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Massachusetts Department of Revenue  
Division of Local Services

From Farmland to the Waterfront  
Current Assessment and Collection Issues



2006

Workshop A

Alan LeBovidge, Commissioner  
Gerard D. Perry, Deputy Commissioner

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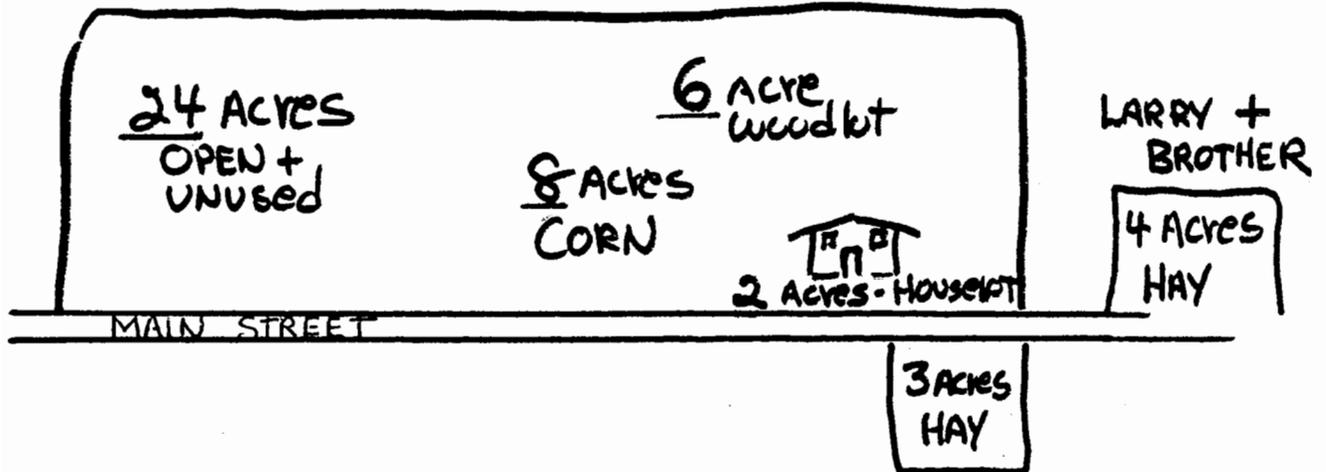
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2006

Workshop A - From Farmland to the Waterfront

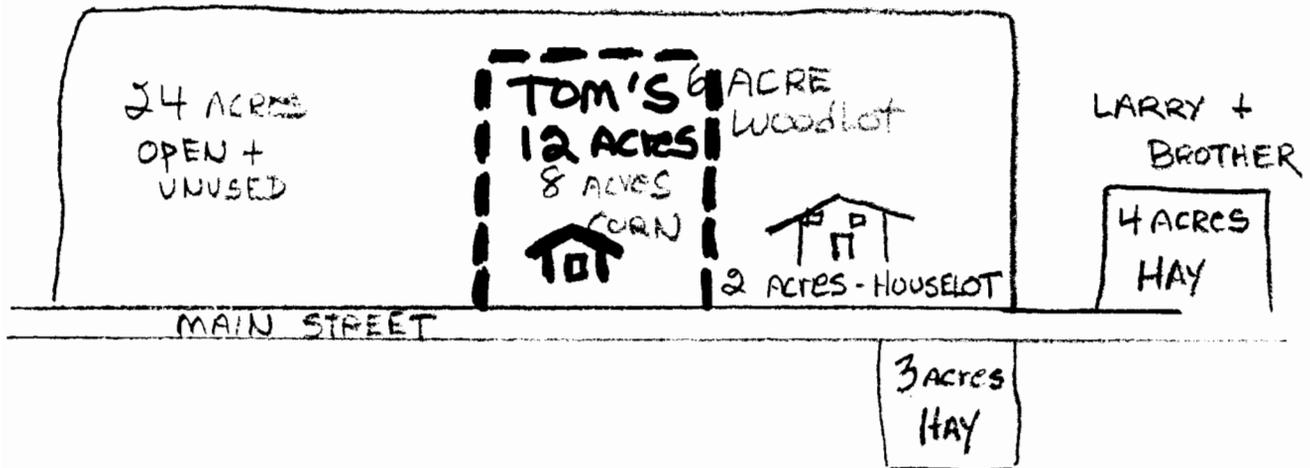
Discussion Materials and Questions



Lisa and Larry own 43 acres in Yourtown and use parts of it for the farm uses described above. They recently filed their Chapter 61A application for classification as agricultural or horticultural land.

1. How much acreage would you allow to qualify for classification? How about the “woodlot”? How do you treat the hayfield across the street?
2. If Larry owned four additional acres up the street with his brother that he also grew hay on, may that acreage be included on his application for classification?
3. How many lien statements would have to be filed on this land? How would the property be billed?
4. Larry and Lisa also inform you that they recently had 3 Form A lots approved by the planning board, but they are uncertain about what they will do with their land. What effect, if any?

II



Tom, Larry and Lisa's son, gets married and wishes to continue the farm operation. His parents give him 12 acres as a wedding present and Tom builds a new home for himself in March of 2007. Tom plans to farm the remaining 10 acres that he now owns.

1. Would a "right of first refusal" notice be required in this situation?
  
2. What are the roll-back tax (or conveyance tax) implications?
  
3. Tom is very much an entrepreneur, however, and decides that corn is not very profitable. As he has a passion for unique wines, he decides to plant a hearty grape vine crop on the 10 acres and ultimately begin his own "boutique winery." What advice would you give him regarding his Chapter 61A status?

### III.

As mentioned, Tom and his wife constructed their new home in March of 2007. The assessors place a new valuation on the house of \$200,000. (The roll-back tax was paid due to the new construction on the farmland.)

1. How will Tom's and the parents land be assessed in the next full fiscal year? How many tax bills and to what parties? What value will be used?
2. When and how does the \$200,000 of new value generate tax revenue?
3. What are the differences between the "new construction" and the "supplemental assessment "provisions"?

#### IV.

Tom and his wife have worked diligently in bringing their vines into production and establishing a winery facility to process his grapes and produce his inaugural year of “Your-Home-Town “ fine and local wines. Unfortunately, due to unseasonable weather, bug infestations and personal health issues, Tom and his wife are struggling to maintain the farm production and winery facility in light of high start-up costs and substantial loans. They have fallen behind in their real estate taxes and ask if there is any relief available in these circumstances.

1. What if any relief is available to Tom through the Board of Assessors to forestall foreclosure by the town for delinquent real estate taxes?
2. What, if any, authority does the Town Treasurer have to provide any form of relief?

## V.

Tom's good friend, Ted, who was in the National Guard, was called to full-time service. Tom has just heard that Ted sustained very serious injuries in combat and will certainly have a long road to recovery. As a good friend and neighbor, he wishes to find out what may be available for real estate exemptions for veterans, and particularly asks about new exemptions (the MERIT program) recently mentioned in a newspaper article.

1. What provisions may be of some assistance to Ted regarding his real estate taxes, motor vehicle excises and tax payments?
  
2. With respect to the new provisions of Clause 22D, what important considerations must be kept in mind by the assessors in implementing and administering this exemption?

## VI.

Sally and Sam are elderly neighbors who live across the street from Lisa and Larry. Their home is modest, but they have been very comfortable there for many years. Sally is 64, and Sam is 68. They have a modest amount of savings, but their annual income is low and they are beginning to feel the pinch financially. For the first time, they decide to apply for a real estate tax exemption to help with their finances. What “senior relief” might be available for them?

1. If their town has adopted the regular Clause 41C exemptions, may Sally and Sam qualify for the exemption?
2. Under Clause 41C, what other factors should be considered? If Sally and Sam qualify for exemption, how much would it be?
3. What features of the new Clause 41C1/2 might benefit Sally and Sam?
4. If the taxpayers receive an exemption, may they also defer the remaining balances of their taxes?
5. Sally hears about the so-called “Senior Work Program” in town. Will she qualify to participate? If so, what will her benefit be?

THE COMMONWEALTH OF MASSACHUSETTS

ASSESSORS' USE ONLY		
61	61A	61B
Date Received Application No.		

**YOURTOWN**  
NAME OF CITY OR TOWN

Fiscal Year ~~10~~ **2008**  
For

**FOREST**  **AGRICULTURAL OR HORTICULTURAL**  **RECREATIONAL**  **LAND CLASSIFICATION**  
General Laws Chapter 61 §1 - 61A §6 - 61B §3

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

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

Name of Applicant(s) LISA AND LARRY LANDOWNER  
Mailing Address 100 MAIN STREET  
Property Covered by Application

Location	Parcel Identification (Assessors' Map-Block-Lot)	Deed Reference (Book & Page)	Total Acres	Acres to be Classified
<u>100 MAIN ST</u>	<u>MAP 1 LOT A</u>			
<u>99 MAIN ST</u>	<u>MAP 1 LOT B</u>			

**B. TYPE OF CLASSIFICATION.** Check the classification you are seeking and provide the requested 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 Class	No. of Acres	Specific Use, Crops Grown
1. Vegetables, Tobacco Sod, Nursery		
2. Dairy, Forage Crops, Field Crops		
3. Orchards, Vineyards		
4. Cranberries		
5. Permanent Pasture, Necessary Related land, Christmas Trees, Productive Woodland (Attach copy of Approved Forest Management Plan if initial application, or new/revised plan)		
6. Contiguous Non-Productive Land		
7. Other Agricultural or Horticultural (Specify)		

2. **STATEMENT OF FARM INCOME IN PRECEDING YEAR.** Supporting documentation, including copies of your federal and state income tax 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 Ch. 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 that year \$ \_\_\_\_\_ Fiscal Year \_\_\_\_\_

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 condition? Yes  No

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 or Surface Water  Clean Air  Vegetation
- Rare or Endangered Species  Geologic Features  Scenic Resources
- High Quality Soils  Other (Specify)  \_\_\_\_\_

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

If yes, indicate for which recreational activities the land is used

- Archery  Boating  Camping  Fishing  Golfing
- Hang Gliding  Hiking  Horseback Riding  Hunting
- Nature Study and Observation  Picnicking  Private Non-Commercial Flying
- Skiing  Swimming  Target Shooting

How often is 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 the 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 Acknowledgment of Rights and Obligations under Classified Forest  Agricultural or Horticultural  Recreational  Land program, as part of this application.

Owner

Date

Lisa Landowner  
Larry Landowner

September 15, 2006  
September 15, 2006

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

DISPOSITION OF APPLICATION (FOR ASSESSORS' USE ONLY)		
<input type="checkbox"/> Ownership	<input type="checkbox"/> All	Date Voted/Deemed _____
<input type="checkbox"/> Min. Acres	<input type="checkbox"/> Part GRANTED	Date Notice Sent _____
<input type="checkbox"/> Use/Condition	<input type="checkbox"/> Deemed	
<input type="checkbox"/> Gross Sales	<input type="checkbox"/> All	<b>BOARD OF ASSESSORS</b>
	<input type="checkbox"/> Part DENIED	_____
	<input type="checkbox"/> Deemed	_____
		Date _____



# SAMPLE FOREST MANAGEMENT PLAN



Submitted to: DEM, Division of Forests & Parks  
For enrollment in CH61/61A and/or Forest Stewardship Program

## CHECK-OFFS

CH. 61 cert.  X  
 recert. \_\_\_\_\_  
 amend. \_\_\_\_\_

CH. 61A cert. \_\_\_\_\_  
 recert. \_\_\_\_\_  
 amend. \_\_\_\_\_

STWSHP. new  X  
 revis. \_\_\_\_\_

C-S SIP 1  X  
 other \_\_\_\_\_

Case No. \_\_\_\_\_ Orig. Case No. \_\_\_\_\_  
 Owner ID \_\_\_\_\_ Add. Case No. \_\_\_\_\_  
 Date Rec'd \_\_\_\_\_ Ecoregion \_\_\_\_\_  
 Plan Period \_\_\_\_\_ Topo Name Shutesbury  
 Rare Spp. Hab. \_\_\_\_\_ River Basin Connecticut

## OWNER, PROPERTY, and PREPARER INFORMATION

Property Owner(s) Joseph and Catherine Sample  
 Mailing Address 132 Maple Rd. Shutesbury, MA 01072 Phone (555) 555-1212

Property Location: Town(s) Shutesbury Road(s) Maple

Plan Preparer Chris Stewart Mass. Forester License # 1  
 Mailing Address 24 Big Wood Drive Lake Pleasant, MA 01347 Phone (555) 555-6778

## RECORDS

Assessor's Map No.	Lot/Parcel No.	Deed Book	Deed Page	Total Acres	(non-Ch. 61/61A) Excluded Acres	(Ch. 61/61A) Certified Acres	Stew. Acres
412	43	17115	181	37	1.5	35.5	35.5
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
TOTALS				37	1.5	35.5	35.5

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

Beginning at a point along the southern boundary approximately 787.25 ft. from the southeastern corner. Thence S85W 255.6', thence N5W 255.6', thence N85E 255.6', thence S5E 255.6'. Includes 1.5 acres more or less.

