DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Christopher C. Harding
Commissioner of Revenue

Sean R. Cronin
Senior Deputy Commissioner

Local Tax Administration

Municipal Modernization Act Implementation

Workshop A
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Supporting a Commonwealth of Communities
www.mass.gov/DLS P.O. Box 9569 Boston, MA 02114-9569 (617) 626-2300

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Discussion Questions

Question 1. "Sunshine, Lollipops, and Roses" is a non-profit organization in search of a mission. It decides to buy a large parcel of land in Shawmut, MA, which is eager to have middle-class, workforce housing construction in the vicinity of a new industrial park nearby.

Shawmut through its town meeting adopted and implemented a workforce housing special tax assessment plan ("WH-STA") to incentivize the construction of workforce housing. The plan designates the area of the city in which the Sunshine, Lollipops, and Rainbows parcel lies as a WH-STA zone, which requires a finding that the neighborhood presents exceptional opportunities for increased development of middle income housing.

A. Sunshine, Lollipops, and Rainbows wants to get the maximum tax incentives available for construction of the new housing planned for Shawmut. What are the available tax benefits for WH-STA projects?
B. Shawmut and the non-profit organization are negotiating the maximum rental prices that may be charged by the developer to create middle income workforce housing. How are rents set for WH-STA housing units?

G.L. c. 40, § 60B

Question 2. Jane Smith grows corn on 10 acres of land in Shawmut, MA. She decides to invite a solar generating company to install a small solar farm on 4.5 acres of her property. The solar farm will take 3 acres classified under G.L. c. 61A as actively devoted to horticultural use, and 1.5 acres of "necessary and incidental land," leaving the actively devoted land at 4 acres and the necessary and incidental acreage at 1.5. Her horticultural activities will continue side-by-side with the solar use.

A. Will Ms. Smith have to pay a rollback tax on the acreage being converted to the solar power generation use?
B. What if the solar farm is supplying electricity solely for use on the remaining farm acreage?
C. Is it possible that the full 10 acres could remain classified notwithstanding the introduction of the solar power generation use?

G.L. c. 61A, § 2A
G.L. c. 61A, § 13

Question 3. Farmer Jared Abernathy, who grows cranberries in nearby Culver, MA, read the ATB opinion in *KTT, Inc.* and was inspired to help the environment. He has a farm consisting of 25 acres of classified land. He proceeds to site a solar power generation facility on 5 acres of his farm to take advantage of the Municipal Modernization Act. He has two options, both of which involve placing the solar panels over a large sand pit. Under the first scenario, the solar panels can be placed over the sand pit in a manner which will allow the continued use of the sand pit for agricultural and horticultural purposes. The alternative plan includes a concrete foundation for the solar panels and would preclude continued use of the sand pit for agricultural and horticultural purposes.

A. Will the 5 acre site for the solar farm remain eligible for classified status if the sand pit continues to be used for agricultural and horticultural purposes?
B. What happens if the solar power generation use precludes the continued use of the 5 acre site for purposes of the cranberry farming?

G.L. c. 61A, § 1
G.L. c. 61A, § 2
G.L. c. 61A, § 2A

Question 4. XYZ Builders started construction on a ranch-style single family residence in 2016. The construction was completed and a certificate of occupancy issued on June 1, 2017. The property value went from $350,000 for the unimproved land to $600,000 with the value of the improvement added in.

A. Is the new homeowner subject to a supplemental assessment?
B. How would a supplemental assessment be calculated?
C. What fiscal years would a supplemental assessment cover?

G.L. c. 59, §2D(a)

Question 5. In an expensive area of Long Pines, MA, the Jones' family's 2-story Colonial residence is destroyed by fire. The parcel was valued at $1.4 million for Fiscal Year (FY) 2017, with $750,000 representing the cost of the land. The entire value of the structure was lost.

A. What action should the assessors take, if any?
B. What if the assessors do nothing?

G.L. c. 59, § 2D(e)

Question 6. Grover's Corners, MA decided to expand sewer service to reach its Thornton neighborhood and to pay for it, in part, with special assessments. Once construction is completed and the cost is known, the sewer commissioners debate whether to commit the assessments in time so that they can be billed and if apportioned, let the first apportionment be added to the FY2017 preliminary tax and payable over the first two quarters vs. the actual tax bill and payable over the third and fourth quarters.

A. Is the interest rate calculated differently depending on whether the apportioned assessment is added to the preliminary or actual tax bill?
B. What options does the town have to structure principal and interest payments for taxpayers who elect to apportion their assessments?

G.L. c. 80, § 13

Question 7. Casey Hoarder has a house in Mudville, MA that the town's building inspector has deemed structurally unsound and unsafe. Casey ignores the building inspector's order to tear down the house. After the second floor partially caves in, Casey has to move out, but he still neglects to tear the house down. So Mudville arranges to demolish the house.

A. What has to happen to ensure Casey remains liable for the costs of the demolition?

G.L. c. 139, § 3A.

Question 8. Damien Developer owns a parcel in Naunton, MA with roughly $32,000 owed in back taxes, interest, and collection costs outstanding. The selectboard is willing to forgive most of the arrearages if Damien will commit to constructing affordable housing on his parcel. Damien and the selectboard reach agreement to abate 75% of the outstanding real estate tax obligations and 100% of accrued interest and costs, on the condition that Damien builds an apartment complex with residency restricted for at least 45 years to individuals and families whose income is at or below 120% of the area median income as determined by HUD.

A. What approvals are needed for this agreement?

G.L. c. 58, § 8C

Question 9. Catherine Grey wrote a check to cover her $2000 first preliminary tax bill and put it into the mail on August 1, 2017. The collector received the check on August 5, 2017, but noted the US Postmark with the August 1 date. The second preliminary payment was made by a check mailed and postmarked November 3, 2017. Ms. Grey paid both of her actual installments on a timely basis, and she applied to the assessors for abatement by a filing postmarked February 1, 2018.

A. Do the assessors have jurisdiction to consider the abatement application?
B. If the abatement application is denied, does the ATB have jurisdiction to hear the appeal?

G.L. c. 59, § 57C
G.L. c. 59, § 59
G.L. c. 59, § 64

Question 10. "Sunshine, Lollipops, and Rainbows" abandoned its plans for the WH-STA project described in Question 1 because it decided the maximum rents Shawmut allows are too low. Instead Sunshine, Lollipops, and Rainbows decides to build a solar power generating facility in Shawmut. The solar facility will use the land the non-profit already owns in the town and will lease additional acreage for the site. The landowner leasing the additional acreage is Shawmut farmer Wiley Coyote, who is continuing horticultural activities on his remaining land. The plant's generating capacity will be approximately 40 megawatts. Nearly all electricity produced will be sold to the power grid; yet a small portion of the energy will be used on-site and for the adjacent farm.

Sunshine, Lollipops, and Rainbows drafted a tax payment agreement which it presents to the town manager. The agreement lacks detail, but provides for quarterly payments at the constant amount of $400,000 per year for 20 years. The agreement purports to cover the personal property and the real estate. The town manager is satisfied with the payment level and asks the selectboard to approve the tax payment agreement. The selectboard gives its approval. At no point in the process leading up to execution of the tax payment agreement are the assessors consulted or town meeting given an opportunity to vote. The assessors are informed once the agreement has been "approved" by the selectboard.

After the agreement is in place, the assessors are told to start billing Sunshine, Lollipops, and Rainbows as they would any taxpayer, with quarterly payments of $100,000 to fall due on August 1, November 1, February 1, and May 1. The agreement does not address billing and collection procedures. For the first year, Sunshine, Lollipops, and Rainbows makes its payments under the agreement, but always after the due date for payment of quarterly installments. The collector adds statutory late payment interest to the quarterly installments received after the due date, which the generating company refuses to pay.

As bills are being prepared for the second fiscal year in which the tax payment agreement applies, Sunshine, Lollipops, and Rainbows stops making the tax payment altogether. The generating company says Shawmut failed to disclose a material fact, which is that the Appellate Tax Board (ATB) has recognized a complete property tax exemption for solar generating equipment. *See KTT, Inc. v. Assessors of Swansea*, Mass. ATB Findings of Fact and Report 2016-426. Sunshine, Lollipops, and Rainbows say the agreement is invalid on grounds of failure of consideration - the company has no property tax liability for the solar equipment for which a tax payment agreement would be appropriate.

The town manager orders vigorous legal action. The collector pursues collection remedies, which might in the circumstances involve a contract action in District Court for the amounts due under the agreement. Recognizing the risk that no money damages may be recovered in the litigation, the assessors proceed to issue an omitted property tax assessment for the amounts payable under the agreement for year two. Sunshine, Lollipops, and Rainbows pays the omitted assessment, applies for abatement, then appeals the abatement denial.

A. Is the solar facility entitled to classified farmland treatment under G.L. c. 61A if Sunshine, Lollipops, and Rainbows decides to farm 5 acres of the leased land at a site adjacent to the solar facility?
B. How solid is the tax payment agreement? Does it comply with G.L. c. 59, § 38H(b)?
C. What about Informational Guideline Release 17-26?
D. Can Wiley Coyote be assessed for the land value of the leased portion of the solar farm?
E. Is the collector able to sue in District Court to collect on the agreement?
F. Does Sunshine, Lollipops, and Rainbows have a persuasive claim that the tax payment agreement is unenforceable?
G. What happens if the court decides that the tax payment agreement is invalid?
H. Can the assessors issue an omitted assessment after the annual commitment to assess the solar power facility under G.L. c. 59, § 75?
I. Does Sunshine, Lollipops, and Rainbows have a tenable claim to an exemption?
J. What happens if the ATB deems the omitted assessment invalid?

G.L. c. 59, § 38H
G.L. c. 59, § 75
G.L. c. 218, § 21

Question 11. A condominium complex consists of 150 units on a 20 acre tract of land. The assessors have learned that the condo association leased 7 acres of the land to a farmer who plans to use the land as a cranberry bog. They assess the farmer taxes on the 7 acres of land. The farmer has refused to pay the tax bill. The developer has also reserved the right to build additional phases in the complex. There is no construction activity.

A. Can the assessors separately assess the 7 acres of land for FY 2018 or are the 7 acres part of the common area?
B. What can the collector do to collect the taxes? What are the risks?
C. Can the developer be assessed for the right to build another 150 units?

G.L. c. 59, § 11
G.L. c. 60, § 53
G.L. c. 183A, § 14
First Main Street Development Corp. v. Assessors of Acton, 49 Mass. App. Ct. 20 (2000)
Spinnaker Island Yacht Club Holding Trust v. Assessors of Hull, 49 Mass. App. Ct. 20 (2000)

Question 12. A commercial taxpayer filed timely abatement applications for FY 2015, FY 2016 and FY 2017 which were denied by the assessors. In each instance the taxpayer timely appealed to the ATB and the three cases will be heard this month. The assessors want to settle the cases but are reluctant for interest to be paid on any abatement refund.

It has also come to the attention of the selectboard that the overlay account has a large balance and it asked the assessors to declare surplus overlay. The assessors ignored the selectboard's request.

A. What change was made to the overlay account by the Municipal Modernization Act?
B. Is the taxpayer entitled to interest? At what rate? What would be the financing source for payment of any interest?
C. Can the selectboard compel the assessors to declare an overlay surplus?
D. Can town meeting appropriate from an "undeclared" surplus in the overlay account under a warrant article submitted by the selectboard?

G.L. c. 59, § 23
G.L. c. 59, § 25
G.L. c. 59, § 70A

Question 13. A business owner has filed for bankruptcy. His FY 2017 real estate taxes are unpaid and the parcel is not in tax title.

A. What actions can the collector take to protect the interests of the municipality?
B. What can the collector file at the Registry of Deeds?
C. What action is taken by the accounting officer?
D. What change was made by the Municipal Modernization Act in the procedure the collector may follow when a tax taking cannot be made because of a bankruptcy or receivership?

G.L. c. 60, § 37A
G.L. c. 60, § 95

Question 14. A carpenter owns a boat which he uses for commercial fishing. He derives half his income from commercial fishing. The boat and gear are worth about $40,000.

A. Is the taxpayer exempt from boat excise?
B. Where boat excise is collected, how is it entered in the books of the municipality?
C. What remedy is most effective in the collection of boat excise?

G.L. c. 59, § 5 (20)
G.L. c. 60B, §3

Question 15. XYZ, Inc. operates a store in your town. For FY 2017 the owner neglected to pay business personal property taxes. The taxpayer applies for abatement of his business personal property tax claiming overvaluation. The assessors denied the application and the taxpayer timely appealed to the ATB. The owner also seeks a building permit to expand the business. Later, the owner decides to sell the business so he decides he no longer needs the permit.

A. What remedies does the collector have to ensure collection of the business personal property tax?
B. What, if any, statute of limitations applies to the use of these remedies by the collector?
C. Does the ATB have jurisdiction to hear the appeal?

G.L. c. 40, § 57
G.L. c. 59, § 61
G.L. c. 59, § 64
G.L. c. 60, § 35
G.L. c. 218, § 21

Question 16. The local chamber of commerce successfully lobbied the selectboard to improve the business climate by maintaining a single tax rate for the town. After the Commissioner of Revenue approved the tax rate for the town, the local newspaper predicted a sharp increase in residential taxes for the year. Many angry residents have contacted the selectboard about lowering taxes for homeowners.

A. Can the tax rate be changed once approved by the Commissioner of Revenue?
B. What recourse do the taxpayers have?

G.L. c. 59, § 23

Question 17. Some residents of Greenacre, MA receive sewer service from the neighboring town, Edinburgh. Water service is provided by Greenacre. A few of the Greenacre residents have failed to pay their sewer bills. In some instances, nonpayment of the sewer bills dates back several years. The most recently issued sewer bills were due on November 18, 2016 and June 16, 2017.

A. Under the Municipal Modernization Act, what action can Edinburgh take to enforce collection of the unpaid sewer bills?
B. When will the liens for the November 2016 and June 2017 sewer bills expire?
C. What happens to the earlier unpaid sewer bills?

