

CHAPTER 6 PROPERTY TAX ABATEMENTS AGENDA AND OBJECTIVES

A. PRESENTATION TOPICS

1. Nature of property tax abatements.
2. A taxpayer's right to a property tax abatement and the procedures the taxpayer must use to obtain one.
3. Assessors' powers to abate a property tax and their duties regarding the processing of abatement applications from taxpayers.
4. Role of the Appellate Tax Board in hearing taxpayer appeals of assessors' decisions on their abatement applications.

B. SESSION OBJECTIVES

1. Participants will understand the extent of and limitations on the assessors' power to abate a property tax.
2. Participants will understand the reasons that give a taxpayer the right to an abatement and the procedural requirements the taxpayer must meet to exercise that right.
3. Participants will understand the elements of an Appellate Tax Board appeal.

CHAPTER 6

PROPERTY TAX ABATEMENTS

1.0 OVERVIEW AND DEFINITIONS

1.1 Commitment

The assessors' annual tax commitment to the collector creates the property tax liability of each taxpayer to the municipality for that year and fixes the amount of that liability. No liability arises for any property tax not included in the assessors' commitment. For other assessments or charges added to the commitment, such as water or sewer bills, the liability has already been created by providing the service or other means, and the commitment serves to notify the collector of that existing liability.

1.2 Warrant

The assessors' warrant authorizes the collector to collect the taxes, assessments or other charges listed in the annual tax commitment.

1.3 Abatement

An abatement is a reduction in the amount of a committed tax. It is (1) a taxpayer remedy for overassessment or to claim exemptions and (2) an accounting mechanism to clear a municipality's books of uncollectible taxes.

2.0 TAXPAYER'S RIGHT TO CONTEST ASSESSMENT

2.1 Abatement Procedure

The statutory abatement procedure set out in G.L. c. 59, §§ 59-69 is the only remedy available for a taxpayer who owes any portion of an assessed tax to contest the amount and reduce the liability.

2.1.1 Application Requirement

The taxpayer must file an application with the assessors on a form approved by the Department of Revenue (DOR) to properly apply for abatement.¹ The application is a simple notice of a claim for abatement of a tax that identifies the assessed owner or other applicant and, in the case of real estate, identifies the particular property at issue. It does not need to contain detailed information supporting the claim. It must be signed by the applicant (or an authorized agent), but the signature need not be handwritten.

2.1.2 Abatement Reasons

The taxpayer may apply for abatement for the following reasons:

- **Overvaluation** – The taxpayer disagrees with the assessors’ appraisal of the fair cash value of the property or believes the valuation reflects a data or other error.
- **Disproportionate assessment** – The taxpayer believes that the property is valued at a higher percentage of fair cash value than other properties due to an intentional, discriminatory assessment policy.²
- **Misclassification of real property** – The taxpayer believes the property is not properly classified and the community has multiple tax rates, *e.g.*, the property should be classified as residential, not commercial, and be taxed at the lower residential rate.
- **Statutory exemption** – The taxpayer believes an exemption applies based on the ownership or use of the property.

2.2 **Other Remedies**

A taxpayer who claims no liability for an assessed tax is not limited to the statutory abatement procedure set out in set out in G.L. c. 59, §§ 59-69 and does not have to adhere to the strict deadlines that apply to abatement applications. This generally is limited to cases where the taxpayer does not own the property or qualifies for a complete exemption from taxes.

Example

A business corporation is assessed a personal property tax, but it does not own any taxable personal property.

A person who claims no liability for an assessed tax can raise this claim as a defense in an action by the collector to collect the tax.³ Alternatively, the person can pay the tax under protest and then sue the municipality to recover the amount paid within three months.⁴

2.3 **Applicants for Abatement**

2.3.1 **Aggrieved Taxpayer**

The taxpayer must be aggrieved by the assessment of the actual tax for the fiscal year to apply for an abatement. The actual tax bill is the bill issued after the tax rate is set for the fiscal year. Preliminary bills,⁵ or any notices of proposed valuations that assessors send taxpayers during revaluation programs, do not give rise to abatement rights.

2.3.2 **Proper Applicants**

2.3.2.1 **Assessed Owner**

An assessed owner is personally liable for a property tax and may apply for abatement. The assessed owner is the owner of record on the January 1 assessment date for the fiscal year.⁶

An assessed owner who sold the property after the assessment date may still file for abatement even if the sale occurred before the beginning of the fiscal year.

An assessed owner does not have to pay any of the tax before applying.

2.3.2.2 Executor, Trustee or Administrator

The personal representative (executor under a will or administrator of the estate if there is no will) of a deceased assessed owner has the same right to apply for an abatement as the assessed owner would have if alive.

2.3.2.3 Subsequent Owner

A person or entity acquiring title to real estate after the assessment date is treated the same as the assessed owner and may apply for an abatement without first paying any of the tax.

2.3.2.4 Other Applicants

In the case of real estate, other persons or entities with an interest in the property may also apply for abatement if certain prerequisites are met. They include (1) a tenant under a lease that requires payment of at least half of the tax, (2) a mortgagee between September 20 and October 1 of the fiscal year if the assessed owner has not already applied, and (3) others with an interest in or possession of the property. Payment of all or some of the tax before applying is required for some of these applicants.