**HISTORY** Year acquired 1978 Year management began 2001

Is subdivision plan on file with municipality? Yes \_\_\_\_\_ no  X

Are boundaries blazed/painted? Yes \_\_\_\_\_ no \_\_\_\_\_ partially  X

Have forest products been cut within past 2 years? Yes \_\_\_\_\_ No  X

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)

# GENERAL LAWS OF MASSACHUSETTS

## PART I. ADMINISTRATION OF THE GOVERNMENT

### TITLE . TAXATION

#### CHAPTER 61A. ASSESSMENT AND TAXATION OF AGRICULTURAL AND HORTICULTURAL LAND

##### Chapter 61A: Section 4 Valuation of land in agricultural, etc. use; contiguous land; tax rate

Section 4. For general property tax purposes, the value of land, not less than five acres in area, which is actively devoted to agricultural, horticultural or agricultural and horticultural uses during the tax year in issue and has been so devoted for at least the two immediately preceding tax years, shall, upon application of the owner of such land and approval thereof, be that value which such land has for agricultural or horticultural purposes. For the said tax purposes, land so devoted shall be deemed to include such contiguous land under the same ownership as is not committed to residential, industrial or commercial use and which is covered by application submitted pursuant to section six. Land shall be deemed contiguous if it is separated from other land under the same ownership only by a public or private way or waterway.

Land under the same ownership shall be deemed contiguous if it is connected to other land under the same ownership by an easement for water supply. All such land which is contiguous or is deemed contiguous for purposes of this chapter shall not exceed in acreage one hundred per cent of the acreage which is actively devoted to agricultural, horticultural or agricultural and horticultural uses.

The rate of tax applicable to such agricultural or horticultural land shall be the rate determined to be applicable to class three, commercial property under chapter fifty-nine.

#### CHAPTER 61A. ASSESSMENT AND TAXATION OF AGRICULTURAL AND HORTICULTURAL LAND

##### Chapter 61A: Section 15 Taxation of buildings and land occupied by dwelling

Section 15. All buildings located on land which is valued, assessed and taxed on the basis of its agricultural or horticultural uses in accordance with the provisions of this chapter and all land occupied by a dwelling or regularly used for family living shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable property.

#### CHAPTER 61A. ASSESSMENT AND TAXATION OF AGRICULTURAL AND HORTICULTURAL LAND

##### Chapter 61A: Section 16 Continuance of land valuation, assessment and taxation under this chapter dependent upon qualifying use

Section 16. Continuance of land valuation, assessment and taxation under the provisions of this chapter shall depend upon continuance of such land in agricultural or horticultural uses and compliance with other requirements of this chapter and not upon continuance in the same owner of title to such land. Liability to roll-back taxes, determined pursuant to section thirteen, shall attach when such land no longer qualifies as actively devoted to agricultural or horticultural use and shall be the obligation of the then owner of the land. For purposes relating to roll-back taxes such qualification shall depend on the actual use of such land, and not on the filing of application under section six for any year.

# GENERAL LAWS OF MASSACHUSETTS

## PART I. ADMINISTRATION OF THE GOVERNMENT

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### TITLE . TAXATION

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#### CHAPTER 61. CLASSIFICATION AND TAXATION OF FOREST LANDS AND FOREST PRODUCTS

##### Chapter 61: Section 8 Conversion of land to residential, industrial or commercial use; notice to city or town; first refusal option

Section 8. Land taxed under this chapter shall not be sold for, or converted to, residential, industrial or commercial use while so taxed unless the city or town in which such land is located has been notified of the intent to sell for, or so convert to, such other use; provided, however, that the discontinuance of forest certification shall not, in itself, be deemed a conversion. Specific use of land for a residence for the owner or the parent, grandparent, child, grandchild, or brother or sister of the owner, or the surviving husband or wife of any deceased such relative, or for living quarters for any persons actively employed full time in the forest use of such land, shall not be deemed to be a conversion for purposes of this section and a certificate of the board of assessors, recorded with the registry of deeds, shall conclusively establish that a particular use is such a use. For a period of one hundred and twenty days subsequent to such notification, said city or town shall have, in the case of intended sale, a first refusal option to meet a bona fide offer to purchase said land, or, in the case of intended conversion not involving sale, an option to purchase said land at full and fair market value to be determined by impartial appraisal. After a public hearing, said city or town may assign either of such options to a nonprofit conservation organization under such terms and conditions as the mayor or board of selectmen deem appropriate. Such assignment shall be for the purpose of maintaining the major portion of the property subject to this assignment in use as forest land. Notice of such public hearing shall be given in accordance with the provisions of section twenty-three B of chapter thirty-nine. Such notice of intent shall be sent by the landowner by certified mail to the mayor and city council of a city, or to the board of selectmen of a town, to its board of assessors and to its planning board and conservation commission, if any, and said option period shall run from the day following the latest date of deposit of any such notices in the United States mail. No sale or conversion of such land shall be consummated unless and until either said option period shall have expired or the landowner shall have been notified in writing by the mayor or board of selectmen of the city or town in question that said option will not be exercised. Such option may be exercised only by written notice signed by the mayor or board of selectmen, mailed to the landowner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds, within the option period. If either option has been assigned to a nonprofit conservation organization as provided in this section, such written notice shall state the name and address of such organization and the terms and conditions of such assignment. An affidavit before a notary public that he has so mailed such notice of intent on behalf of a landowner shall conclusively establish the manner and time of the giving of such notice; and such an affidavit, and such a notice that the option will not be exercised, shall be recorded with the registry of deeds. Each notice of intention, notice of exercise of the option and notice that the option will not be exercised shall contain the name of the record owner of the land and description of the premises so to be sold or converted adequate for identification thereof; and each such affidavit before a notary

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.\*

<u>Crop</u>	<u>Development Time Periods</u>
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.



September 7, 2005

Barbara West  
Board of Assessors  
P.O. Box 325  
Sheffield, MA 01257

Re: Chapter 61A – Change of Use  
Our File No. 2005-338

Dear Ms. West:

You wrote that an owner intends to use 2.338 acres of his Chapter 61A classified farmland to build a residence for himself and/or his farm employees. You inquired what would be the effect of the proposed change under Chapter 61A.

First, any construction would constitute a change in use of that portion of the land, dependent upon the circumstances, requiring that a rollback tax be assessed under Chapter 61A Sections 13 and 17. Alternatively, a conveyance tax may be applicable. The town, however, would not consider conveyance taxes if the property has remained in the same ownership for more than ten years as provided in Chapter 61A Section 12.

Second, the proposed change of use does not appear to trigger the town's right of first refusal to purchase the land since Chapter 61A Section 14 states in pertinent part that:

Specific use of land for a residence for the owner or a parent, grandparent, child, grandchild, or brother or sister of the owner, or the surviving husband or wife of any deceased such relative, or for living quarters for any persons actively employed full time in the agricultural or horticultural use of such land, shall not be deemed to be a conversion for purposes of this section....

Since the rollback tax sections of Chapter 61A do not contain similar exclusion language, any proposed change of use would result in the assessment of rollback taxes.

Third, in future years, the proposed dwelling and residential land will be assessed regular taxes at full and fair cash value under Chapter 59 as set forth in Chapter 61A Section 14.



February 24, 2004

Board of Assessors  
P.O. Box 55  
Chesterfield, MA 01012

Re: G.L. Ch. 61A and Ch. 61B  
Our File No. 2003-481

Dear Board Members:

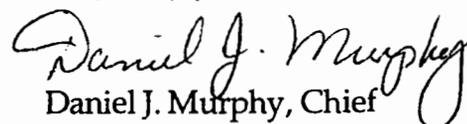
We acknowledge receipt of your letter regarding classified land in connection with residential zoning and apologize for the delay in responding.

Chapter 61A Section 15 excludes from farmland/horticultural classification "all land occupied by a dwelling or regularly used for family living." Similarly, Chapter 61B Section 10 excludes from recreational classification "all land occupied by a dwelling or regularly used for family living." In our view, both statutory provisions require that the taxpayer's residence (land area and building) be excluded from classification and be assessed at full and fair cash value under Chapter 59. With respect to the amount of land to be excluded from classification, we have advised assessors that it is the actual use of the land which is determinative and not what is specified for residential zoning. The assessors should request information from the taxpayer to determine the amount of land used for dwelling purposes. In the absence of such information, the assessors should use a consistent "houselot" area as being used for residential purposes. In any event, the critical test is the actual use of the land.

You then inquired whether the assessors could demand a sketch of the land to be classified. In our view, the taxpayer should be allowed to provide any information he believes helpful to support the claim of residential versus classified land use. The absence of a detailed drawing should not automatically lead to the denial of the Chapter 61A or Chapter 61B application. Accordingly, the taxpayer may choose to provide a more particular statement rather than a sketch.

We hope this information proves helpful.

Very truly yours,

  
Daniel J. Murphy, Chief  
Property Tax Bureau

DJM/JFC



COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES

Bureau of Local Assessment  
Informational Guideline Release (IGR) No. 90-401  
March 1990

ASSESSMENT OF NEW CONSTRUCTION  
Section 40 of Chapter 653 of the Acts Of 1989  
(Amending G.L. Ch. 59 §2A(a))

SUMMARY:

This legislation allows cities and towns that accept its provisions to assess new buildings, structures, or other physical improvements added to real property between January second and June thirtieth for the fiscal year beginning on July first. As a result, new construction or improvements built on the parcel during the first six months of the year will now be reflected in the assessed valuation of the parcel a fiscal year earlier. However, the statute does not change the January first assessment date. The taxable unit, ownership and value of real estate parcels will still be determined as of January first.

The assessment of personal property is not effected by this legislation.

The purpose of this legislation is to reduce the delay that now occurs between the construction and taxation of new buildings and other improvements to real estate.

GUIDELINES:

A. LOCAL ACCEPTANCE

1. Vote of Legislative Body

Only cities and towns that have accepted this legislation may assess new construction or improvements built by June thirtieth immediately in the next fiscal year. Acceptance requires a majority vote of town meeting, town council or city council.

2. Effective Date

The statute will be effective for fiscal year 1991 in cities and towns that accept it before July 1, 1990, unless another fiscal year is specifically designated in the acceptance vote. The statute will not be effective until FY92 in any city or town that accepts its provisions on or after July 1, 1990.

3. Notice of Acceptance

If a community accepts the statute, the city or town clerk should notify the Bureau of Local Assessment by submitting a "Notification of Acceptance".

B. ASSESSMENT OF REAL ESTATE

In a community that accepts the statute, the assessment of real estate parcels will be based on the buildings, structures and other physical improvements that are part of the parcel on June thirtieth instead of those that are part of the parcel on January first. Therefore, assessors should adjust their schedules and procedures for reviewing new construction and demolitions so that property record cards reflect the buildings, structures or other physical improvements that are part of each parcel of real property on June thirtieth, as well as their physical condition and utility on that date.

1. New Construction, Additions and Alterations

## 1. Taxable Unit or Parcel

The assessors will continue to determine what constitutes the taxable unit or parcel, as well as its ownership, as of January first. This means that any changes in the taxable unit occurring because of land splits and subdivisions or conversion to condominium units must still occur by January first to be reflected in the assessment roll for the fiscal year. In addition, any increase in value attributable to those types of changes in the legal status of the property will be reflected in the next fiscal year's valuation and assessment.

**Example No. 1.** On January 1, 1989, Developer A owned a 10 acre parcel of vacant land. On February 1, 1990, the planning board approved a subdivision plan for the property, which was recorded at the Registry of Deeds on March 1, 1990. The plan divided the property into 5 lots. As of June 30, 1990, the entire 10 acres remained vacant.

The approval and recording of the subdivision plan affects the legal status of the property, but does not constitute a physical addition to the real estate. Therefore, since the change in taxable unit made by the subdivision plan did not occur before January 1, 1990, the assessors in communities accepting the statute would continue to assess the property as a single 10 acre parcel to Developer A for FY91. Moreover, any increase in the value of the parcel attributable to the subdivision would not be included in the FY91 assessed valuation of the parcel. In FY92, the assessors would assess the property as 5 separate parcels and any increased value due to the subdivision of the property would be reflected in the assessed valuation of those 5 parcels.

**Example No. 2.** The same facts as above except that Developer A sold one of the lots to Taxpayer B on April 1, 1990 and immediately began constructing a single family house on the lot. As of June 30, 1990, the house was 50% complete.

As in the example above, the assessors in communities accepting the statute would continue to assess the property as a single 10 acre parcel to Developer A in FY91 and any increase in the land value attributable to the subdivision could not be included in the FY91 assessed valuation of the parcel. However, because the construction activity has resulted in a physical addition to the real estate, the value of the partially constructed house would be included in the FY91 assessed valuation of the parcel.

