



DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

Workshop D

2024

Property Coming Off The Tax Rolls – Due to Municipal Acquisition

Land Acquisition

The Legislature has conferred upon cities and towns the power or duty to: Acquire any land, easement, or right on the territory within its boundaries for any public purpose. (G.L. c. 40, § 14). The acquisition may be made by the means of an outright purchase, by an eminent domain taking, by gift, or by tax title. (G.L. c. 60, §§ 64-69).

Real Property Taxes - Acquisitions by Purchase or Gift

- **The assessors should remove any parcel acquired by purchase or gift from the tax rolls beginning in the fiscal year after title passes.**
- **Taxes assessed for the fiscal year the transaction occurs, are allocated between the assessed owner and the town.**
- **Unpaid amount may be abated.**
- **The assessors may also abate any taxes inadvertently assessed for a subsequent fiscal year.**

Real Property Taxes - Acquisitions by Eminent Domain

- **Entire tax assessed for the fiscal year of the taking remains the personal liability of the assessed owner.**
- **Eminent domain statute includes its own mechanism for allocating the taxes between the parties through the award of compensatory damages.**
- **If the taking occurs between July 1 and December 31, the parcel is to be removed from the tax rolls for that next fiscal year.**
- **If the taking occurs between January 1 and June 30, however, the eminent domain statute requires that the damages also include taxes for the next year.**
- **Assessors should remove any parcel taken by the town from the next year's tax rolls, provided the damages did not include taxes for the year.**

Real Property Taxes - Acquisitions by Tax Title Foreclosure

- **Real property acquired by the town as a result of tax title foreclosure is removed from the tax rolls for the fiscal year after the year the foreclosure decree is entered by the Land Court.**
- **The tax, including interest and charges, should be certified by the collector to the treasurer and accounting officer and transferred to the tax possession account.**
- **The town should be able to require payment of these amounts in addition to those for which the foreclosure decree was entered if the former owner seeks to vacate the decree and redeem the property.**

Real Property Taxes - Deed in lieu of Foreclosure

- **Communities may accept title from the owners of properties on which there are municipal liens as an alternative to tax taking and foreclosure proceedings. G.L. c. 60, § 77C.**
- **All parties with interests in the parcel will have to be identified and, therefore, a title examination may be required.**
- **Acceptance discharges the owner from personal liability and the municipality cannot recover any deficiency as would be the case after an ordinary tax title foreclosure.**
- **The property may be converted to municipal use or transferred for private use.**
- **For more information please see [IGR-2021-22](#).**

Property Coming Off The Tax Rolls

- Due to Municipal Disposition of
Municipal Owned Property**

Real Property Taxes and Proceeds – Dispositions

- Any disposition of town owned property, regardless of how it was acquired, is subject to the requirements of G.L. c. 44, § 63A.
- New owner must make payment in lieu of taxes before the deed is delivered. The payment for the fiscal year of the sale is pro-rated from the date title passes to June 30. If the sale occurs between January 1 and June 30, a full pro forma payment for the next fiscal year must also be made.
- Proceeds of municipal real estate sales, if greater than \$500, must first be applied to the debt or sinking fund associated with the expense of acquiring the real estate, if any. G.L. c. 44, § 63.
- If none, the any balance remaining may be appropriated for any purpose for which the city or town could borrow five years or more or for land acquisition or public building improvement purpose.
- Any proceeds over \$500 from the sale of park land must only be used to acquire park land or for capital improvements to park land. G.L. c. 44, § 63.

