



November 15, 2006

Lawrence D. Swartz
Board of Assessors
138 Main Street
Wenham, MA 01984

Re: Calculation of Roll-Back Taxes
G.L. Chapter 61A, Section 13
Our File No. 2006-314

Dear Mr. Swartz:

This is in response to your letter requesting information with respect to the calculation of roll-back taxes assessed under the provisions of G.L. Chapter 61A, Section 13. In very basic terms, this provision allows for the "recapture" by the town of the taxes saved by the landowner in the 5 most recent years when classified property is changed to a non-qualifying use.

With respect to the computation of the roll-back tax for each of the 5 years, Section 13 provides, in pertinent part, as follows:

For each year, the roll-back tax shall be an amount equal to the difference, if any, between the taxes paid or payable in accordance with the provisions of this chapter and the taxes that would have been paid or payable had the land been valued, assessed and taxed without regard to such provisions.

In making this determination, the statute further provides that, for each year, the board shall have determined:

- (a) The full and fair value of such land under the valuation standard applicable to other land in the city or town;
- (b) The amount of the land assessment for the particular year

The difference in these values is the basis for the roll-back tax for each year.

In our view, the assessors determine the full and fair cash value of the land for roll-back tax purposes at the time that the tax is assessed. In making that determination, however, they must apply the same assessment standards and valuation methodologies used in each subject year for all other properties, *i.e.*, the value must be the valuation that the land would have been assessed at that year if not classified. For each year, the assessors should maintain records of their valuation standards and methods and the application of those methods to classified properties. This information is invaluable in the event of a roll-back tax calculation, but the full and fair cash valuation of a particular property for roll-back tax purposes is not legally fixed at that point. It is established when the roll-back tax is assessed, which means the assessors may properly consider any information bearing on the proper full and fair cash valuations for the applicable years. In all cases, however, the full and fair cash valuations used for a particular roll-back tax assessment must be reflective of the valuation the land would have been assessed at if valued in the same manner as other properties for the applicable years. If a landowner is aggrieved with any aspect of the roll-back tax calculation and assessment, the landowner has the right to apply for an abatement and appeal any adverse decision on that application. G.L. Chapter 61A, Section 13.

I hope this information proves helpful. If you have any further questions, please do not hesitate to contact me again.

Very truly yours,



Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC/DJM