## 2. Usage Classification

The assessors will continue to determine the usage classification of real property as residential, open space, commercial or industrial property as of January first. This means that any changes in the use of property actually existing on January first must still occur by that date to be reflected in the assessment for the fiscal year.

However, if property has been the subject of construction activity or other change in physical characteristics or condition during the first six months of the year, the assessors would determine its usage classification as if the changes in the property had occurred by January first. The use of the property on June thirtieth will be deemed to be the use on January first.

**Example.** A property consisted of land and a single family home as of January 1, 1990. The property owner, a doctor, built an addition onto the house during the spring and began using it as his office on June 1, 1990.

In cities and towns that accept the statute, the property will be classified for FY91 as if the addition existed on January 1, 1990. This means that the new addition will be classified as commercial and the rest of the property will continue to be classified as residential. In cities and towns that do not accept the statute, the new addition would not be assessed for FY91 and therefore, the entire parcel would continue to be classified as residential.

## E. LEVY LIMIT INCREASE FOR TAX BASE GROWTH

The legislation does not change the criteria for determining and calculating the amount of increase permitted in the annual levy limit for allowable tax base growth under Proposition 2½. However, acceptance of the statute will result in certain allowable tax base growth for construction activity becoming part of the community's levy limit base a year earlier. Those types of tax base growth are: (1) new dwelling units, (2) increases of at least 50% for residential property, and (3) increases of at least \$100,000 or 50% for commercial or industrial property.

If a parcel has been the subject of any construction activity, during the first six months of the year, the new buildings, additions, renovations or other physical improvements existing on June thirtieth will now be assessed and taxed a fiscal year earlier.

**Example.** A property consisted of vacant land as of January 1, 1989. In the fall of 1989, construction of a new single family house begins. As of January 1, 1990, the foundation has been completed. Work resumes in the spring and on June 30, 1990, the house is 75% complete.

In cities and towns that accept the statute, the land and partially completed house existing on the land on June 30, 1990 would be assessed and taxed for FY91. In cities and towns that do not accept the statute, the land and foundation only would be assessed and taxed for FY91.

## 2. Destruction or Damage

If any buildings, structures or other physical improvements on a parcel have been removed, destroyed or damaged during the first six months of the year, those improvements are to be assessed and taxed based on their physical characteristics and condition on June thirtieth.

**Example No. 1.** A property consisted of land and a single family home as of January 1, 1990. On June 1, 1990, the house is partially damaged by a fire and as of June 30, 1990, no repairs have been made.

In cities and towns that accept the statute, the land and partially damaged house would be assessed and taxed for FY91. In cities and towns that do not accept the statute, the land and undamaged house would continue to be assessed and taxed for FY91.

**Example No. 2.** The same facts as above except that the house is completely destroyed by the fire. In the spring, the parcel is cleared and construction of a replacement house begins. As of June 30, 1990, the replacement house is 50% complete.

In cities and towns that accept the statute, the land and the partially completed replacement house existing on the property on June 30, 1990 will be assessed and taxed for FY91. In cities and towns that do not accept the statute, the land and the original house existing on the property on January 1, 1990 would be assessed and taxed for FY91.

## C. VALUATION

Once the assessors in communities accepting the statute have determined the buildings, structures or other physical improvements to be assessed for the year, they will appraise them as of January first. The fair market value of all taxable real property is to be determined as of January first. All valuation schedules should continue to reflect market conditions as of January first. In addition, any changes in zoning, availability of municipal and utility services or other factors relevant to the value of a particular parcel must still occur by January first to be reflected in the assessed valuation of the property for the fiscal year. Any value increases or decreases attributable to changes in market conditions or other factors will not be reflected until the following year's assessment.

**Example.** Taxpayer A owns a vacant lot that was subdivided, and provided with all necessary utilities several years ago. As of January 1, 1990, the lot was still vacant, but a new single family house is constructed on the parcel during the spring and is complete as of June 30, 1990. The assessors determine that the value of the land and house as of January 1, 1990 would be \$200,000. In May 1990, a significant nuisance developed near the property which adversely affects its value.

Since the change in the market conditions for this type of property did not occur by January 1, 1990, the assessors in communities accepting the statute will continue to assess the property at \$200,000 for FY91. Any decrease in value attributable to the change in market conditions will be reflected in the FY92 assessed valuation of the parcel.

## D. TAXABLE PARCEL

Real estate taxes will continue to be assessed annually as of January first for the fiscal year that begins on the next July first. Therefore, the taxable unit or parcel, ownership and usage classification of real estate parcels will still be determined as of January first.

Assessors in communities accepting the statute should develop procedures for tracking allowable tax base growth to ensure it is reported in the proper fiscal year, particularly for those parcels that may qualify for more than one fiscal year. For example, if a parcel has been subdivided and had a house built upon it during the first six months of 1990, the growth due to the construction activity would be allowable in FY91, while the growth attributable to the subdivision would be allowable in FY92.

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The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

P.O. Box 9655, Boston, MA 02114-9655 (617) 626-2300

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# Informational Guideline Release

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Property Tax Bureau  
Informational Guideline Release (IGR) No. 03-209  
August 2003

(Supersedes IGR 99-206)

## SUPPLEMENTAL TAX ASSESSMENT ON NEW CONSTRUCTION

Chapter 46 §§41 and 42 of the Acts of 2003  
(Amending G.L. Ch. 59 §2D)

This Informational Guideline Release (IGR) informs local officials that effective immediately the law that allows supplemental tax assessments on the value of certain improvements to real estate constructed after January 1 upon issuance of an occupancy permit applies in all cities and towns that do not notify the Department of Revenue of its rejection. The law is no longer a local acceptance statute.

Topical Index Key:

Abatements and Appeals  
Assessment Administration  
Tax Bills

Distribution:

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

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Post Office Box 55490, Boston, MA 02205-5490, Tel: 617-626-2300; Fax: 617-626-2330 <http://www.dls.state.ma.us>

(Supersedes IGR 99-206)

**SUPPLEMENTAL TAX ASSESSMENT ON NEW CONSTRUCTION**

**Chapter 46 §§41 and 42 of the Acts of 2003  
(Amending G.L. Ch. 59 §2D)**

**SUMMARY:**

Under G.L. Ch. 59 §2D, cities and towns may make a pro rata tax assessment on the value of certain improvements to real estate made after the January 1 assessment date. The assessment is made only on those parcels for which an occupancy permit is issued during the fiscal year and the new construction increases the parcel value by over 50 percent. This assessment is in addition to the regular property tax that is assessed on the property based on its January 1 status. It is calculated by applying the tax rate to the value of the improvement and pro-rating that amount over the remainder of the fiscal year after the permit was issued. If the permit was issued between January 1 and June 30, a pro forma tax assessment may be imposed for the following fiscal year as well. In addition, the assessors must abate property taxes on any parcel in the community whenever it loses more than 50 percent of its value due to fire or other natural disaster after the assessment date. The purpose of this supplemental assessment is to provide the city or town with some of the real estate taxes that would have been due for the fiscal year if the new construction had existed on that year's assessment date.

Under a recent amendment, the statute **now applies automatically unless** the Department of Revenue is notified in writing by the selectmen, town council or city council, with the mayor's approval if required by law, of its rejection. Previously, the statute only applied if accepted by voter referendum.

Assessors must assess supplemental assessments on any qualifying new construction for which an occupancy permit issues, and grant abatements on any qualifying property loss that occurs, after **July 31, 2003**, the effective date of the amendment, unless their city or town rejects the statute and notifies the Department. **Any community that does not intend to implement the statute for FY04 should notify the Department of its rejection by the time it sets its FY04 tax rate.** See Section I below.

These guidelines amend Section I of the guidelines issued when G.L. Ch. 59 §2D was enacted to reflect the new rejection process. See Property Tax Bureau Informational Guideline Release No. 99-206, *Supplemental Tax Assessment on New Construction* (April 1999). Examples have also been updated, but the other sections are unchanged.

Rescission is also by majority vote of the selectmen, town council or city council, with the approval of the mayor if required by law, and written notice must be given to the Department to be effective. See the attached "Notice of Rescission." The vote and notice should be made before the beginning of the fiscal year the rescission is to take effect to allow the assessors and collector sufficient time to plan for implementation. The following language is recommended for the vote:

VOTED: That the city/town of \_\_\_\_\_ rescind its vote of \_\_\_\_\_, \_\_\_\_\_ to reject the provisions of G.L. Ch. 59 §2D and make those provisions applicable in the city/town for fiscal years that begin on or after July 1, \_\_\_\_\_.

## II. SUPPLEMENTAL ASSESSMENTS

A supplemental tax assessment is made on a real estate parcel for the fiscal year whenever (1) a temporary or permanent occupancy permit is issued for that parcel during that fiscal year and (2) the new construction or improvement made after the annual assessment for the fiscal year has increased the assessed value of the parcel by over 50 percent. In some cases, a supplemental tax assessment may be made for the following fiscal year as well.

### A. Occupancy Permits

Assessments are triggered by the issuance of a temporary or permanent occupancy permit. Therefore, the assessors and building inspectors will have to develop a system for ensuring that the assessors' office receives timely notification of all occupancy permits issued.

### B. Assessment

#### 1. Pro Rata Supplemental Assessment

For the fiscal year in which the occupancy permit is issued, any supplemental tax assessment will be pro-rated based on the number of days left in the fiscal year after the permit issued. The assessment is based on the increased valuation that results from the parcel's being improved by new construction after the regular tax assessment on the property was determined for that fiscal year. An assessment may be made only if the value of the parcel, as improved by the new construction, is more than 50 percent higher than the assessed value for the year. No assessment is made if the construction results in a 50 percent or less increase in the valuation of the parcel.

The pro rata assessment is computed by applying the tax rate for the current fiscal year, *i.e.*, the fiscal year in which the occupancy permit is issued, to the value of the improvement and multiplying the result by a fraction.

- a. The value of the improvement is the difference between (1) the assessed valuation of the parcel for the current fiscal year, and (2) the valuation of the parcel as improved, *i.e.*, the assessed valuation that the parcel would have had if the improvement had existed on that year's assessment date.
- b. The numerator of the fraction is the number of days remaining in the fiscal year after the permit was issued and the denominator is 365.

### Example 1

A parcel of vacant residential land is assessed for \$25,000 as of January 1, 2003, at a FY04 tax rate of \$10.00. On April 1, 2004, an occupancy permit is issued after construction of a new house. If the house had existed when the FY04 assessment was determined, the assessed valuation of the parcel would have been \$130,000. Here the value of the parcel with the improvement (\$130,000) is more than 50% of the FY04 assessed valuation of the parcel (\$25,000). A FY04 pro rata supplemental tax assessment is made on the value of the improvement as follows:

$$(\$105,000 \times \$10.00/1000) \times 90/365 = \$258.90$$

### Example 2

A parcel with a house is assessed for \$200,000 as of January 1, 2003, at a FY04 tax rate of \$10.00. During FY04, the house is torn down and a larger, modern house is built. An occupancy permit for the new house is issued on April 1, 2004. If the new house had existed when the FY04 assessment was determined, the assessed valuation of the parcel would have been \$350,000. Here the value of the parcel with the improvement (\$350,000) is also more than 50% of the FY04 assessed valuation of the parcel (\$200,000) so a FY04 pro rata supplemental tax assessment is made on the value of the improvement as follows:

$$(\$150,000 \times \$10.00/1000) \times 90/365 = \$369.87$$

## 2. Pro Forma Supplemental Assessment

If the permit is issued between January 1 and June 30, the parcel may also be subject to a full pro forma supplemental tax assessment for the following fiscal year unless the community has adopted Chapter 653 §40 of the Acts of 1989. In that case, the value of the improvement will already be included in the following year's regular property tax assessment and therefore, only a pro rata assessment could be made for the fiscal year in which the permit was issued.

Here, the assessment is based on the increased valuation that results from the parcel being improved by new construction after the regular tax assessment on the property was determined for the fiscal year of the pro forma assessment, *i.e.*, for the next fiscal year. Again, an assessment may be made only if the value of the parcel with the improvement is more than 50 per cent higher than the assessed value for that particular year. Therefore, both the improved valuation and the assessed valuation of the parcel may differ from those used to determine the pro rata assessment depending on when the construction occurs and the community revalues.

The pro forma assessment is computed by applying the next fiscal year's tax rate to the value of the improvement for that year. The value of the improvement is the difference between (1) the assessed valuation of the parcel for the next fiscal year, and (2) the valuation of the parcel as improved, *i.e.*, the assessed valuation that the parcel would have had if the improvement had existed on that year's assessment date.