G.L. c. 83, § 16A

Question 18. Greenacre, MA is a semi-annual tax bill community. For FY 2018 taxes are due on November 1, 2017 and May 1, 2018. John Smith returned from vacation and hand delivered his first installment payment to the collector's office a day late on November 2, 2017. The collector waived interest on the late payment. John Smith's total tax bill for FY 2018 is $5,600. He filed a timely abatement application which the assessors denied.

A. How is interest calculated on the late payment?
B. Can Smith appeal to the ATB?

Assume John Smith had mailed his tax payment to the collector on October 30, 2017 instead. It was not received by the collector until November 3, 2017. The U.S. postmark on the envelope was October 30.

C. Does John Smith owe interest?
D. Does the ATB have jurisdiction on any appeal?

G.L. c. 59, § 57

Question 19. The selectboard received complaints from many taxpayers who are experiencing financial difficulties and are alarmed that the size of their real estate bills is increasing. For many years, the town has operated a program that lets persons over the age of 60 reduce their taxes in exchange for voluntary services to the town. The maximum amount awarded to volunteers is $500.

A. Can the $500 be increased?

G.L. c. 59, § 5K
G.L. c. 59, § 5N
G.L. c. 60, § 3F

Question 20. Greenacre, MA has a 3 member part-time board of assessors who meet bi-weekly. The assessors have appointed a full-time assistant assessor to run the office.

A. Can the board of assessors designate the assistant assessor to approve vendor bills and payrolls?
B. Can the assessors authorize the assistant assessor to approve abatement and exemption applications?

G.L. c. 41, § 41
G.L. c. 41, § 56

Question 21. During mapping for the town, the mapping company discovered a two acre parcel that did not appear on the tax rolls. When questioned about this property a former assessing official explained that the two acre parcel was included in the land area of an abutter who claimed to own it under the description in his deed. The abutter, after being contacted by the company, did further research and concluded he does not own the two acre parcel. The abutter wants an abatement for FY 2018 and for prior years.

A. Can the abutter get an abatement for FY 2018? What about prior fiscal years?
B. If the assessors now know who owns the two acres, can they assess the owner for FY 2018? Prior fiscal years?

Assume the parcel had been assessed to Owner Unknown since 1995 instead, and is in tax title. The treasurer has filed a petition in Land Court to foreclose the tax title.

C. What information will the Land Court examiner require to proceed?

G.L. c. 59, § 11
G.L. c. 59, § 59
G.L. c. 59, § 75

Question 22. John Gardner, who is the sole owner of a house in Greenacre, MA, passed away on May 3, 2017. He left a wife and three children. For FY 2018, the valuation of his Colonial house skyrocketed due to strong market demand.

A. To whom should the FY 2018 taxes be assessed?
B. Who can file an overvaluation abatement application?
C. Can the surviving spouse apply for a personal exemption application for FY 2018?

G.L. c. 59, § 5
G.L. c. 59, § 11
G.L. c. 59, § 59

LOCAL LICENSES AND PERMITS; DENIAL, REVOCATION OR SUSPENSION FOR FAILURE TO PAY MUNICIPAL TAXES OR CHARGES

General Laws Chapter 40, § 57

Section 57. Any city or town which accepts the provisions of this section, may by by-law or ordinance deny any application for, or revoke or suspend a building permit, or any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise, who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges, including amounts assessed under the provisions of section twenty-one D or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate whose owner has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or ordinances shall provide that:

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or

revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The board of selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight A in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

A city or town may exclude any local license or permit from this section by by-law or ordinance.

WORKFORCE HOUSING SPECIAL TAX ASSESSMENT
General Laws Chapter 40, § 60B

Section 60B.(a) A city or town, by vote of its town meeting, town council or city council, with the approval of the mayor where required by law, on its own behalf or in conjunction with one or more cities or towns, may adopt and implement a workforce housing special tax assessment plan, hereinafter referred to as WH-STA plan, intended to encourage and facilitate the increased development of middle income housing; provided, however, that any such WH-STA plan shall: (1) designate 1 or more areas of such city or town as a WH-STA zone, subject to regulations adopted by the city or town, pursuant to subsection (c) of this section, as presenting exceptional opportunities for increased development of middle income housing. Any WH-STA plan adopted by more than 1 city or town shall designate WH-STA zones consisting of contiguous areas of such cities or towns; (2) describe in detail all construction and construction-related activity contemplated for the WH-STA zone as of the date of adoption of the WH-STA plan; provided that the WH-STA plan shall include the types of residential developments which are projected to occur within the WH-STA zone, with documentary evidence of the level of commitment therefor, including but not limited to architectural plans and specifications as required by regulations promulgated pursuant to subsection (c); (3) authorize special tax assessment exemptions from property taxes, pursuant to subsection Fifty-eighth of section 5 of chapter 59, for a specified term not to exceed 5 years, for any parcel of real property which is located in a WH-STA zone and for which an agreement has been executed with the owner of the real property pursuant to paragraph (4). The WH-STA plan may exempt owners of parcels of real estate from up to 100 per cent of property taxes during 2 years of construction and as set forth in an agreement executed pursuant to paragraph (4). The WH-STA plan may also exempt such owners from property taxes during a 3-year stabilization period following construction; provided, that the exemption may be up to 75 per cent of property taxes during a first year of stabilization, up to 50 per cent of property taxes during a second year of stabilization, and up to 25 per cent of property taxes during a third year of stabilization; (4) include executed agreements between the

city or town and each owner of a parcel of real property which is located in the WH-STA zone, provided that such agreements shall include, but not be limited to, the following: (i) all material representations of the parties which served as the basis for the descriptions contained in the WH-STA plan, in accordance with the provisions of paragraph (2), and which served as a basis for the granting of a WH-STA exemption;(ii) any terms deemed appropriate by the city or town relative to compliance with the WH-STA agreement including, but not limited to, what shall constitute a default by the property owner and what remedies shall be allowed between the parties for any such defaults, including an early termination of the agreement; (iii) provisions governing maximum rental prices that may be charged by the developer to create middle income workforce housing, as set forth in the regulations adopted by the city or town pursuant to subsection (c); (iv) a detailed recitation of all other benefits and responsibilities inuring to and assumed by the parties to such agreement;(v) a provision that such agreement shall be binding upon subsequent owners of the parcel of real property; and (5) delegate the authority to execute agreements in accordance with paragraph (4) to the board of assessors of the city or town, and to the board, agency or officer of the city or town responsible for housing.

(b) A city or town may at any time revoke its designation of a WH-STA zone and, as a consequence of such revocation, shall immediately cease the execution of any additional agreements pursuant to paragraph (4) of subsection (a). The revocation shall not affect agreements relative to property tax exemptions pursuant to said paragraph (4) of subsection (a) which were executed prior to the revocation. The board of assessors of the city or town and the board, agency or officer of the city or town responsible for housing, authorized pursuant to paragraph (5) of subsection (a) to execute agreements, shall retain a copy of each such agreement, together with a list of the parcels included therein.

(c) Upon the adoption of a WH-STA plan, a city or town shall promulgate regulations governing the implementation of such plans in the city or town. The regulations shall establish eligibility requirements for developers to enter into a WH-STA agreement pursuant to paragraph (4) of subsection (a). The regulations shall establish, among other things: (1) a procedure for developers to apply to the city or town for a WH-STA agreement; (2) a minimum number of new residential units to be constructed for an owner of a parcel of real estate to be eligible to enter into a WH-STA agreement; (3) the maximum rental prices that may be charged by the developer for the constructed residential units throughout the duration of a WH-STA agreement; and (4) other eligibility criteria that will facilitate and encourage the construction of workforce housing in a manner appropriate to the particular city or town.

(d) The owner of property subject to a WH-STA agreement shall certify to the city or town the rental prices of the residential units designated in the WH-STA agreement. The certification shall be provided to the city or town on the date of initial occupancy and on an annual basis thereafter throughout the duration of the executed WH-STA agreement. If the owner fails to provide such certification, or otherwise fails to comply with the WH-STA agreement, or if the city or town determines that the owner is unlikely to come into compliance with the affordability requirements set forth in the agreement, the city or town may place a lien on the property in the amount of the real estate tax exemptions granted pursuant to the WH-STA agreement for any year in which the owner is not in compliance with this subsection. Any such lien shall be recorded in the registry of deeds or the registry district of the land court wherein the land lies;

(e) a WH-STA plan adopted pursuant to subsection (a) shall expire 3 years after its adoption unless the plan is renewed by the city or town by vote of its town meeting, town council or city council, with the approval of the mayor where required by law.

PAYMENT OF COMPENSATION; OATH
General Laws Chapter 41, § 41

Section 41. No treasurer or other fiscal officer of any town or city shall pay any salary or compensation to any person in the service or employment of the town or city unless the payroll, bill or account for such salary or compensation shall be sworn to by the head of the department or the person immediately responsible for the appointment, employment, promotion, or transfer of the persons named therein, or, in the case of the absence or disability of the head of the department or of such person, then by a person designated by the head of the department and approved by the board of selectmen in towns, and by the mayor in cities, or by the city manager in cities operating under a Plan D or Plan E charter. Except as otherwise provided in a collective bargaining agreement, the treasurer or other fiscal officer may pay the payroll to an employee on a biweekly or semimonthly basis. A commission, committee or board of trustees in a city or town, including a city council, board of aldermen or common council in a city, may for purposes of this section designate any one of its members to make oath to a payroll, bill or account for salary or compensation of its members or employees. This provision shall not limit the responsibility of each member of any such body in the event of a noncompliance with this section.

WARRANTS FOR PAYMENT OF BILLS
General Laws Chapter 41, § 56

Section 56. The selectmen and all boards, committees, heads of departments and officers authorized to expend money shall approve and transmit to the town accountant as often as once each month all bills, drafts, orders and pay rolls chargeable to the respective appropriations of which they have the expenditure. For purposes of this section, the board of selectmen and any other board, committee or head of department consisting of more than 1 member authorized to expend money, may designate any 1 of its members to approve all bills, drafts, orders and payrolls; provided, however, that the member shall make available to the board, committee or other department head, at the first meeting following such action, a record of such actions. This provision shall not limit the responsibility of each member of the board in the event of a noncompliance with this section. Such approval shall be given only after an examination to determine that the charges are correct and that the goods, materials or services charged for were ordered and that such goods and materials were delivered and that the services were actually rendered to or for the town as the case may be; provided, however, that such approval may be given to any bill received from a state agency for the town's share of the costs of a federal urban planning assistance program, established under the provisions of section 701 of Public Law 83-560, as amended, before any goods, materials or services ordered or to be ordered under such a program have been delivered or actually rendered, as the case may be. The town accountant shall examine all such bills, drafts, orders and pay rolls, and, if found correct and approved as herein provided, shall draw a warrant upon the treasury for the payment of the same, and the treasurer shall pay no money from the treasury except upon such warrant approved by the selectmen. If there is a failure to elect or a vacancy occurs in the office of selectman, the remaining selectman or selectmen, together with the town clerk, may approve such warrant. The town accountant may disallow and refuse to approve for payment, in whole or in part, any claim as fraudulent, unlawful or excessive, and in such case he shall file with the town treasurer a written statement of the reasons for such refusal. The treasurer shall not pay any claim or bill so disallowed by the town accountant. So far as apt this section shall apply to cities.

AFFORDABLE HOUSING SITES; ABATEMENT OF REAL ESTATE TAX OBLIGATIONS
General Laws Chapter 58, § 8C

Section 8C. A city or town may establish, relative to sites or portions of sites that will be used as affordable housing, as defined in section 1 of chapter 60, or affordable housing and commercial, an agreement between the city or town and the developer of the sites or portions of sites, regarding the abatement of up to 75 per cent of the outstanding real estate tax obligations and up to 100 per cent of the outstanding interest and costs on the sites or portions of sites. The agreement, for the purpose of developing affordable housing on such sites and redevelopment in such communities, shall include, but shall not be limited to, the amount outstanding, the per cent of interest to accrue if determined applicable by the parties, the description of quantifiable monthly payments, the inception date of such payments, the date of the final payment, late penalties, the number of affordable units, and any other contractual obligations arranged between the parties. The terms of repayment shall be set at the discretion of the municipality and shall be included in the agreement between the parties. A city or town that accepts this section shall adopt an ordinance or by-law specifying the method for negotiating and approving agreements under this section. Copies of each such agreement shall be signed by the municipal officer required by the ordinance or by-law and by the owner of the property in question, notarized, attested to by the city or town clerk, and provided to the department of housing and community development, the city council or board of selectmen, and the owners of the property in question. An abatement under this paragraph may be granted only for a new owner of a parcel who is not liable for any of the outstanding charges secured by the municipality's lien. This section shall take effect in any city or town only upon its acceptance by such city or town. The commissioner, in consultation with the department of housing and community development, may make, and from time to time revise, such reasonable rules and regulations that are consistent with provisions of the preceding paragraph as he deems necessary to carry out the provisions of this paragraph.

TAXATION OF IMPROVED REAL ESTATE BASED ON VALUE AT ISSUANCE OF OCCUPANCY PERMIT: PRO RATA
General Laws Chapter 59, §2D(a) & (e)

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.

…

(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.

PROPERTY; EXEMPTIONS
General Laws Chapter 59, § 5

Section 5. The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July 1 of each year unless another meaning is clearly apparent from the context; provided, however, that any person who receives an exemption pursuant to clause Seventeenth, Seventeenth C, Seventeenth C 1/2, Seventeenth D, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Twenty-second F, Twenty-second G, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-first C 1/2, Forty-second, Forty-third, Fifty-sixth or Fifty-seventh shall not receive an exemption on the same property pursuant to any other provision of this section, except clause Eighteenth or Forty-fifth.

…

Clause Twentieth. The wearing apparel, farming utensils and cash on hand of every person and the tools of his trade if a mechanic, to any amount; his household furniture and effects, including jewelry, plate, works of art, musical instruments, radios, television sets and garage or stable accessories, in storage in a public warehouse kept and maintained under chapter one hundred and five or used or commonly kept in or about the dwelling of which he is owner of record or for the use of which he is obligated to pay rent, and which is the place of his domicile; and, to an amount not exceeding a total value of $50,000, in respect to boats, fishing gear and nets, owned and actually used by the owner in the prosecution of the owner's business if engaged in commercial fishing and if no less than 50 per cent of the owner's income is from commercial fishing; provided, that failure to comply with the provisions of sections twenty-nine and sixty-one relative to the filing of a list of his personal estate with the assessors shall not be a bar to an abatement of the tax, if any, imposed upon such personal estate.