Property Coming Off The Tax Rolls

- Due to Sale of Property By Government or Exempt Entity**

Pro Forma/Pro Rata Assessment – G.L. c. 59, s. 2C

Except as provided in section sixty-three A of chapter forty-four, whenever in any fiscal year the United States, the commonwealth, or a county, city or town, or any instrumentality thereof, or [an exempt charity, educational or religious institution], shall sell any real estate after January first in any year, the grantee of the real estate shall pay a pro rata amount or amounts, as hereinafter defined, to the city or town where such real estate is located in lieu of taxes that would have been due for the applicable fiscal year under this chapter if the real estate had been so owned on January first of the year of sale and, with respect to a sale between January first and June thirtieth, if the real estate had been so owned on January first of the year of sale and the preceding year. The pro rata amounts payable to the city or town shall be determined as follows:

- (a) A portion of a pro forma tax for the fiscal year in which such sale occurred allocable on a pro rata basis to the days remaining in such fiscal year from the date of sale to the end of the fiscal year; and
- (b) A pro forma tax for the succeeding fiscal year where the sales take place between January first and June thirtieth of any year.

The pro forma tax shall be computed by applying the tax rate or the appropriate classified tax rate of the city or town for the fiscal year in which such sale occurs, to the sale price after crediting any exemption to which the grantee would have been entitled under this chapter if the real estate had been so owned on January first of the year of sale.

Such amounts shall be paid by the grantee to the collector of the city or town within thirty days of the date of the issuance by said city or town of a notification of such liability to said grantee or the date by which a tax assessed upon real estate would otherwise be payable without interest for the applicable fiscal year, whichever is later. Any amount not paid by said date shall bear interest from said date at the rate per annum provided in section fifty-seven. The collector shall have for the collection of sums assessed under this section all remedies provided by chapter sixty for the collection of taxes upon real estate.

Sums received under this section shall not be subject to section sixty-three of chapter forty-four, but shall be credited to the general fund of the city or town.

Pro Forma and Pro Rata Assessment

- **Two stages of assessment for property transferred from exempt to non-exempt entity.**
 - **First, in all such cases, assess a pro rata tax based on how many days remain in the fiscal year from the time the transfer occurred.**
 - **$(\text{Sale Price} \times \text{Current FY Tax Rate}) \times \text{Proportion of Fiscal Year Left} = \text{Pro Rata Tax}$**
 - **Second, if the sale occurred after Jan. 1 and before July 1, issue pro forma bill for subsequent fiscal year**
 - **$\text{Sale Price} \times \text{Previous FY Tax Rate} = \text{Pro Forma Tax}$**
 - **Transfer occurred after Jan. 1 assessment date when title was held by exempt entity**
- **In both cases, apply any exemption to which grantee would have been entitled as of Jan. 1 of the relevant year.**

Question 1

- **The Archdiocese of Boston consolidates three (3) suburban parishes**
- **The largest parish church located in the City of Friartown is designated as the place of worship for parishioners and its religious use continues uninterrupted. Another church located in the Town of Eagleton continues to be owned by the Archdiocese and is used for charitable purposes operated by Catholic Charities. The third parish church located in Assumption is closed, deconsecrated and all religious uses promptly cease. The Archdiocese sells the property to ChildCo, an operator of for-profit daycare centers.**
- **What do we think?**
 - **What must be done if ChildCo takes title on Oct. 1?**
 - **What must be done if ChildCo takes title on February 1?**
 - **What if ChildCo uses part of the property for operation of its 501(c)(3) subsidiary?**
- **Note: It's not a commitment – the Assessor sends the non-exempt grantee a notice of their obligation per Section 2C**

Question 2

- **The United States Postal Service has a large Works Progress Administration era post office in Gentrifiville. The building is considered a rare example of Art Deco architecture in the Northeast United States and it contains widely-admired murals and relief sculptures. As part of a long-term plan to right-size it's real estate portfolio and reduce it's maintenance obligations, the USPS closes the branch and rents a smaller, lower-cost office nearby.**
- **What must the Assessors office do at that time?**
- **So, the USPS does eventually sell the Gentriville post office to Doctor Evil Real Estate Development Corporation for use as a secret lair – which is generally considered a residential use.**
- **What, if anything, does the Assessors Office have to do?**