### Example 3

The construction activity for the new house on the parcel of vacant land described in Example 1 all takes place after January 1, 2004 and the community does not revalue for FY04. In a community not adopting Ch. 653, the FY05 assessed valuation of the parcel would still be \$25,000 and the value of the parcel as improved would still be \$130,000. The value of the improved parcel (\$130,000) would also still be more than 50% of the FY05 assessed valuation of the parcel (\$25,000). Therefore, a FY05 pro forma supplemental tax assessment would be made on the value of the improvement using the FY05 tax rate of \$10.15 as follows:

$$\$105,000 \times \$10.15/1000 = \$1,065.75$$

#### Example 4

The construction activity for the new house on the parcel of vacant land described in Example 1 all takes place after January 1, 2004, but the non- Ch. 653 community revalues so the FY04 assessed valuation of the parcel is now \$40,000. In addition, the value of the improved parcel is now \$175,000. Since the value of the improved parcel (\$175,000) is more than 50% of the FY05 assessed valuation of the parcel (\$40,000), a FY05 pro forma supplemental tax assessment would be made on the value of the improvement using the FY05 tax rate of \$9.75 as follows:

$$\$135,000 \times \$9.75/1000 = \$1,316.25$$

#### Example 5

The new house on the parcel of vacant land described in Example 1 was about 75% complete before January 1, 2004 and the non-Ch. 653 community does not revalue for FY05. The FY05 assessed valuation of the parcel is now \$105,000, with the value of the rest of the house constructed after January 1 at \$25,000. Here, the assessed value of the parcel with the completed house (\$130,000) is not more than 50% of the FY2001 assessed valuation of the parcel (\$105,000). Therefore, no FY05 pro-forma supplemental tax assessment would be made.

### 3. Person Assessed

Supplemental tax assessments are made to the person(s) assessed the regular real estate tax on the parcel for the fiscal year of the supplemental assessment, *i.e.*, the record owner as of the applicable January 1 assessment date. Therefore, if a parcel subject to both a pro rata and pro forma supplemental tax assessment has had a change in ownership, the assessments could be made to different owners depending on when the transfer occurred.

4. Usage Classification and Tax Rate

In communities using multiple tax rates, the usage classification of properties on January 1 of the fiscal year of the supplemental tax assessment will generally govern the tax rate to apply. However, if the construction activity results in a change in classification, the assessors should use the tax rate that would have applied if the construction had been completed by January 1.

**Example 6**

A parcel of vacant land is classified as commercial property as of January 1, 2003 for FY04. During the fall of 2003, a ten-unit apartment building is constructed on the property. An occupancy permit is issued January 15, 2004. Any pro rata supplemental tax assessment made for FY04 would be computed using the residential tax rate.

5. Commitment and Warrant

a. Form and Content

The assessors must commit the supplemental tax assessments, with a warrant, to the collector. The commitment should be in the same form as the regular real estate commitment, but captioned to indicate it is for supplemental tax assessments under the provisions of G.L. Ch. 59 §2D, and should contain the same information. This includes, at a minimum, (1) the name of the assessed owner of the parcel as of January 1, (2) property identification, (3) the amount of the supplemental assessment and (4) the amount of each installment payment (See Section III-B below).

Separate commitments must be made for each year's supplemental assessments, whether pro rata or pro forma.

Regular real estate tax warrants may also be used if modified to indicate that they are for supplemental tax assessments under G.L. Ch. 59 §2D.

b. Deadline

There is no statutory deadline for committing the supplemental tax assessments, unlike omitted and revised assessments made under G.L. Ch. 59 §§75 and 76. Wherever possible, however, assessors should have all supplemental assessments for a particular fiscal year committed no later than the date of the actual commitment for the year the improvement becomes subject to regular real estate taxes.

Assessors should make a first commitment of supplemental assessments contemporaneously with, or shortly after, the actual tax commitment each fiscal year. That first commitment should include all (1) pro rata assessments for that year due to occupancy permits issued before the tax rate was set, and (2) pro forma assessments for the year due to permits issued between January 1 and June 30 of the previous fiscal year.

Thereafter, assessors should establish a monthly or other appropriate schedule for committing pro rata supplemental assessments triggered by occupancy permits issued after the tax rate is set. This will ensure the assessments are made in a timely fashion after the permit is issued.

### III. COLLECTION OF ASSESSMENTS

The provisions of law regarding the procedures for issuing, mailing, paying and collecting property tax bills generally apply to supplemental tax assessments.

#### A. Bill Form and Content

After receiving the commitment, the collector will issue bills for the supplemental tax assessments. If a property is subject to a pro rata and pro forma supplemental assessment, separate bills must be issued for each year's assessment. The bill should show just the additional amount assessed. Regular real estate tax bills issued for the applicable year may be used to bill the supplemental assessment, but the bill or an enclosure should explain that the bill is for an assessment under G.L. Ch. 59 §2D.



# Informational Guideline Release

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Property Tax Bureau  
Informational Guideline Release (IGR) No. 04-208  
April 2004

## TEMPORARY FINANCIAL HARDSHIP PROPERTY TAX DEFERRAL

G.L. Ch. 59 §5(18A)

This Informational Guideline Release (IGR) informs local officials about a new property tax deferral assessors may grant to individuals with financial hardships.

Topical Index Key:

Accounting Policies and Procedures  
Collection Procedures  
Exemptions

Distribution:

Assessors  
Collectors  
Treasurers  
Accountants/ Auditors

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**TEMPORARY FINANCIAL HARDSHIP PROPERTY TAX DEFERRAL**

**G.L. Ch. 59 §5(18A)**

**SUMMARY:**

These guidelines explain the provisions of a new property tax deferral, G.L. Ch. 59 §5(18A), that assessors may now grant to taxpayers experiencing temporary financial difficulties. The taxpayer may be of any age and the financial hardship may be due to any number of reasons, including a change to active military status. Assessors have the discretion to establish specific criteria for determining whether a taxpayer meets the statutory standard of financial hardship in the same manner they establish criteria for granting the Clause 18 hardship exemption to older taxpayers who are sick or disabled and of limited means. A Clause 18A deferral can be granted for a maximum period of three consecutive years. At the end of that period, the deferred taxes must be paid. The taxpayer may pay the deferred taxes, plus interest, in annual installments over a five-year period. The first payment is due two years after the last year of the deferral.

Except for the limited deferral period, the Clause 18A deferral operates similarly to the deferral available to qualifying seniors under G.L. Ch. 59 §5(41A). The taxpayer must enter into a deferral agreement with the assessors, the assessors record a lien statement to ensure the community can collect the amount deferred if the taxpayer does not pay it, the collector establishes a deferral account, which has the same status as a tax title, and the treasurer issues the release of lien upon payoff, as with a tax title redemption.

**GUIDELINES:**

**I. APPLICATION PROCEDURE**

**A. Application Deadline**

A taxpayer must file an application on an approved form with the board of assessors for each fiscal year for which a Clause 18A deferral is sought (State Tax Form 99). Each year's application is due on or before December 15, or three months after the actual tax bill for the fiscal year is mailed, whichever is later. Assessors may not waive the filing deadline, nor act on a late-filed application.

**B. Appeals**

An applicant aggrieved by the assessors' action on an application for a hardship deferral may bring a civil action in the Superior Court or Supreme Judicial Court within 60 days of the assessors' decision. To prevail, the applicant must show that the decision was unlawful, or arbitrary or capricious.

**II. DEFERRAL QUALIFICATIONS**

**A. Eligibility Date**

Clause 18A deferral status is determined as of July 1. Any ownership, occupancy or financial hardship requirement for the deferral must be met as of that date.

**B. Ownership**

An applicant must be a natural person who owns the property on July 1. The applicant may be the sole owner or own jointly with a spouse or others. The property may not be owned in whole or in part by a corporation or other business entity, however.

As with personal exemptions and the Clause 41A senior deferral, an applicant who holds a life estate in the property is considered its owner. If the property is held in trust, the applicant must be a trustee who also has a sufficient beneficial interest in the property.

**C. Domicile**

The applicant must occupy the property as his or her domicile on July 1 and must have been domiciled in Massachusetts for the preceding ten years. The ten years must be consecutive, but the taxpayer need not have lived all of those years in the same location in Massachusetts.

If the applicant has co-owners, only the applicant must meet the current and durational domiciliary requirements.

**D. Financial Hardship**

The applicant must demonstrate a financial hardship, *i.e.*, the applicant currently lacks the financial resources to pay the taxes because of a change to active military status (not including initial enlistment), unemployment, illness or other reason as determined by the assessors.

Assessors may consider various factors in determining whether a taxpayer meets the statutory standard of financial hardship and may request any relevant financial records and documents to evaluate the application. Assessors should establish appropriate policies and criteria to ensure that they treat similarly situated taxpayers fairly and equitably, while maintaining some flexibility to address unique situations.

**1. Financial Resources**

Factors bearing on the financial resources of the applicant include, but are not limited to, the following:

- Income of the applicant, applicant's spouse, other adult household members and any co-owners not members of the household. Income means receipts from all sources regardless of income tax status under federal or state law, including wages, salaries and bonuses, public and private pensions, retirement income, Social Security, alimony, child support, interest and dividend income, net income from business, public assistance, disability and unemployment insurance, regular contributions/support/gifts from children or other parties outside the household.
- Savings, investments and other assets of applicant, applicant's spouse, other adult household members and any co-owners not members of the household.
- Military or employment status of applicant and applicant's spouse.
- Length of time applicant or applicant's spouse has been unemployed.
- Ability of applicant and applicant's spouse to work.
- Illness or disability of applicant, applicant's spouse, family member or other dependent.

**2. Documentation**

Supporting documentation may include, but is not limited to, the following:

- Federal and state income tax returns.
- Savings and checking account statements.
- Social security and pension fund statements.
- Records of public assistance.
- Schedules of assets.
- Outstanding bills.

**TABLE A**  
**INSTALLMENT PAYMENT CALCULATION**

**1<sup>ST</sup> INSTALLMENT**

**Semi-annual Billing System = \$1568** [\$660 taxes (\$3,300 ÷ 5), plus \$908 accrued interest from tax payment due dates to 6/30/05 (1<sup>st</sup> installment due date)]

FY	Tax Assessed	Tax Deferred	Due From	To	Time in Years	@ 8%	Tax	Interest
1	\$2,000	\$1,000	10/1/00 4/1/01	6/30/05 6/30/05	4.75 4.25	38% 34%	\$500 500	\$190 170
2	2,200	1,100	10/1/01 4/1/02	6/30/05 6/30/05	3.75 3.25	30% 26%	550 550	165 143
3	2,400	1,200	10/1/02 4/1/03	6/30/05 6/30/05	2.75 2.25	22% 18%	600 600	132 108
<b>TOTALS</b>	<b>6,600</b>	<b>\$3,300</b>						<b>\$908</b>

**Quarterly Billing System = \$1,579.88** [\$660 taxes (\$3,300 ÷ 5), plus \$919.88 accrued interest from tax payment due dates to 6/30/05 (1<sup>st</sup> installment due date)]

FY	Tax Assessed	Tax Deferred	Due From	To	Time in Years	@ 8%	Tax	Interest
1	\$2,000	\$1,000	8/1/00 11/1/00 2/1/01 5/1/01	6/30/05 6/30/05 6/30/05 6/30/05	4.92 4.67 4.42 4.17	39.36% 37.36% 35.36% 33.36%	\$250 250 250 250	\$98.40 93.40 88.40 83.40
2	2,200	1,100	8/1/01 11/1/01 2/1/02 5/1/02	6/30/05 6/30/05 6/30/05 6/30/05	3.92 3.67 3.42 3.17	31.36% 29.36% 27.36% 25.36%	275 275 275 275	86.24 80.74 75.24 69.74
3	2,400	1,200	8/1/02 11/1/02 2/1/03 5/1/03	6/30/05 6/30/05 6/30/05 6/30/05	2.92 2.67 2.42 2.17	23.36% 21.36% 19.36% 17.36%	300 300 300 300	70.08 64.08 58.08 52.08
<b>TOTALS</b>	<b>6,600</b>	<b>\$3,300</b>						<b>\$919.88</b>

TABLE A  
INSTALLMENT PAYMENT CALCULATION

2<sup>ND</sup> INSTALLMENT = \$871.20 [\$660 taxes, plus \$211.20 accrued interest on \$2,640 balance from 6/30/05 (1<sup>st</sup> installment due date) to 6/30/06 (2<sup>nd</sup> installment due date)]

3<sup>RD</sup> INSTALLMENT = \$ 818.40 [(\$660 taxes, plus \$158.40 accrued interest on \$1,980 balance from 6/30/06 (2<sup>nd</sup> installment due date) to 6/30/07 (3<sup>rd</sup> installment due date)]

4<sup>TH</sup> INSTALLMENT = \$765.60 [(\$660 taxes, plus \$105.60 accrued interest on \$1,320 balance from 6/30/07 (3<sup>rd</sup> installment due date) to 6/30/08 (4<sup>th</sup> installment due date)]

5<sup>TH</sup> INSTALLMENT = \$712.80 [(\$660 taxes, plus \$52.80 accrued interest on \$660 balance from 6/30/08 (4<sup>th</sup> installment due date) to 6/30/09 (5<sup>th</sup> installment due date)]