…

PROPERTY TAX LIABILITY REDUCED IN EXCHANGE FOR VOLUNTEER SERVICES; PERSONS OVER AGE 60
General Laws Chapter 59, § 5K

Section 5K. In any city or town which accepts the provisions of this section, 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 persons over the age of 60 to volunteer to provide services to such city or town. In exchange for such volunteer services, the city or town shall reduce the real property tax obligations of such person over the age of 60 on his tax bills and any reduction so provided shall be in addition to any exemption or abatement to which any such person is otherwise entitled and no such person shall receive a rate of, or be credited with, more than the current minimum wage

of the commonwealth per hour for services provided pursuant to such reduction nor shall the reduction of the real property tax bill exceed $1,500 in a given tax year. It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of such record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of such record shall also be provided to the taxpayer prior to the issuance of the actual tax bill. Such cities and towns shall have the power to create local rules and procedures for implementing this section in any way consistent with the intent of this section.

In no instance shall the amount by which a person's property tax liability is reduced in exchange for the provision of services 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 applicable provisions of the General Laws, but such person while providing such services shall be considered a public employee for the purposes of chapter 258, but such services shall be deemed employment for the purposes of unemployment insurance as provided in chapter 151A.

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption in this clause by: (1) allowing an approved representative, for persons physically unable, to provide such services to the city or town; or (2) allowing the maximum reduction of the real property tax bill to be based on 125 volunteer service hours in a given tax year, rather than $1,500.

REDUCTION OF PROPERTY TAX OBLIGATION OF VETERAN IN EXCHANGE FOR VOLUNTEER SERVICES

General Laws Chapter 59, § 5N

Section 5N. In any city or town which accepts this section, 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 or a spouse of a veteran in the case where the veteran is deceased or has a service-connected disability, 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 the veteran's tax bills and that reduction shall be in addition to any exemption or abatement to which that person is otherwise entitled; provided, however, that person shall not receive a rate of, or be credited with, more than the current minimum wage of the commonwealth per hour for the services provided pursuant to that reduction; and provided further, that the reduction of the real property tax bill shall not exceed $1,000 in a given tax year. It shall be the responsibility of the city or town to maintain a record for each taxpayer including, but not limited to, the number of hours of service and the total amount by which the real property tax has been reduced and to provide a copy of that record to the assessor in order that the actual tax bill reflect the reduced rate. A copy of that record shall also be provided to the taxpayer prior to the issuance of the actual tax bill. The cities and towns shall have the power to create local rules and procedures for implementing this section in a way that is consistent with the intent of this section. Nothing in this section shall be construed to permit the reduction of workforce or otherwise replace existing staff.

The amount by which a person's property tax liability is reduced in exchange for the volunteer services shall not 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 applicable provisions of the General Laws. While providing such volunteer services, that person shall be considered a public employee for the purposes of chapter 258 and those services shall be deemed employment for the purposes of unemployment insurance as provided in chapter 151A.

A city or town, by vote of its legislative body, subject to its charter, may adjust the exemption in this clause by: (i) allowing an approved representative for persons physically unable to provide such services to the city or town; or (ii) allowing the maximum reduction of the real property tax bill to be based on 125 volunteer service hours in a given tax year, rather than $1,000.

REAL ESTATE
General Laws Chapter 59, § 11

Section 11. Taxes on real estate shall be assessed, in the town where it lies, to the person who is the owner on January 1, and the person appearing of record, in the records of the county, or of the district, if such county is divided into districts, where the estate lies, as owner on January 1, even though deceased, shall be held to be the true owner thereof; provided, that whenever the assessors deem it proper, they may assess taxes upon real estate to the person who is in possession thereof on January 1, and such person shall thereupon be held to be the true owner thereof for the purposes of this section; provided, further, that whenever the assessors deem it proper, they may assess taxes upon any present interest in real estate to the owner of such interest on January 1; and provided, further, that in cluster developments or planned unit developments, as defined in section 9 of chapter 40A, the assessment of taxes on the common land, so called, including cluster development common land held under a conservation restriction pursuant to section 31 of chapter 184, the beneficial interest in which is owned by the owners of lots or residential units within the plot, may be included as an additional assessment to each individual lot owner in the cluster development. Real estate held by a religious society as a ministerial fund shall be assessed to its treasurer in the town where the land lies. Buildings erected on land leased by the commonwealth under section twenty-six of chapter seventy-five shall be assessed to the lessees, or their assignees, at the value of said buildings. Except as provided in the three following sections, mortgagors of real estate shall for the purpose of taxation be deemed the owners until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

Whenever the assessors of any town assess a tax on real estate to a person other than the person appearing of record, in the records of the county, or of the district, if such county is divided into districts, where the estate lies, as owner on January first, such assessors shall, if the tax is a lien upon such real estate under section thirty-seven of chapter sixty, unless the assessors by reasonable diligence cannot ascertain the name of the person so appearing of record, include in such assessment the name of the person so appearing of record without imposing upon him personal liability for the tax.

Whenever assessors cannot by reasonable diligence ascertain the name of the person appearing of record, the assessors may assess taxes upon real property to persons unknown.

Real estate permanently restricted under section seventeen B of chapter twenty-one, section one hundred and five of chapter one hundred and thirty and section forty A of chapter one hundred and thirty-one shall be assessed as a separate parcel of real estate and real estate under a conservation restriction in perpetuity under section thirty-one of chapter one hundred and eighty-four subject to a written agreement with a city or town shall be assessed as a separate parcel and the city or town acting through its assessor shall be bound by the terms of the written agreement until its expiration. The initial assessment as a separate parcel shall be made on January first of the year next following the conveyance of such permanent restriction.

ANNUAL ASSESSMENT; AMOUNT; DEDUCTIONS; APPROVAL
General Laws Chapter 59, § 23

Section 23. The assessors shall annually assess taxes to an amount not less than the aggregate of all amounts appropriated, granted or lawfully expended by their respective towns since the last preceding annual assessment and not provided for therein, of all amounts required by law to be raised by taxation by said towns during said year, of all debt and interest charges matured and maturing during the next fiscal year and not otherwise provided for, of all amounts necessary to satisfy final judgments against said towns, and of all abatements granted on account of the tax assessment of any year in excess of the overlay and not otherwise provided for or any such deficits resulting from section fifty-three E of chapter forty-four; but such assessment shall not include liabilities for the payment of which towns have lawfully voted to contract debts. Any estimate of interest charges attributable to variable interest rates on obligations issued pursuant to section twenty-two A of chapter forty-four shall be subject to the approval of the commissioner. The assessors shall deduct from the amount required to be assessed (a) the amount of all estimated receipts of their respective towns lawfully applicable to the payment of the expenditures of the next fiscal year, excluding sums to be received from the commonwealth or county for highway purposes, other than funds required to be distributed under section eighteen B of chapter fifty-eight, and excluding estimated receipts from loans and taxes, but including estimated receipts from the excise levied under chapter sixty A and receipts estimated by the commissioner under section twenty-five A of chapter fifty-eight, (b) the amount of all appropriations voted from available funds for the purpose of deduction, and (c) the amount of all other appropriations voted from available funds. Deductions made by the assessors under any provision of this section shall not be subject to the approval of the commissioner; provided, however, that deductions made under clause (a) on account of estimated receipts, other than those estimated by the commissioner, shall not exceed the aggregate amount of actual receipts received during the preceding fiscal year from the same sources, except with the written approval of the commissioner; and provided, further, that deductions made under clauses (b) and (c) shall not exceed the sums certified to the assessors and the commissioner by the director of accounts, after such examination of the accounts of the town as he may deem proper, as the amounts of available funds on hand on the preceding July the first with such additional funds as are hereinafter authorized not otherwise appropriated. Said director shall promulgate and from time to time revise rules and regulations for determining the available funds of a city or town in accordance with established accounting practices of said bureau of accounts. This section shall not be construed to require any approval for the use, application, transfer, appropriation or expenditure of any funds or accounts provision for which use, application, transfer, appropriation or expenditure is made under any other general or special law, beyond such approval or approvals as are required by such other general or special law.

In determining the amount of available funds to be deducted under the provisions of clauses (b) and (c), such available funds shall be the amount certified by the director of accounts as available on July the first next preceding the date of the appropriation, reduced by the amount of all intervening appropriations from available funds, and increased by the total of the proceeds from the sale of tax title possessions and the receipts from tax title redemptions, in addition to the real and personal property taxes of prior fiscal years, and such other amounts as the director may authorize, collected between said July first and a date which shall in no event be later than March thirty-first; provided, however, that no increases to the amount of certified available funds shall be allowed unless such increases have received the written approval of the director prior to the appropriation of such amounts. Such amounts of available funds so certified by the director of accounts as available on the July first immediately preceding shall be reported by the town accountant to the board of selectmen, or by the city auditor to the mayor or city manager and to the city council or board of aldermen, and shall be subject to appropriation.

To the extent that appropriations for programs provided for under chapter seventy-one B have been made without taking into account any reimbursement to which the city or town is entitled during the fiscal year under section thirteen of said chapter seventy-one B, the amount of such reimbursement, but not in excess of such appropriations, shall be included with other estimated receipts by the board of assessors of every city or town when compiling the local tax rate under this section. Such board of assessors shall show as an offset when compiling such rate the amount which represents the excess of such reimbursement over such appropriations.

The auditor or similar accounting officer in each city or town shall certify as soon as may be to the board of assessors the total of the proceeds from the sale of tax title possessions and receipts from tax title redemptions, in addition to the total real and personal taxes of prior years collected from July the first of the current fiscal year up to and including March the thirty-first of the same year.

If, prior to June first the assessors of any city except Boston shall not have received from the city clerk a certificate under section fifteen A of chapter forty-one of the appropriations voted for the annual budget for the next fiscal year and if it appears to them, after inquiry of the city clerk, that such appropriations have not been voted, they shall forthwith assess a tax for said year in accordance with the provisions of this section, except that, in determining the amount of the tax to be assessed, there shall be considered as having been appropriated for the annual budget for said year an amount equal to the aggregate appropriations voted for the annual budget for the then current fiscal year.

Notwithstanding the provisions of any general or special law, the provisions of this section, so far as apt, shall apply to fire, water and improvement districts.

No city, town or district tax rate for any fiscal year shall be fixed by the assessors until such rate has been approved by the commissioner, and a rate shall not be approved until the commissioner determines that the deductions under this section and the overlay addition under section twenty-five are in full compliance of law and are reasonable in amount. No city, town or district tax rate for any fiscal year shall be changed after it has been approved by the commissioner and returned to the assessors; provided, however, that the commissioner may approve a revised rate if: (i) there was a material understatement or overstatement in the returned rate due to an unintentional, inadvertent or other good faith omission or error by city, town or district officials in reporting the rate; and (ii) the tax bills for the year have not been sent.

ADDITIONAL ASSESSMENTS
General Laws Chapter 59, § 25

Section 25. The assessors of each city or town shall raise by taxation each year a reasonable amount of overlay as the commissioner may approve. 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. Any balance in the overlay account in excess of the amount of the warrants remaining to be collected or abated, as certified by the board of assessors, shall be transferred by the board of assessors upon their own initiative or within 10 days of a written request by the chief executive officer, with written notice to the chief executive officer, to a reserve fund to be appropriated for any lawful purpose. Any balance in a reserve fund at the end of the fiscal year shall be closed out to surplus revenue. This section shall apply to fire, water and improvement districts.

TRANSITION PAYMENTS TO MUNICIPALITIES IN WHICH AN AFFILIATED GENERATION FACILITY IS LOCATED
General Laws Chapter 59, § 38H

Section 38H. (a) For the purposes of this section, the term department shall refer to the department of telecommunications and energy.

Any electric company as defined in section 1 of chapter 164 which generates electricity or any distribution company as defined in said section 1 which is authorized by the commonwealth or the department to recover transition cost amounts associated with past investments in generation facilities, or any generation company or wholesale generation company as defined in said section 1 or such company's affiliate, subsidiary, or parent company which currently has no binding agreement for tax payments or payments in lieu of taxes to municipalities in which the company's generation facilities are located shall be required to make transition payments to any municipality in which an affiliated generation facility, as defined in said section 1, or part thereof, is located and has been devalued for property tax payment purposes; provided, however, that where such a binding agreement for the payment of real and personal property taxes or the binding agreement for payment in lieu of such taxes has been entered into on or after the effective date of this section, such agreement shall govern, and such generation facility shall be exempt from the provisions of this section. Said payments shall offset any reductions of property taxes as a result of any devaluation of said generation facility. This section does not provide for any exemption from property tax and is in addition to such tax obligation.

…

(b) A generation company or wholesale generation company which does not qualify for a manufacturing classification exemption pursuant to paragraph (3) of the clause Sixteenth of said section 5 may, in order to comply with its property tax liability obligation, execute an agreement for the payment in lieu of taxes with the municipality in which such generation facility is sited, and said company shall be exempt from property taxes, in whole or in part, as provided in any such agreements during the terms thereof. Any such agreement shall be the result of good faith negotiations and shall be the equivalent of the property tax obligation based on full and fair cash valuation. Any such negotiated amount shall be included in the tax base for purposes of determining the levy ceiling and levy limit under section 21C and in determining minimum

residential factor and classification of property under section 1A of chapter 58 of the General Laws and section 56 of chapter 40 of the General Laws. The department of revenue may issue guidelines for implementing the provisions of this subsection consistent with preserving the negotiated payment amount in the local tax base for such purpose.

A city or town, acting by and through its governing body and board of assessors, is hereby authorized to enter into an agreement with the New England Power Company concerning the assessed valuation of all real and personal property presently owned by said company in said city or town for the fiscal years 1997 to 2001, inclusive; provided, however, that said agreement shall constitute a good faith attempt to value said property at its fair market value. Any such agreement as described herein executed prior to and in effect on December 1, 1997, is hereby ratified, validated, and confirmed in all respects and as though this act had been in full force and effect at the time of the execution of said agreement.