2.4 Application Deadline

A taxpayer must timely file an abatement application. A taxpayer who does not file on time loses the right to any abatement.⁷ In addition, assessors do not have legal authority to grant an abatement to the taxpayer.

2.4.1 Due Dates⁸

2.4.1.1 Abatements

The deadline for applying for an abatement of property taxes is the due date of the first installment of the actual tax bill.

In communities that use a quarterly billing cycle, the due date of the first actual installment is usually February 1. If the actual tax

bills are mailed after December 31, however, it is May 1, or 30 days after the bills are mailed if that date is later.

In communities that use a semi-annual billing cycle, the first actual installment is usually due November 1, or 30 days after the bills are mailed if that date is later.

2.4.1.2 Personal Exemptions and Deferrals

The deadline for applying for personal exemptions for seniors, veterans, blind persons and others, and tax deferrals for seniors and persons with temporary financial hardships, is December 15, or three months after the bills are mailed if that date is later.

2.4.1.3 Omitted and Revised Assessments and Reassessments

The deadline for applying for abatement of an omitted assessment, revised assessment or reassessment is three months from the date the omitted, revised or reassessed bill is mailed.

However, if the omitted or revised assessment is for unreported or inaccurately reported taxable personal property discovered by the assessors during an audit, the deadline is three years and six months from the date the personal property return is due or filed, whichever is later.⁹ See Chapter 7, Section 17.

2.4.1.3.1 Omitted Assessments

An omitted assessment is a tax assessment made on a real estate parcel or personal property account that was omitted from the annual tax commitment and not billed by mistake.¹⁰

Examples

A parcel is accidentally dropped from the assessors' list during a remapping project.

A parcel is mistakenly coded as exempt.

A personal property account is not created for a new business because the owner does not file a form of list.

2.4.1.3.2 Revised Assessments

A revised assessment is an additional tax assessed on a real estate parcel or personal property account that was underassessed and not assessed enough taxes for the year by mistake.¹¹

Examples

The value of a house, deck, or other new improvement constructed on a parcel was not included in the assessed valuation.

A commercial property is misclassified as residential in a community with multiple tax rates.

2.4.1.3.3 Reassessments

A reassessment is an amended assessment on a parcel of real estate or personal property account made to correct an error in the assessed owner that invalidates the original assessment and lien.¹² The tax must be unpaid, or paid under protest and able to be recovered. See Section 2.2. There is no change in the amount assessed, but the commitment is amended to show the correct owner(s).

2.4.1.3.4 Assessment Deadlines

Assessor must commit omitted or revised assessments for a fiscal year by June 20, or 90 days after the actual bills are mailed for that year if that date is later. They must also report the amount of omitted and revised assessments made each year to DOR. The report is due June 30, or 100 days after the actual bills are mailed, if later.

Reassessments may be made at any time. The lien for a reassessed tax on real estate, however, will only be valid for the same time period as the lien on the original assessment if it had been correct.

2.4.2 Due Date on Non-business Day

The due date for abatement applications is automatically extended to the next business day when it falls on (1) a Saturday, Sunday or legal holiday, or (2) a day when municipal offices are closed, as authorized by charter, by-law, ordinance or otherwise, for weather-related or other public safety emergency.¹³

2.4.3 Timely Filing

To be timely filed, an application must be (1) actually received in the assessors' office by the close of business on or before the application due date, or (2) postmarked by the United States Postal Service, as mailed first class postage prepaid to the proper address of the assessors on or before the application due date.¹⁴

Applications may be made by FAX or e-mail. If the assessors have their own FAX number or e-mail address and direct applications to that number or address, the application must be received by the close of business on or before the application due date. If the application was FAXed to a general municipal fax number, or e-mailed to a general municipal e-mail address, instead, the application must be delivered to the assessors' office by the close of business on or before the application due date to be timely.

Assessors should accept all applications submitted to them. To verify timely filing, assessors must date stamp all applications received in their office and note the delivery method, *e.g.*, by hand, private delivery service, mail, FAX or e-mail. For applications delivered by mail after the application deadline, they must retain and attach to the applications, the envelopes in which they were mailed. If the assessors determine an application was not timely filed, they should notify the taxpayer no action can be taken due to the late filing.¹⁵

2.4.4 Tax Bill Mailing and Receipt

The statutory application deadlines apply whether or not the taxpayer actually receives the tax bill. If the collector mails the bill to the proper address, the bill is deemed received by the taxpayer and the application deadline cannot be extended because a taxpayer does not receive the bill.¹⁶

The collector's "Affidavit as To Time of Sending Tax Bills"¹⁷ is a document certifying the date the collector mailed the tax bills. The date set out in the collector's affidavit of mailing is prima facie evidence of the date of mailing in an abatement proceeding.¹⁸

Tax bills must state the abatement application due date, however. If a wrong date is printed on the bill that is later than the statutory deadline, the date printed on the bill applies instead, unless the error in the date on the bill is the wrong year.¹⁹

Examples

Abatement applications for fiscal year 2017 are due by statute on February 1, 2017 in the community.