Question 3

- **The United States Army disposes of a derelict air strip in Neglectham that is severely contaminated. It is known and advertised that the property will have to be remediated at great cost to the private developer before any new building can occur.**
- **Brownfield Development Corporation took title to the 100-acre property for only \$1 subject to a legal obligation to remediate the property at its cost before anything can be done with the property.**
 - **Is the sale price \$1 for purposes of calculating what Brownfield will owe Neglectham in pro rata/pro forma taxes?**
 - **What factors should the Assessors weight in making a more accurate calculation?**
 - **What if there is a penalty for failure to start work?**

Question 4

- **The Town of Exurbia purchases an abandoned shopping mall from Shea D. Reit, a real estate investment trust specializing in purchasing severely distressed commercial properties with extremely low-quality debt. Exurbia plans to use the land as open space until such time as another municipal use or worthy private development opportunity arises. In the meantime, it will be exempt municipal land.**
- **Shea comes back after the sale and demands that they should have their taxes for the fiscal year abated because it changed to an exempt use.**
 - **What do you tell Shea?**

Newly Taxable Properties/Newly Exempt Properties

- **Non-Profit/Religious/Education-owned transferred to private taxable owner**
 - **Assess Pro Rata tax for remainder of current FY**
 - **Post Jan. 1 Transfer - Assess Pro Forma Tax for succeeding FY**
 - **Pre-Jan. 1 Transfer - Do Usual Jan. 1 Assessment for succeeding FY**
- **Government-owned transferred to private taxable owner**
 - **Assess Pro Rata tax for remainder of current FY**
 - **Post-Jan. 1 Transfer - Assess Pro Forma Tax for succeeding FY**
 - **Pre-Jan. 1 Transfer - Do Usual Jan. 1 Assessment for succeeding FY**
- **New parcel not previously known or created**
 - **Figure out when parcel became taxable locally**
 - **Assess Pro Rata for remainder of current FY**
 - **If Never Previously Assessed, cannot assess now for prior FYs**
 - **Do Usual Jan. 1 Assessment**

Supplemental Assessment – G.L. c. 59, s. 2D

- **Section 2D. (a) Whenever in any fiscal year real estate improved in assessed value by over 50 per cent excluding the value of the land by new construction is issued a temporary or permanent occupancy permit after January 1 in any year, the owner of the real estate shall pay a pro rata amount or amounts, as herein defined, to the city or town where such real estate is located that would have been due for the applicable fiscal year under this chapter if the real estate had been so improved on the assessment date for the fiscal year in which the occupancy permit issued. The amounts payable to the city or town shall be determined as follows:**
 - **(1) A real estate tax based on the assessed value of the improvement for the fiscal year in which such improvement and issuance of an occupancy permit occurred allocable on a pro rata basis to the days remaining in the fiscal year from the date of the issue of the occupancy permit to the end of the fiscal year; and**
 - **(2) A real estate tax based on the assessed value of the improvement for the succeeding fiscal year where the improvement and issuance of the occupancy permit take place between January 1 and June 30 of any year.**
- **(b) A real estate tax based on the assessed value of the improvement shall be computed by applying the tax rate or the appropriate classified tax rate of the city or town for the fiscal year in which such improvement and issuance of an occupancy permit occurs to the assessed value of the improvement, or the succeeding fiscal year as the case may be as if the real estate had been so improved on January first of the year of occupancy.**
- **(c) Such amounts shall be paid by the property owner to the collector of the city or town within 30 days of the date of issuance by said city or town of a notification of such liability to said property owner or the date by which a tax assessed upon real estate would otherwise be payable without interest for the applicable fiscal year, whichever is later. Any amount not paid by the said date shall bear interest from the said date at the rate per annum provided in section 57. The collector shall have for the collection of sums assessed under this section all remedies provided by chapter 60 for the collection of taxes upon real estate.**
- **(d) A person upon whom a tax has been assessed pursuant to the provisions of this section shall have all remedies provided by section 59 and section 64 of chapter 59 and all other applicable provisions of the General Laws for the abatement and appeal of taxes upon real estate.**
- **(e) Whenever in any fiscal year, the assessed value of real estate is decreased by over 50 per cent excluding the value of the land as the result of fire or natural disaster, the city or town shall abate or refund taxes received, as the case may be, in an amount to be calculated in the same manner as a real estate tax increase, based on the assessed value of an improvement, is calculated pursuant to the provisions of this section. A property owner aggrieved by the failure of the assessors to so abate may, within 1 year following the fire or natural disaster, apply to the assessors for the abatement.**
- **(f) The local appropriating authority, as defined in section 21C, may reject this section by written notification to the department of revenue.**