(c) In the case of a nuclear-powered electric generation facility in the commonwealth which exceeds 250 megawatts in size and which was owned in whole or in part by an electric company as of July 1, 1997, whether or not such generation facility is in service as of the date of the collection in rates of the transition costs as defined pursuant to section 1 of chapter 164, such electric company shall not be subject to the provisions of subsections (a) and (b) and, in order to be eligible to collect the full amount of transition costs as approved by the department pursuant to section 1G of said chapter 164, shall enter into an agreement to pay the host community payments in addition to taxes.

…

Notwithstanding the provisions of any general or special law to the contrary, the town of Plymouth, acting through its board of selectmen, may enter into a certain agreement dated March 16, 1999 with the Boston Edison Company relating to property taxes, payments in addition to property taxes, payments in lieu of property taxes for the Pilgrim Nuclear Power Station, as that property is defined in the agreement, for the fiscal years 1998 to 2012, inclusive. Such agreement is hereby authorized, ratified, validated and confirmed in all respects as satisfying all of Boston Edison Company's obligations under this section with respect to agreements relating to property taxes, payments in addition to property taxes and payments in lieu of property taxes for the Pilgrim Nuclear Power Station.

BILLS FOR TAXES; DUE DATE; INTEREST; AMOUNTS OVERDUE

General Laws Chapter 59, § 57

Section 57. Except as otherwise provided, bills for real estate and personal property taxes shall be sent out seasonably upon commitment in every city, town and district in which the same are assessed, and shall be due and payable on July first of each year for all purposes except the calculation of interest as provided in this section. If any betterment assessment or apportionment thereof, water rate, annual sewer use charge and any other charge added to such tax, or more than one-half of the balance of any such tax as reduced by any abatement, remains unpaid either after November 1 of the fiscal year in which it is payable, or after the thirtieth day after the date on which the bill for such tax was mailed after October 1, interest at the rate of 14 per cent per annum, computed from the due date, shall be paid on so much of the unpaid amount as is in excess of said one-half of such balance. If the whole or any part of such tax remains unpaid after May 1 of such fiscal year, in addition to the interest as aforesaid, interest at such rate shall be

paid on so much of the balance of such tax not so paid as does not exceed one half of such tax as reduced by any abatement and computed from May 1 of such fiscal year. On or before April 1 of such fiscal year a notice shall be sent out showing the amount of such tax which, if not paid by May 1, shall bear interest computed from May 1. Bills for taxes assessed under section 75 or section 76 shall be sent out seasonably upon commitment, and shall be due and payable on the thirtieth day after the date on which the bill for such tax was mailed for all purposes except the calculation of interest as provided in this section. Taxes shall bear interest as hereinbefore provided in this section with respect to real estate and personal property taxes generally; provided, however, that if a bill for any such taxes is mailed on or after April 1 of the fiscal year to which the tax relates and remains unpaid after the thirtieth day after the date on which such bill was mailed, interest at the aforesaid rate, computed from the due date, shall be paid on so much of the tax that remains unpaid. Interest which pursuant to this section shall have been added to and become a part of any tax other than a tax reassessed under section seventy-seven shall be waived by the collector if the amount of such tax, exclusive of such interest, is tendered to him within thirty days after the bill for such tax is first sent. A first actual real estate tax bill sent out for fiscal year 2008 or any subsequent year pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charge which may constitute a lien is overdue for more than 90 days. Such delinquencies shall not include amounts due relating to fire service, electric, water or sewer use in any city or town served by more than 1 independent municipal or district fire, electric, water, sewer, or joint water and sewer district or in any city or town served by an independent municipal or district fire, electric, water, sewer, or joint water and sewer district that is not principally domiciled in that city or town.

Notwithstanding the first paragraph, if the last day for making a tax payment without incurring interest on a bill for real estate or personal property taxes occurs on a Saturday, Sunday or legal holiday, or on a day on which a municipal office is closed as authorized by charter, by-law, ordinance or otherwise for a weather-related or public safety emergency, the payment may be made on the next day on which a municipal office is open, without penalty or interest.

For the purposes of determining jurisdictional interest requirements on appeals brought pursuant to chapter 59, the date of delivery for a payment for taxes pursuant to this section that is, after the period or date prescribed by this section, delivered by United States mail or by an alternative private delivery service to the collector shall be deemed to be the date of the United States postmark, the date of the certification of mailing stamped and postmarked by the United States Postal Service, the date of a certified mail receipt provided by the United States Postal Service or other substantiating date mark permitted by the rules of practice and procedure of the appellate tax board that is affixed on the envelope or other appropriate wrapper in which the payment is mailed or delivered if the payment was mailed in the United States in an envelope of such appropriate wrapper, first class postage prepaid, or delivered to an alternative private delivery service, properly addressed to the collector; provided, however, that a taxpayer shall have the burden of proving the timely mailing of any payment of taxes to said collector pursuant to this section and the collector shall have no obligation to maintain any record relative to the date of mailing of the tax; and provided further, that nothing in this section shall be construed to place the burden of proving any untimely mailing on the collector. As used in this section, "United States postmark" shall mean only a postmark made by the United States Postal Service. This paragraph shall not apply to the calculation of interest pursuant to the first paragraph of this section.

PRELIMINARY TAX FOR REAL ESTATE AND PERSONAL PROPERTY; NOTICE; INSTALLMENT PAYMENTS
General Laws Chapter 59, § 57C

Section 57C. This section shall be applicable in any city or town which accepts this section for the purpose of establishing quarterly tax payments or semi-annual tax payments, notwithstanding section 57. Except as otherwise provided, a notice of preliminary tax for real estate and personal property shall be sent out no later than July 1 of each year. In the case of cities and towns with quarterly tax payments, the preliminary tax shall be due and payable in 2 installments, the first installment due on August 1, the second installment on November 1, after which dates if unpaid, they shall become delinquent and subject to interest as provided herein, and in the case of cities and towns with semi-annual tax payments, the preliminary tax shall be due and payable on October 1, after which date if unpaid, it shall become delinquent and subject to interest as provided herein. The preliminary tax shall in no event exceed 50 per cent of 102 1/2 per cent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any referendum question submitted to the voters under paragraph (g), (i 1/2), (j) or (k) of section 21C and approved for the fiscal year had been approved for the preceding fiscal year.

Notwithstanding the provisions of the first paragraph, a notice of preliminary tax may be sent out after July first by cities and towns with quarterly tax payments; provided, however, that no such notice of preliminary tax shall be sent unless first approved by the commissioner of revenue; provided, further, that as a condition of such approval, the commissioner may establish such requirements as he deems appropriate, which may include, but not be limited to, the submission by the board of assessors of all information required to set the tax rate under the provisions of section twenty-three, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year. Any notice of preliminary tax mailed after July first shall be due and payable in two installments, the first installment due thirty days after the mailing of the notice, the second November first, after which dates if unpaid, they shall become delinquent and subject to interest as provided herein; provided, however, that in the event that such notice is mailed after August first, the entire notice shall be due and payable November first, or thirty days after the date of mailing, whichever is later. Any notice of preliminary tax mailed after July 1 by cities and towns with semi-annual tax payments shall be due and payable October 1 after which date if unpaid, it shall become delinquent and subject to interest as provided herein; provided, however, that in the event that such notice is mailed after August 1, the notice shall be due and payable November 1, or 30 days after the date of mailing, whichever is later.

All provisions of law regarding the procedures for issuing, mailing and collecting tax assessments upon real and personal property and betterment assessments shall be applicable to the notice of preliminary tax provided hereunder, including the payment of interest. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for the current fiscal year shall govern such rights and remedies. The provisions of section twenty-one C shall apply to the tax rate established by the city or town for the current fiscal year.

Notwithstanding the provisions of the first paragraph, a city or town that seeks to issue a notice of preliminary tax for any fiscal year may require the payment of a preliminary tax in excess of fifty percent of one hundred and two and one-half percent of the tax payable during the preceding fiscal year and of the amount by which such tax would have increased if any

referendum question submitted to the voters under the provisions of paragraph (g), (i 1/2), (j) or (k) of section twenty-one C and approved for the fiscal year had been approved for the preceding fiscal year, to the extent that such excess represents one-half of the amount of tax accruing as a result of the loss of exemption from tax that had been granted in the preceding fiscal year, improvements to the parcel, or the parcel being taxed as a separate parcel for the first time. A city or town is further authorized under this paragraph to issue a notice of preliminary tax for any property which becomes subject to taxation for the first time in a current fiscal year.

Notwithstanding the provisions of any general or special law to the contrary, the assessors of any city or town that issues a notice of preliminary tax may add any betterment assessment or apportionment thereof, water rate, annual sewer use charge and any other charge placed on the annual tax bill to the preliminary tax on the property to which it relates and such amount shall become part of the preliminary tax.

The assessors may, on application or on their own motion, abate so much of the preliminary tax as remains unpaid that is in excess of the property owner's proportional share.

The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, and in the case of cities and towns with quarterly payments, shall be due and payable in 2 installments, on February 1 and on May 1 respectively, after which dates, if unpaid, they shall become delinquent and, in the case of cities and towns with semi-annual payments, shall be due and payable on April 1, after which date, if unpaid, they shall become delinquent. A first actual real estate tax bill sent out for fiscal year 2008 or any subsequent year pursuant to this section shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charge which may constitute a lien is overdue for more than 90 days. Such delinquencies shall not include amounts due relating to fire service, electric, water or sewer use in any city or town served by more than 1 independent municipal or district fire, electric, water, sewer, or joint water and sewer district or in any city or town served by an independent municipal or district fire, electric, water, sewer, or joint water and sewer district that is not principally domiciled in that city or town.

In the event that actual tax bills are not mailed by December 31, then the full balance of the actual tax bill issued upon establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, shall be due and payable on May 1, or 30 days after the date of mailing, whichever is later.

Notwithstanding the provisions of the preceding paragraph, whenever such actual tax bills cannot be mailed by December 31 by cities and towns with quarterly tax payments, an additional notice of preliminary tax may be issued and payment of a third quarter preliminary installment may be required; provided, however, that no such additional notice of preliminary tax may issue unless first approved by the commissioner of revenue; and provided, further, that as a condition of such approval, the commissioner may establish such requirements as he deems appropriate, which may include, but not be limited to, the submission by the board of assessors of all information required to set the tax rate under the provisions of section 23, except the assessed valuation of all real and personal property subject to taxation for the current fiscal year. The assessors shall establish the tax rate for the fiscal year no later than April 1. In no event shall the net amount of revenue to be raised by taxation, as submitted to the commissioner pursuant to any such requirements for approval under this section, be exceeded, except to the extent that additional new growth, as certified by the commissioner pursuant to paragraph (f) of section

21C, exceeds the prior approved amount and a referendum question submitted to the voters under the provisions of paragraph (g), (i 1/2), (j) or (k) of said section 21C has been approved.

In the event an additional notice of preliminary tax requiring a third quarter preliminary installment payment is issued by a city or town, such notice shall be mailed on or before December 31, or such later date as may be authorized by the commissioner, and such entire notice shall be due and payable on February 1, or 30 days after the date of mailing such notice, whichever is later, after which date if unpaid, it shall become delinquent. The amount of any third quarter preliminary installment payment shall not exceed the amount of the first quarter installment payment for the fiscal year as provided in this section. The actual tax bill issued upon the establishment of the tax rate for the fiscal year, after credit is given for the preliminary tax payments previously made, shall be due and payable on May 1, or 30 days after the date of mailing such bill, whichever is later, after which date if unpaid, it shall become delinquent. Such bill shall represent the full balance owed after credit is given for the preliminary tax payments previously made. All provisions of this section regarding procedures for issuing, mailing and collecting the notice of preliminary tax requiring first and second quarter preliminary installment payments shall be applicable to any additional notice of preliminary tax, including payment of interest.

Bills for taxes assessed under section seventy-five or section seventy-six shall be sent out seasonably upon commitment, and shall be due and payable on May first or thirty days after the date on which the said bills are mailed, whichever is later.

If any such installment, tax, betterment assessment or apportionment thereof, water rate or annual sewer use or other charge added to such tax, as reduced by any abatement is not timely paid, it shall be delinquent, and interest at the rate of fourteen percent per annum computed from the due date shall be paid. The commissioner of revenue may issue guidelines as appropriate for the implementation of this section.

Notwithstanding the preceding paragraphs, if the last day for making a tax payment without incurring interest on a bill for real estate or personal property taxes occurs on a Saturday, Sunday or legal holiday, or on a day on which a municipal office is closed as authorized by charter, by-law, ordinance or otherwise for a weather-related or public safety emergency, the payment may be made on the next day on which a municipal office is open, without penalty or interest.

To determine jurisdictional interest requirements on appeals brought pursuant to chapter 59, the date of delivery of a payment for taxes pursuant to this section is, after the period or date prescribed by this section, delivered by United States mail or by an alternative private delivery service permitted by the collector to the collector shall be deemed to be the date of the United States postmark, the date of a certificate of mailing stamped and postmarked by the United States Postal Service, the date of a certified mail receipt provided by the United States Postal Service or other substantiating date mark permitted by the rules of practice and procedure of the appellate tax board that is affixed on the envelope or other appropriate wrapper in which the payment is mailed or delivered if the payment was mailed in the United States in an envelope or such appropriate wrapper, first class postage prepaid, or delivered to an alternative private delivery service, properly addressed to the collector; provided, however, that a tax payer shall have the burden of providing the timely mailing of any payment of taxes to said collector pursuant to this section and the collector shall have no obligation to maintain any record relative to the date of mailing of the tax; and provided further, that nothing in this section shall be construed to place the burden of proving any untimely mailing on the collector. As used in this section, "United

States postmark" shall mean only a postmark made by the United States Postal Service. This paragraph shall not apply to the calculation of interest set forth in the preceding paragraphs of this section.