**TABLE B**  
**EARLY PAYOFF CALCULATION**

BEFORE ANY PAYMENT Assume payoff on 4/1/04 before any payment of deferred taxes

Semi-annual Billing System - Amount due = \$3,878 [(\$3,300 deferred taxes, plus \$578 accrued interest from tax payment due dates to 4/1/04 (payoff date)]

FY	Tax Assessed	Tax Deferred	Due From	To	Time in Years	@8%	Tax	Interest	Total Fiscal Year
1	\$2,000	\$1,000	10/1/00 4/1/01	04/01/04 04/01/04	3.5% 3.0%	28% 24%	\$500 500	\$140 120	\$1,260
2	2,200	1,100	10/1/01 4/1/02	04/01/04 04/01/04	2.5% 2.0%	20% 16%	550 550	110 88	1,298
3	2,400	1,200	10/1/02 4/1/03	04/01/04 04/01/04	1.5% 1.0%	12% 8%	600 600	72 48	1,320
<b>TOTALS</b>	<b>6,600</b>	<b>\$3,300</b>					<b>\$3,300</b>	<b>\$578</b>	<b>\$3,878</b>

Quarterly Billing System - Amount due = \$3,889.88 [(\$3,300 deferred taxes, plus \$589.88 accrued interest from tax payment due dates to 4/1/04 (payoff date)]

FY	Tax Assessed	Tax Deferred	Due From	To	Time in Years	@8%	Tax	Interest	Total Fiscal Year
1	\$2,000	\$1,000	8/1/00 11/1/00 2/1/01 5/1/01	4/1/04 4/1/04 4/1/04 4/1/04	3.67 3.42 3.17 2.92	29.36 27.36 25.36 23.36	\$250 250 250 250	\$73.40 68.40 63.40 58.40	\$1,263.60
2	2,200	1,100	8/1/01 11/1/01 2/1/02 5/1/02	4/1/04 4/1/04 4/1/04 4/1/04	2.67 2.42 2.17 1.92	21.36 19.36 17.36 15.36	275 275 275 275	58.74 53.24 47.74 42.24	1,301.96
3	2,400	1,200	8/1/02 11/1/02 2/1/03 5/1/03	4/1/04 4/1/04 4/1/04 4/1/04	1.67 1.42 1.17 .92	13.36 11.36 9.36 7.36	300 300 300 300	40.08 34.08 28.08 22.08	1,324.32
<b>TOTALS</b>	<b>6,600</b>	<b>\$3,300</b>					<b>\$3,300</b>	<b>\$589.88</b>	<b>\$3,889.88</b>

AFTER INSTALLMENT PAYMENT MADE - Assume payoff on 4/1/07 after 1<sup>st</sup> and 2<sup>nd</sup> installments paid

Amount due = \$2,099.34 [\$1,980 unpaid balance of deferred taxes, plus \$119.34 accrued interest from 6/30/06 (2<sup>nd</sup> installment due date) to 4/1/07 (payoff date)]

**DEFINITION OF MASSACHUSETTS VETERAN**  
**M.G.L. c. 4, sec. 7, cl. 43<sup>rd</sup> as amended by the Acts of 2005, ch. 130**

ERA of Service	DATES	Requirement for Veteran Status
<b>WWI</b>	6-Apr-1917 11-Nov-1918	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
<b>PEACETIME</b>	12-Nov-1918 15-Sep-1940	<b>180 days</b> of regular active duty service and a last discharge or release under honorable conditions.
<b>WWII</b> (Merchant Marine: 7-Dec-1941 through 31-Dec-1946)	16-Sep-1940 25-Jul-1947	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
<b>PEACETIME</b>	26-Jul-1947 24-Jun-1950	<b>180 days</b> of regular active duty service and a last discharge or release under honorable conditions.
<b>KOREA</b>	25-Jun-1950 31-Jan-1955	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
	Korean Defense Service Medal 28-Jul-1954 (to be determined later)	<b>90 days</b> of active duty service, last discharge under honorable conditions and the Korean Defense Service Medal
<b>VIETNAM I</b>	1-Feb-1955 4-Aug-1964	<b>180 days</b> of regular active duty service and a last discharge or release under honorable conditions.
<b>VIETNAM II</b>	5-Aug-1964 7-May-1975	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
<b>PEACETIME</b>	8-May-1975 1-Aug-1990	<b>180 days</b> of regular active duty service and a last discharge or release under honorable conditions.
	Lebanon Campaign * 25-Aug-1982 (to be determined later)	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
	Grenada Campaign * 25-Oct-1983 15-Dec-1983	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
	Panama Campaign * 20-Dec-1989 31-Jan-1990	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.
<b>PERSIAN GULF</b>	2-Aug-1990 (to be determined later)	<b>90 days</b> of active duty service, one (1) day during "wartime" and a last discharge or release under honorable conditions.

\*Naval and Marine DD214 must indicate Expeditionary Medal. All DD214's must specify campaign: Lebanon, Granada, or Panama.

- For **GUARD MEMBERS** to qualify they must have 180 days and have been activated under Title 10 of the U.S. Code **-OR-** Members who were activated under Title 10 or Title 32 of the U.S. Code or Massachusetts General Laws, chapter 33, sections 38, 40, and 41 must have 90 days, at least one of which was during wartime, per the above chart.
  - For **RESERVISTS** to qualify, they must have been called to regular active duty, at which point their eligibility can be determined by the above chart.
- Training Duty Exception:** Active duty service in the armed forces shall not include active duty for training in the Army or Air National Guard or active duty for training as a Reservist in the Armed Forces of the United States.

Minimum Service Exception (for Death or Disability)

It is not necessary that an applicant have completed the minimum service for wartime or peacetime campaign if he/she served some time in the campaign and was awarded the Purple Heart, or suffered a service-connected disability per the Discharge Certificate, or died in the service under honorable conditions.



# Bulletin

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2006-14B

## LOCAL TAX EXEMPTIONS FOR VETERANS

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

FROM: Gerard D. Perry, Deputy Commissioner, Division of Local Services

DATE: September 2006

SUBJECT: Amendments to Local Tax Exemptions for Veterans

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This *Bulletin* explains recent legislation, known as the Edward G. Connolly Massachusetts Military Enhanced Relief Individual Tax (MERIT) Plan, which generally expands eligibility for and the amount of property tax and motor vehicle excise exemptions available to veterans with service-connected disabilities. St. 2006, c. 260. Because the act does not have an emergency preamble, it will not take effect until November 12, 2006. Except as noted below, it does not expressly make the property tax exemption changes retroactive to the July 1, 2006 qualifying date for FY07. Nor has any appropriation been made of the additional funds needed to reimburse communities for the increased exemptions in FY07. Therefore, the revised property tax exemptions will not apply until FY08. We will notify you if the legislature takes any further action.

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

### Property Tax Exemption Eligibility

Property tax exemptions for disabled veterans are found in G.L. c. 59, §5, Clauses 22, 22A, 22B, 22C, 22D and 22E. The act expands eligibility for two of those exemptions.

First, the act makes a technical correction that allows the Clause 22E exemption for a veteran who has a 100% service-connected disability rating and is unable to work to be granted to the spouse if title to the veteran's domicile is held in the spouse's name. Previously, the spouse would have only qualified for a lesser exemption benefit under Clause 22(d) as the spouse of a veteran with a minimum 10% disability rating. The change makes eligible applicants for the Clause 22E exemption consistent with those eligible under Clauses 22A, 22B and 22C.

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It also expands the eligible recipients of the Clause 22D exemption to include surviving spouses of soldiers, sailors and members of the National Guard whose death was a direct result of injury or disease as a result of being in a combat zone, or who have been classified as missing in action and presumed dead as a result of combat. The surviving spouse must be domiciled in Massachusetts for 5 consecutive years before applying for the exemption, or the servicemember had to have been domiciled in Massachusetts for at least 6 months before entering the service. The surviving spouse will receive a full exemption for five years from the date of death and a full exemption but no more than \$2,500 in years thereafter. The exemption terminates upon the spouse's death or remarriage. Cities and towns will be fully reimbursed for the exemptions granted. Previously, the exemption under Clause 22D was \$250 and was limited to the surviving spouses of soldiers or sailors who lost their lives in combat at the islands of Quemoy and Matsu.

The act expressly makes the Clause 22D exemption retroactive for the surviving spouses of those soldiers, sailors or guardsmen who died in combat, or were presumed dead as a result of combat, on or after September 11, 2001. Depending on the date of death or presumed death, retroactive exemptions would be available for fiscal years 2003-2007. For example, the surviving spouse of a servicemember who died in combat between September 11, 2001 and June 30, 2002 would be eligible for a full Clause 22D exemption for five fiscal years beginning as of July 1, 2002 for fiscal year 2003. The spouse would receive a full exemption for fiscal years 2003-2007 and a full exemption but no more than \$2,500 beginning in fiscal year 2008. If the servicemember died in combat between July 1, 2002 and June 30, 2003, the surviving spouse would be eligible for a full exemption for five fiscal years beginning in fiscal year 2004.

The act does not extend the application deadline for those years or otherwise provide a new application deadline to obtain the retroactive exemption benefits. However, assessors who receive a timely exemption application from an eligible surviving spouse for any fiscal year that begins after the act is in effect (fiscal year 2008 and thereafter) should also determine if the surviving spouse qualified in any of the applicable prior years. If so, the retroactive exemptions should be granted at the same time and should be included in the community's request for reimbursement for the current year. Communities will be reimbursed to the extent that the annual appropriation for that purpose is sufficient.

**Property Tax Exemption Amounts and Reimbursements**

The act increases the amount of the property tax exemptions for Clauses 22, 22A, 22B, 22C and 22E. The amounts the Commonwealth will reimburse communities for the exemptions will increase by the same amounts. The chart below shows the changes:

Clause	Current		New beginning FY08	
	Exemption	State Reimbursement	Exemption	State Reimbursement
22(a-f)	\$250	\$ 75	\$400	\$225
22A	425	250	750	575
22B	775	600	1,250	1,075
22C	950	775	1,500	1,325
22E	600	425	1,000	825

### **Motor Vehicle Excise Exemptions**

All peacetime and wartime veterans as defined in G.L. c. 4, §7 are now eligible for the motor vehicle excise exemptions provided to veterans with certain service-connected disabilities under G.L. c. 60A, §1. Previously, the exemptions were expressly limited to veterans of World War I, World War II, the Korean War and the Viet Nam War. G.L. c. 60A, §1. The Massachusetts Department of Veterans' Services has prepared a chart showing qualifying peacetime and wartime service eras. The chart is available on its website: [http://www.mass.gov/Eveterans/docs/wartime\\_chart.pdf](http://www.mass.gov/Eveterans/docs/wartime_chart.pdf).

In addition, veterans who have been determined to be permanently disabled by the Medical Advisory Board within the Registry of Motor Vehicles for the purpose of issuing disabled veteran license plates will now be eligible for an excise exemption. Previously, only veterans with certain defined service-connected disabilities qualified for excise exemptions (actual loss, or permanent and complete loss of use, of at least one foot or one hand, or permanent impairment of vision meeting certain specifications in at least one eye).

The new eligibility standards will apply to excises assessed beginning in 2007. In addition, since there is no specific qualification date for motor vehicle excise exemptions, any disabled veteran who will now qualify for an excise exemption under the new expanded eligibility standards may apply on or after November 12, 2006 for an exemption of the 2006 excise. The exemption is limited to one motor vehicle owned and registered by the veteran for personal, non-commercial purposes. The application would be due three years from the date the 2006 excise was due, or one year from the date it was paid, whichever is later. G.L. c. 60A, §2.

### **Late Property Taxes**

The act creates a new local option statute, G.L. c. 59, §5L, that gives Massachusetts National guardsmen and reservists deployed outside the state, or their dependents, up to 180 days after that service to pay their property taxes without interest or penalties. It is patterned after a provision of the federal Servicemembers Civil Relief Act under which active duty personnel (including guardsmen called to Federal service and activated reservists) may pay their federal, state or local income taxes interest and penalty free up to 180 days after termination or release from service. 50 U.S.C. App. §570. There is no comparable federal deferral for payment of real and personal property taxes by active duty personnel, although collection activities are stayed and interest runs at 6% with no other penalties allowed. 50 U.S.C. App. §561. Acceptance would be by majority vote of the municipal legislative body, subject to local charter. G.L. c. 4, §4. Once accepted, it would apply to any outstanding property taxes of qualifying guardsmen and reservists and their dependents, regardless of when they fell due. Interest would be charged at the regular delinquency rate from the end of the 180 day period, unless the returning guardsman or reservist is still on active duty status and qualifies for the lower 6% rate under the Servicemembers Civil Relief Act.