By mistake, the tax bills states that abatement applications are due February 10, 2017. That date applies instead of February 1, 2017.

By mistake, the tax bill states that abatement applications are due February 1, 2018. The applications are due on the same date in the current fiscal year, which is February 1, 2017.

3.0 ABATEMENTS WITHOUT TAXPAYER APPLICATION

3.1 Abatement of Uncollectible Personal Property Taxes

Assessors may abate certain personal property taxes upon the collector's request. The collector notifies the assessors in writing under oath that the taxes are uncollectible because the taxpayer is dead, absent, bankrupt, insolvent or otherwise unable to pay.²⁰ Within 30 days, the assessors must review the request and certify any abatements they grant to the collector.

3.2 8 of 58 Abatements

The DOR may authorize assessors to abate real and personal property taxes in certain circumstances where they no longer have the legal power to abate because the taxpayer did not timely apply for abatement.²¹ This is a discretionary administrative procedure that assessors may use to clear uncollectible taxes or rectify significant assessment errors. It is not a taxpayer remedy. Assessors are not required to request abatement authority for any particular taxpayer, DOR is not required to grant it, and assessors are not required to exercise it if granted.

3.2.1 Unenforceable Assessments

Assessors may seek authority to abate where the tax cannot be collected because the lien cannot be enforced by foreclosure, nor can the personal liability be enforced against the assessed owner.

Example

The Commonwealth purchased a parcel six years ago. Taxes for the fiscal year of the purchase were not fully paid at that time and are still outstanding. No tax taking was made. The lien cannot be enforced against the Commonwealth. In addition, the assessed owner moved and the collector cannot enforce the personal liability. The assessors may ask for authority to abate these taxes because they are uncollectible.

3.2.2 Egregious Assessment Errors

Assessors may seek authority to abate in extraordinary cases where a taxpayer is seriously harmed by an overassessment or not receiving an exemption. The taxpayer must demonstrate substantial mitigating circumstances for not following the regular abatement process.

Example

A taxpayer has received a senior exemption for several years, but did not apply this year because she was in the hospital much of the year. The taxpayer has limited resources and not receiving the exemption is a financial hardship. The assessors may ask for authority to abate these taxes to put into effect the exemption so long as they are unpaid.

4.0 ASSESSORS' ACTION ON ABATEMENT APPLICATIONS

4.1 Action Timeframe

Assessors have three months from the date they receive an abatement application to grant or deny an abatement.²² The three month action period can be extended by written consent of the taxpayer. The application is deemed denied if the assessors do not act within the three month, or extended, action period.²³

4.2 Notice of Action

Assessors must notify the taxpayer in writing of their disposition of the application.²⁴

If they grant an abatement, assessors give notice by issuing an abatement certificate to the taxpayer.²⁵ They also give notice of the abatement to the collector and accounting officer so that adjustments may be made to the commitment and overlay.²⁶

If the application is denied or deemed denied, the assessors must issue a denial notice.²⁷

Abatement certificates and denial notices must be sent within 10 days of the date the assessors act on the application, or the application is deemed denied.

4.3 Reconsideration of Action

Assessors may not generally take further action on an application after they have granted or denied an abatement. After an actual or deemed denial, however, they may grant an abatement during the period when the taxpayer can appeal, but only if it is in final settlement of the application, *i.e.*, the taxpayer agrees not to appeal.²⁸ Once a timely appeal is filed, assessors may also grant an abatement to settle the appeal.

4.4 Interest on Abatement

The amount abated is applied by the collector to reduce any balance that remains outstanding. No refund is issued unless the taxpayer has already paid more than the entire year's tax, as abated. Abatements of paid taxes refunded to a taxpayer must include interest at eight percent per year on the amount of the overpayment. If the assessors grant the abatement, interest is calculated on the refund from the due date or actual date of the preliminary or actual installment payment that resulted in the tax, as abated, being paid, whichever is later, to the refund date.²⁹ If the ATB orders the abatement, the interest is calculated from the actual payment date.³⁰

Interest due the taxpayer is charged to an appropriation for that purpose, such as a short-term interest or treasurer's general expense appropriation. Interest expenditures may exceed the appropriation and must be raised in the next annual tax rate unless otherwise funded.³¹

5.0 TAXPAYER'S RIGHT TO APPEAL

5.1 Appellate Tax Board

A taxpayer aggrieved by the assessors' action or failure to act on an abatement application may appeal to the Appellate Tax Board (ATB).³² The ATB is a state administrative board that hears taxpayer appeals on local and state tax matters. See Section 8 below.

An alternative right of appeal to the county commissioners is also available to taxpayers living in counties where county government has not been abolished.³³ The assessors have a right to transfer these appeals to the ATB, however. The assessors must seek the transfer within 30 days. If a case is transferred, the assessors must pay any ATB filing fee for the appeal to proceed.