ABATEMENTS
General Laws Chapter 59, § 59

Section 59. A person upon whom a tax has been assessed or the personal representative of the estate of such person or the personal representative or trustee under the will of such person, if aggrieved by such tax, may, except as hereinafter otherwise provided, on or before the last day for payment, without incurring interest in accordance with the provisions of section fifty-seven or section fifty-seven C, of the first installment of the actual tax bill issued upon the establishment of the tax rate for the fiscal year to which the tax relates, apply in writing to the assessors, on a form approved by the commissioner, for an abatement thereof, and if they find him taxed at more than his just proportion or upon an improper classification, or upon an assessment of any of his property in excess of its fair cash value, they shall make a reasonable abatement; provided, however, that a person aggrieved by a tax assessed upon him under section seventy-five or section seventy-six or reassessed upon him under section seventy-seven may apply for such abatement at any time within three months after the bill or notice of such assessment or reassessment is first sent to him. A tenant of real estate paying rent therefor and under obligation to pay more than one-half of the taxes thereon may apply for such abatement. If a person other than the person to whom a tax on real estate is assessed is the owner thereof, or has an interest therein, or is in possession thereof, and pays the tax, he may thereafter prosecute in his own name any application, appeal or action provided by law for the abatement or recovery of such tax, which after the payment thereof shall be deemed for the purposes of such application, appeal or action, to have been assessed to the person so paying the same. The holder of a mortgage on real estate who has paid not less than 1/2 of the tax thereon may, during the last 10 days of the abatement period of the year to which the tax relates, apply in the manner above set forth for an abatement of such tax provided the person assessed has not previously applied for abatement of such tax, and thereupon the right of the person assessed to apply shall cease and determine. The holder of a mortgage so applying for abatement may thereafter prosecute any appeal or action provided by law for the abatement or recovery of such tax in the same manner and subject to the same conditions as a person aggrieved by a tax assessed upon him.

Notwithstanding any other provision of this section, a person who acquires title to real estate after January first in any year, shall for the purposes of this section be treated as a person upon whom a tax has been assessed.

An application for exemption under clause Seventeenth, Seventeenth C, Seventeenth C1/2, Seventeenth D, Eighteenth, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Twenty-second F, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-first C1/2, Forty-second, Forty-third, Fifty-second, Fifty-third, Fifty-sixth and Fifty-seventh of section 5 may be made on or before April 1 of the year to which the tax relates, or within 3 months after the bill or notice of assessment was sent, whichever is later.

If any application for abatement of tax is, after the period or date prescribed by this section, delivered by United States mail, or by such alternative private delivery service as the

commissioner of revenue may by regulation permit, to the assessors, the date of the United States postmark, or other substantiating date mark permitted by regulation of the commissioner of revenue, affixed on the envelope or other appropriate wrapper in which such application is mailed or delivered shall be deemed to be the date of delivery, if such application was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the assessors. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

Notwithstanding the foregoing provisions, if the last day for making an application for abatement of tax falls on a Saturday, Sunday, legal holiday or day on which municipal offices are closed as authorized by charter, by-law, ordinance or otherwise for a weather-related or public safety emergency, the application may be made on the next day that a municipal office is open.

CONDITIONS OF ABATEMENT
General Laws Chapter 59, § 61

Section 61. A person shall not have an abatement of a tax imposed upon his personal property subject to taxation, except as otherwise provided, unless he has brought in to the assessors a list of his personal estate as required by section 29 and complied with any requests by the assessors to examine books, papers, records and other data under section 31A. If such a list of his personal estate is not filed within the time specified in the notice required by said section 29 or the person has not complied with any requests by the assessors to examine books, papers, records and other data under said section 31A, no part of the tax assessed on the personal estate shall be abated unless the applicant shows to the assessors a reasonable excuse for the delay, or unless such tax exceeds by fifty per cent the amount which would have been assessed on such estate, if the list had been seasonably brought in, and in such case only the excess over such fifty per cent shall be abated. A person applying for an abatement of a tax on real estate may have an abatement although no list of the owner's estate was brought in as required by the said notice; provided, that in any application for an abatement of such a tax the applicant shall include a sufficient description in writing of the particular real estate as to which an abatement is requested.

APPEALS; COUNTY COMMISSIONERS; APPELLATE TAX BOARD
General Laws Chapter 59, § 64

Section 64. A person aggrieved by the refusal of assessors to abate a tax on personal property at least one-half of which has been paid, or a tax on a parcel of real estate, may, within three months after the date of the assessors' decision on an application for abatement as provided in section sixty-three, or within three months after the time when the application for abatement is deemed to be denied as hereinafter provided, appeal therefrom by filing a complaint with the clerk of the county commissioners, or of the board authorized to hear and determine such complaints, for the county where the property taxed lies, and if on hearing the board finds that the property has been overrated and that the complainant has complied with all applicable provisions of law, it shall make a reasonable abatement and an order as to cost; provided, that if the tax due for the full fiscal year on a parcel of real estate is more than $5,000, said tax shall not

be abated unless the full amount of said tax due, including all preliminary and actual installments, has been paid without the incurring of any interest charges on any part of said tax pursuant to section 23D, 57 or 57C of chapter fifty-nine of the General Laws; and provided further, that for the purposes of this section a sum not less than the average of the tax assessed, reduced by abatements, if any, for the three years next preceding the year of assessment may be deemed to be the tax due, provided that a year in which no tax was due shall not be used in computing such sum and if no tax was due in any of the three next three preceding years, the sum shall be the full amount of said tax due, but the provisions of said section 23D, 57 or 57C of said chapter fifty-nine shall apply to the amount of the tax deemed to be due and the payment of said sum without incurring any interest charges on any part thereof shall be deemed to be the payment of the tax. No appeal may be taken under this section with respect to a tax on property in Revere or Winthrop. Whenever a board of assessors, before which an application in writing for the abatement of a tax is or shall be pending, fails to act upon said application, except with the written consent of the applicant, prior to the expiration of three months from the date of filing of such application it shall then be deemed to be denied and the assessors shall have no further authority to act thereon; provided, that during the period allowed for the taking of an appeal including instances where the application for abatement has been denied, the assessors may by agreement with the applicant abate the tax in whole or in part in final settlement of said application, and shall also have the authority granted to them by section seven of chapter fifty-eight A to abate, in whole or in part, any tax as to which an appeal has been seasonably taken. If the list of personal property required to be brought in to the assessors was not brought in within the time specified in the notice required by section twenty-nine, no tax upon personal property shall be abated unless the board appealed to finds good cause for this delay or unless the assessors have so found as provided in section sixty-one, or unless such tax exceeds by fifty per cent the amount which would have been assessed on such estate, if the list had been seasonably brought in, and in such case only the excess over such fifty per cent shall be abated. A tax or assessment upon real estate may be abated although no list of property was brought in within the time specified by the notice required by section twenty-nine; provided, that the application for an abatement of such tax or assessment included a sufficient description of the particular real estate as to which an abatement is requested.

Upon the filing of a complaint under this section the clerk of the county commissioners or the board authorized to hear and determine the same shall forthwith transmit a certified copy of such complaint to the assessors and the assessors or the city solicitor or town counsel may within thirty days after receipt of said copy give written notice to said clerk and to the complainant that the town elects to have the same heard and determined by the appellate tax board. If the assessed valuation of the property on which the tax complained of was assessed does not exceed twenty thousand dollars and such property is occupied in whole or in part by the complainant as his dwelling, contains not more than three units designed for dwelling purposes and is in no part used for any other purposes, or if the assessed valuation of the property on which the tax complained of was assessed does not exceed five thousand dollars and such property is within the class of tangible personal property described in clause twentieth of section five of chapter fifty-nine, the party making the election under this section to have the complaint heard and determined by the appellate tax board shall, at the time of making such election, pay to the clerk of the county commissioners a transfer fee of two dollars. Thereupon, the clerk of the county commissioners or of the board authorized to hear and determine such complaints shall forward the transfer fee and all papers with respect to such complaint then in the files of the county commissioners or other such board to the clerk of the appellate tax board and proceedings with respect to such complaint shall thenceforth be continued as provided in chapter fifty-eight A under the formal procedure, except that complaints requiring the transfer fee of two dollars shall

be continued under the informal procedure under said chapter fifty-eight A, unless the complainant files an election with the clerk of the appellate tax board that the complaint be heard under the formal procedure within ten days after receiving the notice as hereinafter provided that the complaint has been transferred to the appellate tax board. Upon the transfer of such complaint to said board the clerk of said board shall send notice by registered mail to the complainant that such complaint has been transferred, and the complainant shall, within ten days after receiving such notice, pay to said board the entry fee as required by section seven of said chapter fifty-eight A, except that the complainant shall not be required to pay any entry fee if the provisions of this section relative to the payment of the transfer fee have been complied with. Upon receipt of the entry fee or transfer fee herein provided for, the clerk of the appellate tax board shall notify the respondent board of assessors that a complaint is pending against it. In case the respondent desires to answer, it shall file an answer within thirty days of the receipt of notice of the pendency of the complaint or within such further time as the board may allow. If upon hearing it appears that the complainant has complied with all applicable provisions of law and the appellate tax board finds that the complainant is duly entitled to an abatement, it may grant him such reasonable abatement as justice may require, and shall enter an order directing the treasurer of the town to refund said amount, if the tax sought to be abated has been paid, together with all charges and interest at eight per cent on the amount of the abatement from the date of the payment of the tax. The board may make such order with respect to the payment of costs as justice may require.

If any complaint under this section is, after the period or date prescribed by this section, delivered by United States mail, or by such alternative private delivery service as the county commissioners or the board authorized to hear and determine such complaints, may permit, to the clerk of the county commissioners, or to such board, the date of the United States postmark, or other substantiating date mark permitted by the county commissioners or such board, affixed on the envelope or other appropriate wrapper in which such complaint is mailed or delivered shall be deemed to be the date of delivery, if such complaint was mailed in the United States in an envelope or such appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the county commissioners or the board authorized to hear and determine such complaints. As used in this section, "United States postmark" shall mean only a postmark made by the United States post office.

OMITTED PROPERTY; ASSESSMENTS
General Laws Chapter 59, § 75

Section 75. If a parcel of real property or the personal property of a person has been unintentionally omitted from the annual assessment of taxes due to a clerical or data processing error or some other good faith reason or, if the personal property of a person was omitted from the annual assessment of taxes but discovered upon an examination of the books, papers, records and other data under section 31A, the assessors shall, in accordance with any rules, regulations and guidelines as the commissioner may prescribe, assess such person for such property. Except for personal property found after an examination under said section 31A which shall be made not later than 3 years and 6 months after the date the true list in which such property should have been returned was due or not later than 3 years and 6 months after the date the return was filed, whichever is later, no such assessment shall be made later than June 20 of the taxable year or 90 days after the date on which the tax bills were mailed, whichever is later. The assessors shall annually, not later than June 30 of the taxable year or 100 days after the date on which the tax

bills were mailed if mailed after March 22, return to the commissioner a statement showing the amounts of additional taxes so assessed. The taxes so assessed shall be entered on the tax list of the collector, who shall collect and pay over the same. The assessors shall also deliver to the collector their warrants for the collection of all taxes so entered on the tax list. Such additional assessment shall not render the tax of the town invalid although its amount, in consequence thereof, shall exceed the amount authorized by law to be raised.

VOLUNTARY DONATION TO MULTIPLE VETERANS ASSISTANCE FUND BY DESIGNATION ON MUNICIPAL PROPERTY TAX OR MOTOR VEHICLE EXCISE BILLS
General Laws Chapter 60, § 3F

Section 3F. A city, town or district that accepts this section may designate a place on its municipal property tax bills or motor vehicle excise bills or mail with such bills a separate form whereby taxpayers of the city, town or district may voluntarily check off, donate and pledge an amount of money which shall increase the amount already due to establish and fund a municipal veterans assistance fund which shall be under the supervision of the local veterans agent, the board or officer in charge of the collection of the municipal charge, fee or fine or the town collector of taxes.

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.

Money in the fund shall be used to provide support for veterans and their dependents in need of immediate assistance with food, transportation, heat and oil expenses. The city, town or district's veterans' services department shall: (i) establish an application process for veterans and their dependents to obtain assistance; (ii) establish standards for acceptable documentation of veteran status or dependent status; and (iii) establish financial eligibility criteria for determining need and amount of assistance for eligible applicants. The veterans' services department shall be responsible for reviewing each applicant and fairly applying the eligibility and level-of-need standards.

ACTIONS AGAINST DELINQUENT TAXPAYERS
General Laws Chapter 60, § 35

Section 35. If a tax which has been committed to a collector remains unpaid after it has become due and payable, it may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the collector either in his own name or in the name of the town against the person assessed for such tax.

SALES, ETC., THAT CANNOT BE LEGALLY MADE; STATEMENTS BY COLLECTORS
General Laws Chapter 60, § 37A

Section 37A. If at any time while a lien established by section thirty-seven of this chapter or under chapter eighty or chapter eighty-three is in force, a sale or taking cannot in the opinion of the collector be legally made because of any federal or state law or because of any injunction or other action of, or proceeding in, any federal or state court or because of the action of any administrative body, the collector may file with the register of deeds for record or registration, as the case may be, a statement reciting that the statement is filed pursuant to this section to continue, until abatement or payment, the lien for a tax or assessment in an amount stated, which need not include accrued interest and costs, assessed for a year or on a date specified to a person or persons named upon an estate described. The statement shall also recite the reason why, in the opinion of the collector, a sale or taking cannot then be legally made; but any error or omission in the recitation of such reason shall not affect the validity of such statement. The filing of such statement for record or registration shall operate to extend the time within which a sale or taking may lawfully be made by continuing until payment or abatement of the lien for such tax or assessment and all assessments or portions thereof, rates and charges of every nature which have been added to or become a part thereof; but the filing of such statement shall not discharge the collector from liability upon his bond for failure to collect such tax, assessment or portion thereof, rate or charge, and the collector shall proceed to sell or take the land within six months after he first gets notice that the disability has been removed. The collector at any time may, and upon the payment or abatement of the tax to which such statement relates shall, file a renunciation of all rights under such statement; and the provisions relative to the recordation of such statement shall apply to the recordation of such renunciation.