Supplemental Assessment

- **Section 2D is an “opt out” local option statute; almost all local option statutes must be affirmatively accepted by act of its legislative body**
- **The policy favors municipalities revaluing properties throughout the year in order to capture increases in taxable value from improved properties (not market increases). Policy also favors relief for taxpayers that suffered a catastrophic loss.**
 - **The norm under G.L. c. 59, s. 11 is that Jan. 1 is the assessment date. Allowing municipalities the option to opt out of supplemental assessment accounts for the fact some may not have a lot of capacity to handle additional assessing responsibilities throughout the year.**
 - **Supplemental tax for the current fiscal year is pro rata based on days remaining in the FY and is only for properties where the value is increased by more than 50% based on improvements excluding the value of the land.**
 - **Similar to properties that become taxable after Jan. 1, a pro forma assessment for the subsequent fiscal year is necessary because the Jan. 1 assessment date already passed.**
 - **Taxpayer can apply for abatement the same as other assessments, and taxpayers have one (1) years to appeal from failure to abate in case of catastrophic loss.**
 - **[IGR-2021-12](#) covers supplemental assessment.**

Question 1

- **The Town of Harvestdale is a population center in an otherwise rural part of the state, because it hosts a large public university, and most of the student, faculty and staff. Otherwise, most properties in Harvestdale are agricultural. Accordingly, a large proportion of Harvestdale's properties are exempt or chapterland. Harvestdale has not opted out of supplemental assessment.**
- **Tragically, a farm property in Harvestdale is struck with a massive fire on July 4 weekend. Two barns on the property are total losses, and the roof of the only residential structure on the property will have to be completely replaced.**
 - **What should the Harvestdale assessors do?**
- **Fortunately, the owners are able to quickly secure two large prefabricated barns from another property nearby, and operations are more or less back to normal within a month.**
 - **What affect does this have on application of 2D?**

Question 2

- **Here's an easy exercise!**
- **As of January 1, 2023, 123 Example Street in Pickatown, MA is assessed at \$500,000. It is vacant land zoned for single family residential use.**
 - **On or about August 1, 2023, construction commences on a 4,000 square foot, 5 bedroom, 5 bath single family home. The property sells on February 28, 2024 for \$2M and a certificate of occupancy issues on March 31, 2024.**
 - **Pickatown has not opted out of supplemental assessment.**
 - **What should the assessors do?**
- **If your town has accepted the third sentence of G.L. c. 59, s. 2A(a) - so-called Chapter 653 communities - then the value of construction between Jan. 2 and June 30 will be captured in Jan. 1 assessment, retroactively, regardless of a certificate of occupancy or a sale.**

Question 3

- **The Assessors of the Town of Revenue, MA learn from the inspectional services department that an occupancy permit issued for a newly built house in a remote part of town. Previously, the town was forced to reimburse the owner a significant portion of property taxes when the house that was there burned down under suspicious circumstances.**
- **The Assessors want to ensure they capture every last dime they are able to given their continued doubt about the circumstances of the house burning down. After issuing a pro rata assessment for the remainder of the fiscal year, the owner files an abatement application, saying the new house in the same remote location is worth no more than the previous one.**
- **The issue goes to the ATB – what evidence do you want to have to support your case?**