5.2 Appeal Period

A taxpayer must file an appeal with the ATB within three months of the date the assessors granted or denied the abatement, or the date the application was deemed denied if they did not act.³⁴ If the notice of a deemed denial of the application did not go out within 10 days, the taxpayer has an additional 2 months to file an appeal.³⁵ The ATB cannot hear an appeal if it is not filed on time.

6.0 DISCOVERY RIGHTS

6.1 Abatement Application Period

Assessors may request that a taxpayer who has filed an abatement application allow them to inspect the property, and provide a written return under oath containing information reasonably required to determine its fair cash value, within 30 days.³⁶ A taxpayer who fails to comply with the assessors' request to inspect or provide information loses the right to appeal the assessors' action or inaction on the application, unless the non-compliance was for reasons beyond the taxpayer's control or the taxpayer attempted to comply in good faith.

6.2 Pre-assessment Period

Assessors may also request that owners or lessees of real or personal property provide them with information reasonably required to determine the fair cash value of the property.³⁷ Pre-assessment information requests must also be answered under oath, but the owner or lessee has 60 days to answer. An appeal to the ATB filed by a taxpayer who did not timely respond to a pre-assessment real property information request is subject to automatic dismissal.³⁸ The ATB, or the county commissioners, cannot extend the time for complying with the request, unless the non-compliance was for reasons beyond the taxpayer's control or the taxpayer attempted to comply in good faith.

In addition, failure to timely respond to a pre-assessment information request for a commercial and industrial real property subjects the property owner to a penalty

of \$250.³⁹ The penalty is \$50 for failure to respond to a request involving residential real property. In all cases, notice must have been given that non-compliance will result in the penalty.

6.3 Appeal Period

A taxpayer who has filed an appeal with the ATB must allow the assessors, or their attorneys and experts, to inspect the property.⁴⁰ The ATB may dismiss the appeal if the taxpayer does not permit the inspection.

Appraisal reports also must be exchanged between the taxpayer and assessors at least 30 days before the appeal is heard if the ATB directs the parties to do so after a request by either party or its own motion.⁴¹

7.0 ABATEMENT RECORDS

7.1 Abatement Book

Assessors must maintain an abatement book containing a record of all abatements and exemptions granted.⁴²

7.1.1 Abatements

For each abatement granted, the abatement book must list the name of the assessed owner, the fiscal year of the tax, the amount assessed, the amount abated, and the date the abatement was granted.

7.1.2 Exemptions

For each abatement made to put into effect a statutory exemption, the abatement book must also list the statutory provision under which the exemption was granted.

7.2 Public Access

7.2.1 Abatement Book

The abatement book is a public record and is open to mandatory disclosure under the public records law.⁴³

7.2.2 Applications

Taxpayers (or their authorized representatives) may have access to or copies of the abatement or applications they submit. The only others who may inspect the applications are the assessors and their staff, DOR, other state and local officials in the performance of official duties, and designated private auditors.⁴⁴ The application includes any supporting documentation submitted to substantiate the claim.

7.2.3 Discovery Documents

Information collected as part of discovery may only be inspected by the assessors and their staff, DOR, other state and local officials in the

performance of official duties, and designated private auditors.⁴⁵ See Section 6.0 above.

8.0 APPELLATE TAX BOARD APPEALS

8.1 Appellate Tax Board

The ATB is a state administrative board that hears taxpayer appeals on local and state tax matters. It consists of five members appointed by the Governor for six-year terms. Additional members may be appointed on a temporary basis to hold single member hearings.

A quorum of a majority of members is normally needed for a decision. A single member can hear and decide a case, however, if the assessed value of property is less than:

- \$500,000.
- \$750,000, if both parties agree.
- \$1,000,000 if the case is heard under the informal procedure.

The ATB is located at 100 Cambridge Street, Suite 200, Boston MA (617-727-3100). See: www.mass.gov/atb for information about ATB rules, filing fees and appeal forms.

8.2 Jurisdiction

The ATB can only hear and decide an appeal if the taxpayers has complied with certain procedural steps.

8.2.1 Proper Abatement Application

The taxpayer must have properly applied for an abatement with the assessors. The application must have been timely and the applicant must have been a proper party. If not, the assessors did not have jurisdiction to act and therefore, there is no action to appeal.

8.2.2 Timely Appeal

The taxpayer must have filed the appeal with the ATB within three months of the date the assessors granted or denied the abatement, or the date the application was deemed denied if they did not act.⁴⁶

In the case of a deemed denial, however, the taxpayer gets an additional two months to appeal if the assessors did not send the taxpayer a timely denial notice.

8.2.3 Tax Payment

The taxpayer usually must have paid all or part of the tax before filing the appeal. The payment requirements are:

- **Personal property taxes** – One half of the tax must be paid.
- **Real estate taxes:**
 - **Tax of \$3,000 or less** - No payment is required.
 - **Tax over \$3,000** - All installments must have been paid on or before their due dates, *i.e.*, without incurring interest, or the amount deemed due must have been paid by those dates. The amount deemed due is the average tax on the parcel for the prior three fiscal years.⁴⁷ The ATB applies this requirement to installments of the actual tax, not any preliminary taxes owed.

