



Current Developments in Municipal Law

Legislation Book 1

2017

TABLE OF CONTENTS**Legislation****Book 1**

	<u>Page</u>
<u>2016 LEGISLATION</u>	
Ch. 283 Fiscal Year 2016 Supplemental State Budget	1
§ 9 Veterans Assistance Fund Tax Bill Check-off	
Ch. 326 Special Act Residential Exemptions	2
Ch. 334 Regulation and Taxation of Recreational Marijuana	3
§ 4 Local Option Sales Tax	
§ 5 Impact Fees	
Ch. 431 Employment Contracts for Appointed Assessors, Collectors and	4
Treasurers	
<u>2017 LEGISLATION</u>	
Ch. 47 Fiscal Year 2018 Supplemental State Budget	5
§ 31 Overlay Account	
Ch. 55 Safe Access to Marijuana	5
§ 13 Local Option Sales Tax	
§ 25 Host Agreements and Impact Fees	
<u>PROPOSED LEGISLATION</u>	
S.B. 2135 Abatements, Exemptions, Deferrals and Classified Land	7
Applications	
<u>DEPARTMENT OF REVENUE REGULATIONS</u>	
830 CMR 62C.3.1 Public Written Statements	17

LEGISLATION

PLEASE NOTE THIS COMPILATION WAS MADE FROM ELECTRONIC
(NOT OFFICIAL) EDITIONS OF MASSACHUSETTS ACTS AND
RESOLVES (SESSION LAWS) AND BILLS FILED FOR 2017-2018
SESSION

2016 LEGISLATION

CHAPTER 283 – FISCAL YEAR 2016 SUPPLEMENTAL BUDGET

Effective January 4, 2017

§ 9 Veterans Assistance Fund Tax Bill Check-off. Amends G.L. c. 60, § 3F, which if accepted by a city or town, creates a veteran assistance fund and allows donations through a check-off on property tax or motor vehicle excise bills, or a separate form mailed with the bills. The fund is to provide certain assistance to veterans or their dependents. Under the amendment, all donations are to be separately accounted for and the treasurer is to invest them in the same manner as trust funds. The donations and interest on investments may be spent without appropriation for the fund purposes.

CHAPTER 283 OF THE ACTS OF 2016 (EXCERPT)

**An Act Making Appropriations for the Fiscal Year 2017 to Provide for
Supplementing Certain Existing Appropriations and For Certain Other Activities
and Projects.**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

...

SECTION 9. Section 3F of chapter 60 of the General Laws, inserted by section 12 of chapter 141 of the acts of 2016, is hereby amended by inserting after the first paragraph the following paragraph:-

Any amounts donated to the fund shall be deposited into a special account in the general treasury and shall be in the custody of the treasurer. The treasurer shall invest the funds at the direction of the officer, board, commission, committee or other agency of the city or town who or which is otherwise authorized and required to invest trust funds of the city or town and subject to the same limitations applicable to trust fund investments except as otherwise specified in this section. The fund and any interest thereon shall be used for the purposes of this section without further appropriation.

...

Approved (in part), October 6, 2016

CHAPTER 326 – SPECIAL ACT RESIDENTIAL EXEMPTIONS

Effective December 2, 2016

Adds a new section 5C³/₄ to G.L. c. 59 that applies to cities and towns with special acts that allows them to grant a residential exemption for a different percentage of the average assessed valuation of Class One , residential property than the percentage established in G.L. c. 59, §5C. These cities and towns obtained the special acts before the maximum exemption was increased to 35% of the average assessed valuation of Class One, residential property. Under the new section, these cities and towns may grant an exemption up to the amount allowed by G.L. c. 59, § 5C without having to amend or repeal their special acts. The other provisions of G.L. c. 59, § 5C, such as application deadline, also apply in these cities and towns.

CHAPTER 326 OF THE ACTS OF 2016 An Act Relative to the Residential Exemption

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for certain residential exemptions, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows

Chapter 59 of the General Laws is hereby amended by inserting after section 5C 1/2 the following section:-

Section 5C 3/4. Notwithstanding any special act to the contrary, a city or town may grant a residential exemption in the amount and manner set forth in section 5C of this chapter and, if such exemption is made available, a taxpayer aggrieved by the failure to receive the exemption may apply to the assessors in the time and manner set forth in section 5C.

Approved, December 2, 2016

Chapter 334 - Local Option Tax on Recreational Marijuana Sales and Marijuana Facility Impact Fees (Amended by Chapter 55 of the Acts of 2017)

Effective December 15, 2016

Provides for a local option tax on the sales of recreational marijuana within the city or town of up to two per cent of the retail sales price. G.L. c. 64N, § 3. The tax will be collected by the Department of Revenue (DOR) with the state tax on the sales and the collections distributed to the city or town on a quarterly basis. In addition, prohibits any fees required under an agreement between a recreational marijuana establishment operator and city or town that are not directly proportional and reasonably related to the costs imposed upon the city or town by the operation of a marijuana establishment. Those costs must be documented. G.L. c. 94G, § 3(d).

CHAPTER 334 OF THE ACTS OF 2016 (EXCERPTS)
The Regulation and Taxation of Marijuana Act
(Amended by Chapter 55 of the Acts of 2017)

Be it enacted by the People, and by their authority, as follows:

THE REGULATION AND TAXATION OF MARIJUANA ACT

...

SECTION 4. The General Laws are hereby amended by inserting after chapter 64M the following chapter:

CHAPTER 64N.
MARIJUANA TAX.

Section 1. Definitions. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

- (a) "Commissioner", the commissioner of revenue.
- (b) "Marijuana," "Marijuana establishment," "Marijuana product" and "Marijuana retailer", as defined in chapter 94G of the General Laws.