New Parcels – Found, Created or Annexed Land

- **From time-to-time, we learn of parcels that are actually within our geographic limits that we didn't previously realize, we forgot about a parcel (i.e., it was errantly deleted or there was an omission on a map) or the land court or an appellate court tells us some land is within our boundaries.**
- **Sometimes, land is created – historically, the East Boston and Back Bay neighborhoods in Boston are good examples.**
 - **A more contemporary example is construction of buildings over the Mass Pike through Newton, Allston-Brighton and Boston proper.**
- **Personal Property**
 - **Discovering businesses of which you were previously unaware.**
 - **That's why visiting offices and commercial/industrial properties you know have tenants periodically is a good practice.**
 - **One Principal Assessor gave me the example of an expired TIF where the business was never subject to an inspection to inventory personal property, since it would be exempt per the agreement.**

New Parcels – Found, Created or Annexed Land

- **Parcels that were always within your boundaries, but were “lost” or otherwise forgotten, and never assessed, not even to owner unknown.**
 - **This is an omitted assessment under 59:75, not a reassessment, because it was never assessed to an owner in the first place.**
 - **Can’t go back further than the current fiscal year.**
- **A parcel you annex from another town – it’s on the wrong side of a river or railway from emergency services and it’s easier to access from adjoining town.**
 - **In all likelihood, the intermunicipal agreement would have some details or understanding about assessment, but it’s still going to be assessed to owner as of Jan. 1 in whatever town the parcel is located, just like any other.**
- **Brand new land - Say a developer builds a pier for amusement rides and ice cream shops.**
 - **You’ll consider whether there are any supplemental assessment or Chapter 653 issues and you’ll assess as part of the regular tax rolls on first Jan. 1.**

Assessing Water Rights and Unique Situations Involving Exemptions

Case Study One: Clause 42

Five assessors from different municipalities meeting during coffee at the 2024 DLS Municipal Law Update realized that they each had pending exemption applications filed by widows and widowers with their boards of assessors pertaining to applications for heroic line of duty deaths by local public safety personnel, pursuant to G.L. c. 59, s. 5, clause 42. Clause 43 allows for real estate exemptions for surviving minor children of public safety personnel killed in the line of duty. The individual circumstances varied.

Question 1

In one municipality, a firefighter died as the result of a motor vehicle collision while driving the town's ambulance on the way to a call for medical assistance. Is his wife entitled to a Clause 42 exemption?

Question 2

Another application involved an off-duty local police officer, who, while on vacation, intervened in the rescue of a boy who was caught by a rip-current at an out of state beach. She was successful in saving the boy, but tragically lost her life. Is her wife entitled to a Clause 42 exemption?

Question 3

In another community, the local harbor master, a city official vested with police powers, was injured in a boating accident while patrolling the local harbor; he later died from his injuries. Is her husband entitled to a Clause 42 exemption?

Question 4

In one city, a 30-year veteran firefighter suffered a heart attack at the station and, after a long struggle, eventually passed away. Is his wife entitled to a Clause 42 exemption?

Question 5

Another situation discussed by the assessors concerned an unfortunate situation where a local police detective, while working in an undercover role, had infiltrated a local motorcycle gang that ran an extensive narcotics operation. The undercover operation resulted in the conviction and incarceration of all of the members of the motorcycle gang. His widow provided evidence that the detective's undercover infiltration later caused him nightmares and other issues, for which his doctor diagnosed a case of Post-Traumatic Stress Disorder (PTSD). His widow claimed that the detective's death was as a direct result of the PTSD diagnosis.

Question 6

A final issue discussed by the assessors concerned the application of Clause 43, which provides a full exemption for minor children of police and firefighters killed in the line of duty. In this case, Mary Allen, a police officer who was a single mother of a fourteen-year-old son, lost her life while directing traffic in the downtown area. She had planned her estate by transferring her property to a trust, giving her son a beneficial interest in the property. May the son receive the real estate exemption, and, if so, for how long?