**VETERAN EXEMPTIONS**  
**Applicants and Amounts**  
*Effective beginning in FY08*  
*(Changes in Bold)*

CLAUSE	TYPE	AMOUNTS		ELIGIBLE APPLICANTS			
		EXEMPTION	REIMBURSEMENT	VETERAN	SPOUSE	SURVIVING SPOUSE	SURVIVING PARENT
22(a)	Veterans with minimum 10% service connected disability	\$400	\$225	X			
22(b)	Veterans of certain pre-World War I conflicts	\$400	\$225	X			
22(c)	Veterans awarded purple hearts	\$400	\$225	X			
22(d)	Spouses and surviving spouses of Clause 22(a) – (c) veterans	\$400	\$225		X	Until remarriage	
22(e)	Gold star parents	\$400	\$225				X
22(f)	Surviving spouses of World War I service members	\$400	\$225			Until remarriage	
22A	Veterans who lost one hand, foot or eye or awarded certain service medals	\$750	\$575	X	X	X	
22B	Veterans who lost two hands, feet or eyes	\$1250	\$1075	X	X	X	
22C	Veterans with 100% disability and specially adapted housing	\$1500	\$1325	X	X	X	
22D	Surviving spouses of <b>service members or guardsmen who died from injury or disease due to being in combat zone, or who are missing in action and presumed dead due to combat</b>	Full – 1 <sup>st</sup> five years after death Full up to \$2500 after	Exemption granted			Until remarriage	
22E	Veterans with 100% disability and who are unable to work	\$1000	\$825	X	X	X	
	Paraplegic veterans	Full	All but \$175 of exemption granted	X		X	

## 2006 LEGISLATION

### **CHAPTER 139, §41 – CLAUSE 41C½ SENIOR EXEMPTION**

*Effective July 1, 2006*

Outside section 41 of the FY2007 state budget creates a new local option property tax exemption, G.L. c. 59, §5, Clause 41C½, for the domiciles of seniors 70 or older. If accepted, Clause 41C½ replaces the Clause 41, 41B or 41C senior exemption currently used by the city or town. Unlike other local option exemptions, acceptance is by referendum at a regularly scheduled municipal election.

The exemption is 5% of the average assessed value of residential parcels in the city or town and therefore, the exemption amount will vary from year to year. As with the Clause 41B and 41C exemptions, taxpayers must be domiciled in Massachusetts for 10 consecutive years and have owned and occupied a domicile here for any 5 years. However, there is no asset (whole estate) limit and the income (gross receipts) limit is tied to the senior circuit breaker state income tax credit limit for the prior state tax year for single persons who are not heads of households. See G.L. c. 62, §6(k). That limit increases each year by a cost of living adjustment factor and is generally higher than the maximum adjusted limit a community using Clause 41C could adopt. For example, if the exemption were in place for FY07, the gross receipts limit would be \$45,000, which was the circuit breaker income limit for single persons not head of households for the 2005 state tax year. The social security deduction from gross receipts does not apply and non-spousal co-owners are not required to meet the income limit for the applicant to qualify.

The municipality's legislative body can (1) increase the exemption amount to up to 20% of the average assessed value of residential property, (2) reduce the eligibility age to 65 or (2) reduce the durational residency requirement to 5 consecutive years.

Neither the exemption application due date provisions of G.L. c. 59, §59 (later of December 15 or 3 months after bills mailed), nor the optional additional exemption statute, c. 73, §4 of the Acts of 1986, were amended to include Clause 41C½. Therefore, applications are due the same day as abatement applications for the year and any additional exemption granted will not apply to the Clause 41C½ exemption.

Cities and towns will be reimbursed for the amount exempted or \$500, whichever is less, for each Clause 41C½ exemption granted up to their Clause 41 cap, *i.e.*, the number of exemptions granted under Clause 41 the last year it was used.

### EXAMPLE

The chart below uses a \$10 tax rate to show the exemption that a community could give a senior with a home at the community's average residential value. For example, if the community has an average residential value (ARV) of \$500,000, the exemption would need to be 10% for the senior to get a \$500 exemption. The maximum 20% exemption would yield an exemption of \$1,000.

ARV	Rate	5%	10%	15%	20%
250,000	10	125	250	375	500
500,000	10	250	500	750	1000
750,000	10	375	750	1125	1500
1,000,000	10	500	1000	1500	2000

As the chart below shows, community's with higher average values and tax rates, *e.g.*, Dover and Weston, would be able to use this to increase the exemption benefit to their seniors beyond the \$2000 that would now be possible using the Clause 41C options and a 100% optional additional exemption.

City/Town	Average SF Value*	FY06 Rate	5%	10%	15%	20%
Acton	525,000	14.38	378	756	1125	1512
Carlisle	735,000	12.99	478	956	1434	1912
Chatham	806,000	3.73	150	300	450	600
Chilmark	1,666,000	1.85	153	306	454	612
Concord	906,000	10.23	463	926	1389	1852
Dover	1,100,000	9.10	501	1002	1503	2004
East Longmeadow	232,000	17.08	198	396	594	792
Newton	780,000	9.36	365	730	1095	1460
Weston	1,293,000	9.95	643	1286	1929	2572

\*Chart used average single-family value as it was readily available, but Clause 41C½ is based on average residential value, which could be different depending on number of apartments, other multi-family with higher values, etc.



# Informational Guideline Release

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Bureau of Municipal Finance Law  
Informational Guideline Release (IGR) No. 06-201  
February 2006

Supersedes IGR 88-227 in part, 91-202 in full and 91-211 in part

## PROPERTY TAX DEFERRAL FOR SENIORS

Chapter 136 §1 of the Acts of 2005  
(G.L. Ch. 59 §5(41A))

This Informational Guideline Release (IGR) informs local officials about a change in the law allowing communities to reduce the interest rate that accrues on property taxes deferred by seniors. It also explains the standards and procedures that apply to senior property tax deferrals generally.

### Topical Index Key:

Accounting Policies and Procedures  
Collection Procedures  
Exemptions

### Distribution:

Assessors  
Collectors  
Treasurers  
Accountants/Auditors

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Supersedes IGR 88-227 in part, 91-202 in full and 91-211 in part

**SENIOR PROPERTY TAX DEFERRAL**

**Chapter 136 §1 of the Acts of 2005  
(G.L. Ch. 59 §5(41A))**

**SUMMARY:**

These guidelines explain recent legislation that amends G.L. Ch. 59 §5(41A), which allows seniors 65 or older who meet certain income and other requirements to defer all or part of their property taxes.

Under Clause 41A, interest on any deferred taxes accrues at 8% until the taxpayer sells the property or passes away. The amendment allows the legislative body of each community to establish an alternative lower interest rate for deferred taxes. No minimum is specified, but the maximum of 8% would govern if the city or town did not vote to reduce the rate. Any change in the rate must be voted no later than July 1 of the fiscal year to which the tax relates. Therefore, the new rate would apply to fiscal years beginning on any July 1 after the vote. It would remain in effect until another rate is voted for the fiscal years beginning on any July 1 after that vote. See Section IV-C-a. This amendment does not apply in communities operating under special acts that establish different procedures or interest rates for senior property tax deferrals.

These guidelines also explain the operation of the Clause 41A deferral generally and supersede any prior inconsistent statements found in Informational Guideline Release (IGR) No. 88-227, *Payment and Deferral of Municipal Charges* (August 1988), IGR 91-202, *Revised Procedures for Property Tax Deferrals* (February 1991) and IGR 91-211, *Eligibility for Hardship Exemptions and Tax Deferrals* (September 1991).

**GUIDELINES:**

**I. APPLICATION PROCEDURE**

**A. Application Deadline**

A taxpayer must file an application on an approved form with the board of assessors for each fiscal year for which a Clause 41A deferral is sought (State Tax Form 97). Each year's application is due on or before December 15, or three months after the actual tax bill for the fiscal year is mailed, whichever is later. Assessors may not waive the filing deadline, nor act on a late-filed application.

**B. Appeals**

An applicant aggrieved by the assessors' action on an application for a deferral may appeal to the state Appellate Tax Board, or the county commissioners if they live in a county where county government has not been abolished. The appeal must be filed within three months of the date the deferral was denied, or deemed denied if the assessors did not act.

**II. DEFERRAL QUALIFICATIONS**

**A. Eligibility Date**

Clause 41A deferral status is determined as of July 1. Any eligibility requirements for the deferral must be met as of that date.

**B. Age**

The applicant must be at least 65 years old on July 1.

**C. Ownership**

An applicant must be a natural person who owns the property on July 1 and has owned that property or another property in Massachusetts as a domicile for five years. The five years do not have to be consecutive. Ownership of any domicile in Massachusetts qualifies.

The applicant may be the sole owner or may own jointly with a spouse or other natural persons. The property may not be owned in whole or in part by a business, governmental or non-profit entity. If the applicant has co-owners, only the applicant must meet the current and durational domiciliary requirements.

As with personal exemptions, an applicant who holds a life estate in the property is considered its owner. If the property is held in trust, the applicant must be a trustee who also has a sufficient beneficial interest in the property.

**D. Domicile**

The applicant must occupy the property as his or her domicile on July 1 and must have been domiciled in Massachusetts for the preceding ten years. The ten years must be consecutive, but the taxpayer need not have lived all of those years in the same location in Massachusetts.

If the applicant has co-owners, only the applicant must meet the current and durational domiciliary requirements.

**E. Gross Receipts**

The applicant, and spouse if married, must have gross receipts of \$20,000 or less, for the prior calendar year.

**1. Local Option Increase in Gross Receipts**

The gross receipts limit may be increased to any amount up to \$40,000 by vote of the municipality's legislative body. The new limit will apply to deferral applications for any fiscal year that begins after the vote becomes effective.

The following or similar language may be used for the vote:

VOTED: That the city/town increase the gross receipts that seniors may have in the prior calendar year to be eligible to defer property taxes under G.L. c. 59 §5, Clause 41A from \$\_\_\_\_\_ to \$\_\_\_\_\_, with such increase to be effective for deferrals granted for taxes assessed for any fiscal year beginning on or after July 1, \_\_\_\_\_.

**2. Gross Receipts Definition**

Gross receipts means income from all sources and is broader than taxable income for federal or state income tax purposes. It includes wages, salaries, bonuses, commissions, public and private pensions, social security, alimony, child support, lottery winnings, interest and dividend income, capital gains, life insurance proceeds, net income from business or rental property after deduction of related business expenses and losses, public assistance, disability payments, unemployment compensation, workman's compensation, regular cash or financial contributions or gifts from family or other persons outside the household, and any other income.

Ordinary business expenses or losses may be deducted, but not personal or family expenses, when computing gross receipts.

**III. DEFERRAL PROCESS**

**A. Deferral Amount**

Assessors may grant a Clause 41A deferral of all or part of the tax in any year with the following limitations:

1. The annual deferral of an applicant who owns the property jointly with someone other than a spouse is limited to the same percentage of the tax as the applicant's ownership interest.
2. The total deferral account, including interest, is limited to 50 percent of the applicant's proportionate share of the full and fair cash value of the property.

The applicant may receive a personal exemption and defer all or a portion of the balance of the tax to the extent of these limitations.

**B. Deferral Agreement**

In the first year a Clause 41A deferral is granted, the taxpayer must enter into a tax deferral and recovery agreement with the assessors. (State Tax Form 97-1). All co-owners and mortgagees must also sign the agreement for the deferral to take effect. This includes all remaindermen if the applicant holds a life estate and all co-trustees if the property is held in trust. The agreement will also cover taxes for any subsequent fiscal years if the taxpayer applies and qualifies for a deferral in those years.

A new agreement must be submitted in a later year only if there is a change in the persons with an interest in the property.

**C. Deferral Statement**

Assessors must record a statement (State Tax Form 97-2) that they entered into a Clause 41A recovery and deferral agreement with the taxpayer at the Registry of Deeds. The recorded statement constitutes a lien on the property to secure repayment of the deferred taxes and interest. The lien has priority over any prior or subsequent encumbrances on the property, except a recorded reverse mortgage that is not a shared appreciation instrument.

**D. Deferral Notices**

The assessors must issue a deferral certificate to the taxpayer (State Tax Form 97-3) and notify the collector and the accounting officer of the amount deferred for each year a Clause 41A deferral is granted. In the first year, the assessors should also notify the collector and treasurer of the amount of the fee paid to record their statement and provide them with copies of the statement and the deferral and recovery agreement with the taxpayer.

#### IV. COLLECTION PROCEDURES

##### A. Deferral Account

Taxes deferred under Clause 41A are treated as if secured by a tax title.

In the first year a Clause 41A deferral is granted, the treasurer must create a modified tax title account for the parcel in the amount of the deferred taxes. The amount of the fee paid to record the assessors' statement of entry into a deferral and recovery agreement is added to those taxes.

Deferral accounts should be maintained on regular tax title account forms (State Tax Form 410) and have a prominent notation added to the words "Tax Title Account" indicating that they secure taxes deferred under Clause 41A. The entries on the form 410 for "Date of Demand", "Date Advertised", and "Notices Posted" should be filled in "NA." The "Deed of Purchase or Instrument of Taking" should be filled in with the date of the assessors' statement, and the book and page (or registration certificate and document number in the case of registered land) of the statement should be entered in the places provided.