...

Section 3. Local tax option. Any city or town may impose a local sales tax upon the sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 2 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. A marijuana retailer shall pay a local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

All sums received by the commissioner under this section shall not be considered received on account of the commonwealth and shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the sale or transfer of marijuana and marijuana products in the city or town.

...

SECTION 5. The General Laws are hereby amended by inserting after chapter 94F the following chapter:

CHAPTER 94G
REGULATION OF THE USE AND DISTRIBUTION OF MARIJUANA NOT MEDICALLY
PRESCRIBED

...

Section 3. Local control.

...

(d) No agreement between a city or town and a marijuana establishment shall require payment of a fee to that city or town that is not directly proportional and reasonably related to the costs imposed upon the city or town by the operation of a marijuana establishment. Any cost to a city or town by the operation of a marijuana establishment shall be documented and considered a public record as defined by clause Twenty-Sixth of section 7 of chapter 4 of the General Laws.

...

SECTION 12. This act shall take effect on December 15, 2016.

Approved State Election, November 8, 2016

**CHAPTER 431 – EMPLOYMENT CONTRACTS FOR APPOINTED ASSESSORS,
COLLECTORS AND TREASURERS**

Effective April 12, 2017

Adds a new section, 108N½, to G.L. c. 41, which lets a city or town acting through its appointing authority to enter into an employment contract for salary, fringe benefits and other conditions of employment with its appointed assessor, collector or treasurer. The fringe benefits and conditions of employment may include severance pay, relocation expenses, reimbursement of expenses incurred in the performance of the duties of the office, liability insurance, leave and health and retirement benefits in addition to those provided municipal employees under G.L. c. 32 and 32B. The agreement prevails over any conflicting local personnel by-law, ordinance, rule or regulation.

CHAPTER 431 OF THE ACTS OF 2016

**An Act Providing for Employment Contracts for Appointed Municipal Assessors,
Treasurers and Collectors.**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Chapter 41 of the General Laws is hereby amended by inserting after section 108N the following section:-

Section 108N½. Notwithstanding any general or special law to the contrary, a city or town, acting through the appointing authority for the treasurer, assessor or collector in that city or town, may establish an employment contract to provide for the salary, fringe benefits and other conditions of employment including, but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performances of duties of the office, liability insurance and leave for an appointed treasurer, assessor or collector or a person performing the duties of an appointed treasurer, assessor or collector under a different title.

The contract shall be in accordance with and subject to the city or town charter and shall prevail over a conflicting local personnel by-law, ordinance, rule or regulation. In addition to the benefits provided to municipal employees under chapters 32 and 32B, the contract may provide for supplemental retirement and insurance benefits.

This section shall not affect the appointment or removal powers of an appointing authority over the treasurer, assessor or collector of the city or town or a person performing the duties of a treasurer, assessor or collector under a different title. This section shall not grant tenure to such an officer, affect section 67 of chapter 44 or apply to an elected treasurer, assessor or collector.

Approved, January 12, 2017

2017 LEGISLATION

CHAPTER 47 - FISCAL YEAR 2018 STATE BUDGET

Effective July 1, 2017, unless otherwise noted

§ 31 Overlay Account. Amends G.L. c. 59, § 23, which provides a single account to fund abatements and exemptions of committed real and personal property taxes for any fiscal year. Under the amendment, the overlay may now be charged for interest due taxpayers when abatements of paid taxes result in refunds. Previously, the interest was charged to an appropriation for that purpose, such as a short-term interest or treasurer's general expense appropriation. See [Informational Guideline Release No. 17-23, Overlay and Overlay Surplus](#).

CHAPTER 47 OF THE ACTS OF 2017 (EXCERPTS)

An Act Making Appropriations for the Fiscal Year 2018 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is immediately to make appropriations for the fiscal year beginning July 1, 2017, and to make certain changes in law, each of which is immediately necessary or appropriate to effectuate said appropriations or for other important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

...

SECTION 31. Section 25 of chapter 59 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- The overlay account may be used only for avoiding fractional divisions of the amount to be assessed, for abatements granted on account of property assessed for any fiscal year and for any interest payable on such abatements under section 64 or 69.

...

SECTION 153. Except as otherwise specified, this act shall take effect as of July 1, 2017.

Approved (in part), July 17, 2017

Chapter 55 - Local Option Tax on Recreational Marijuana Sales and Marijuana Facility Impact Fees

Effective July 28, 2017

§ 13 Local Option Sales Tax. Amends G.L. c. 64N, § 3 to increase the local option tax to up to three per cent of the retail sales price of recreational marijuana. G.L. c. 64N, § 3. Previously, the maximum rate was two per cent of the price. The tax will continue to be collected by the DOR along with the state tax on the sales and the collections will continue to be distributed to the city or town on a quarterly basis. As with other local option taxes collected by DOR, a community's

acceptance of the local sales tax becomes operative on the first day of the next calendar quarter after the vote, provided that date is at least 30 days after the vote to accept. If not, the acceptance becomes operative on the first day of the second quarter after the vote. A city or town may also make the acceptance operative at the start of a later quarter.

§ 25 Host Agreements and Impact Fees. Amends G.L. c. 94G, § 3(d) to require agreements between recreational marijuana establishments and medical marijuana treatment centers and their host communities. The agreements may include a community impact fee. The impact fee (1) must be reasonably related to the costs imposed on the host community by the operation of the marijuana establishment or medical marijuana treatment center, (2) cannot be more than three per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or (3) be effective for longer than 5 years.

CHAPTER 55 OF THE ACTS OF 2017 (EXCERPTS)

An Act to Ensure Safe Access to Marijuana

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith marijuana in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

...