A taxpayer who (1) has paid at least half the tax, (2) has not incurred any interest, and (3) can demonstrate an inability to pay the tax in full can petition the ATB to waive the payment requirement or extend the deadline for paying the balance.⁴⁸

8.3 Appeal Procedures

8.3.1 Filing Fee

The taxpayer must pay a fee in order for the appeal to proceed. There is a sliding scale ranging from \$10 to \$5,000 depending on the assessed value of the property.

8.3.2 Appeal Scope

Each appeal generally can relate to only one parcel of real estate. The ATB may permit a number of appeals to be joined together if the valuation and legal issues are the same. Joinder is the usual practice where contiguous parcels are under common ownership, or where a single property is being appealed for more than one fiscal year.

8.3.2 Procedure Type

Taxpayers may elect to file the appeal under the informal or formal procedure. The filing fee is the same regardless of the procedure selected. The difference relates to the formality of the hearing and the right to appeal.

8.3.2.1 Informal Procedure

The informal procedure is designed for non-lawyers, particularly residential taxpayers. The strict rules of evidence and procedure that usually govern do not apply. Taxpayers who choose the informal procedure waive their right to appeal the ATB's decision, except on matters of law.⁴⁹

8.3.2.2 Formal Procedure

A hearing under the formal procedure is governed by the usual rules of evidence that apply in court and other administrative

hearings. The ATB has its own rules regarding pleadings and procedure that apply to these hearings. The taxpayer has the burden of proof. If the taxpayer won an abatement in an ATB case for a tax on the same property assessed for either of the prior two fiscal years, however, the burden shifts to the assessors to show why an increase in value was justified.⁵⁰ The taxpayer or assessors may request that a transcript be made of the hearing. If no one requests a transcript, neither party may appeal on factual issues.⁵¹

8.4 Appeals of Board Decisions

Decisions of the ATB may be appealed to the Appeals Court⁵² and ultimately, to the Supreme Judicial Court.

¹ State Tax Form 128

² *Shoppers' World, Inc. v. Board of Assessors of Framingham*, 348 Mass. 366 (1965); *Brown v. Board of Assessors of Brookline*, 43 Mass. App. Ct. 327 (1997).

³ *Tax Collector of Braintree v. J.G. Grant & Sons, Inc.*, 26 Mass. App. Ct. 731 (1989).

⁴ G.L. c. 60, § 98.

⁵ G.L. c. 59, §§ 23D and 57C.

⁶ G.L. c. 59, § 11.

⁷ *Old Colony Railroad Company v. Assessors of Quincy*, 305 Mass 509, 512 (1940).

⁸ G.L. c. 59, § 59.

⁹ G.L. c. 59, §§31A, 75 & 76, as amended by St. 2010, c. 188, §§45, 52 & 53.

¹⁰ G.L. c. 59, § 75.

¹¹ G.L. c. 59, § 76.

¹² G.L. c. 59, §§ 77 and 78.

¹³ G.L. c. 59, § 59; Also see [Bulletin 2015-05B, Abatement/Exemption Application and Payment Due Dates on Non-business Days.](#)

¹⁴ G.L. c. 59, § 59.

¹⁵ State Tax Form 135L.

¹⁶ G.L. c. 60, § 3.

¹⁷ State Tax Form 214

¹⁸ G.L. c. 60, § 3.

¹⁹ G.L. c. 60, § 3A.

²⁰ G.L. c. 59, § 71.

²¹ G.L. c. 58, § 8.

²² G.L. c. 59, § 64.

²³ G.L. c. 59, § 64.

²⁴ G.L. c. 59, § 63.

²⁵ State Tax Form 147.

²⁶ G.L. c. 59, § 70A.

²⁷ State Tax Form 135.

²⁸ G.L. c. 58A, § 6; G.L. c. 59, § 64.

²⁹ G.L. c. 59, § 69.

³⁰ G.L. c. 58A, § 1; G.L. c. 59, § 64.

³¹ G.L. c. 59, § 23.

³² G.L. c. 59, § 65.

³³ G.L. c. 59, § 64.

³⁴ G.L. c. 59, §§ 64 and 65.

³⁵ See *Cardaropoli v. Assessors of Springfield*, Massachusetts ATB Findings of Fact at 2001-913.

³⁶ G.L. c. 59, § 61A.

³⁷ G.L. c. 59, §§ 38D-38G.

³⁸ G.L. c. 59, § 38D.

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- ³⁹ G.L. c. 59, § 38D.
 - ⁴⁰ G.L. c. 58A, § 8A.
 - ⁴¹ G.L. c. 58A, § 8A.
 - ⁴² G.L. c. 59, § 60.
 - ⁴³ G.L. c. 59, § 60; G.L. c. 66, § 10.
 - ⁴⁴ G.L. c. 59, § 60.
 - ⁴⁵ G.L. c. 59, § 52B.
 - ⁴⁶ G.L. c. 59, §§ 64 and 65.
 - ⁴⁷ G.L. c. 59, § 64.
 - ⁴⁸ G.L. c. 59, § 65B.
 - ⁴⁹ G.L. c. 58A, § 7A.
 - ⁵⁰ G.L. c. 58A, § 12A.
 - ⁵¹ G.L. c. 58A, § 10.
 - ⁵² G.L. c. 58A, § 13.

