

Exemptions

Ch. 60A §1 exempts the following vehicles from the motor vehicle excise:

I. Vehicles owned and registered by the Commonwealth or any political subdivision of the Commonwealth. Political subdivisions include cities, towns, counties, districts and authorities.

II. Vehicles owned and registered by any corporation whose personal property is exempt from taxation under Ch. 59 §5, Clauses Third and Tenth. Clause Third exempts the personal property owned by literary, benevolent, charitable and scientific corporations. Clause Tenth exempts the personal property owned by religious organizations.

In making a determination about the excise status of vehicles owned by a charitable corporation, the assessors must ascertain whether a charity satisfies the Clause Third requisites. Clause exempts the:

“[p]ersonal property of a charitable organization, which term, as used in this clause, shall mean (1) a literary, benevolent, charitable or scientific institution or temperance society, incorporated in the commonwealth, and (2) a trust for literary, benevolent, charitable, scientific or temperance purposes if it is established by a declaration of trust executed in the commonwealth or all its trustees are appointed by a court or courts in the commonwealth and if its principal literary, benevolent, charitable, scientific or temperance purposes are principally and usually carried out within the commonwealth.” (Emphasis added.)

The documents a charity should provide, therefore, are, for a corporation, a copy of the articles of incorporation, and for a trust, a copy of its declaration of trust. These documents, alone, should be sufficient to determine whether a charity qualifies for exemption on automobiles it owns and registers. (To determine a charity’s tax status regarding real property, additional documents would be necessary to establish how the property was occupied and used on the qualification date.)

III. Vehicles *leased* for a full calendar year to any charitable corporation except a charitable educational corporation which either grants degrees or awards diplomas. (Vehicles *owned* by such educational corporations which satisfy the exemption requisites for a charitable corporation, cited above, are exempt from the excise.)

A. Only a vehicle leased for a full calendar year may qualify for an exemption.

Therefore, a vehicle leased from February 1 of one year through January 31 of the next year would not qualify for an exemption. A vehicle leased from February 1 of one year through January 31 of the second following year could only qualify for the full calendar year contained within the 24 months of the lease.

B. The Legislature’s purpose in restricting the excise exemption on vehicles leased to charities to full calendar years is the fact that the excise, itself, is assessed on a calendar year basis. Without this restriction, a leasing company could obtain a calendar year exemption on the basis of a lease which terminated at some time during a calendar year.

C. Vehicles leased to private schools which are organized as charities are not exempt from the motor vehicle excise.

D. To determine the eligibility of lessors under this provision, assessors should require:

1. A copy of the lease agreement or some other documentation which discloses the dates the lease commences and terminates.
2. The name, address and sales tax exemption number of the non-profit lessee.

IV. Vehicles owned and registered by former prisoners of war or the surviving spouses of former prisoners of war.

A. This exemption is available only at local option. It must be accepted by a vote of the city council with the approval of the mayor, in a city, and by vote of the town meeting or town council, in a town.

B. To qualify as a former prisoner of war, a person must have been regularly appointed, enrolled, enlisted or inducted into the military forces of the United States and been captured, separated and incarcerated by an enemy of the United States during an armed conflict.

C. At the time of the initial filing of an application for this exemption, the applicant must supply sufficient evidence of the former prisoner of war's earlier incarceration, either through documentation by the Veterans Administration or by providing a copy of the veteran's discharge papers. In future years, only the application for exemption must be filed.

D. A surviving spouse of a deceased former prisoner of war is entitled to this exemption until such time as that surviving spouse remarries.

E. Prisoner of war registration plates are not necessary for entitlement to this exemption.

V. Vehicles owned and registered by handicapped persons

A. Handicapped veterans:

1. To qualify as a veteran, a person must have been honorably discharged from the armed services and have served in either World War I, World II, the Korean Emergency, the Vietnamese War, the Lebanese Peace Keeping Force, the Panamanian Intervention Force or the Persian Gulf.