TAKING FOR TAXES; NOTICE
General Laws Chapter 60, § 53

Section 53. If a tax on land is not paid within fourteen days after demand therefor and remains unpaid at the date of taking, the collector may take such land for the town, first giving fourteen days' notice of his intention to exercise such power of taking, which notice may be served in the manner required by law for the service of subpoenas on witnesses in civil cases or may be published, and shall conform to the requirements of section forty. He shall also, fourteen days before the taking, post a notice so conforming in two or more convenient and public places.

Whenever the collector of taxes of a city or town shall have taken land therein he may, in the name and on behalf of said city or town, take immediate possession of such land and, until the tax title so acquired is redeemed, collect the rent and other income from such land, which rent and income, after the payment therefrom of all necessary expenses in the care, repair and management of such land, shall be applied on account of the taxes, assessments, rates, charges, interest and costs due said city or town on said land, with any balance remaining being paid to the person otherwise entitled thereto. Upon petition of any person having a right to redeem such tax title, the superior court for the county within which the land lies, if it adjudges justice and the circumstances so warrant, may, upon such terms as it shall deem equitable, enjoin a taking of possession under this section or command the surrender of a possession taken.

Neither said city or town nor any of its officers, agents or employees shall be liable or accountable to the owner or to any other person having an interest in such land for failure to collect rent or other income therefrom; and neither said city or town nor any of its officers, agents or employees shall be liable for injury or damage caused by the possession of land under the section to such land or to the person or property of any person.

CREDITS AND PAYMENTS TO COLLECTORS
General Laws Chapter 60, § 95

Section 95. The collector shall be credited with all sums abated; with all sums committed and thereafter apportioned under section thirteen of chapter eighty; with the amount of all assessments not apportioned to subsequent years which have been committed under section four of chapter eighty and subsequently recommitted to him to be added to the annual tax on the land; with the amount of taxes for which a judgment has been rendered by any court in favor of the city or town; with the amount of a claim for taxes allowed in favor of the city or town in bankruptcy or receivership cases; with the amount of taxes assessed upon any person committed to jail for non-payment of his tax within two years from the receipt of the tax list by the collector, and who has not paid his tax; with any sums which the town may see fit to abate to him, due from persons committed after the expiration of two years; with all sums withheld by the treasurer of a town under section ninety-three; subject to the provisions of sections forty-eight and fifty-five, with the amount of the taxes and costs, charges and fees where land has been purchased or taken by the town for non-payment of taxes; and upon certification in accordance with section sixty-one, with the amount of subsequent taxes which have become part of the terms of redemption in any tax title held by the town. When a collector is credited with the amount of taxes assessed upon any person committed to jail for the non-payment of his tax, who has not paid his tax, said collector shall also be paid and credited with the fees and charges which have become a part of said taxes and to which he or the officer acting under his warrant is entitled. Upon filing for record or registration a statement under section 37A that a sale or taking cannot be legally made, the collector shall transmit a copy of the recorded statement to the city auditor, town accountant or officer having similar duties, who shall record the taxes that are the subject of the statement as taxes in litigation, and the collector shall be credited with those taxes until the time the collector must sell or take the land under that section.

EXEMPTIONS
General Laws Chapter 60B, § 3

Section 3. The excise imposed by this chapter shall not apply to vessels described in section eight of chapter fifty-nine and in section sixty-seven of chapter sixty-three; to vessels owned by the commonwealth or any political subdivision thereof; to law enforcement vessels; to vessels under construction; to ferries; to boats, fishing gear and nets owned and actually used by the owner in the prosecution of his business if engaged exclusively in commercial fishing, with a total value of ten thousand dollars or less; nor to other vessels with a value of one thousand dollars or less. Said exemptions shall not subject said vessels and their equipment to any other tax under section four of chapter fifty-nine.

LAND IN AGRICULTURAL USE DEFINED
General Laws Chapter 61A, § 1

Section 1. Land shall be deemed to be in agricultural use when primarily and directly used in raising animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market.

LAND IN HORTICULTURAL USE DEFINED
General Laws Chapter 61A, § 2

Section 2. Land shall be considered to be in horticultural use when primarily and directly used in raising fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flower, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs for the purpose of selling these products in the regular course of business; or when primarily and directly used in raising forest products under a certified forest management plan, approved by and subject to procedures established by the state forester, designed to improve the quantity and quality of a continuous crop for the purpose of selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising these products and preparing them for market.

LAND USED TO SITE RENEWABLE ENERGY GENERATING SOURCE
General Laws Chapter 61A, § 2A

Section 2A. (a) Land used primarily and directly for agricultural purposes pursuant to section 1 or land used primarily and directly for in horticultural use pursuant to section 2 may, in addition to being used primarily and directly for agriculture or horticulture, be used to site a renewable energy generating source, as defined in subsection (b) of section 11F of chapter 25. A renewable energy generating source on land primarily and directly used for agricultural purposes pursuant to section 1 or land primarily and directly used for horticultural purposes pursuant to section 2 shall: (i) produce energy for the exclusive use of the of the land and farm upon which it is located, which shall include contiguous or non-contiguous land owned or leased by the owner or in which the owner otherwise holds an interest; and (ii) not produce more than 125 per cent of the annual energy needs of the land and farm upon which it is located, which shall include contiguous or non-contiguous land owned or leased by the owner or in which the owner otherwise holds an interest.

(b) Land used primarily and directly for agricultural purposes pursuant to section 1 or land used primarily and directly for horticultural purposes pursuant to section 2 shall be deemed to be in agricultural or horticultural use pursuant to this chapter if used to simultaneously site a renewable energy generating source pursuant to subsection (a).

(c) Renewable energy generating sources located on land used primarily and directly for agricultural purposes pursuant to section 1 or land used primarily and directly for horticultural purposes pursuant to section 2 shall be subject to local zoning requirements applicable to renewable energy generating sources.

CHANGE OF USE; LIABILITY FOR ROLL-BACK TAXES
General Laws Chapter 61A, § 13

Section 13. Whenever land which is valued, assessed and taxed under this chapter no longer meets the definition of land actively devoted to agricultural, horticultural or agricultural and horticultural use, it shall be subject to additional taxes, in this section called roll-back taxes, in the current tax year in which it is disqualified and in those years of the 4 immediately preceding tax years in which the land was so valued, assessed and taxed, but roll-back taxes shall not apply unless the amount of those taxes as computed under this section, exceeds the amount, if any, imposed under section 12 and, in that case, the land shall not be subject to the conveyance tax imposed under said section 12. For each tax year, the roll-back tax shall be an amount equal to the difference, if any, between the taxes paid or payable for that tax year in accordance with this chapter and the taxes that would have been paid or payable in that tax year had the land been valued, assessed and taxed without regard to those provisions. Notwithstanding this paragraph, roll-back taxes shall not be assessed if the land involved, or a lesser interest in the land, is: (a) acquired for a natural resource purpose by (1) the city or town in which it is situated; (2) the commonwealth; or (3) a nonprofit conservation organization; (b) used or converted to a renewable energy generating source pursuant to section 2A; (c) subject to a permanent wetland reserve easement through the agricultural conservation easement program established pursuant to 16 U.S.C. 3865c; or (d) otherwise subject to another federal conservation program; provided, however, that if a portion of the land is sold or converted to commercial, residential or industrial use within 5 years after acquisition by a nonprofit conservation organization, roll-back taxes shall be assessed against the nonprofit conservation organization in the amount that would have been assessed at the time of acquisition of the subject parcel by the nonprofit conservation organization had the transaction been subject to a roll-back tax. If, at the time during a tax year when a change in land use has occurred, the land was not then valued, assessed and taxed under the provisions of this chapter, then such land shall be subject to roll-back taxes only for such of the five immediately preceding years in which the land was valued, assessed and taxed thereunder. In determining the amount of roll-back taxes on land which has undergone a change in use, the board of assessors shall have ascertained the following for each of the roll-back tax years involved:
(a) The full and fair value of such land under the valuation standard applicable to other land in the city or town;
(b) The amount of the land assessment for the particular tax year;
(c) The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under subsection (a); and,
(d) The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under subsection (c) by the general property tax rate of the city or town applicable for that tax year.

Roll-back taxes will be subject to a simple interest rate of 5 per cent per annum. Land which is valued, assessed and taxed under this chapter as of July 1, 2006 shall be exempt from any interest if it remains in the same ownership as it was on that date or under the ownership of the

original owner's spouse, parent, grandparent, child, grandchild, brother, sister or surviving spouse of any deceased such relative.

If the board of assessors determines that the total amount of roll-back taxes to be assessed under this section, before the addition of any interest, as provided for in the preceding paragraph, would be less than $10, no tax shall be assessed.

No roll-back tax imposed by this section will be assessed on land that meets the definition of forest land under section 1 of chapter 61 or recreational land under section 1 of chapter 61B.

Land retained as open space as required for the mitigation of development shall be subject to the roll-back taxes imposed by this section.

APPORTIONMENT AND REAPPORTIONMENT
General Laws Chapter 80, § 13

Section 13. Assessments made by a board of the commonwealth under this chapter shall bear interest at 1 rate of 5 per cent per annum or, at the election of the board at a rate up to 2 per cent above the rate of interest chargeable to the body politic on behalf of which the assessment was made, for the betterment project to which the assessments relate, from the thirtieth day after the date the notice of such assessments was sent by the collector. All other assessments made under this chapter shall bear interest at 1 rate of 5 per cent per annum or, at the election of the city, town or district at a rate up to 2 per cent above the rate of interest chargeable to the city, town or district for the betterment project to which the assessments relate, from the thirtieth day after the date the notice of such assessments was sent by the collector. The assessors shall add each year to the annual tax assessed with respect to each parcel of land all assessments, constituting liens thereon, which have been committed to the collector prior to January second of such year and which have not been apportioned as hereinafter provided, remaining unpaid, as certified to them by the collector, when the valuation list is completed, with interest to the date when interest on taxes becomes due and payable. At any time before the completion by the assessors of the valuation list for the year in which such assessments will first appear on the annual tax bill, the board of assessors may, and at the request of the owner of the land assessed shall, apportion all assessments or unpaid balances thereof made under this chapter into such number of equal portions, not exceeding 20, as is determined by said board or as is requested by the owner, as the case may be, but no one of such portions shall be less than 5 dollars; provided, that, if an original assessment exceeds $100 and has been placed upon the annual tax bill, or has been apportioned into a number of portions less than 20 and the first portion has been placed upon an annual tax bill, the board of assessors may in its discretion, upon a request for the apportionment of such assessment into 20 portions made by the owner prior to a sale or taking of the land for the non-payment of such assessment or portion and upon payment of any necessary intervening charges and fees and such portions of such assessment as would have become due and payable if the request for apportionment had been seasonably made, apportion or reapportion the said assessment as aforesaid, and if any other tax or assessment constituting a lien upon the parcel to which the assessment so apportioned or reapportioned relates remains unpaid after such apportionment or reapportionment, the collector may institute proceedings anew for the sale or taking of such parcel at any time prior to the expiration of the lien or of a period of 20 days after such apportionment or reapportionment, whichever is the later. In any case in which an assessment relates to a state-funded project, the apportionment or reapportionment described

herein shall be undertaken in accordance with the terms aforesaid by the board on whose behalf the assessment was made; provided, however, that the apportionment shall be made of said assessments or unpaid balances together with any interest due thereon. The assessors shall add one of said portions, with interest on the amount remaining unpaid from 30 days after the date the notice of the original assessment was sent by the collector to the date when interest on taxes becomes due and payable, to the first annual tax upon the land and shall add to the annual tax for each year thereafter 1 of said portions and 1 year's interest on the amount of the assessment remaining unpaid until all such portions shall have been so added; all assessments and apportioned parts thereof, and interest thereon as herein provided, which have been added to the annual tax on any parcel of land shall be included in the annual tax bill thereon. After an assessment or a portion thereof has been placed on the annual tax bill, the total amount of said bill shall be subject to interest under and in accordance with the provisions of section 57 or section 57C of chapter 59.

Notwithstanding the foregoing, or any general or special law to the contrary, a city, town or district may elect to: (1) apportion any assessments, or the unpaid balances of such assessments, into annual portions equal to the number of years for which bonds are issued for the project for which the assessments are made; (2) structure the portions so that the amount payable each year for assessment principal and interest combined are as nearly equal as practicable or, in the alternative, provides for a more rapid amortization of the assessment principal amount where the debt service on the bonds issued for the project is so structured; or (3) make the annual portion so structured payable in the same number of preliminary and actual installments as the real estate tax in the city, town or district, with each installment equal in amount and due at the same time as each installment of the tax.

Notwithstanding a prior apportionment, the assessors, upon written application of the owner of the land assessed, shall order that the full amount, or any portion thereof, remaining unpaid of any assessment be payable forthwith and shall commit said amount, together with interest thereon from 30 days after the date the notice of the original assessment was sent if no portion has been added to a tax levy, or if a portion has been added to a tax levy, then with interest from October 1 of the year to which the last portion has been added, with their warrant therefor, to the collector for collection. If a part of a prior apportioned assessment is ordered to be payable forthwith, the payments shall be credited to the terminal or final years so as to reduce the period of payment.

CERTIFICATE OF ACCEPTANCE; EFFECT; RECORDATION
General Laws Chapter 83, § 16A

Section 16A. If the rates and charges due to a city, town, municipality, or sewer district, which accepts this section and sections sixteen B to sixteen F, inclusive, and by its clerk, files a certificate of such acceptance in the proper registry of deeds, and files a copy of said certificate with the collector of taxes of the city or town in which the lien hereinafter mentioned is to take effect, for supplying or providing for a sewer system or rendering service or furnishing materials in connection therewith to or for any real estate at the request of the owner or tenant are not paid on or before their due date as established by local regulations, ordinances or by-laws, which due date shall be so established as to require payments at least as often as annually, such rates and charges, together with interest thereon and costs relative thereto, shall be a lien upon such real estate as provided in section sixteen B. The register of deeds shall record such certificate of

acceptance in a book to be kept for the purpose, which shall be kept in an accessible location in the registry. Sections sixteen B to sixteen F, inclusive, shall also apply to a sewer district which has accepted sections sixteen A to sixteen F, inclusive, and whose clerk has so filed the certificate of acceptance. Wherever in said sections the words "board or officer in charge of the sewer department" or their equivalent appear, they shall also mean and include the officers exercising similar duties in any city, town or district. A fire or water district authorized to provide a sewer system shall, for the purposes of sections sixteen A to sixteen F, inclusive, be deemed to be a sewer district.

