



February 28, 2005

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Re: Taxation of Lessee of State Property  
Our File No. 2005-57

Dear Mr. Sowyrda:

You asked about the tax status of property owned by the Commonwealth of Massachusetts and leased to a non-profit entity.

You state that the entity involved is a non-profit corporation, Worcester City Campus Corporation (WCCC), whose sole member is the University of Massachusetts and which operates solely for the benefit of the University of Massachusetts Medical School. The property in question consists of two buildings located on the University of Massachusetts Medical Center Campus in Worcester. The Commonwealth leased the land to WCCC for thirty years for the purpose of constructing a research facility and parking garage. When the construction was complete, WCCC then leased both buildings back to the University of Massachusetts Medical School for use in its educational and research missions. In our opinion, the property is not taxable.

As you know, real and personal property owned by the Commonwealth is ordinarily exempt from local taxation. G.L. c. 59 §5(2). If the Commonwealth leases real property to a private party, however, the lessee is subject to taxation under certain circumstances. Specifically, G.L. c. 59 §2B provides that:

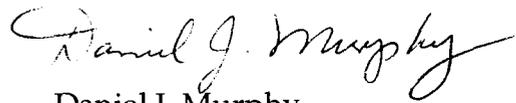
[R]eal estate owned in fee or otherwise or held in trust for the benefit of ... the commonwealth, ... if used in connection with a business conducted for profit or leased or occupied for other than public purposes, shall ... be ...taxed annually as of January first to the user, lessee or occupant in the same manner and to the same extent as if such user, lessee or occupant were the owner thereof in fee." (Emphasis added).

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In this case, we believe the occupant of the leased land and buildings is the University of Massachusetts Medical School, which is a state educational institution using the premises for its public purposes. Moreover, even if WCCC were considered the lessee for purposes of G.L. c. 59 §2B, it would not be taxable since a lessee or occupant is treated as if it owns the premises it rents or occupies. WCCC is a non-profit corporation organized for charitable and educational purposes for the sole benefit of the state's medical school. As such, WCCC is a charitable organization that functions as an instrumentality of the school and would be exempt from taxation on any real estate it owns and occupies for its purposes. G.L. c. 59 §5(3). Therefore, any portion of the premises it leases and occupies would not be taxable under G.L. c. 59 §2B.

If you have further questions, please do not hesitate to contact me again.

Very truly yours,

A handwritten signature in cursive script that reads "Daniel J. Murphy".

Daniel J. Murphy  
Chief, Property Tax Bureau

DJM/KC