2. In addition, the person must, by reason of such service, have suffered either (a) an actual loss of or a permanent and complete loss of use of, one or both feet or one or both hands or (b) a permanent vision impairment, of the magnitude set out in Ch. 60A §1, of one or both eyes. As used in this statute, loss of use is the constructive equivalent of an actual loss. No magnitude of loss which is less than total loss of use qualifies an individual for exemption.

3. This loss must be documented by the records of the Veterans Administration.

4. This exemption is restricted for each handicapped veteran to one vehicle at a time, owned and registered by the veteran for personal, non-business use. It does not preclude a qualifying person's receiving an abatement on a second vehicle in a calendar year so long as he/she: a) conveys title to the first vehicle upon which he/she already received an excise abatement, and b) transfers the registration from the first vehicle to the second or cancels the registration on the first vehicle and obtains a new registration on the second.

5. A veteran who owns more than one vehicle has the right to choose the vehicle upon which to obtain an exemption.
6. A handicapped veteran who owns a vehicle jointly with his/her spouse or with some other person(s) satisfies the ownership requisite for a full exemption. See the Appellate Tax Board decision in *Brunette v. Assessors of Southampton*, Docket No. F231437, issued October 11, 1966.

B. Handicapped non-veterans:

1. This exemption is available to a person who has suffered either (a) an actual loss of or a permanent and *complete loss of use of* both legs or both arms (b) a permanent vision impairment of both eyes of the magnitude set out in Ch. 60A §1. As with the exemption for handicapped veterans, loss of use is the constructive equivalent of an actual loss.
2. A board of assessors may require an applicant for this exemption to provide a certification by a physician of the existence of the requisite loss.
3. This exemption is restricted for each handicapped person to one vehicle at a time, owned and registered by the person for personal, non-business use. It does not preclude a qualifying person's receiving an abatement on a second vehicle in a calendar year so long as he/she: a) conveys title to the first vehicle upon which he/she already received an excise abatement, and b) transfers the registration from the first vehicle to the second or cancels the registration on the first vehicle and obtains a new registration on the second.
4. A person who owns more than one vehicle has the right to choose the vehicle upon which to obtain an exemption.
5. A handicapped person who owns a vehicle jointly with his/her spouse or with some other person(s) satisfies the ownership requisite for a full exemption. See the Appellate Tax Board decision in *Brunette v. Assessors of Southampton*, Docket No. F231437, issued October 11, 1966.

C. Handicap Plates:

A person need not have a handicap plate to be eligible for this exemption. Alternatively, one who has a handicap plate is not per se entitled to an exemption. The requisite loss must still be demonstrated.

VI. Vehicles operated with Section 5 plates and owned or controlled by manufacturers, farmers or dealers. (See discussion of farm vehicles, following.)

Formerly, vehicles operated with repair plates also qualified for an exemption from the excise. However, this exemption was repealed, commencing with calendar year 1991. Frequently, tow trucks are operated with repair plates. Such trucks are not exempt from the motor vehicle excise.

The exemption for vehicles operated with these special plates is conditional, however. It should only be granted if:

- A. The vehicles are operated exclusively for business purposes. The statute forbids the use of such vehicles for the personal use or convenience of the holder of the special plates or some other person. Such activities as commuting or running errands, which are clearly for the "convenience" of some person, is a non-exempt use. The

statute makes no allowance for even minimal personal use. Any degree of personal use, however slight, disqualifies a motor vehicle from an excise exemption.

B. The manufacturer, farmer or dealer timely filed an application with the assessors using State Tax Form 126A requesting the exemption. The application must contain a statement “subscribed under penalties of perjury” by the owner or controller of the vehicle that it will not be operated for any personal use.

Penalty For Utilizing Vehicle With Section 5 Plate For Personal Use

If assessors discover that a vehicle operated with special plates and upon which an exemption was allowed is, notwithstanding, utilized for personal use, the assessors must, forthwith, assess the excise upon that vehicle. In addition, they shall assess a penalty of \$100.00. An excise assessed in such circumstances cannot be subsequently abated for any part of the year of assessment, regardless whether title to the vehicle assessed is transferred.