DEMOLITION OR REMOVAL OF BUILDING OR STRUCTURE OR SECURING OF VACANT LAND; OWNER'S LIABILITY

General Laws Chapter 139, § 3A

Section 3A. If the owner or his authorized agent fails to comply with an order issued pursuant to section three and the city or town demolishes or removes any burnt, dangerous or dilapidated building or structure or secures any vacant parcel of land from a trespass, a claim for the expense of such demolition or removal, including the cost of leveling the lot to uniform grade by a proper sanitary fill, or securing such vacant parcel shall constitute a debt due the city or town upon the completion of demolition, removal, or securing and the rendering of an account therefor to the owner or his authorized agent, and shall be recoverable from such owner in an action of contract. Any such debt, together with interest thereon at the rate of six per cent per annum from the date such debt becomes due, shall constitute a lien on the land upon which the structure is or was located if a statement of claim, signed by the mayor or the board of selectmen, setting forth the amount claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue, unless dissolved by payment or abatement, until such debt has been added to or committed as a tax pursuant to this section, and thereafter, unless so dissolved, shall continue as provided in section 37 of chapter 60; provided, however, that if any such debt is not added to or committed as a tax pursuant to this section for the next fiscal year commencing after the filing of the statement, then the lien shall terminate on October 1 of the third year next following the date of such filing. If the debt for which such a lien is in effect remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed under section fifty-three of chapter fifty-nine, the mayor or the board of selectmen, or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such debt to the assessors, who shall forthwith add such debt to the tax on the property to which it relates and commit it with their warrant to the collector as part of such tax. If the property to which such debt relates is tax exempt, such debt shall be committed as the tax. Upon commitment as a tax or part of a tax, such debt shall be subject to the provisions of law relative to interest on the taxes of which they become, or, if the property were not tax exempt would become, a part; and the collector of taxes shall have the same powers and be subject to the same duties with respect to such debts as in the case of annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof, and the redemption of land so sold or taken shall, except as otherwise provided, apply to such claims. A lien under this section may be discharged by filing with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies, a certificate from the collector of the city or town that the debt constituting the lien, together with any interest and costs thereon, has been

paid or legally abated. All costs of recording or discharging a lien under this section shall be borne by the owner of the property.

TAXATION AND BETTERMENT ASSESSMENTS; LIEN
General Laws c. 183A, § 14

Section 14. Each unit and its interest in the common areas and facilities shall be considered an individual parcel of real estate for the assessment and collection of real estate taxes but the common areas and facilities, the building and the condominium shall not be deemed to be a taxable parcel. Except as provided in section 53E3/4 of chapter 44 and section 127B1/2 of chapter 111, betterment assessments or portions thereof, annual sewer use charges, water rates and charges and all other assessments, or portions thereof, rates and charges of every nature due to a city, town or district with respect to the condominium or any part thereof, other than real estate taxes, may be charged or assessed to the organization of unit owners; provided, however, that any lien of the city, town or district provided by law therefor shall attach to the units in proportion to the percentages, set forth in the master deed on record, of the undivided interests of the respective units in the common areas and facilities.

POWER TO ESTABLISH RULES OF PROCEDURE; VENUE; JURISDICTIONAL AMOUNT; HEARINGS; DAMAGES AND PENALTIES
General Laws Chapter 218, § 21

Section 21. There shall be within the district court department and the Boston municipal court department a simple, informal and inexpensive procedure, hereinafter called the procedure, for the determination, according to the rules of substantive law, of claims in the nature of contract or tort, other than slander and libel, in which the plaintiff does not claim as debt or damages more than $7,000; provided, however, that a city or town may bring an action under section 35 of chapter 60 for the collection of unpaid taxes on personal property or an action which shall not exceed $15,000; and provided further, that said dollar limitation shall not apply to an action for property damage caused by a motor vehicle, and for a review of judgments upon such claims when justice so requires. The procedure shall not be exclusive, but shall be alternative to the formal procedure for civil actions begun by summons and complaint.

The chief justice for the district court department shall make uniform rules with respect to the procedure applicable to all the courts within said department, and the chief justice for the Boston municipal court department shall make rules for the Boston municipal court department, all such rules being subject to the approval of the supreme judicial court.

Actions under this section and sections twenty-two to twenty-five inclusive, shall be brought, at the option of the plaintiff, in the judicial district where either the plaintiff or the defendant lives or has his usual place of business or employment; provided, however, that actions brought against a landlord or lessor of land or tenements rented for residential purposes, and arising out of such property or rental, may also be brought in the judicial district in which the property is located.

Notwithstanding the foregoing, each court within the district court department shall have civil jurisdiction of such actions commenced in such court which should have been brought in some other court, to the extent that the action may be heard and disposed of by the court in which it was begun, if the venue of said action is waived or, if venue requirements are not waived, the court may, on motion of any party, order the action, with all papers relating thereto, transferred for hearing and disposition to the court in which the action should have been commenced. Said action shall thereupon be entered and prosecuted in such court as if it had originally commenced therein, and all prior proceedings otherwise regularly taken shall thereafter be valid. An action may be commenced under this section if the initial amount of damages claimed is $7,000 or less or is an action by a city or town under said section 35 of said chapter 60 for the collection of unpaid taxes on personal property or an action by a city or town which shall not exceed $15,000 for property damage caused by a motor vehicle regardless of the amount of the claims notwithstanding that the court may award double or treble damages in accordance with the provisions of any general or special law.

Actions brought under sections twenty-one to twenty-five, inclusive, may be heard in the first instance by a clerk-magistrate of the district court department or the Boston municipal court department. For the purpose of hearing such property damage claims caused by a motor vehicle the procedure established shall provide for all such claims to be heard on one evening every other week, and on one Saturday on the alternative week, unless otherwise agreed to by all parties in such actions in accordance with the provisions of section thirty-four *O* of chapter ninety.

In the hearing and disposition of any claim for money damages within the jurisdiction of such procedure, the Boston municipal and district court departments shall have all equity powers and jurisdiction conferred by sections one, one A and two, and clause (1) of section three of chapter two hundred and fourteen.

DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Michael J. Heffernan
Commissioner of Revenue

Sean R. Cronin
Senior Deputy Commissioner

Informational Guideline Release

Bureau of Local Assessment
Informational Guideline Release (IGR) No. 17-26
August 2017

Supersedes IGR 98-403 and Inconsistent Prior Written Statements

VALUATION AND TAXATION OF ELECTRIC GENERATING FACILITIES

(G.L. c. 59. § 38H(b)**)**

This Informational Guideline Release (IGR) provides assessors and other local officials with information about the valuation and taxation of electric generating plants and facilities, including under a negotiated tax agreement.

Questions should be addressed to the Bureau of Local Assessment.

Topical Index Key:

Assessment Administration
Personal Property
Valuation

Distribution:

Assessors
Mayors/Selectboards
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VALUATION AND TAXATION OF ELECTRIC GENERATING FACILITIES

(G.L. c. 59. § 38H(b)**)**

SUMMARY:

These guidelines address the valuation and taxation of electric generation facility property. Since 1997 when the electric industry was restructured, the generation of electricity has been conducted by independent, non-utility producers in a deregulated environment. Non-utility generating companies include those producing electricity from conventional power plants and in more recent years, from renewable energy facilities. Transmission and distribution of the electricity continues to be performed by regulated local electric utilities.

Generating plants and facilities are subject to the same market forces as other non-regulated property bought and sold based on investor expectations and are valued and taxed in the same manner as similar property. Alternatively, communities hosting generating plants or facilities owned by electric generation companies or wholesale electric generation companies may enter into agreements for payments in lieu of tax with the owners as a revenue stability measure. Under this option, the parties establish a valuation method for often difficult to appraise power plants or other generating facilities in order to have the owner's annual property tax obligation determined in a predictable and stable manner over the life of the agreement. The agreement must provide for payments over the life of the agreement equivalent to what would have been assessed as property taxes on a full and fair cash valuation basis. These agreements are an alternative means for the company to meet its property tax obligations over the term, not to obtain tax breaks. Payments under the agreement are treated as part of the annual property tax levy for Proposition 2½ and tax classification purposes.

These guidelines are in effect. They supersede Informational Guideline Release (IGR) No. 98-403, *Valuation and Taxation of Electric Generating Property*, and any inconsistent prior written statements.

GUIDELINES:

I. OVERVIEW

Municipalities hosting power plants or other generating facilities owned by electric generation companies or wholesale electric generation companies as defined in G.L. c. 164, § 1 have two avenues of taxing their property. The first is to value and assess property taxes in the same manner as other taxable property. The second avenue is a voluntary payment in lieu of tax agreement (tax agreement) that is based on good faith negotiations and is the equivalent of assessing taxes on the full and fair cash valuation of the plant.

II. ASSESSING PROPERTY TAXES

Municipalities may assess property taxes on the taxable property of an electric generating facility in the same manner as the assessment of taxes on other taxable property. Assessors assess taxes based on the full and fair cash value of the property as of the January 1 assessment date to the owner of the plant, facility or other generating property.

A. Exempt Generating Plant or Facility Property

Electric generating plant or facility real and personal property exempt from taxation includes:

- Buildings, structures and personal property of resource recovery facilities (the land remains taxable and a per ton tax on solid waste processed is substituted). G.L. c. 16, § 24A.

- Buildings, structures, devices, appliances, machinery, equipment or other real or personal property constructed, installed or placed in operation as an air or water pollution control device certified as effective by the appropriate state pollution control agency. G.L. c. 59, § 5(44).

- Real and personal property of any hydropower facility constructed after January 1, 1979, except transmission lines from the facility, for a period of up to 20 years (the owner must first enter into an agreement to make an annual payment in lieu of taxes of at least five percent of its gross income in the preceding calendar year). G.L. c. 59, § 5(45A).

B. Taxable Generating Plant or Facility Property

1. Taxable Real Property

   All land, buildings, structures and other improvements to real estate of an electric generating plant or facility other than described in Section II-A-1 above are taxable.

2. Taxable Personal Property

   The tax status of electric generating plant or facility personal property other than described in Section II-A-1 above depends on the form of ownership on January 1. Each of the following owners are taxable for poles, underground conduits, wires and pipes as well as the personalty described below.

   If the owner of the taxable personal property is also the owner of the land on which the plant or facility is located, the assessors may assess it as part of the real estate tax or assess it separately as personal property.

a. Business Corporation or "Corporate" Company

Taxable personal property of an electric generating plant or facility owned by a business corporation, or a limited liability company (LLC) or other unincorporated entity filing as a corporation for federal tax purposes, includes all machinery used in the conduct of business, including the manufacture or production of electricity, except machinery that is:

- Stock in trade
- Directly used in laundering, dry-cleaning, refrigeration of goods, air-conditioning of premises, or
- Directly used in a selling, purchasing, accounting or administrative function.

Other personal property owned by the corporation or LLC is not taxable. G.L. c. 59, § 5(16)(2).

b. Manufacturing Corporation or "Corporate" Manufacturing Company

If the owner is a corporation, or a LLC or other unincorporated entity filing as a corporation for federal tax purposes, that has applied for and been granted classification by the Commissioner of Revenue as a manufacturing corporation as of January 1, all personal property used in the production of electricity is taxable unless it:

- Is a cogeneration facility of 30 megawatts or less capacity, or
- Was previously exempt because of a manufacturing classification in effect on or before January 1, 1996.

G.L. c. 59, § 5(16)(3).

c. Other Entities

Personal property of any electric generating plant or facility, including a cogeneration plant or facility, that is owned by any other entity, such as an individual, association, trust, partnership, limited partnership, LLC treated as a partnership for federal tax purposes or limited liability partnership, is taxable.

G.L. c. 59, § 18.

III. TAX AGREEMENTS

As an alternative to assessing property taxes, municipalities may enter into a voluntary payment in lieu of tax agreement (tax agreement) regarding the property of an electric generating plant or facility. The agreement is an alternative mean for the company owning the plant or facility to comply with its property tax obligation. It is to be based on good faith negotiations and is the equivalent of assessing taxes on the full and fair cash valuation of such property.

This section explains the requirements for entering a tax agreement and outlines the roles of municipal officers in determining the avenue the municipality will pursue. The decision to enter into a tax agreement is made by the legislative body of the municipality. That decision should depend on a projection of the revenues that may be generated from taxing the facility property at full and fair cash value and those received from a predictable, negotiated agreement.

A. Entering Tax Agreements

Host municipalities, acting by their legislative bodies, may enter into agreements with electric generation companies or wholesale electric generation companies in connection with their conventional power plants or solar or renewal energy systems or facilities. The agreement relates to the taxable property it owns, including the plant, facility, personal property or real estate that it owns. If the company does not own the land on which the plant or facility is located, the land may not be included in the tax agreement. The owner of the land will continue to be assessed real estate taxes.

1. Authority to Negotiate Agreement

   The legislative body of the host city or town may vote to authorize the chief executive board or officer (CEO) of the municipality (selectboard, mayor or manager), or some other municipal officer or officers, such as the assessors, to negotiate a tax agreement on behalf of a municipality, or to negotiate and execute the agreement. The authority may also be given to some combination of officers, such as the CEO and assessors, may set parameters for any negotiated agreement or may authorize the CEO to execute the negotiated agreement.

2. Approval of Agreement

   To be binding, the legislative body of the municipality must vote to approve the negotiated tax agreement, unless it has voted to authorize the CEO or other combination of officers to negotiate and execute the agreement on the behalf of the municipality without further legislative body action.

B. Estimating Property Tax Revenues

In order to determine whether a tax agreement is in the municipality's interest, the current or projected full and fair cash value of the plant or facilities should be determined, together with a revenue projection based upon the assessment of regular property taxes.

1. Role of Board of Assessors

The board of assessors is responsible for establishing full and fair cash values of property for local tax assessment purposes. Assessors must determine what a willing buyer under no compulsion to buy would pay for the property of a willing seller with no compulsion to sell. Ordinarily this determination is made on an annual basis, using information gathered over the year. This would be the method the assessors would use in the valuation of electric generating plants or facilities if a tax agreement has not been negotiated or is not in effect.