SECTION 13. Said chapter 64N is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (a) A city or town that accepts this section in the manner provided in section 4 of chapter 4 may impose a local sales tax upon sale or transfer of marijuana or marijuana products by a marijuana retailer operating within the city or town to anyone other than a marijuana establishment at a rate not greater than 3 per cent of the total sales price received by the marijuana retailer as a consideration for the sale of marijuana or marijuana products. The marijuana retailer shall pay the local sales tax imposed under this section to the commissioner at the same time and in the same manner as the sales tax due to the commonwealth.

(b) All sums received by the commissioner under this section shall, at least quarterly, be distributed, credited and paid by the treasurer and receiver-general upon certification of the commissioner to each city or town that has accepted this section in proportion to the amount of the sums received in that city or town. Any city or town seeking to dispute the commissioner's calculation of its distribution under this subsection shall notify the commissioner, in writing, not later than 1 year from the date the tax was distributed by the commissioner to the city or town.

(c) This section shall take effect in a city or town on the first day of the calendar quarter following 30 days after its acceptance by the city or town or on the first day of a later calendar quarter that the city or town may designate.

...

SECTION 25. Said section 3 of said chapter 94G, as so appearing, is hereby further amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) A marijuana establishment or a medical marijuana treatment center seeking to operate or continue to operate in a municipality which permits such operation shall execute an agreement with the host community setting forth the conditions to have a marijuana establishment or medical marijuana treatment center located within the host community which shall include, but

not be limited to, all stipulations of responsibilities between the host community and the marijuana establishment or a medical marijuana treatment center. An agreement between a marijuana establishment or a medical marijuana treatment center and a host community may include a community impact fee for the host community; provided, however, that the community impact fee shall be reasonably related to the costs imposed upon the municipality by the operation of the marijuana establishment or medical marijuana treatment center and shall not amount to more than 3 per cent of the gross sales of the marijuana establishment or medical marijuana treatment center or be effective for longer than 5 years. Any cost to a city or town imposed by the operation of a marijuana establishment or medical marijuana treatment center shall be documented and considered a public record as defined by clause Twenty-sixth of section 7 of chapter 4.

...

Approved, July 28, 2017

PROPOSED LEGISLATION 2017-2018 SESSION

S. 2135 (PRINTED AS AMENDED S. 2124) – ABATEMENTS, EXEMPTIONS, DEFERRALS AND CLASSIFIED LAND APPLICATIONS

§§ 1, 8 and 10 Property Tax Exemptions for Deaf Individuals. Section 8 adds two exemptions of the real taxes assessed on the domiciles of persons who are deaf modeled on the exemptions for blind persons (\$437.50 under Clause 37 and \$500 under local option Clause 37A). The new exemptions will be clause 59 and 60 of G.L. c. 59, § 5, for \$437.50 and \$500, but both will be local option. Section 1 adds the new clauses to paragraphs in G.L. c. 59, § 5 and Section 10 adds them to G.L. c. 59, § 59. Those paragraphs apply to the general rule that each taxpayer received one personal exemption and the application deadline for personal exemptions.

§ 2 Financial Hardship Exemption. Adds a new local acceptance Clause 18½ to G.L. c. 59, § 5, which if accepted would let assessors reduce the real estate taxes assessed on domiciles of persons who are having financial difficulties because they are either (1) older, (2) ill or disabled or (2) called to active duty. Currently under Clause 18, the taxpayer must have a financial hardship and be either (1) older and ill or disabled or (2) called to active duty.

§§ 3, 5 and 6 Financial Hardship and Senior Tax Deferral Eligibility. Amend the hardship (G.L. c. 59, § 5, Clause 18A) and senior (G.L. c. 59, § 5, Clause 41A) deferrals to reduce the number of years taxpayers must have been domiciled in Massachusetts to be eligible from 10 to seven. Also amends Clause 41A to let cities and towns increase to up to \$80,000 the income seniors may have to qualify for the deferral. The amount is currently, \$20,000, or a locally set amount that cannot be more than the income a single senior can have to qualify for the state circuit breaker income tax.

§§ 4 and 7 Payment of Hardship and Senior Deferred Taxes. Section 4 amends G.L. c. 59, § 5, Clause 18A (financial hardship deferral) and Section 7 amends G.L. c. 59, § 5, Clause 41A

(senior deferral) to let a city or town set a lower rate than the 16 per cent tax title rate to apply to the deferred taxes when they become due after the sale of the property or death of the taxpayer. A city or town can already set a lower rate than the 8 per cent that applies under both clauses before the taxes become due. Cities and towns may also let the favorable deferral rate (8 per cent or locally set lower rate) continue for a year after the sale or death. If the taxes aren't paid by then, the city or town can foreclose. Currently, the 16 per cent tax title rate applies from the date the property is sold or taxpayer dies and the treasurer can file a foreclosure petition if the amount owed is not paid within six months after that date.

§ 1, 8, 9, 10 and 11 Work-off Abatements. Section 10 adds a new local acceptance work-off abatement program for volunteer, call or auxiliary firefighters and emergency medical technicians similar to the existing programs for seniors and veterans. Under the new local option G.L. c. 59, § 95, the taxpayers could get up to a \$2,500 reduction in the real estate taxes on their domiciles in exchange for their services. Those sections apply to the general rule that each taxpayer received one personal exemption and the application deadline for personal exemptions.

Section 9 increases the maximum earned abatement under the existing local option work-off abatement program for veterans under G.L. c. 59, § 5N from \$1,000 to \$1,500. Section 8 adds a new Clause 61 to G.L. c. 59, § 5, which creates a new local option work-off abatement program for veterans with a maximum reduction based on 175 hours of service at the state's minimum wage. Section 1 adds the new Clause 61 to the paragraph in G.L. c. 59, § 5 limiting each taxpayer to one personal exemption and Section 10 adds it to the paragraph in G.L. c. 59, § 59 establishing the deadline for personal exemption applications.