Case Study Two: Clause 56

Town Meeting in the Town of Oakbury voted to accept at its most recent meeting G.L. c. 59, § 5, clause 56, which allows the town to offer an exemption to certain members of the National Guard or reserve branch of the US armed forces, who has not been discharged. Valerie Delasala, the assessor for the Town of Oakbury, has received five applications for a Clause 56 exemption. She has not yet established eligibility criteria. The applications are as follows:

Question 1

Terry Smith is a Coast Guard reservist who resides in the town. Terry has been activated to Coast Guard active service in order to teach Coast Guard midshipmen in the Coast Guard Academy in Groton, CT how to rig and pilot the Academy's tall ship Barque Eagle, a 295-foot sailing vessel. The Barque Eagle is scheduled to make ports of call along the Eastern Seaboard, while the midshipmen learn the ropes, before sailing to the Caribbean Sea to appear in numerous Tall Sail ships in ports in numerous countries. Terry will be activated in Groton on July 1, 2024, before heading to sea on July 15. He will be returning to reserve duty in Oakbury on January 1, 2025. He is seeking to have the Clause 56 exemption applied 100% to his FY24 tax bill. Does he qualify for a Clause 56 exemption?

Question 2

Liz Leyne is a lieutenant commander in a Navy Reserve fleet rapid response intelligence unit. Her unit was called to active duty to address interruptions to world commercial shipping off the coast of Yemen. She will be based in the Middle East at least during the entire fiscal year. She has approached assessor Delasala about her chances of qualifying for a Clause 56 exemption. Does she qualify?

Question 3

Lauren Aquino, a National Guard sergeant whose focus is on anti-terrorism, has received her desired assignment of an active-duty position in the Pentagon. She will be required to temporality relocate to Washington, DC for this assignment for a two-year duration. Is she eligible for a Clause 56 exemption.

Question 4

Is it advisable for Assessor Delasala and her board to develop eligibility criteria for the granting of Clause 56 exemptions?

Case Study Three: Clause 50

Dennis Rafferty is the town assessor for the Town of Chiltown. Seeking to encourage the development of affordable housing for senior citizens in the resort town, Chiltown Town Meeting voted to accept the local option Clause 50 to allow for a property tax exemption for improvements to residential property in order to upgrade the property to provide housing for a person at least 60 years old. Mr. Rafferty did not realize how popular the property tax exemption would be for the town. He has a number of applicants seeking the tax exemption, which is capped at no more than \$500. He seeks advice with respect to the following applicants.

Question 1

Chiltown accepted the statute on March 6, 2024. The Town issued FY25 tax bills on January 1, 2025. Local developer Christine Eldridge took advantage of the exemption to modify an apartment in her three-family home to provide a safe space for her friend Louise Santoya. The apartment will now comply with handicapped accessibility standards compliant with the Americans with Disabilities Act allow Santoya to remain in the apartment for the near future. Ms. Eldridge applied for a \$1,000 Clause 50 exemption for FY25 for alterations and improvements made during March and April 2024. Should Mr. Rafferty urge his board to grant the exemption?

Question 2

For FY26, Assessor Rafferty received a Clause 50 exemption application. In accordance with Clause 50, the applicant owner of the property Rafferty researched the elderly occupant of the apartment for which the developer is seeking the exemption. The person in the in-law apartment is a Florida resident who is receiving the homestead exemption in Florida and is not on the census or a registered voter in Chiltown. The owner of the property states they have received the exemption for many years, and they do provide housing to him when he comes up from Florida.

Question 3

Paolo Perriera is seeking a Clause 50 exemption for the modifications he made to an apartment in his three-unit apartment building. Paolo just became eligible for a Clause 41 senior citizen exemption and, in addition to the Clause 50 exemption application, he has filed a Clause 41 senior citizen exemption application. Assessor Rafferty is now starting to worry that these new exemption applicants will be a burden on his overlay. He now questions whether the state will provide reimbursement for the new Clause 50 applications. How would you advise him on the two issues?

