintain their domiciles in the community. In addition, a taxpayer is exempt from personal property taxes on household furnishings and effects at his or her domicile, but not at other residences.

The Appellate Tax Board (ATB) has issued several relatively recent state and local tax decisions that are instructive regarding domicile. The state tax cases are Mee v. Commissioner of Revenue (docket # C287787 & C293547, April 12, 2010) and Swartz v. Commissioner of Revenue (docket # C287671, April 1, 2010). The local tax cases concern eligibility for a residential exemption. They are Wiggins v. Assessors of Boston, (docket #X299727, January 13, 2009) and Browning v. Assessors of Boston, (docket #F294055, April 1, 2009). In those cases, the taxpayer filed an application for a residential exemption pursuant to M.G.L. Ch. 59 Sec. 5C and claimed to own a Boston property as a principal residence as of the January 1 assessment date preceding the start of the fiscal year, i.e., as of January 1, 2007 date for fiscal year 2008.

M.G.L. Ch. 59 Sec. 5C provides in pertinent part that "an exemption shall be applied only to the principal residence of a taxpayer as used by the taxpayer for income tax purposes." In these decisions, the ATB adopted a "facts and circumstances" analysis similar to that used to determine domicile for state tax purposes. In Wiggins, the taxpayer furnished utility bills, letters from the Boston school department and IRS forms to establish that the subject property was a principal residence as of January 1, 2007. The Boston assessors rejected the claim on the sole ground that the taxpayer did not use the address of that property on his 2006 state and federal income tax returns, i.e., the calendar year preceding the January 1, 2007 assessment date. Instead, the taxpayer used his Medford business address as the record address on his tax returns. Rejecting the city's argument which it considered to be a "mechanical analysis," the ATB held that a taxpayer must merely "use" the property as his principal residence based on all the relevant facts and circumstances. Since the city offered no evidence to rebut the taxpayer's evidence, the ATB ruled that Wiggins was eligible for the residential exemption.

In Browning, the taxpayer supplied copies of his 2006 and 2007 federal tax returns and his 2007 state tax return. The taxpayer never filed a 2006 state tax return since he did not earn enough taxable income. The ATB ruled that the assessors could not require a taxpayer to file a Massachusetts income tax return as a necessary step for a residential exemption.

In light of these decisions and other court cases, if an individual has more than one residence, the assessors have to look at all facts and circumstances to determine where the person is domiciled. The following factors are among those the assessors should consider:

Where the taxpayer's family, social, civic and economic life is centered.

Where the taxpayer and family members work, go to school, and spend most of their time.

Where the taxpayer has community ties, including memberships in churches, clubs and social organizations.

Where the taxpayer votes, receives mail and maintains bank accounts.

What address is used on the taxpayer's driver's license.

Where motor vehicles are registered.

Where a census return is made.

What address is listed on tax returns.

Third Annual Regionalization Conference

The Third Annual Regionalization Conference on September 1st at the College of the Holy Cross in Worcester will provide local officials with a first glimpse of the process that the Division of Local Services (DLS) plans to employ in the award of $4 million in grants to promote regionalization.

Keynote Speaker Lieutenant Governor Timothy P. Murray is expected to discuss the process in his remarks the morning of the conference and DLS officials will be on hand to provide further explanation and related materials. Presented by the Division of Local Services, Franklin Regional Council of Governments and the Massachusetts Association of Regional Planning Agencies, this unique informational opportunity is yet another reason to mark your calendar.

The conference will open with remarks by Lieutenant Governor Murray, Department of Revenue Commissioner Navjeet Bal, Executive Office of Administration and Finance Policy Director Pam Kocher, Executive Director of the Pioneer Valley Planning Commission Tim Brennan, and myself. It will feature a series of morning workshops and afternoon roundtable discussions. The workshops will highlight a series of panelists sharing their insight and experiences on regionalizing municipal services and best practices. The roundtable discussions are designed to stimulate conversation among local officials on various topics of regionalization. Facilitated by a state official and including several invited subject matter experts, attendees will be encouraged to engage in an open dialogue to discuss specific questions or challenges surrounding regionalization. For additional information regarding the conference, including the brochure and a list of events, click here for more details.

On a related note, the announcement last week that construction is beginning on a project to bring broadband to more than 120 communities in western and north central Massachusetts is great news for many of the Commonwealth's smallest cities and towns. Regionalization efforts are hampered when communities lack communication infrastructure and this project will not only spur economic development, but immensely increase the efficiency of local governments that have had to make do without reliable and affordable high-speed internet access. As Governor Deval Patrick said, "the digital divide in Massachusetts is about to close."

Robert G. Nunes
Deputy Commissioner & Director of Municipal Affairs

New Bulletin and Veteran Exemption Applications

The Division of Local Services has issued Bulletin 2011-10B, *Exemption Applications*. It announces revisions to the three forms, State Tax Forms 96, 96-4 and 96-5, used to apply for veteran exemptions. The revision reflects the 2010 Municipal Relief Act amendment of the Clause 22E exemption for veterans with 100% disability ratings. That amendment eliminates the additional requirement that veterans be incapable of working. It is effective for exemptions granted beginning in fiscal year 2012.