§§ 12-22 Classified Land Applications. Sections 12 to 15, 18 and 19 amend sections of Chapters 61, 61A and 61B to change the date by which landowners have to file their annual applications for classification of land as in farm or recreational use under G.L. c. 61A and 61B and for applying for forest land classification under G.L. c. 61 every 10 years. If classified, the land is valued and taxed locally based on its current use rather than its fair cash value. The current deadline for applying to the assessors for forest, farm or recreational land classification is October 1 of the calendar year before the start of the fiscal year the classification will be effective. The bill makes the application deadline December 1 of the prior year instead and aligns deadlines for taxpayers and assessors to appeal the state forester's determination whether land qualifies as forest land to reflect the new application deadline.

Sections 16 and 20 amend the "revaluation" year application extension provisions of G.L. c. 61A, §8 (farm land) and c. 61B, § 5 (recreational land) that let landowners who did not file by the prior October 1 (now proposed December 1) deadline apply after the tax bills with new values are issued. Under the amendment, landowners will be able to apply after tax billing in those fiscal years the city or town has its five-year DOR certification of valuations. The deadline in that year would be the same as for abatement applications for the year.

Section 21 amends G.L. c. 61B, § 6 so that the failure of the assessors to act on an application for classification of recreational land within three months shall be deemed approval of the application. As a general rule, applications filed by taxpayers to dispute a tax or obtain a tax benefit are denied if not acted on by the assessors within three months of filing. That deemed denial enables the taxpayer to appeal to the Appellate Tax Board (or the parties to settle the application within the appeal period). However, applications for classification as farm land are

an exception and are deemed allowed if not acted on under G.L. c. 61A, § 6. This amendment would make both chapters consistent in that regard.

Sections 15 and 22 make technical corrections to language currently in the right of first refusal provisions of both G.L. c. 61A, § 3 and c. 61B, § 9.

§§ 23, 24, 25 and 26 Commissions, Studies and Reports. Section 24 creates a commission to study exemptions for disabled persons and their caretakers and report to certain legislative committees by December 1, 2018. Section 25 creates a commission to study property taxes more broadly and report to the legislature on providing tax relief to residential and business taxpayers by February 15, 2018. Section 26 requires the Department of Veteran Services, after consulting with the DOR, to study a sliding scale for veteran property tax exemptions based on disability rating and report to certain legislative committees by March 15, 2018. In addition, Section 23 requires DOR to give certain legislative committees a report by each November 1 on the use of senior circuit breaker income tax credit.

S. 2135 (PRINTED AS AMENDED S. 2124)
An Act Improving Real Property Tax Abatements, Application Deadlines, and Deferrals.

SECTION 1. Section 5 of chapter 59 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 11, the words “or Fifty-seventh” and inserting in place thereof the following words:- , Fifty-seventh, Fifty-ninth or Sixtieth.

SECTION 2. Said section 5 of said chapter 59, as so appearing, is hereby amended by inserting after clause Eighteenth the following clause:-

Eighteenth ½, In a city or town that accepts this clause, any portion of the estates of persons who by reason of age, infirmity or poverty or financial hardship resulting from a change to active military status, not including initial enlistment, are in the judgment of the assessors unable to contribute fully toward the public charges.

SECTION 3. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 486, the figure "10 " and inserting in place thereof the following words:- 7.

SECTION 4. Clause Eighteenth A of said section 5 of said chapter 59, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

In addition to the remedies provided by this clause, the recorded statement of the assessors provided for in this clause shall have the same force and effect as a valid taking for nonpayment of taxes pursuant to section 53 of chapter 60, except that: (i) interest shall accrue at the rate provided in subclause (1) until the conveyance of the property or the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section 62 of said chapter 60 or at a lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates; provided, however, that a city or town may also, by vote of its legislative body, allow the interest to accrue at the rate provided in said subclause (1) for 1 year after the death of the

person whose taxes have been deferred; (ii) no assignment of the municipality's interest under this clause may be made pursuant to section 52 of said chapter 60; and (iii) a petition pursuant to section 65 of said chapter 60 to foreclose the lien may be filed if at least 1 year has passed since the conveyance of the property or the death of the person whose taxes have been deferred.

SECTION 5. Said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out, in line 1109, the word "ten" and inserting in place thereof the following figure:- 7.

SECTION 6. Said section 5 of said chapter 59, as so appearing, is hereby further amended by inserting after the word "household", in line 1124, the following words:- or \$80,000, whichever is greater. .

SECTION 7. Said clause Forty-first A of said section 5 of said chapter 59, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

In addition to the remedies provided by this clause, the recorded statement of the assessors provided for in this clause shall have the same force and effect as a valid taking for nonpayment of taxes pursuant to section 53 of chapter 60, except that: (i) interest shall accrue at the rate provided in subclause (1) of the third paragraph until the conveyance of the property or the death of the person whose taxes have been deferred, after which time interest shall accrue at the rate provided in section 62 of said chapter 60 or at a lesser rate as may be determined by the legislative body of the city or town, subject to its charter, not later than the beginning of the fiscal year to which the tax relates; provided, however, that a city or town may also, by vote of its legislative body, allow the interest to accrue at the rate provided in said subclause (1) of the third paragraph for 1 year after the death of the person whose taxes have been deferred; (ii) no assignment of the municipality's interest pursuant to this clause may be made pursuant to section 52 of chapter 60; and (iii) a petition pursuant to section 65 of chapter 60 to foreclose the lien may be filed if at least 1 year has passed since the conveyance of the property or the death of the person whose taxes have been deferred.

