



January 4, 2019

TO: Telephone Filers
FROM: Joanne Graziano, Chief
Bureau of Local Assessment
COPY: Boards of Assessors

TOPIC: **Landline Telephone Return for FY2020**

The **filing deadline** is on or before March 1, 2019 for telephone companies doing business in the Commonwealth. [M.G.L. c. 59, § 41](#) requires telephone companies to make a return (Form 5941) to the Commissioner of Revenue (“Commissioner”) listing taxable machinery, poles, wires, underground conduits, wires and pipes located in each municipality as of January 1, 2019. (If the due date for the return falls on a Sunday or legal holiday, it is automatically extended by law to the following business day. (See also [M.G.L. c. 4, § 9](#).)

All telephone companies must complete all sections in full. The statute requires “the ...detail prescribed by the commissioner and shall contain all information which he shall consider necessary to enable him to make [telephone company] valuations....” [M.G.L. c. 59, § 41](#). When reporting income and expenses on the Form 5941 Appendix II, you must report in column 2 the Massachusetts-Only Operating Results. In the comments section, explain how you determined the Massachusetts results and, if an allocation method was used, you must explain the method used. As you know, the Department of Revenue has audit authority to verify the completeness and accuracy of return information. [M.G.L. c. 59, § 42A](#). The Commissioner intends to exercise this audit authority where income and expense information provided for Massachusetts is insufficient.

Only if a question or section is not applicable to your operations should you so indicate by answering “N/A” in the answer cell and explaining **why** it is not applicable in the comment section. If the answer is zero, please indicate so by answering “0”. There should be no blank fields within this report. For your convenience there is an extra comment section at the end of this form to provide room for any additional information to be provided.

Any company that is filing a return for the first time, has filed in the past and has not been centrally valued, or is not sure whether it must file a central return, may also need to file timely local returns of property under [M.G.L. c. 59, § 29](#), or seek authority to file such return late, in order to protect its rights in the event the Commissioner determines that the company is not substantially a telephone company and therefore not subject to central valuation. Any telephone company that has taxable non-telephone property subject to local valuation must file a [State Tax Form 2](#) (local return) with the local boards of assessors on such property as well as Form 5941 for centrally valued telephone property.

In determining **new tax base levy growth**, all personalty that is listed as new for calendar year 2018 and all personal property that is new to a community or tax district (whether it is new, used or transferred from another community or tax district) must be noted by placing a checkmark in the New Asset column on the spreadsheet “List of Telephone Personal Property.”

State Tax Form 5941 and State Tax Form 5941 Appendix I & II, are available on our [website](#). Personalty will be valued based on the cost approach using property identification codes that mirror those of the FCC and generally accepted cost indices. All returns must be complete, submitted in the prescribed format and signed by the treasurer. Current year returns will be compared with previous years’ returns and you must be able to account for discrepancies.

Taxable telephone property includes:

- Network property constructed and in service
- Cable without lit fiber (aka dark fiber or dark cable)
- Construction work in progress (CWIP)
- All emergency and backup electric generators, including UPS machinery
- Spare parts, and
- Property retired from service.

Form 5941 includes a definition for the property category known as Property Retired from Service. The definition specifies that property retired in place is:

PROPERTY RETIRED FROM SERVICE. Reported property completely mechanically disconnected, completely abandoned, or permanently removed from any service in the operation of a telecommunications network. The date of retirement is the date the reported property is eliminated from use or service.

In order to report property within this category, the entire unit of property must be retired as described in this definition. A unit of property cannot be partially retired, partially disconnected or partially abandoned. For example, all strands of a metallic or fiber optic cable must be retired, disconnected or abandoned. The non-use of some fibers or wires within a cable does not qualify the property unit or any portion of it for reporting as property retired from service. This category assumes that the property is being permanently retired, disconnected or abandoned. However, if for some reason the property unit is returned to service in any way prior to removal, the property must be reported in the appropriate category at its original historic cost and vintage.

The spreadsheet portion of the return uses drop down menus to assist you in the selection process. When using the spreadsheet portion of the return you should be aware of the following:

1. Data entry or upload capacity is 65,000 lines. If you need more lines please use an additional spreadsheet.
2. Installation years must be entered or uploaded as numbers. Text values will appear in red.
3. Personal property descriptions must be selected from the list provided, alphabetically.
4. Community (or tax district) names that are incorrect will appear in red. You must select the correct community name (or tax district) from the list provided in the spreadsheet.
5. Installation years earlier than 1960 will be highlighted in green to assist in discovery of any error in data entry or upload.

State Tax Form 5941 must be submitted electronically in the Excel (.xls) format requested to bladata@dor.state.ma.us along with a printed and signed copy. The treasurer of the company, by statute, must sign the return. The owner of the property and not the lessee, user or holder is responsible for reporting the personal property to the Commissioner, regardless of whether there is an indefeasible right of use (IRU). Returns must be filed on time. Failure to provide all required information will cause the return to be treated as an incomplete filing.

All companies must complete the Form 5941 Appendices to be considered a complete filing.

Central valuation reporting requirements are based on company entity status, i.e. corporation, limited liability company (LLC) or other entity treated as a corporation, or LLC, partnership, trust, or association not treated as a corporation. Note: We require companies that are not corporations, but filing federally as a corporation to submit copies of their approved IRS Form 8832, Entity Classification Election or other evidence that the entity is treated as a corporation for federal income tax purposes.

Property listed includes only machinery, poles, wires, underground conduits, wires and pipes used for providing telephone, which includes such property used for telephone and cable TV or telephone and Internet, but not property used solely for Cable TV or Internet. Taxable machinery not used for telephone service, including machinery used solely for Cable TV or Internet, and other taxable personal property must be reported to the local boards of assessors where the property is situated using State Tax Form 2 (Form of List).

The following chart identifies the taxable status of telephone personal property subject to *central valuation* based on the entity status of the company. If you have any questions, please email John Gillet at gilletj@dor.state.ma.us or call 617-626-3605.

Entity Status of Owner of Property	Taxable Telephone Personal Property Reported to the Commissioner (Form 5941)
Corporation or Limited Liability Company (LLC) or other non-incorporated legal entity treated as a corporation for federal income tax purposes	<ul style="list-style-type: none"> • Poles and wires over private and public property • Underground conduits, wires and pipes in public or private property • Electric generating machinery, including UPS
Limited Liability Company (LLC) or other non-incorporated legal entity treated as a disregarded entity for federal income tax purposes Other legal entity not treated as a corporation for federal income tax purposes, including: <ul style="list-style-type: none"> • Partnership • Association • Trust 	<ul style="list-style-type: none"> • Poles and wires over private and public property • Underground conduits, wires and pipes in public or private property • All machinery, including electric generators, switching equipment and routers, used for telephone service purposes, and UPS
Wireless Telecommunications Carriers	<ul style="list-style-type: none"> • File Form 2MT (<u>Mobile Telecommunications Form of List</u>) with local boards of assessors • Should not file Form 5941 and 5941 Appendices