Clause 41A deferral accounts should be segregated from ordinary tax title accounts, since the liens are not ripe for foreclosure until the transfer of the property or death of the deferring taxpayer. Copies of the deferral and recovery agreement with the taxpayer and the assessors' recorded statement should be kept in the modified tax title file for the parcel.

If the property is already in tax title, the treasurer should add the deferred taxes to the tax title account, but make the modifications noted above for the years for which taxes are deferred.

##### B. Subsequent Year Taxes

###### 1. Subsequent Deferred Taxes

If the assessors grant a deferral for any subsequent fiscal year, the collector must certify the deferred taxes to the account in the same manner as subsequent taxes are certified to an ordinary tax title account. No collector's interest is included in the amount certified, however.

###### 2. Delinquent Taxes

If taxes assessed for any other year are not paid in full, the collector should issue a demand. If the taxes remain unpaid, the collector should then certify the taxes to the deferral account, with collector's interest and the demand fee. The collector may also enforce the personal liability.

C. **Interest**

1. **Deferred Taxes**

Interest on deferred taxes accrues at eight percent per annum, unless a lower rate has been locally adopted, as explained in Section IV-C-1-a below. If the property is transferred or the taxpayer dies before the account is paid, however, interest accrues at the sixteen percent per annum rate provided for in G.L. Ch. 60 §62 for ordinary tax title accounts from the date of sale or death until payment is made.

a. **Local Option Decrease in Interest Rate**

The interest rate that applies before the property sells or taxpayer dies may be decreased by vote of the municipality’s legislative body from eight percent to any percentage, including “0.” The new rate will apply to taxes deferred for any fiscal year that begins after the vote becomes effective.

The following or similar language may be used for the vote:

VOTED: That the city/town reduce the rate of interest that accrues on property taxes deferred by eligible seniors under G.L. c. 59 §5, Clause 41A from \_\_\_\_\_% to \_\_\_\_\_%, with such reduced rate to apply to taxes assessed for any fiscal year beginning on or after July 1, \_\_\_\_\_.

**Example**

In May 2006, the municipality votes to reduce the deferral rate to 5% beginning with FY2007 taxes. In May 2008, the municipality votes to further reduce the deferral rate to 2.5%.

Taxpayer A has deferred taxes every year since FY2004. Before Taxpayer A sells the property or passes away, interest accrues on those taxes as follows:

<b><u>Fiscal Year</u></b>	<b><u>Interest Rate</u></b>
FY2004	8.0%
FY2005	8.0%
FY2006	8.0%
FY2007	5.0%
FY2008	5.0%
FY2009	2.5%

b. **Interest Calculation**

Interest is calculated from the dates interest accrues on unpaid taxes under the payment system the community used for that fiscal year. For example, interest would be calculated from:

- October 1 or the date of mailing of the actual tax bills, whichever is later, and April 1 for any years in which the community uses a semi-annual payment system under G.L. Ch. 59 §57.
- The due dates of all preliminary and actual tax payments for any years in which the community uses a quarterly payment system under G.L. Ch. 59 §57C.

If the taxpayer pays any of the taxes before the deferral is granted, a refund should be made with no interest, and interest on the deferred taxes should be calculated from the date of the refund to the taxpayer instead.

The collector's certification should include the relevant rate and dates to enable the treasurer to calculate the interest accruing on account of the deferred taxes.

2. **Delinquent Taxes**

Interest on delinquent taxes, interest and costs certified to the account for any year a deferral was not granted accrues at sixteen percent from the date certified to the deferral account.

D. **Prepayment**

The taxpayer may pay the deferral at any time in order to clear title on the property. If no partial payments have been made, interest on the deferred taxes is calculated from the dates interest accrues on unpaid taxes under the payment system the community used for that fiscal year until the payoff date. See Table A for examples.

The interest calculation on partial payments is the same as a payoff. Beginning with the oldest year, the payment is applied in this order: (1) accrued interest for each year, (2) costs and (3) taxes for each year. Interest on any future payoff is then calculated from the date of the partial payment.

**E. Surviving Spouse**

If the taxpayer dies, the surviving spouse may continue the deferral. To do so, the spouse must apply and qualify for the deferral in subsequent years and enter into a new deferral agreement. Any taxes deferred under the new agreement, together with interest, will be added to the amount already deferred so long as the 50 percent limit has not been reached. See Section III-A-2 above.

**F. Collection and Foreclosure**

The treasurer must calculate the amount due if the taxpayer or the taxpayer's estate wishes to pay the deferral and clear the title on the property, there is a conveyance of the property or the surviving spouse does not continue the deferral.

After the death of the taxpayer or the sale of the property, the tax title interest rate of sixteen percent applies on the outstanding taxes. If the deferred taxes and accrued interest are not paid before then, the treasurer can institute foreclosure proceedings in Land Court six months after the death of the taxpayer or sale of the property.

**G. Release of Lien**

Once the deferred amount is paid in full, the treasurer must execute a renunciation of the municipality's lien on the property (State Tax Form 97-4) and record it at the Registry of Deeds.

**V. ACCOUNTING**

Deferred taxes are accounted for as "Deferred Property Tax Receivable".

**TABLE A**  
**PAYMENT CALCULATION**

Assumes 6/30/2009 payoff date  
8% interest rate for FY2004, 2005 & 2006, 5% for FY2007 & 2008, and 2.5% for FY2009

**Semi-annual Billing System**

FY	Tax Assessed	Tax Deferred	Due From	To Payoff Date	Time in Years	@Interest%	Tax	Interest
2004	\$2,000	\$1,000	10/1/03 4/1/04	6/30/09 6/30/09	5.75 5.25	46% 42%	\$500 500	\$230.00 210.00
2005	2,200	1,100	10/1/04 4/1/05	6/30/09 6/30/09	4.75 4.25	38% 34%	550 550	209.00 187.00
2006	2,400	1,200	10/1/05 4/1/06	6/30/09 6/30/09	3.75 3.25	30% 26%	600 600	180.00 156.00
2007	2,600	1,300	10/1/06 4/1/07	6/30/09 6/30/09	2.75 2.25	13.75% 11.25%	650 650	89.38 73.13
2008	2,800	1,400	10/1/07 4/1/08	6/30/09 6/30/09	1.75 1.25	8.75% 6.25%	700 700	61.25 43.75
2009	3,000	1,500	10/1/08 4/1/09	6/30/09 6/30/09	.75 .25	1.88% .63%	750 750	14.10 4.73
<b>TOTALS</b>	\$15,000	\$7,500						\$1,458.34

**Quarterly Billing System**

FY	Tax Assessed	Tax Deferred	Due From	To Payoff Date	Time in Years	@Interest%	Tax	Interest
2004	\$2,000	\$1,000	8/1/03	6/30/09	5.92	47.36%	\$250	\$118.40
			11/1/03	6/30/09	5.67	45.36%	250	113.40
			2/1/04	6/30/09	5.42	43.36%	250	108.40
			5/1/04	6/30/09	5.17	41.36%	250	103.40
2005	2,200	1,100	8/1/04	6/30/09	4.92	39.36%	275	108.24
			11/1/04	6/30/09	4.67	37.36%	275	102.74
			2/1/05	6/30/09	4.42	35.36%	275	97.24
			5/1/05	6/30/09	4.17	33.36%	275	91.74
2006	2,400	1,200	8/1/05	6/30/09	3.92	31.36%	300	94.08
			11/1/05	6/30/09	3.67	29.36%	300	88.08
			2/1/06	6/30/09	3.42	27.36%	300	82.08
			5/1/06	6/30/09	3.17	25.36%	300	76.08
2007	2,600	1,300	8/1/06	6/30/09	2.92	14.60%	325	47.45
			11/1/06	6/30/09	2.67	13.35%	325	43.39
			2/1/07	6/30/09	2.42	12.10%	325	39.33
			5/1/07	6/30/09	2.17	10.85%	325	35.26
2008	2,800	1,400	8/1/07	6/30/09	1.92	9.6%	350	33.60
			11/1/07	6/30/09	1.67	8.35%	350	29.23
			2/1/08	6/30/09	1.42	7.10%	350	24.85
			5/1/08	6/30/09	1.17	5.85%	350	20.48
2009	3,000	1,500	8/1/08	6/30/09	.92	2.30%	375	8.63
			11/1/08	6/30/09	.67	1.68%	375	6.30
			2/1/09	6/30/09	.42	1.05%	375	3.94
			5/1/09	6/30/09	.17	.43%	375	1.61
<b>TOTALS</b>	<b>\$15,000</b>	<b>\$7,500</b>						<b>\$1,477.95</b>

## CLAUSE 41C SENIOR EXEMPTION OPTIONS

Allowable adjustments under 2<sup>nd</sup> sentence of G.L. Ch. 59 §5(41C) added by St. 2002, Ch. 184 §51

	APPLICANT		EACH CO-OWNER NOT APPLICANT'S SPOUSE
<b>ELIGIBLE AGE</b>	<u>Current Law</u> 70	<u>Allowable Adjustment</u> 65	
<b>INCOME LIMITS</b>  <i><u>Deductions:</u></i> (1) Minimum Social Security/retirement allowance set by DOR each year and (2) business expenses or losses ( <i>i.e.</i> , only net profits/rental income included)  Married limit is combined income of both spouses	<u>Current Law</u> \$13,000 Single \$15,000 Married	<u>Allowable Adjustment</u> Up to \$20,000 Single Up to \$30,000 Married	<u>Current Law – No Adjustment Allowed</u>  Each Co-owner \$13,000 Single \$15,000 Married
<b>ASSET LIMITS</b>  Married limit is combined assets of both spouses	<u>Current Law</u> \$28,000 Single \$30,000 Married	<u>Allowable Adjustment</u> Up to \$40,000 Single Up to \$55,000 Married	<u>Current Law – No Adjustment Allowed</u>  Each Co-owner \$28,000 Single \$30,000 Married
<b>ASSET DEDUCTIONS</b>  (1) Home up to number of units noted, (2) Registered vehicles, (3) cemetery plots, (4) household furniture/effects at domicile and (5) wearing apparel	<u>Current Law</u> Up to 3 Family	<u>Allowable Adjustment</u> Up to 4 Family	<u>Current Law – No Adjustment Allowed</u>  Each Co-owner Up to 3 Family
<b>EXEMPTION AMOUNT</b>  Amount prorated by % of applicant's ownership interest if co-owns with anyone but spouse	<u>Current Law</u> \$500	<u>Allowable Adjustment</u> Up to \$1000	

## LOCAL OPTION PERSONAL EXEMPTION STATUTES REQUIRE ACCEPTANCE/ACTION BY LEGISLATIVE BODY

Citation	Exemption Type	Effect
G.L. c. 59 §5, Clause 17C½, 17D	Senior, Surviving Spouse, Minor Child of Deceased Parent	Supersedes Cl. 17, or previously accepted version Increases whole estate limit
G.L. c. 59 §5, Clause 17E	Senior, Surviving Spouse, Minor Child of Deceased Parent	Increases whole estate limit automatically each year by COLA determined by DOR
G.L. c. 59 §5, provision added by St. 1995, Ch. 181 (last paragraph of c. 59 §5)	Senior, Surviving Spouse, Minor Child of Deceased Parent	Increases exemption amount annually by any % up to COLA determined by DOR Legislative body must also vote to fix % increase
G.L. c. 59 §5, provision added by St. 1993, Ch. 110 §110 (last paragraph of c. 59 §5, Clause 22E)	Veteran	Reduces residency requirement for veterans who were not domiciled in Massachusetts 6 months before entering the service from 5 to 1 year before application Applies to all veteran exemptions (Clauses 22, 22A-22E)
G.L. c. 59 §5, Clause 37A	Blind person	Supersedes Cl. 37 Increases amount of exemption to \$500
G.L. c. 59 §5, Clause 41A	Senior deferral	Increase gross receipts limit up to \$40,000 Reduce interest below 8%
G.L. c. 59 §5, Clause 41B, 41C	Senior	Supersedes Cl. 41, or previously accepted version Increases gross receipts and whole estate limits
G.L. c. 59 §5, Clause 41C	Senior	Legislative body may vote to: <ul style="list-style-type: none"> <li>• Reduce eligibility age to 65</li> <li>• Increase exemption amount by up to 100%</li> <li>• Increase gross receipts limit up to \$20,000 single and \$30,000 married</li> <li>• Increase whole estate limit up to \$40,000 single and \$55,000 married</li> <li>• Exclude value of up to 4 family home from whole estate</li> </ul>
G.L. c. 59 §5, Clause 41D	Senior	Increases gross receipts and whole estate limits automatically each year by COLA determined by DOR
G.L. c. 59 §5, Clause 50	Senior	Exempts value of improvements to residential property made to provide housing for person 60 or older who is not the owner
G.L. c. 59 §5, Clause 55	Personal	Makes units leased to and occupied by members of cooperatives deemed owned by members
G.L. c. 59 §5C	Residential	Makes units leased to and occupied by members of cooperatives deemed owned by members
G.L. c. 59 §5K	Senior	Allows earned abatement of up to \$750
St. 1986, c. 73 §4	Personal	Increases all personal exemption amounts by up to 100% (annual vote)

## EXEMPT PERSONS - OWNERSHIP AND DOMICILIARY REQUIREMENTS

Type	Clause	Amount	Multiple Owners Pro-rata Amount	Minimum Ownership Interest	Durational Ownership <sup>1</sup>	Durational Domiciliary <sup>2</sup>
BLIND	37	\$437.50	None	\$5,000	None	None
	37A	\$500	None	None	None	None
HARDSHIP	18	Any	None	None	None	None
	18A (deferral)	Any	Total deferral account may not exceed 50% of applicant's ownership share of the property's value	None	None	Domiciled in MA for 10 consecutive years before application date
SENIOR	17, 17C, 17C½	\$175	None	\$2,000	Owned and occupied the property as domicile for any 10 years	See durational ownership
	17D	\$175	None	\$2,000	Owned and occupied the property as domicile for any 5 years	See durational ownership
	41	\$500	% of applicant's interest if any co-owner is not spouse	\$4,000	None	None
	41B 41C	\$500 \$500 <sup>3</sup>	% of applicant's interest if any co-owner is not spouse	\$4,000	Owned and occupied the property, or any other MA property, as domicile for any 5 years <sup>4</sup>	Domiciled in MA for 10 consecutive years before application date
	41A (deferral)	Any	Total deferral account may not exceed 50% of applicant's ownership share of the property's value	None	Owned and occupied the property, or any other MA property, as domicile for any 5 years <sup>5</sup>	Domiciled in MA for 10 consecutive years before application date
SURVIVOR	17, 17C, 17C½, 17D	\$175	None	\$2,000	None	None
	42, 43	Full	% of applicant's interest if any co-owner is not surviving spouse/minor	None	None	None

<sup>1</sup> In addition to general requirement that taxpayer own property on July 1.