SECTION 8. Said section 5 of said chapter 59, as so appearing, is hereby further amended by adding the following 3 clauses:-

Fifty-ninth, Real property, to the amount of \$5,000 of the taxable valuation of that property, or the sum of \$437.50, whichever would result in an abatement of the greater amount of actual taxes due, of a person who is deaf, as defined in section 191 of chapter 6, and is a legal resident of the commonwealth, whether that property is owned by that person separately or jointly or as a tenant in common, if that property is occupied by that person as the person's domicile. Such property shall not be exempt if it was conveyed to the deaf person to evade taxation. This clause shall take effect upon its acceptance by a city or town.

Sixtieth, The sum of \$500 of the actual taxes due on the real property of a person who is deaf, as defined in section 191 of chapter 6, and is a legal resident of the commonwealth, whether that property is owned by that person separately or jointly or as a tenant in common, if that property is occupied by that person as the person's domicile. No such property shall be exempt if it was conveyed to the person who is deaf to evade taxation. This clause shall take effect upon its acceptance by a city or town. In a city or town that accepts this clause, clause Fifty-ninth shall not apply.

Sixty-first, In a city or town which accepts this clause, the board of selectmen of a town or, in a municipality having a town council form of government, the town council or the mayor with the approval of the city council in a city may establish a program to allow veterans, as defined in clause Forty-third of section 7 of chapter 4 of the General Laws, to volunteer to provide services to that city or town. In exchange for such volunteer services, the city or town shall reduce the real property tax obligations of that veteran on their tax bills, and any reduction so provided shall be in addition to any exemption or abatement to which the person is otherwise entitled. No person shall receive a rate of, or be credited with, more than the current minimum wage of the commonwealth per hour for up to 175 hours of volunteer services provided in a given tax year; provided, that a city or town may limit the number of hours of volunteer services for which a person may receive a reduction on their tax bills to fewer than 175. A city or town may, by vote of its legislative body, subject to its charter, adjust the exemption in this clause by allowing an approved representative, for persons physically unable, to provide such services to the city or town.

SECTION 9. Section 5N of said chapter 59, as so appearing, is hereby amended by striking out, in lines 16 and 43, the figure “\$1,000” and inserting in place thereof, in each instance, the following figure:- \$1,500.

SECTION 10. Section 59 of said chapter 59, as so appearing, is hereby amended by striking out, in line 48, the words “and Fifty-seventh” and inserting in place thereof the following words:- , Fifty-seventh, Fifty-ninth and Sixtieth.

SECTION 11. Said chapter 59 of the General Laws is hereby amended by adding the following section:-

Section 95. (a) Notwithstanding any general or special law to the contrary, a city, town or district which accepts this section in the manner provided in section 4 of chapter 4 may establish a program for volunteer, call or auxiliary firefighters or volunteer, call or auxiliary emergency medical technicians of that city, town or district to reduce the real property tax obligations of those volunteers in exchange for their volunteer services. Any reduction so provided shall be in addition to any exemption or abatement to which such person is otherwise entitled; provided, however, that no reduction of a real property tax bill shall be granted if that reduction exceeds \$2,500 in a tax year.

(b) A city, town or district shall maintain a record for each participant in a program established pursuant to subsection (a) including, but not limited to, the total amount by which an associated tax obligation was reduced and the criteria used to determine the tax reduction. The city, town or district shall provide a copy of the record to the assessor so that the participant’s tax bill reflects the reduced rate. The city, town or district shall also provide a copy of the record to the program participant receiving the reduced tax rate prior to the issuance of a tax bill. Cities, towns and districts shall have the power to adopt rules and procedures to implement this section in any way consistent with the intent of this section.

(c) In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services as a volunteer, call or auxiliary firefighter or volunteer, call or auxiliary emergency medical technician be considered income, wages, or employment for purposes of taxation as provided in chapter 62, for the purposes of withholding taxes as provided in chapter 62B, for the purposes of workers' compensation as provided in chapter 152 or any other general law to the contrary.

A person participating in a program established pursuant to subsection (a) shall be a public employee for the purposes of chapter 258 of the General Laws.

(d) A city, town or district that has accepted this section may in the same manner revoke its acceptance.

SECTION 12. Section 2 of chapter 61 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

When, in the judgment of the assessors, land which is classified as forest land or which is the subject of an application for such classification is not being managed under a program, is being used for purposes incompatible with forest production or does not otherwise qualify under this chapter, the assessors may, not later than February 1 in any year, file an appeal in writing mailed by certified mail to the state forester requesting a denial of application or, in the case of classified forest land, requesting removal of the land from such classification. The appeal shall state the reasons for the request. A copy of the appeal shall be mailed by the assessors by certified mail to the owner of the land. The state forester may initiate, not later than December 1 of any year, a proceeding to remove land from classification, sending notice of the action by certified mail to the assessors and the owner of the land. The state forester may deny the owner's application, may withdraw all or part of the land from classification or may grant the application, imposing terms and conditions that the state forester deems reasonable to carry out this chapter, and shall notify the assessors and the owner of that decision not later than March 1 of the following year. If the owner or the assessors are aggrieved by a decision of the state forester they may, not later than June 15, give notice to the state forester of a claim of appeal. Not later than 30 days after receipt of a notice of appeal, the state forester shall convene a panel in the region in which the land is located. The panel shall consist of 3 members, 1 of whom shall be named by the state forester, 1 of whom shall be named by the assessors and 1 of whom shall be named by the state forester and the assessors. The panel shall give notice of the date, time and place of the hearing in writing to the parties not less than 7 days before the date of that hearing. The panel shall furnish the parties, in writing, with a notice of its decision not later than 10 days after the adjournment of the hearing. Decisions of the panel shall be by majority vote of its members. If the owner or the assessors are aggrieved by a decision of the panel, they may, not more than 45 days after receipt of the decision, petition either the superior court in the county in which the land is located for a review of the decision, pursuant to chapter 30A, or the appellate tax board, pursuant to chapter 58A; provided further, that the land shall not be classified or withdrawn from classification until the final determination of such petition. The state forester may adopt such regulations as the state forester deems necessary to carry out this chapter.