PROPERTY TAX ABATEMENTS ADDITIONAL RESOURCES

The following are additional resources on Property Tax Abatements produced by DLS that are available on our website: www.mass.gov/dls.

- [*Property Tax Primer: Billing, Abatements and Appeals, City and Town \(April 2004\)*](#) (at pages 3-5) – General overview and explanation of property tax assessment and billing process and abatement and appeal procedures.
- [*Informational Guideline Releases \(IGRs\)*](#) – Guidelines that explain the policies and procedures regarding abatements include:
 - [92-206](#) Application for Authority from the Commissioner of Revenue to Abate Taxes and Charges (October)
 - [11-101](#) Overlay and Overlay Surplus (June)
- [*Bulletins*](#) – Bulletins that advise about new legislation or other issues regarding property tax abatements include:
 - [2015-05B](#) Abatement/Exemption Application and Payment Due Dates on Non-business Days

Slide 1

Commonwealth of Massachusetts
Department of Revenue

Property Tax Abatements

COURSE 101: CHAPTER 6

Slide 2

Commonwealth of Massachusetts
Department of Revenue

Agenda

1. Explain the local abatement procedure
2. Define omitted and revised assessments

Slide 3

Commonwealth of Massachusetts
Department of Revenue

Agenda

3. Define reassessments
4. Review Appeal Options (ATB and alternative appeals)

Slide 4

Commonwealth of Massachusetts
Department of Revenue

Local Abatement Procedure

Slide 5

Tax Liability Created by
Commitment of Tax List

Slide 6

Local Abatement Procedure

Abatements used to:

- 1) Effect Exemptions
- 2) Write Off Uncollectible Taxes
- 3) Correct Errors in Assessments

Slide 7

Taxpayer's Procedural Rights to Contest Assessment

Slide 8

Local Abatement Procedure

**Taxpayer does not own Property
or
Taxpayer entitled to complete exemption**

Not limited to abatement procedure

- Raise as defense to personal liability or foreclosure
- Pay under protest and sue to recover

Slide 9

Local Abatement Procedure

Abatement only remedy for

- Overassessment
- Disproportionate Assessment
- Misclassification

Slide 10

Local Abatement Procedure

If ANY Tax is Owed
The only remedy for:

- **Overassessment**
- **Disproportionate assessment**
- **Misclassification**

Is an application for abatement

Slide 11

State Tax Form 138
 Revised 12/2000

The Commonwealth of Massachusetts

Assessor's Use only
 Date Received
 Application No.

Name of City or Town

APPLICATION FOR ABATEMENT OF **REAL PROPERTY TAX**
 PERSONAL PROPERTY TAX

FISCAL YEAR

General Laws Chapter 89B

THIS APPLICATION IS NOT OPEN TO PUBLIC INSPECTION. (See General Laws Chapter 29A(6))

Return to: Board of Assessors
 Must be filed with assessors not later than due date of first actual (not preliminary) tax payment for fiscal year.

INSTRUCTIONS: Complete BOTH sides of application. Please print or type.

A. TAXPAYER INFORMATION.

Name(s) of assessed owner: _____
 Name(s) and status of applicant (if other than assessed owner): _____
 Subsequent owner (acquired title after January 1) on _____
 Administrator/executor. Mortgagee. _____
 Lessee. Other. Specify: _____
 Mailing address _____ Telephone No. () _____
 No. Street _____ City/Town _____ Zip Code _____
 Social Security No. _____ (optional) Amount and date of tax payments _____

Slide 12

Commonwealth of Massachusetts
 Department of Revenue

**Who May Apply
 for an
 Abatement?**

Slide 13

Who Can Apply for Abatement?

- Person has to be aggrieved by the Tax
 - Assessed Owner
 - Subsequent Owner
 - Acquired after January 1
 - Same rights as assessed owner

Slide 14

Who Can Apply for Abatement?

- Executor
- Administrator
 - Same rights as owner
- Taxpayer need not pay tax to apply to assessors for abatement
- Other Parties with Interest may apply, but MUST PAY tax

Slide 15

 Department of Revenue

**Application
Deadline - Timely Filing
Essential**

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Application Deadline – Last Day for Payment of Tax

- **Quarterly billing community**
 - Ordinarily February 1
- **Semiannual billing community - later of:**
 - 30 days after bills mailed
 - November 1
- **If date falls on a Saturday or Sunday, automatically extended**
- **If city/town offices closed as provided by charter due to a weather emergency, deadline extended**

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Personal Exemption Deadline

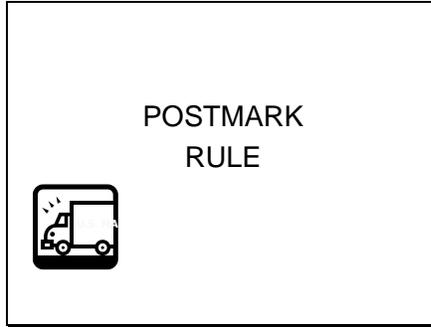
Application Deadline - later of:

- **December 15**
- or
- **Three months after mailing**

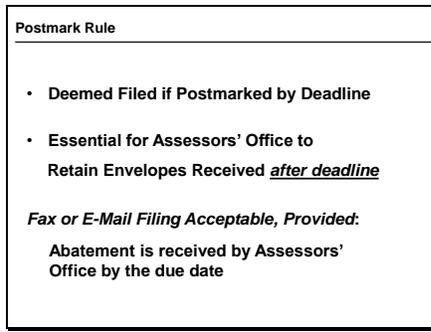
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**Proof of mailing tax bills to taxpayer –
Collector's affidavit**

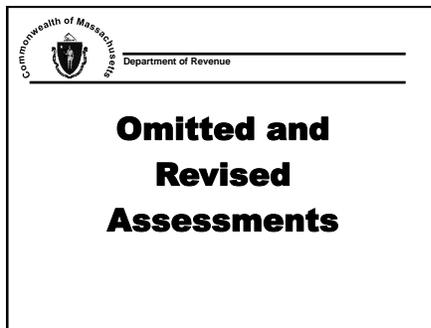
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3 Month Application Deadline

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Omitted Assessments

Examples:

- Parcel dropped during remapping project
- Parcel incorrectly identified as exempt
- New business did not file a form of list

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Omitted Assessments

Omitted Assessments must be made by the later of:

- June 20 of current fiscal year
- 90 Days after the mailing of the regular commitment
- Longer deadline if omitted personal property discovered by audit

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Revised Assessments

- **Underassessments**
- **Misclassifications**

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Revised Assessments

Must be made by the later of:

- **June 20 of current fiscal year**
- **90 Days after the mailing of the regular commitment**

Same deadline as for Omitted Assessments

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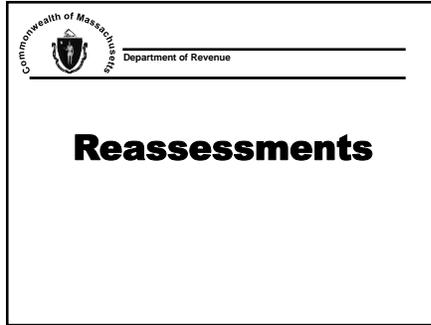
Revised Assessments

Typical Revised Assessments

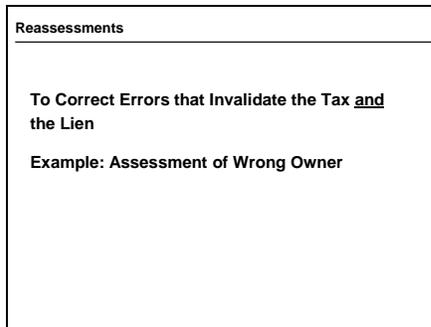
- **Assessors do not get notice of new construction**
- **Change in use**

Same deadlines apply as for omitted assessments

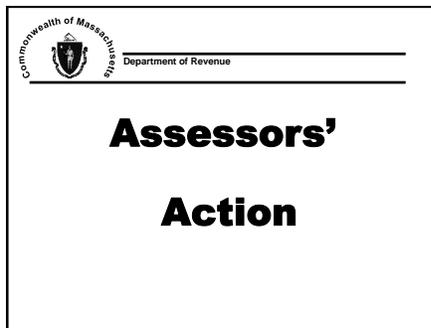
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Abatements Without Taxpayer's Application

- **No Application Needed where Personal Property Taxpayer is Dead, Broke or Gone**
- **Tax Unenforceable – Abated under M.G.L. c. 58, § 8 (8 of 58)**
 - **In extraordinary circumstances, Commissioner of Revenue may authorize assessors to grant abatement**

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Abatements Without Taxpayer's Application

Commissioner may authorize abatement if

- **Taxpayer**
 - **Seriously harmed or**
 - **Eligible for partial exemption**

AND

- **Taxpayer can show substantial mitigating circumstances to justify failure to use regular abatement process**

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Abatements Without Taxpayer's Application

8 of 58 abatements not a taxpayer's right

- **Discretionary by assessors to seek**
- **Discretionary by commissioner to grant**

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Time to Act on Abatement Applications

Three months from receipt of application, unless written authorization to extend time

No Action by Assessor Within 3 Months - Deemed Denial

Notice to Taxpayer + Copy to Collector and Accountant

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Time for Appeal to Appellate Tax Board

Three months from Date of Assessors' Action or Deemed Denial

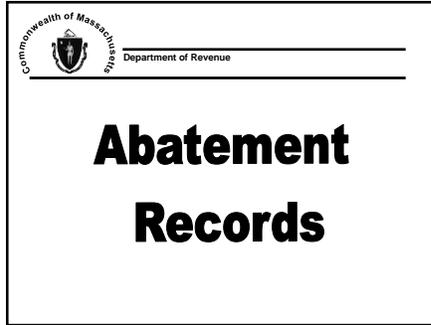
After Action or Deemed Denial - Assessors May Take No Further Action Except as Part of Final Settlement During that Three Month Appeal Period