Assessment Should Not Be Made On Registration Plates

Making assessments on vehicles operated with special plates is problematic for assessors because such plates may be moved from vehicle to vehicle. Since officials possess no efficient means to know what vehicles these are, frequent assessment practice has been to assess the plates, themselves, rather than the vehicles to which they are attached. This practice, however, is inconsistent with the holding of the Supreme Judicial Court in *Board of Assessors of Needham v. E. J. Bleiler Equipment Co., Inc.*, 364 Mass. 834 (1974), a case which dealt with plates. The Court stated, “An assessment of a motor vehicle excise on dealer's plates, as opposed to vehicles, is not authorized by G.L. Ch. 60A §1.”

VII. Vehicles jointly registered in Massachusetts and some other state, and customarily kept in the other state, provided:

A. the individual or business that owns the vehicle resides in another state, and has no principal place of business in the Commonwealth, and

B. the other state does not impose a higher (1) excise, (2) privilege or property tax, (3) registration fee or (4) fee in lieu of or in addition to a registration fee on Massachusetts vehicles:

1. customarily kept in Massachusetts and

2. registered:

a) by a resident of Massachusetts

b) both in Massachusetts and in that other state.

Upon a request by a board of assessors, the Commissioner of Revenue will determine the exemption eligibility of any particular registrant. For a Supreme Judicial Court case applying the eligibility requisites for this exemption, see *Akers Motor Lines, Inc. v. State Tax Commissioner*, 344 Mass. 359 (1962).

VIII. Vehicles owned and registered by servicemen and women (soldiers and sailors).

A. This exemption is available to non-domiciliary soldiers and sailors who:

1. register their motor vehicles in Massachusetts,
 2. are stationed in Massachusetts or some other state pursuant to military orders and
 3. are in compliance with the registration laws of the state(s) in which they reside while on military assignment.
- B. The soldier or sailor need not be stationed in Massachusetts. For example, he/she may be stationed in a border state. So long as he/she is absent from his/her domicile by reason of compliance with military orders, he/she is exempt from the motor vehicle excise in every state except that of his/her domicile so long as he/she is in compliance with the registration laws of the state of his/her residence. (*Soldiers' and Sailors' Civil Relief Act*, 50 USCA §574 App.)
- C. To determine the eligibility of a soldier or sailor who seeks an exemption as a non-domiciliary, the assessors should require a letter from the soldier or sailor's commanding officer establishing that he/she is absent from his/her domicile by reason of compliance with military orders, identifying the place of the soldier or sailor's assignment.
- D. A Massachusetts domiciliary who is sent to some other state pursuant to military orders but does not cancel his/her Massachusetts registration is not eligible for a motor vehicle exemption.
- E. A non-domiciliary soldier or sailor may qualify for an exemption on two or more vehicles. However, for each exemption sought, the soldier or sailor must be able to prove that he/she owns the subject vehicle and utilizes it for personal, non-business use.
- F. A non-domiciliary soldier or sailor who owns a vehicle jointly with his/her spouse or with some other person(s) satisfies the ownership requisite for a full exemption. See the Appellate Tax Board decision in *Brunette v. Assessors of Southampton*, Docket No. F231437, issued October 11, 1966.

IX. Vehicles owned and registered by foreign dignitaries, diplomats, consular officers or employees.

- A. No Massachusetts statute grants a motor vehicle exemption for diplomats, etc. However, numerous tax exemptions are granted by treaties and conventions which have the authority of federal law and pre-empt any state law to the contrary. For example, Article 49 of the Vienna Convention exempts diplomats of signatory nations and members of their families from all "dues and taxes, personal or real, national, regional or municipal," with exceptions not relevant to motor vehicle excise.
- B. In order to verify the status as a diplomat of a person claiming an exemption, assessors can contact:

Registration and Titling Unit
Diplomatic Motor Vehicle Office
U.S. Department of State Office of Foreign Missions
Washington, D.C. 20520