<sup>2</sup> In addition to general requirement that taxpayer occupy the property as domicile on July 1.

<sup>3</sup> May be increased up to \$1,000 by legislative body of municipality.

<sup>4</sup> Surviving spouses who inherit the property only have to have occupied the property, or other MA property, for any five years.

<sup>5</sup> Surviving spouses who inherit the property only have to have occupied the property, or other MA property, for any five years.

## CASE STUDY 1

Robert Green and his wife, Susan Green, sold their Boston home and purchased a house on the Cape in May 2006. Robert had received a veterans exemption for many years. Susan turned 70 years of age in June.

- A. Can Robert receive a Clause 22 veterans exemption from the Cape community for FY 2007? Can his wife receive a Clause 17D elderly exemption for FY 2007?
- B. Assume a personal exemption was granted, can the Greens defer the balance of the taxes under G.L. Ch. 59 §5 Cl. 41A?
- C. The Greens purchased a condominium in Florida in the winter of 2006, and will receive the Florida homestead exemption. Can the Greens continue to receive exemptions on the Cape?

DeCenzo v. Board of Assessors of Framingham, 372 Mass. 523 (1977)

## CASE STUDY 2

A Boston resident who was a member of the National Guard was called up for active duty in Iraq.

- A. The taxpayer's house is in tax title for unpaid FY 2003 taxes. Can the treasurer foreclose in Land Court? Does the taxpayer owe interest and charges on the real estate bill?
- B. The collector sent a 2006 motor vehicle excise bill which the taxpayer never paid. Is the taxpayer exempt from motor vehicle excise?

50 USC App. §§561 & 571

### CASE STUDY 3

A nine-acre waterfront estate is on the market. The property includes a four-car garage, carriage house, pool, tennis court and dock. A group of sailing enthusiasts has expressed interest in the property, and hopes to establish a maritime school and museum. A Chapter 180 nonprofit corporation has been formed "to create educational and recreational programs to stimulate individual growth and an enduring love and appreciation of the sea." The organization plans to offer classes in sailing, rowing, kayaking, piloting, navigation and boating safety.

- A. The assessors learned from a review of records at the Registry of Deeds that the corporation acquired the parcel for five million dollars in June 2006. The corporation informed the assessors that the facility would be operational sometime in the near future. Is the parcel exempt for FY 2007?
- B. The corporation has acquired a tall ship. The corporation is advertising summer sailing adventures along the entire eastern seaboard. The cost for each student sailor will be \$2,000. Is the corporation exempt from boat excise?
- C. Assume the tall ship is subject to excise. What amount of tax will be assessed and how will the revenue be reported in the municipality's accounting records?

G.L. Ch. 59 §5 Cl. 3  
7 Op. Atty. Gen. 1925, 572  
G.L. Ch. 60B

#### CASE STUDY 4

A taxpayer moved to Florida in 2000 and returned to town in 2006. He plans to buy a house in the community.

- A. The collector issued a municipal lien certificate which failed to list a 2005 water lien. The MLC was duly recorded. The collector learned of his error after the house was purchased. The Seller lives elsewhere in town. Is the 2005 water lien uncollectible?
  
- B. The Buyer attempted to register his car and obtain a license. He learned from the Registry of Motor Vehicles that he was marked for nonpayment of excise. The taxpayer visited the collector and learned that he owed 2000 and 2001 excise taxes. Can the taxpayer file for abatement?

G.L. Ch. 60 §23

G.L. Ch. 60A

## CASE STUDY 5

John and Elizabeth Green bought a coastline property on Melville Walk in 2001 for \$855,000. They tore the summer cottage down and built a \$2.3 million house. The Greens and the owners of two adjacent houses hold title to Melville Walk which is a twelve foot wide path. For generations neighbors used Melville Walk to access the beach where summer events abounded. When the Greens moved into their new house, they denied access to the beach by installing a chain link fence across Melville Walk. The outraged neighbors sued the Greens and the case has been argued in Land Court.

- A. Do the neighbors have access to the beach? What legal argument will be raised by the neighbors?
- B. Some of the neighbors claim an easement through references in old deeds. Will the neighbors necessarily prevail?
- C. How will this case affect the assessors?

## CASE STUDY 6

A clothing store opened on Main Street in February 2000. The business was sold in April 2006. The Buyer and Seller settled at the time of closing on issues, such as, insurance and taxes.

- A. The collector sent a fiscal year 2007 personal property tax bill to the Seller. Is the collector correct? Who is liable for the taxes?
- B. Can the Buyer file a FY 2007 personal property abatement application?
- C. Seller has left the jurisdiction and the collector made many unsuccessful collection efforts. What should the collector do?

G.L. Ch. 59 §18

G.L. Ch. 59 §59

G.L. Ch. 59 §71

## CASE STUDY 7

There have been many newspaper stories about the redevelopment of the former Hingham Shipyard. This former industrial government installation will have a blend of 240,000 square feet of retail and office space, 500 boat slips and 100 moorings, 235 apartments, 150 luxury townhouses and 94 condominiums. Four developers spent \$30 million to acquire over 100 acres of land. Special legislation was passed to reconfigure the parking lot for MBTA commuter boat patrons. Shipyard buildings were demolished in August 2006. The Planning Board will meet soon on a proposal by the developers for an eight screen movie theatre on the site.

- A. How should the assessors classify the property for FY 2007?
- B. Can the assessors claim new growth for FY 2007?
- C. The developers argue the cinema is crucial to a mixed-use village community. Communities in other states have had successful redevelopments through the presence of a movie theatre. Traffic, however, is a concern to residents. Proponents of the project realize that residential sales have slumped, and want this development to “get off the ground.” What might the developers request to make this development successful?

G.L. Ch. 59 §2A  
G.L. Ch. 59 §21C(f)  
G.L. Ch. 40 §60  
G.L. Ch. 23A §3E

## CASE STUDY 8

A taxpayer filed for bankruptcy in August 2006. His house is in tax title but the collector never certified the fiscal year 2006 taxes to the tax title account. The taxpayer did not pay his September 2006 water bill.

- A. Can the collector now certify the fiscal year 2006 taxes to the tax title account?
- B. What rate of interest is owed on the tax title?
- C. Can the collector attempt to collect the water charges?

11 USC 362

11 USC 511

## CASE STUDY 9

The town has accepted for fiscal year 2007 the Community Preservation Act with a 3% surcharge as well as the low income/low or moderate income senior exemption. The Community Preservation Committee has endorsed the use of CPA funds for certain projects.

- A. What is the filing deadline for the low income/low or moderate income senior exemptions?
- B. Some taxpayers expressed concern about the use of CPA monies and seek to reduce the surcharge to 1% for fiscal year 2008. Is this permissible? Could the surcharge be revoked?
- C. A building dating from colonial times is in dire need of restoration. Can the town spend \$300,000 in CPA funds for the rehabilitation of a historic dwelling owned by a nonprofit organization?

G.L. Ch. 44B §16

Mass. Const. Article 46 §2, as amended by Article 103 of the Articles of Amendment

Commonwealth v. School Committee of Springfield, 382 Mass. 665 (1981)

Helmes v. Commonwealth, 406 Mass. 873 (1990)

## CASE STUDY 10

A taxpayer who has had numerous disputes with town officials visited the collector. He wanted to make a partial payment of his excise bill which he considered excessive. That same day, in fact, he filed an abatement application with the assessors since the value on the bill, in his view, did not reflect the market value of the vehicle.

- A. Is the collector required to accept the partial payment?
- B. The taxpayer's abatement application was denied. He appealed to the Appellate Tax Board. Will the taxpayer prevail on appeal with regard to the valuation not reflecting current book value?
- C. The taxpayer wrote to numerous State officials and complained about the unlawful practices of the assessors and collector. Finally, he wrote to the Revenue Department and in his letter he requested the Commissioner to remove the collector and the assessors. Does the Commissioner have such authority?

G.L. Ch. 60A

Lily Transportation Corp. v. Assessors of Medford, 427 Mass. 228 (1998)

G.L. Ch. 41 §39B

41:27

Op. Atty. Gen. 1984-1985, No. 5, p. 8

## CASE STUDY 11

Boston pennant hopes are fading. Yet, there are some who believe it is time for a new ballpark for the Red Sox. Advocates state the New York Yankees have broken ground on a 51,800 seat stadium for \$1.2 billion which will be open in 2009. The new Yankee stadium will be adjacent to the present stadium and will be built with municipal bonds. After improvements, Fenway Park will seat, at most, 39,000 patrons.

- A. What tax strategy would be most effective in the construction of a new ballpark?
  
- B. The baseball park has been built. An advertising firm has signed a lease agreement with the owners of the new park for a large electronic sign which will be affixed to the stadium. The billboard will carry messages for numerous products and will be visible to fans at the game and people nearby. Is the electronic billboard taxable to the lessee advertising firm? To the lessor ballpark?

## CASE STUDY 12

A taxpayer operates a successful used car business on Main Street. The owner of the land has not paid the real estate taxes for several years. The used car dealer is seeking a renewal of his business license.

- A. What action might the collector take?
- B. Would your answer be the same, if only the FY 2006 taxes were outstanding?
- C. Can the collector post a list of delinquent taxpayers to the town's website?

G.L. Ch. 40 §57

### CASE STUDY 13

A taxpayer owns a single family house. He converted a carriage house on the premises to residential use and his son lives in the apartment. The taxpayer has filed a Clause 41C elderly exemption.

- A. The taxpayer claimed his son did not pay rent and listed no rental income on his exemption application. What should the assessors do with regard to the applicant's gross receipts calculations?
- B. The carriage house is listed in the valuation book at \$60,000. Would the taxpayer satisfy the Clause 41C whole estate test?

## CASE STUDY 14

The collector in a quarterly community sent the first actual FY 2006 tax bills in December 2005. By mistake, the tax bills stated "Abatement Applications to Assessors Due: March 1, 2006." The tax bills should have listed a February 1, 2006 abatement deadline date.

- A. A taxpayer filed an abatement application on February 20, 2006. Is the application timely?
- B. Assume the assessors have jurisdiction and an abatement is granted in June resulting in an overpayment. Is the taxpayer entitled to interest on the refund? If so, at what rate?
- C. The taxpayer argued and the assessors concede that the parcel was overassessed for several years due to a "system error." Can the assessors grant retroactive abatements to permit the collector to refund the overpayments?

G.L. Ch. 60 §3A

G.L. Ch. 59 §69

G.L. Ch. 59 §59

## CASE STUDY 15

You are the new town administrator and certain practices have been questioned by town residents.

- A. The board of assessors consists of three elected members. The assessors are unpaid. The assistant assessor is appointed by the board of assessors and holds a paid position. Can the assessors appoint one of the members to this paid position?
  
- B. A nonprofit organization is hosting a luncheon meeting. The cost for each luncheon ticket is \$150 with most of the proceeds going to a fund to support the organization's activities. The assessors and the collector were invited. The organization presently has an ATB case pending against the town. Can the organization invite the local officials to the luncheon without charging them the \$150 price of admission?

G.L. Ch. 268A §1(n) & 21A

EC-COI-92-15

G.L. Ch. 268A §3

EC-COI-92-32