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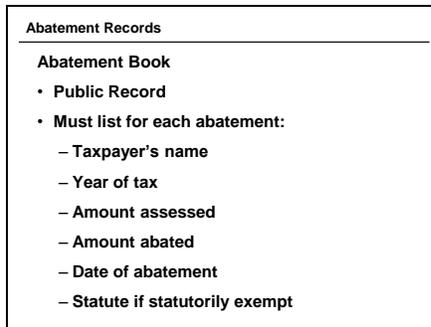
Assessors' Right to Discovery

Right to Appeal Lost if Taxpayer Does Not Comply

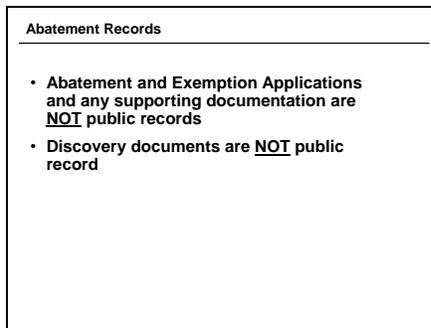
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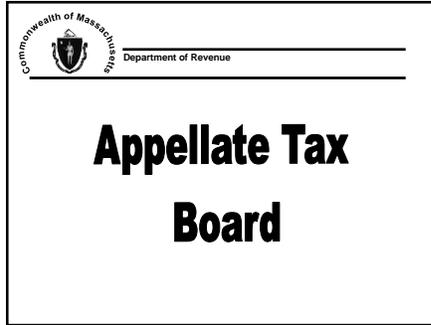
Slide 38



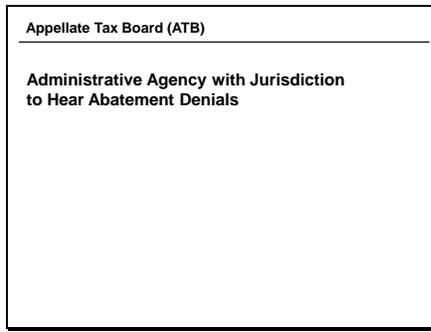
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Appellate Tax Board

Quorum

- **Quorum normally needed for decision**
- **Single member can decide if assessed value is:**
 - less than \$500,000;
 - less than \$750,000 if both parties agree; or
 - less than \$1,000,000 if under informal procedure

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Appellate Tax Board

Jurisdictional Issues:

Appeal Must have been Properly Before Assessors

Taxpayer Must Have Filed Timely Abatement Application and be Proper Applicant

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Appellate Tax Board

Jurisdictional Issues:

Appeal to ATB Must be Timely
- within 3 months of Assessors' Action or Deemed Denial

Tax Must Usually be Paid

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Appellate Tax Board

Jurisdictional Issues:

Personal Property Taxes

- 1/2 of Assessed Personal Property Taxes Must be Paid when Appeal Filed

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Appellate Tax Board

Jurisdictional Issues:

Real Estate Taxes

- Assessed Tax Less Than \$3,000: No Payment Requirement
- Assessed Tax More Than \$3,000: All Current Installments Must Be Paid
- Averaging Alternative

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Appellate Tax Board

Jurisdictional Issues:

ATB can Waive Payment Requirement or Extend Deadline for Payment - Motion by Taxpayer who has Paid at Least 1/2 of Tax

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Appellate Tax Board Appeal Procedures

Filing Fees

- Value \$20,000 or less - \$10
- \$20,000 - 100,000 - \$50
- Between \$100,000 and \$999,999 - \$100
- Above \$1,000,000 – 10 cents per thousand (\$5,000 maximum)

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Appellate Tax Board Appeal Procedures

- A petition may relate only to one parcel of real estate, unless board permits otherwise
- Rules of pleading, practice and evidence apply
- Burden of proof on applicant
- May request transcription; if no one so requests, all parties deemed to have waived appeal

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Appellate Tax Board Appeals Procedures

One Parcel per Appeal
ATB may Permit Joinder of Parcels

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Appellate Tax Board Appeal Procedures

Formal Procedure:
Usual Rules of evidence, pleading & practice

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Appellate Tax Board Appeals

Taxpayer has Burden of Proof unless ATB made a finding of fair cash value within 2 immediately preceding Fiscal Years

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Appellate Tax Board – Alternative Informal Process

- **Designed for non-lawyers**
- **Strict, formal rules of pleading, practice and evidence are eliminated**
- **Appellant must waive right to appeal ATB's decision except for mistake of law**

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Commonwealth of Massachusetts
Department of Revenue

Alternative Appeal

Slide 56

Alternative Appeal to County Commissioners

In counties NOT abolished

- Taxpayer allowed to appeal to county commissioners
- Assessors have right to transfer case to Appellate Tax Board
 - Must act with 30 days
- Taxpayer must pay applicable Appellate Tax Board fee

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Alternative Appeal

Transfer of Appeal

- If value of property exceeds \$20,000
- Assessors can unilaterally transfer to formal process
- Must exercise transfer authority within 30 days of service
- Assessors pay Appellate Tax Board filing fee (\$65)