Question 4

Assessor Rafferty has received two additional applications for Clause 50 exemptions. In one case, the owner applicant converted a home office into a bedroom to provide housing for an elderly aunt. In another case, the owner applicant reconfigured a free-standing garage to create an apartment that had no kitchen facilities. Assessor Rafferty seeks your advice on whether to grant both Clause 50 exemption applications.

Case Study Four: G.L. c. 59, § 50

The city council of Edgerton became concerned that the resort community had become difficult for people of limited means to live and work in the community. The city council adopted a two-part plan to incentivize homeowners to build units that were affordable for renters who needed housing that was affordable. The first part of the plan was to amend its zoning bylaw to allow homeowners to build accessory dwelling units in their existing homes in order to increase the city's housing stock. Also, the city council voted to adopt G.L. c. 59, § 50 to provide a tax exemption for homeowners who rented apartments to low-income tenants whose income met the affordable housing standards in accordance with the United States Department of Housing and Urban Development guidance and regulations. In accepting the statute, the city council did not set a cap on the amount of the exemption. The two programs succeeded generating an additional 100 new units of affordable housing. City assessor George Flanagan has had to hire additional staff to process and investigate the applications from qualifying homeowners. He has a few questions.

Question 1

The first application for a § 50 exemption states that the new affordable housing unit is 1,000 square feet, and the home in which the new unit was added is 2,000 square feet. The real estate taxes for the home are \$15,000. What is the amount of the exemption?

Question 2

Assessor Flanagan is concerned that a number of the homeowner applicants for the affordable unit exemption also receive G.L. c. 59, § 5 exemptions including senior citizen and veterans exemptions. He is concerned that the amount of the overlay he determined would be sufficient for the fiscal year is now projecting a deficit. He wants to know if he can inform the homeowner applicants that they must choose either their G.L. c. 59, § 5 exemptions or their G.L. c. 59, § 50 affordable housing exemption. May he do so?

Question 3

Assessor Flanagan's investigation of homeowners seeking the exemption revealed that five homeowners seeking the G.L. c. 59, § 50 affordable unit exemption have rented to college students at the local technical college whose income fits within the guidelines qualifying for affordable housing. The investigation revealed in each instance, however, that the lease agreements for the college students were for a term of nine months, and the homeowners rented out weeks during the summer to the many tourists who flock to Edgerton in the warm weather. Do these issues impact the qualifications of the homeowner for the exemption?

Case Study Five: Clause 20

Question 1

Donna Cortez, the assessor for the Town of Rockingham has a question about determining a location for a property owner's domicile and the potential assessment of second home furnishings as personal property. A property owner in the town owns at least two homes in Massachusetts, one in Rockingham and one in Redwood. The owner is registered to vote in Rockingham and lists his mailing address at his home there, but his last voting record is from 2019. For the past two years, there has not seemed to be any activity (cars in the driveway, visitors, snow clearing, etc.) at the Rockingham property. According to Redwood officials, the property owner has been successfully receiving mail and paying bills received in that town. In Rockingham, the property owner has approximately \$14,000 in unpaid tax bills because he claims he has not received the bills at the mailing address that was on file. Donna believes that the homeowner's primary residential activities take place in Redwood, but she is concerned that if she makes a personal property tax assessment for the Rockingham property, the homeowner may contest the assessment, given that paper records indicate domiciliary status is Rockingham. She would like to know how to proceed.

Question 2

Donna Cortez also came across an interesting scenario involving personal property. She noted that the Bailey family, descendants of the founders of Rockingham, has been loaning out pieces of their personal art collection and two elaborate pianos to a local museum. The art pieces and the pianos had previously been housed in the Bailey family mansion. She is quite familiar with the Bailey family, as family members routinely file real estate tax abatements contesting the value of the mansion. In order to save the cost of litigation, the assessors have often settled with the Baileys, and in Donna's eyes the valuation of the home is lower than it should be. Sensing an opportunity to tax the Baileys further, Donna wonders whether the loaning of the art pieces and the pianos mean that they are now taxable as personal property, as they no longer benefit from the Clause 20 exemption, as they are no longer part of the domicile. How would you advise her?