If a multi-year tax agreement is being considered instead, the assessors should make projections of full and fair cash value for each year of the agreement, taking into account plant or facility additions and retirements. These projections may be speculative to the extent there is uncertainty involved with a complex industry. However, assessors should use their best efforts to make these projections.

2. Role of Legislative Body

The legislative body has the power to authorize negotiations and to approve tax agreements with electric generation or wholesale electric generation companies and therefore, should have information as to the potential value of the property. It may rely on information provided by the assessors or seek an independent analysis of projected values for the purpose of determining whether an agreement is in the municipality's interest.

3. Role of Chief Executive Officer

The CEO may be authorized to negotiate and execute a tax agreement on behalf of the municipality. The CEO may also rely on information provided by the assessors or seek an independent analysis of projected values.

C. Agreement Requirements

The primary purpose of tax agreements is to provide revenue stability for host municipalities over a period of time. Agreements between host municipalities and electric generation or wholesale electric generation companies must be the result of good faith negotiations and payments are to be representative of property taxes assessed on the plant or facility on a full and fair cash valuation basis. G.L. c. 59, § 38H(b).

1. Agreement Term

Agreements should be for a reasonable term. As a general rule, a term of no longer than the useful life of the facility would be a reasonable one.

2. Value and Tax Levy

Agreements should fix values or formulas for determining values (rather than fixing tax payments). Values should be representative of the future full and fair cash values of the plant or facility for the term of the agreement. If formulas are used to determine values, the formula must permit the determination of value before the tax rate is set for the fiscal year because agreement values must be used to calculate the municipality's levy ceiling and minimum residential factor and to set the tax rate for the fiscal year. Payments resulting from the values at the applicable tax rate for the fiscal years are treated as property taxes for Proposition 2½ and tax classification purposes. The payments are subject to the municipality's levy limit. See Section III-D below.

3. Payment and Billing

Agreements should establish the same billing and collection procedures for negotiated amounts, which would include payment schedules, late payment consequences and collection remedies, as the ones used for annual property taxes. Unless otherwise provided in the tax agreement, payments should be billed and collected in the same manner as property taxes.

D. Tax Agreement Value, Payment, Tax Levy and Tax Rate

1. Value

Assessors must report the negotiated agreement "value" for the year on Form LA-4 **"**Assessment/Classification Report" in the assessed valuation of Class 4, Industrial, real property (Class Code 452), or Personal Property (Class Code 552), as applicable, so that it is reflected in the fair cash value levy percentage for that class of real property or of personal property. Those percentages are used to calculate the minimum residential factor under G.L. c. 58, § 1A.

2 Tax Levy and Tax Rate

Assessors must report the negotiated agreement value in the total assessed valuation of Class 4, Industrial, real property, or Personal Property, as applicable, on page 1 of the tax rate recapitulation so that the negotiated tax payment is part of the tax levy. G.L. c. 59, § 38H(b). That payment cannot be reported on page 3 of the tax rate recap (or pro forma recap) as general fund estimated receipts.

3. Payment in Lieu of Tax

After the rate is set, assessors must determine the amount of payment due under the agreement based upon the values negotiated under the agreement and commit the amount due to the tax collector at the same time and in the same manner as annual property taxes for the fiscal year, unless otherwise provided in the agreement. The amount of the payment becomes part of the total tax levy committed to the collector for collection.

4. Other Payments

Other revenue received by the municipality from a lease of municipal property, sale of power or any other contractual arrangement that is in addition to the negotiated payment in lieu of tax under the tax agreement must be reported on page 3 of the tax rate recapitulation as general fund estimated receipts under Miscellaneous Recurring.

IV. DOCUMENTATION

The Commissioner of Revenue must approve a municipality's tax rate annually and review its assessments every five years in order to certify compliance with the legal standard of full and fair cash value assessments.

In order to fulfill these requirements, the Bureau of Local Assessment (Bureau) requires certain information and documentation about the taxation of electric generating plants and facilities. The following forms and information are required before certification may be granted and tax rates may be approved.

A. All Communities

The assessors must maintain property records for the taxable real and personal property of the electric generating plant or facility. The records must be updated each year to show the assessed value or negotiated agreement value.

B. Communities Assessing Property Taxes

1. Five Year Certification

In any certification year, assessors in a host community must submit to the Bureau an appraisal report or documentation that supports the proposed full and fair cash value of the property of each electric generating plant or facility. All three approaches to value are to be considered in arriving at a final value. See Section VI below.

2. Interim Year Valuation

Assessors adjusting the valuation of the property of electric generating plants or facilities in non-certification years must use appropriate appraisal methods and adjust valuations in other property classes to ensure equitable and consistent assessments within and between all property classes, as evidenced by conformity with accepted mass appraisal measures of assessment level and uniformity. See Section I-B of the annual IGR, *Guidelines for Annual Assessment and Allocation of Tax Levy*.

C. Communities with Tax Agreements

A host community entering into a tax agreement under G.L. c. 59, § 38H (b) (or a special act) must submit the following to the Bureau no later than the year scheduled for certification:

- A copy of the executed tax agreement along with a certified copy of the legislative body vote authorizing, approving or ratifying it.
- Appraisal documentation used to support the estimates of full and fair cash value included in any tax agreement. This documentation must only be submitted once unless the agreement is amended as to the valuations to be used.
- A copy of any executed amendment to the agreement.

V. TAX BASE GROWTH

Municipalities hosting electric generating plants or facilities may use certain increases in the assessed or negotiated valuation of the plant or facility as allowable value for the purpose of computing the annual tax base growth adjustment in its Proposition 2½ levy limit. See the annual IGR, *Determining Annual Levy Limit Increase for Tax Base Growth.*

A. Communities Assessing Property Taxes

If a community is assessing annual property taxes based on the full and fair cash valuation of a particular generating plant or facility, the following assessed valuation increases are allowable:

- In the first year assessed, the assessed value of a new plant or facility installed (real or personal).
- In subsequent years, the assessed value of any additional new real property built or personal property items installed since the previous fiscal year and assessed for the first time.

Future market value increases to the plant or facility documented during five year certification or interim valuation adjustment programs do not qualify as allowable value for growth purposes.

B. Communities with Tax Agreements

If a community is receiving payments in lieu of tax under a tax agreement, the following negotiated full and fair cash valuation increases are allowable:

- In the first year of the agreement, the negotiated value of the new plant or facility installed (real or personal) used to determine the first year payment.

- In subsequent years, the negotiated value of any additional new real property built or personal property items installed since the previous year that is included in the subsequent year's negotiated valuation under the agreement.

Municipalities should consider new growth when structuring the negotiated valuations. Agreements that provide for a lower valuation in the first year of the agreement and higher valuations in later years may provide the company with greater flexibility in financing the installation. However, they also limit new growth to less than the amount that would have been added to the municipality's levy limit if the company was assessed a regular property tax.

Increases in the negotiated full and fair cash valuation that are intended to reflect future increase in the market value of the plant do not qualify as allowable value for growth purposes.

VI. VALUATION

A. Data Collection

As of the January 1 assessment date, the assessors should collect the following data and information for each electric generating plant or facility.

1. Physical Plant

Information about the physical plant or facility may be obtained from the Form of List submitted by the owner. The list should include all property including property donated or given to the owner (Contribution in Aid of Construction), Construction Work in Progress (CWIP) and other unallocated plant. Descriptions and plans should be requested and obtained if the information on the list is insufficient to develop a detailed physical inventory of major plant or facility components.

2. Plant Investment

Information about the dollars invested in the physical plant or facility may be obtained by requesting the original and net book costs of the plant or facility by year invested. This should include all direct and indirect costs associated with the plant or facility. For power plants existing before electric utility restructuring in 1997, the historical original cost, accumulated depreciation and net book cost will be found in the utility company FERC and DPU records. The new book cost of existing power plants acquired in a deregulated market, as well as the original cost of new power plants, may be obtained by requesting a return under G.L. c. 59, §§ 38D and 38F.

3. Plant Income and Expenses

Information about historic, current and future projected plant or facility income and expenses should also be obtained by requesting a return under G.L. c. 59, §§ 38D and 38F. This information includes, but is not limited to:

- Annual net generation exclusive of plant or facility use;
- Annual availability including planned and unplanned outages (separately stated);
- Annual fuel, operating and maintenance costs;
- Annual administrative and general costs;
- Annual taxes;
- Annual net additions to plant or facility in service;
- Annual working capital reserves;
- Dedicated transmission expenses associated with the plant or facility;
- Avoided cost rates;
- Fuel purchase and handling contracts; and
- Contracts or solicitations for purchase of capacity from the plant or facility.

In addition, information should be requested about the existence of any factors that will impair the operation or cost competitiveness of the plant or facility and any planned capital improvements.

B. Valuation Approaches

Generating plants or facilities are valued using the same accepted appraisal methods: cost, market and income, used to value other commercial and industrial properties subject to market forces.

Land at generating plant or facility sites should be treated as industrial land and valued in the same manner as other industrial land, i.e., by applying the appropriate appraisal methodology and land schedule.

1. Cost Approach

a. Original Cost

The original cost of the plant or facility may be used where it is relatively new and depreciation has not exceeded the appreciation of costs in the geographical area.

b. Reproduction Cost New Less Depreciation

The cost to reproduce the plant or facility may be determined from various engineering cost estimating disciplines based on plans and specifications obtained from the facilities. Alternatively, the original costs of the plant or facility may be trended to the present with generally accepted manuals or indexes such as the Handy-Whitman Index of Public Utility Construction Costs.

All forms of depreciation must be considered and allowances made not only for physical depreciation, but also technological and market changes that impact the plant or facility.

c. Replacement Cost New Less Depreciation

Replacement costs developed for an existing plant or facility should consider its intended use of duty cycle, fuel availability, transmission capacity and environmental limitations. The cost analysis will also require the engineering judgment of how new technology affects the existing property. The analysis should recognize that new technology or construction techniques may be more or less expensive than the existing facilities due to the impact of various factors.

All forms of depreciation must be considered and appropriate allowances made for physical depreciation and technological and market changes.

2. Market Approach

A comparable sales approach may use. Generating plant or facility sales should be analyzed on a price per unit of capacity or generation basis. Historical, annual plant generation and capacity factors are indicators of the cost competitiveness of the plant or facility and should be analyzed to determine its ranking within the marketplace. When comparing sales to the subject plant or facility, any non-cash considerations that impact value should be identified and appropriate adjustments made. Additional adjustments may be required to take into consideration the variability of generating sources and fuel types.

3. Income Approach

Indicators of value may be developed either by direct capitalization (*i.e.*, using a single year's income) or yield capitalization (*i.e.*, using income over a period of time including reversion proceeds).

The gross income developed for the plant or facility from the current wholesale market should consider the price of capacity, installed capacity, operable capability, 10 minute spinning reserve, 10-minute non-spinning reserve, 30-minute reserve and automatic generation control. For hydro-electric plants,

especially those dependent on run-of-the river, multiple years of income/actual production should be reviewed to equalize the value of the station, and not value it based on higher or lower water levels due to annual fluctuations in rainfall. Prices for each may vary, depending on the type of generating unit and time of day and year. When analyzing expenses, consideration should be given to the historic cost of operating the plant or facility and future fuel prices.

Business income should be isolated from the gross income to determine the income attributable to the property. Property related expenses to be considered include, but are not limited to, site staff operations, site management, current and future fuel type, routine annual maintenance, operational costs such as chemicals, insurance, various regulatory and license fees, allowance for property taxes (as an expense or in the capitalization rate) and capital reserves and replacements for adequate project life.

GLOSSARY

See G.L. c. 164, § 1 **for definitions of the following terms:**

Cogeneration facility
Distribution
Distribution Company
Distribution facility
Electric Company
Electric service
FERC
Generation
Generation Company
Generation facility
Transmission
Transmission Company
Transmission facility
Transmission service,

Other Definitions

Automatic Generation Control, (AGC), is a system for adjusting the power output of multiple generators at different power plants in response to changes in the load.

Availability, a measure of time a generating unit, transmission line or other facility is capable of providing service, whether or not it actually is in service. Typically, this measure is expressed as a percent available for the period under consideration.

Avoided cost, the cost the utility would incur had it supplied the power itself or obtained from other sources. Avoided cost rates have been used as the power purchase price utilities offer independent suppliers.

Department of Public Utilities (DPU), state regulatory agency responsible for the structure and control of energy provided in the Commonwealth; monitoring service quality; regulating safety in the transportation and gas pipeline areas; and for the siting of energy facilities. The mission of the Department is to ensure that utility consumers are provided with the most reliable service at the lowest possible cost; to protect the public safety from transportation and gas pipeline related accidents; to oversee the energy facilities siting process; and to ensure that ratepayers' rights are protected.

Independent Power Producer (IPP), any entity that owns or operates an electric generating facility that is not included in an electric utility's rate base.

Investor Owned Utility (IOU), a company that provides utility services and is owned by stockholders or investors.

Net Book Value (Net Book), a method of property valuation based on the rates of return on investment regulated by a governmental agency and the original cost of the property when put into service less depreciation.

Non-spinning reserve, the operating reserve not connected to the system, but capable of serving demand within a specific time, or interruptible demand that can be removed from the system in a specified time. Interruptible demand may be included in non-spinning reserve if it can be removed from service within 10 minutes.

Non-Utility Generator (NUG), an electric generation facility owned and operated by an entity not defined as a utility.

Rate Base, the value of property upon which a utility is permitted to earn a specified rate of return as determined by a regulatory agency.

Restructuring, the reconfiguration of the electric industry from wholly owned electric generation, transmission and distribution systems to a system where electric generating facilities are independently owned. (Restructuring includes re-regulation and is not to be confused with deregulation, which implies the elimination of regulation.)

Spinning reserve, unloaded generation, which is synchronized and ready to serve additional demand.

Utility, a regulated entity providing essential services usually associated with a natural monopoly, the power of eminent domain, the obligation to serve and significant government regulation, including a distribution company, transmission company and electric company, but not a generation company.