Municipal health reform regulations released for public comment

Under the new municipal health care reform legislation (Chapter 69 of the Acts of 2011), the Executive Office of Administration and Finance (A&F) is responsible for adopting regulations as guidance to communities seeking to

implement changes in health insurance plans under the process created by the new law. The regulations establish administrative procedures for the expedited negotiations that will occur between municipalities and public employee committees and for the process to be followed by a municipal health insurance review panel if the matter is not resolved during the expedited negotiations.

Because of the urgent need to provide guidance to communities choosing to take advantage of this new tool, A&F intends to file emergency regulations early next week. In the meantime, we are posting a draft of the regulations on the A&F website (www.mass.gov/eoaf) and providing a limited opportunity for public comment before the regulations are filed.

Comments must be received electronically by 5:00 p.m. on Monday, August 8th, and should be addressed to: Pam Kocher, Director of Local Policy, at Pam.Kocher@state.ma.us.

Municipal Calendar

August 1: Taxpayer
Quarterly Tax Bills — Deadline for Paying 1st Quarterly Tax Bill Without Interest

According to M.G.L. Ch. 59, Sec. 57C, this is the deadline for receipt of the 1st Quarter preliminary tax payment without interest, unless the preliminary bills were mailed after July 1. If mailed by August 1, the 1st Quarterly payment is due August 1, or 30 days after the bills were mailed, whichever is later, and the 2nd Quarterly payment is due November 1. If mailed after August 1, the preliminary tax is due as a single installment on November 1, or 30 days after the bills were mailed, whichever is later.

August 1: Taxpayer
Annual Boat Excise Return Due

August 1: Accountant
Notification of Total Receipts of Preceding Year

The total actual local receipts (e.g., motor vehicle excise, fines, fees, water/sewer charges) of the previous fiscal year must be included on Schedule A of the Tax Rate Recapitulation Sheet (Recap) which is submitted by the Assessors to DOR. On the Recap, the Accountant certifies the previous fiscal year's actual revenues, and the Assessors use this information to project the next fiscal year's revenues. Any estimates of local receipts on the Recap that differ significantly from the previous year's actual receipts must be accompanied by documentation justifying the change in order to be approved by the Commissioner of Revenue.

August 10: Assessors
Deadline for Appealing EQVs to ATB (even numbered years only)

August 10: Assessors
Deadline for Appealing SOL Valuations to ATB (every 4th year after 2005)

August 15: Assessors
Deadline to Vote to Seek Approval for Authorization to Issue Optional Preliminary Tax Bills

For semi-annual communities issuing optional preliminary property tax bills, the Assessors must vote to seek authorization to issue the bills from DOR by this date. After receiving approval, Assessors must submit a Pro-forma Tax Rate Recap Sheet to DOR for review and issue the tax bills by October 1.

August 31: DOR/BOA
Issue Instructions for Determining Local and District Tax Rates

A copy of the Tax Rate Recap Sheet and its instructions are forwarded to the town.

August 31: Assessors
Begin Work on Tax Rate Recapitulation Sheet (to set tax rate for semi-annual bills)

Until the Tax Rate Recap Sheet is completed and certified by the Commissioner of Revenue, the community may not set a tax rate nor send out its property tax bills (unless it issues preliminary quarterly tax bills or requests from DOR the authority to send out

preliminary tax notices if DOR requirements are met). Communities should begin gathering the information in enough time for the tax rate to be set and tax bills mailed by October 1. The Tax Rate Recap Sheet provides Mayors or Selectmen with a ready-made financial management tool because the town's most important financial management information is summarized on this form. The Mayor or Selectmen should review the Recap Sheet in preliminary form in order to understand the following financial information:

Page 1 (Tax Rate Summary) — The proposed tax levy should be compared to the levy limit. If a town does not levy to its limit, the remaining levy is referred to as excess levy capacity. Excess levy capacity is lost to the community for the current fiscal year although it will always remain in the levy limit calculation;

Page 2 (Amount To Be Raised) — This section includes appropriations and other local expenditures not appropriated. These include overlay deficits, revenue deficits, state and county charges, Cherry Sheet offset items, and the allowance for abatements and exemptions. By comparing this information to the prior year(s), any significant changes can be determined;

Page 2 (Estimated Receipts & Revenues From Other Sources) — In particular, Section C shows the amount appropriated from free cash and other available funds. By comparing the amounts appropriated to the balances in these accounts (available from the Accountant/Auditor), the Mayor or Selectmen can get a sense of how their non-property tax revenues are being used;

Page 3, Schedule A (Local Receipts Not Allocated) — By comparing these figures to prior year(s), the Mayor or Selectmen can determine any changes in these revenues;

Page 4, Schedule B (Certification of Appropriations and Source of Funding) — This section includes financial votes of City/Town Council or Town Meeting not previously reported on last year's recap.

City & Town is published by the Massachusetts Department of Revenue's Division of Local Services (DLS) and is designed to address matters of interest to local officials.

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