Question 3

Donna Cortez was recently reading the *Rockingham Gazette* and came across an advertisement for a local auto mechanic. The auto mechanic's business used to be listed under his own name, Jim Smith, proprietor. In the advertisement, she now noticed that Jim Smith's business name had changed to Jim Smith, LLC. Under Clause 20, the tools and machinery of a mechanic are exempt to any amount. Donna wonders whether, given the corporate name change to an LLC whether Jim Smith's expensive tools are now subject to personal property taxation. How would you advise her?

Case Study Six: Water Issues

Martin Brody is the new assessor of the seaside town of Jawsville, after having previously served for many years as the assessor in a large metropolitan city. Not only has he been learning about his predecessor's practices, but he has also been trying to adapt to his years of assessing experience to the peculiar circumstances of his new seaside community. Jawsville's town manager Larry Vaughn has been leaning on Assessor Brody to go parcel to parcel to utilize unique appraisal techniques and explore new revenue opportunities for the town. After three months in his new role, Brody thinks he may have found a few opportunities.

Question 1

Brody noted that a private offshore wind energy producer has received permitting from the US Army Corps of Engineers and state Executive Office of Environmental Affairs to site underground electric cables from its offshore wind turbines to a local beach, where the power lines will connect the wind energy to the regional electricity grid. As an avid fisherman, he knows that the international waters boundary line is twelve miles from the coast of Jawsville. The lines were just connected to the Jawsville power lines last month. He would like to know if the town can impose a personal property tax on the underwater electrical cables in the sea within the territorial limits. Can he do so?

Question 2

Assessor Brody explored another possible revenue enhancement opportunity with the combination of two lower value parcels owned by the same owner. He noted that there are a few properties located along the Kimpton River where the parcel owners own low value land on both sides of Kimpton River. He researched deed descriptions for the parcels where the landowners each owned parcels on both sides of the Kimpton River. The deeds he researched each stated that each abutting owner owns the land UNDER the river. He thinks he can use his discretion as an assessor to combine the commonly-owned individual riverfront parcels on both sides of the river to create buildable, higher value parcels in each circumstance. Can he do so?

Question 3

While Assessor Brody was seeking to find the possibility of maximizing revenue, a brutal January coastal wind event wrought havoc along ocean-front properties in Jawsville, especially along a barrier island, known as Thumb Island. The storm resulted in a breach in the barrier island, with surging floodwaters breaching a seawall and destroying several oceanside homes in its wake. The storm washed away over five acres of beachfront property. The residents of Thumb Island, descendants of generations of hardy homeowners who had taken pride in repairing their homes immediately after storms, decided to throw in the towel. Of the original twelve homes on the island, there were now three, and the storm had eroded the typical beach by fifty feet, leaving homes now twenty feet away from the ocean. Jawsville's town manager Larry Vaughn reached out to Assessor Brody for a plan on how to address the assessments of properties owned by owners whose homes have been destroyed by the January storm. What would you advise him to do?

Question 4

Assessor Brody has examined another opportunity to provide an upward valuation on a property. He observed that a manufacturer located alongside a dam on part of the Kimpton River draws water from the river for its manufacturing uses. He researched the deed and determined that the deed referenced not only title to the property, but it gave the landowner the right to draw water from the river. The Kimpton River is owned by the Commonwealth of Massachusetts. He noted that G.L. c. 59, § 2B provides that “real estate ... owned by the ... Commonwealth, if used in connection with a business conducted for profit or leased or occupied for other than public purposes, shall for the privilege of such use, lease or occupancy, be valued, classified, assessed and 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...” He would like advice on whether he may start assessing the manufacturer for the water rights he is utilizing with respect to the Kimpton River.