



April 3, 2006

Senator Robert L. Hedlund  
The State House  
Room 413-F  
Boston, MA 02133

Re: CPA Exemption Applications  
Our File No. 2006-44

Dear Senator Hedlund:

This responds to your letter and confirms a telephone discussion between members of our staffs about an exemption application form promulgated by the Department of Revenue. Specifically, you asked that the Department redesign the application for exemptions from the Community Preservation surcharge for low-income persons or low and moderate-income seniors (Form CP-2) so as to limit the amount of information that must be provided. From our discussions with your staff, we understand you are asking us to promulgate a form that would only require taxpayers to certify that they qualify for the exemption.

We understand that taxpayers may consider disclosing income and other information to be an invasion of privacy and are concerned about misuse of information. However, we do not believe self-reporting of eligibility is sufficient. Just as the Department of Revenue has a responsibility to verify that taxpayers report all income and qualify for various deductions or credits, assessors, as the local tax administrators, have a duty to ensure that property owners pay their fair share of taxes and that any exemptions are granted to only those persons the legislature decides are eligible. Therefore, as long as the exemption is based on income, we think they have an obligation to verify that the applicant's income does in fact come within the eligibility standard.

I am enclosing a letter we recently issued to Weymouth officials regarding redesign of the application. It further explains why we believe the information requested by the current form is necessary.

Please do not hesitate to contact me if you have further questions.

Very truly yours,

A handwritten signature in black ink that reads "Gerard D. Perry".

Gerard D. Perry  
Deputy Commissioner

GDP:KC  
Enclosure



March 13, 2006

The Honorable David A. Madden  
Michael A. Smart, Town Council President  
Town Hall  
75 Middle Street  
Weymouth, MA 02189

Re: CPA Exemption Applications  
Our File No. 2006-61

Dear Mayor Madden and Councilor Smart:

This is in response to your letter to Commissioner LeBovidge about an exemption application form promulgated by the Department of Revenue. Specifically, you ask that the Department redesign the application for exemptions from the Community Preservation surcharge for low-income persons or low and moderate-income seniors (Form CP-2) so as to limit the amount of information that must be provided.

We understand that taxpayers may consider disclosing income and other information to be an invasion of privacy. However, as with any tax exemption, the burden is on a taxpayer to prove he or she is eligible. In this case, an applicant for the surcharge exemption must own and occupy the property as a domicile and have household income within certain limits, which vary depending on the applicant's age and household size and composition. G.L. c. 44B §3. All of the information requested on the application form, including supporting documents, relate directly to establishing whether an applicant meets the eligibility requirements of the statute. The legislature decided to base eligibility for the exemption on income and given that policy decision, we do not know how the application can be redesigned to eliminate the need for a taxpayer to supply information on their household income.

Moreover, we would note that taxpayers seeking other local property tax exemptions must provide similar information to the assessors. Applicants for the senior exemption (Clause 41C), for example, must provide information establishing not only that their income is within certain limits, but their assets are as well.

The Honorable David A. Madden  
Michael A. Smart, Town Council President  
Town of Weymouth  
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As with any tax officials, local assessors receive a considerable amount of personal information in the course of their duties. This includes not only information contained in abatement and exemption applications, but in personal property returns and commercial taxpayer income and expense returns as well. They understand that both state and federal tax and privacy laws protect tax return and other personal data from being disclosed to the public. In addition, the Supervisor of Public Records (SPR) has ruled that certain personal information on CPA exemption applications is exempt from disclosure under the general privacy exemption of the state public records law. G.L. Ch. 4 §7(26)(c). See SPR opinion 01-692, issued July 22, 2002.

Please do not hesitate to contact me if you have further questions.

Very truly yours,

A handwritten signature in black ink that reads "Gerard D. Perry". The signature is written in a cursive style with a prominent initial "G".

Gerard D. Perry  
Deputy Commissioner

GDP:KC