SECTION 13. Said section 2 of said chapter 61, as so appearing, is hereby further amended by striking out, in line 40, the word "October" and inserting in place thereof the following word:-
December.

SECTION 14. Chapter 61A of the General Laws is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. The eligibility of land for valuation, assessment and taxation pursuant to section 4 shall be determined separately for each tax year. An application for eligibility shall be submitted to the board of assessors in the city or town in which the land is situated by not later than December 1 preceding each tax year for which the valuation, assessment and taxation are being sought. The application shall not be withdrawn after it is submitted. An application shall be made on a form prescribed by the commissioner of revenue and provided to applicants by the

board of assessors. The form shall provide for the reporting of information pertinent to this chapter and to Article XCIX of the Articles of Amendment to the Constitution of the Commonwealth and for certification by the applicant that the applicant will immediately, but not later than December 1 of the following year, notify the board of assessors in writing of any subsequently developing circumstance within the applicant's control or knowledge which may cause a change in use of the land covered by the form. An application submitted pursuant to this section for leased land shall be accompanied by a written statement of the lessee's intent to use the land for the purposes in the application and shall be signed by the lessee. The landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of perjury the information in the landowner's application is true. If the application is allowed pursuant to section 9, then the classification of the land as actively devoted to agricultural, horticultural or agricultural and horticultural use shall take effect on January 1 preceding the beginning of the tax year to which the application relates and taxation pursuant to this chapter shall commence with that tax year.

SECTION 15. Section 7 of said chapter 61A, as so appearing, is hereby amended by striking out, in line 3, the words "October first and June thirtieth of the year" and inserting in place thereof the following words:- December 1 and June 30.

SECTION 16. Said chapter 61A is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:-

Section 8. Notwithstanding any provision of this chapter to the contrary, in any tax year for which a city or town has undertaken and completed a program of revaluation of all property in that city or town and the commissioner of revenue has certified that revalued property is assessed by the board of assessors at full and fair cash valuation, applications by landowners for the valuation, assessment and taxation of their lands on the basis of being actively devoted to agricultural, horticultural or agricultural and horticultural use that are filed with the board of assessors by not later than the last day for filing an application for abatement of the tax assessed on the new valuation shall be deemed to have been timely made for the tax year of the revaluation program. If the application is approved and the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of any tax assessed for that year which is in excess of the tax that would have been assessed on the lands, if the application had been timely made and approved, shall be abated.

SECTION 17. Section 14 of said chapter 61A, as so appearing, is hereby amended by striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining not less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as land in agricultural or horticultural use as defined in sections 1 and 2 or as recreational land as defined in section 1 of chapter 61B, and in no case shall the assignee develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 18. Chapter 61B of the General Laws is hereby amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. The eligibility of land for valuation, assessment and taxation pursuant to this chapter shall be determined separately for each tax year. An application for eligibility shall be submitted to the board of assessors in the city or town in which the land is situated by not later than December 1 preceding each tax year for which the valuation, assessment and taxation is being sought. The application shall be made on a form prescribed by the commissioner of revenue and provided to applicants by the board of assessors. The form shall provide for the reporting of information pertinent to this chapter and for certification by the applicant that the applicant will immediately, but not later than the December 1 of the following year, notify the board of assessors in writing of any subsequent circumstance within the applicant's control or knowledge which may cause a change in use of the land covered by the form. An application submitted pursuant to this section for leased land shall be accompanied by a written statement of the lessee's intent to use the land for the purposes in the application and shall be signed by the lessee. The landowner shall certify, in a manner prescribed by the commissioner, that under the penalties of perjury the information in the landowner's application is true. If the application is allowed pursuant to section 6, then the classification of the land as recreational land shall take effect on January 1 preceding the beginning of the tax year to which the application relates and taxation pursuant to this chapter shall commence with that tax year.

SECTION 19. Section 4 of said chapter 61B, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "October first and June thirtieth " and inserting in place thereof the following words:- December 1 and June 30.

SECTION 20. Said chapter 61B is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:-

Section 5. Notwithstanding any provision of this chapter to the contrary, in any tax year for which a city or town has undertaken and completed a program of revaluation of all property in that city or town and the commissioner of revenue has certified that revalued property is assessed by the board of assessors at full and fair cash valuation, applications by landowners for the valuation, assessment and taxation of their lands on the basis of being maintained in recreational use, if filed with the board of assessors by not later than the last day for filing an application for abatement of the tax assessed on the new valuation, shall be deemed to have been timely made for the tax year of the revaluation program. If the application is approved and the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and horticultural use in that tax year, then the portion of a tax assessed for that year which is in excess of the tax which would have been assessed on the lands, if the application had been timely made and approved, shall be abated.

SECTION 21. Section 6 of said chapter 61B, as so appearing, is hereby amended by striking out, in line 13, the words "a disallowance" and inserting in place thereof the following words:- an allowance.

SECTION 22. Section 9 of said chapter 61B, as so appearing, is hereby amended by striking out the eighteenth paragraph and inserting in place thereof the following paragraph:-

The assignment shall be for the purpose of maintaining not less than 70 per cent of the land in use as forest land as defined in section 1 of chapter 61, as land in agricultural or horticultural use as described in sections 1 and 2 of chapter 61A or as recreation land as

described in section 1 and the assignee shall not develop a greater proportion of the land than was proposed by the developer whose offer gave rise to the assignment. All land other than land that is to be developed shall then be bound by a permanent deed restriction that meets the requirements of chapter 184.

SECTION 23. Subsection (k) of section 6 of chapter 62 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

(10) The commissioner shall annually, not later than November 1, file a report with the house and senate committees on ways and means, the joint committee on elder affairs and the joint committee on revenue identifying, by community, the total amount of tax credits claimed and the total number of tax filers who received the tax credits for the preceding fiscal year.

SECTION 24. There shall be a special commission, pursuant to section 2A of chapter 4 of the General Laws, to determine the feasibility of establishing local option property tax deduction programs for: (i) persons with an intellectual or developmental disability, as defined by section 1 of chapter 123B of the General Laws; (ii) individuals eligible under Title II or Title XVI of the federal Social Security Act for benefits to the disabled; or (iii) individuals providing and paying for full-time care within their private residence for an individual with intellectual and developmental disabilities who is over the age of 22.

The commission shall review and evaluate the experiences and policy efforts of other states and consider ways to enhance existing state laws as it relates to establishing and providing property tax reductions to individuals with disabilities.

Topics of discussion for the commission shall include, but not be limited to: (i) the effects that changes to tax laws would have on eligible taxpayers at all income levels; (ii) the number of individuals with disabilities residing in the commonwealth who may benefit from potential changes to property tax laws considered by the commission; (iii) comparative costs of respite care through a state-subsidized organization and the costs of independent respite care for a relative within a private residence, (iv) any cost savings to the commonwealth and host municipalities as a result of individuals assuming the costs of full-time care for persons with intellectual and developmental disabilities who are over the age of 22; (v) any additional expenses of remodeling a residential property to include adequate accommodations to meet the needs of a relative with intellectual and developmental disabilities, including, but not limited to, handicap accessible ramps and medical machinery; (vi) consideration of ways to provide tax relief in connection with modifications to residential property that ensures adequate accommodations and improves accessibility to allow individuals with disabilities to live independently; (vii) consideration of any eligibility requirements relating to residency, domicile, ownership and disability for any local option property tax reduction that may be recommended to be established pursuant to this section; and (viii) consideration of the use of a formula to determine the appropriate amount an eligible taxpayer may receive in property tax reductions.

The special commission shall consist of: the house and senate chairs of the joint committee on revenue or their designees, who shall serve as co-chairs of the commission; the house and senate chairs of the joint committee on children, families and persons with disabilities or their designees; the house and senate chairs of the joint committee on elder affairs or their designees; the commissioner of the department of developmental services or a designee; the commissioner of the department of revenue or a designee; the commissioner of the Massachusetts rehabilitation commission; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; a representative of the ARC of Massachusetts; a representative from the Advocates for Autism of Massachusetts; a

representative from the Massachusetts Down Syndrome Congress, Inc.; a representative from the Massachusetts Statewide Independent Living Council; a representative from the Massachusetts Association of Councils on Aging; and a representative from the Disability Law Center, Inc.

The first meeting of the commission shall take place not later than March 1, 2018. The commission shall submit its recommendations, together with drafts of any legislation, to the clerks of the senate and the house of representatives, the chairs of the joint committee on revenue, the chairs of the joint committee on rules and the chairs of the joint committee on children, families and persons with disabilities not later than December 1, 2018

SECTION 25. There shall be a commission to study the viability of achieving property tax relief for residents and businesses of the commonwealth pursuant to section 2A of chapter 4 of the General Laws. The commission shall review and evaluate all property tax laws and the impact of those laws on local governments, residents and businesses. The commission shall examine the experiences and policy efforts of other states relating to property tax relief and review existing state laws relative to the assessment and abatement of local property taxes.

The commission shall file a report, together with any drafts of proposed legislation to reduce property taxes and provide tax relief for residents and businesses of the commonwealth, with the clerks of the senate and house of representatives not later than February 15, 2018.

The commission shall consist of the senate and house chairs of the joint committee on revenue or their designees, who shall serve as co-chairs of the commission; the secretary of administration and finance or a designee; the senate and house chairs of the joint committee on municipalities and regional government or their designees; the minority leader of the house of representatives or a designee; the minority leader of the senate or a designee; a representative of the Massachusetts Municipal Association, Inc.; a representative of the Massachusetts Budget and Policy Center, Inc.; a representative of the Massachusetts Association of Assessing Officers, Inc.; and a representative of the Massachusetts Taxpayers Foundation, Inc.

SECTION 26. The department of veterans' services, in conjunction with the department of revenue, shall study the feasibility and analyze the merits of implementing a sliding scale property tax abatement for veterans and veterans' spouses, currently implemented under clause Twenty-second of section 5 of chapter 59 of the General Laws based upon a percentage of disability as defined by the United States Department of Veterans Affairs. The study shall include, but not be limited to, the methodology used in granting such an exemption in other states, the utilization of a sliding scale based on the percentage of disability of a veteran when awarding such an exemption to a veteran and a veteran's spouse and the impact on disabled veterans and any anticipated monetary cost to the commonwealth or to municipalities that may be caused by such an exemption. The department of veterans' services, in conjunction with the department of revenue, shall submit its findings and legislative recommendations to the clerks of the senate and house of representatives, the house and senate committees on ways and means and the joint committee on veterans and federal affairs not later than March 15, 2018.

SECTION 27. Sections 1 and 10 shall take effect on July 1, 2018.

DEPARTMENT OF REVENUE REGULATIONS

830 CMR 62C.3.1 Public Written Statements (Excerpts)

830 CMR 62C.3.1: Department of Revenue Public Written Statements

(1) Statement of Purpose; Effective Date; Outline of Topics.

(a) Statement of Purpose. Clearly articulated and widely communicated rules, standards and instructions are an important tool in achieving voluntary compliance with Massachusetts tax laws. The Department of Revenue publishes public written statements as well as other documents and forms to explain and communicate the rules that taxpayers and others must follow in order to comply with their obligations, established by law, to file returns and pay all taxes due. The purpose of this regulation is to describe the various types of public written statements and other documents published or issued by the Department of Revenue and the general procedures followed by the Department in issuing public written statements.

(b) Effective Date. 830 CMR 62C.3.1 is effective upon promulgation

(c) Outline of Topics. This regulation is organized as follows:

1. Statement of Purpose; Effective Date; Outline of Topics
2. Definitions
3. General
4. Regulations
5. Directives and Technical Information Releases
- 6 Letter Rulings
7. Informational Guideline Releases
8. Local Finance Opinions
9. Materials that are not Public Written Statements

(2) Definitions. The following words used in 830 CMR 62C.3.1, have the following meanings unless the context otherwise requires:

Commissioner, the Commissioner of Revenue.

Department, the Massachusetts Department of Revenue.

Massachusetts tax laws, the tax statutes of the Massachusetts General Laws that are within the official purview of the Department, the regulations thereunder, and related statutes and regulations that are within the official purview of the Department

MASSTAX Guide, an official publication produced by the Department and Thompson Reuters or a successor on an annual basis with periodic supplements containing the Department's public written statements, selected forms and instructions, and other materials.

Public written statements, official pronouncements of the Department, specifically: regulations described in 830 CMR 62C.3.1(4), Directives described in 830 CMR 62C.3.1(5), Technical Information Releases described in 830 CMR 62C.3.1(5), Letter Rulings described in 830 CMR 62C.3.1(6), Informational Guideline Releases described in 830 CMR 62C.3.1(7), and Local

Finance Opinions described in 830 CMR 62C.3.1(8). All public written statements in effect are included in the latest published version of the official MASSTAX Guide and Supplements or published on the Department's website at <http://www.mass.gov/dor>.

(3) General. The Department may issue regulations and other public written statements relating to the Massachusetts tax laws and other matters within the official purview of the Department. Only public written statements, as defined in 830 CMR 62C.3.1(2), convey the official position of the Department with respect to the interpretation of the Massachusetts tax laws. Other documents issued by the Commissioner that are not public written statements should be viewed as informational only and are not considered to be official policy statements of the Department. The Department shall use public written statements in its oversight and administration of the Massachusetts tax laws until they are revoked, modified, or superseded, whether by a direct DOR pronouncement or as a result of a change in the Massachusetts tax laws, later court decisions, or subsequent public written statements.

...

(7) Informational Guideline Releases.

(a) General. In its discretion, the Department may issue Informational Guideline Releases (IGRs).

(b) Definition. An IGR is a public written statement issued by the Department's Division of Local Services under the authority of M.G.L. c. 44 and 58, on matters pertaining to assessment, classification, and administration of local taxes and municipal finance. An IGR promotes the uniform oversight and administration of Massachusetts local tax laws and finance laws by the Department and assists local officials in complying with the Massachusetts local tax and finance laws. An IGR may include standards of local assessment performance and accounting, studies, cost and price schedules, news and reference bulletins, digests of law on local tax and finance, and any other information that the Department deems appropriate.

(c) Effect. IGRs are precedential and state the official position of the Department. IGRs may be relied upon by local officials until they are revoked, modified, or superseded, whether by a direct DOR pronouncement or as a result of a change in the Massachusetts tax laws, later court decisions, or subsequent public written statements.

(8) Local Finance Opinions.

(a) General. In its discretion, the Department may issue Local Finance Opinions.

(b) Definition. A Local Finance Opinion is a public written statement issued by the Department's Division of Local Services that clarifies, explains, or elaborates upon Department policy, practice, or interpretation pertaining to specific local tax or finance questions, issues, or matters not addressed in another public written statement. A Local Finance Opinion promotes the uniform oversight and administration of Massachusetts local tax laws and finance laws by the Department and assists local officials in complying with the Massachusetts local tax and finance laws.

(c) Effect. Local Finance Opinions are precedential and state the official position of the Department. Local Finance Opinions may be relied upon by local officials unless and until

they are revoked, modified, or superseded, whether by a direct DOR pronouncement or as a result of a change in the Massachusetts tax laws, later court decisions, or subsequent public written statements.

(9) Materials that Are Not Public Written Statements. The Department issues other materials of an informational nature that are not public written statements within the meaning of 830 CMR 62C.3.1(2). These include but are not limited to the following:

...

(b) Publications. The Department issues various publications to explain aspects of the Massachusetts tax laws to the general public. Publications are developed as general information guides to enable taxpayers to become more familiar with their rights and responsibilities under the Massachusetts tax laws.

...

(d) Other Written Materials.

1. General. In its discretion, the Department may publish or issue written materials that are not otherwise described in 830 CMR 62C.3.1 or in other regulations of the Department.

2. Effect. Ordinarily, such written materials of the Department serve an informational and advisory purpose only. They do not supersede, alter or otherwise affect provisions of the Massachusetts General Laws, Department public written statements or any other source of law. If the Department intends that the effect of a particular document is different from the informational effect described herein, the document will state its intended effect.

REGULATORY AUTHORITY

830 CMR: 62C.3.1: M.G.L. c. 14, § 6(1); M.G.L. c. 62C, § 3

Date of Promulgation: 4/7/17