

## ASSESSMENT OF PERSONAL PROPERTY

### 1. General

#### 1.1 Definition

For property tax purposes, personal property is composed of goods, material objects and other things capable of ownership, which are not so firmly attached to, or specially designed for, real estate as to become part of the real estate. Real estate includes land and buildings and "other things thereon or affixed thereto".<sup>1</sup>

As a general rule, property which is so firmly attached to land or building that to remove it would cause damage to the land, property or building is considered part of the real estate. If no such damage would be caused, it would normally be personal property.

In addition, some property not so firmly attached to land but due to its bulk, special design, intended permanence and use is integrated into a particular parcel, is usually considered part of the real estate. For example, an above ground swimming pool not attached to a foundation is personal property, but one attached to such a foundation is part of the real estate. A crane on wheels resting on railway tracks, used to haul ships out of the water into dry dock, is part of the real estate.

#### 1.2 Community making the assessment

Personal property is usually assessed by the town where the personal property is "situated" on the assessment date. Personal property may be assessed in limited circumstances by the community in which the owner is an inhabitant on January 1, even if the property is located in another community on that day.<sup>2</sup> This primarily applies to items not permanently situated in a town, such as construction equipment.

By law, a community hosting a local airport may assess commercial airplanes using that airport.<sup>3</sup> Assessors place a proportionate value on the airplanes based on total annual time the machines were located in the community through a formula designed to avoid multiple taxation.

### 2. Personal property subject to assessment

All personal property which is situated in the Commonwealth and all personal property belonging to its inhabitants (unless permanently situated outside the Commonwealth) is taxable, unless specifically exempt. For example, although at one time intangible property, such as stocks, bonds and cash, were subject to taxation as personal property, they are now specifically exempt from the tax.<sup>4</sup>

There are numerous exemptions that are generally based on three factors: 1) ownership, 2) kind of property and 3) use. Personal property of a non-resident with no place of business in Massachusetts, but stored in a licensed Massachusetts warehouse, is considered in transit and is specifically exempt.

## 2.1 Property owned by an individual

Property owned by an individual is taxable except that wearing apparel, farming utensils, tools of trade of a mechanic, the boats, fishing gear and nets, up to \$10,000 of value, owned and used in commercial fishing, and household furnishings and effects at the person's domicile are exempt.<sup>5</sup> Also, motor vehicles and trailers subject to excise,<sup>6</sup> manufactured homes in licensed manufactured housing communities,<sup>7</sup> boats subject to excise,<sup>8</sup> certain young farm animals and farm animals, machinery and equipment subject to excise,<sup>9</sup> and non-commercial registered airplanes<sup>10</sup> are exempt.

Examples of exempt "farming utensils" are hand tools for farming, plows, cultivators, mowing machines, horse rakes, reapers, wagons, manure spreaders and other relatively inexpensive simple farm equipment. Farming utensils do not include farm and non-farm machinery and vehicles, which are taxable to individual owners unless subject to one of the above excises.

Examples of exempt "tools of trade" of a mechanic are the instruments of a plumber, carpenter, auto mechanic or other tradesman. Wrenches, hammers, saws, drills and other like instruments, hand or electric, would be exempt. Implements used in professional offices, such as those of doctors, dentists, lawyer or accountants, are taxable. For example, dentist drills, x-ray machines, typewriters, word processors and calculators are taxable.

Furniture, household appliances, televisions, antennas, lawn mowers, household and garden tools and other such items at a person's primary home are exempt "household furnishings and effects." Unregistered lawn tractors, above ground swimming pools and satellite dishes not on permanent foundations would also qualify for this exemption. However, snowmobiles, farm tractors, in-ground pools, above ground pools affixed to foundations or satellite dishes affixed to foundations are not exempt as household furnishings and effects. Note: The household furnishings and effects exemption only applies to such property situated at the primary residence of the owner. Such property is not exempt if it is situated in a second home.

### 3. Property tax lists (Forms of List)

#### 3.1 Forms filed by taxpayers with taxable personal property

Each taxpayer with taxable personal property must submit a true list of all non-exempt personal estate by a date specified in a posted notice of assessment. (See Form 1) The date of filing is generally March 1 prior to the fiscal year in which the tax is to be assessed. However, the assessors may extend the filing deadline to a reasonable date, but no later than 30 days after the tax bills are mailed, if the taxpayer shows sufficient cause for not filing by March 1. Such notice may require the taxpayer to list real property subject to taxation as well. The list of personal property is confidential.<sup>22</sup> Taxpayers do not need to include any opinion of value on the list. Owners of second homes file Form 2HF. Other taxpayers, including individuals, estates, corporations, partnerships, limited liability companies and trusts, use Form 2.

#### 3.2 Forms filed by taxpayers claiming exemptions

A similar list (Form 3ABC) must also be submitted for all real and personal estate used for literary, temperance, educational, benevolent, charitable or scientific purposes for which the taxpayer will claim an exemption.<sup>23</sup> The list would include property held on the preceding January first or, at the election of any such charitable corporation or trust, on the last day of its fiscal year preceding January first. The filing deadlines and extension periods for the Form 2 and Form 2HF lists applies:

#### 3.3 Availability of blank forms

Assessors must make a blank Form of List (Forms 2 or 2HF) available to any person subject to taxation upon request.<sup>24</sup> Although not required, it is advisable to mail a blank form to taxpayers that regularly file, or would normally be subject to personal property tax.

#### 3.4 Verification

The owner or a designated officer of the owner must sign the list under oath.<sup>25</sup>

#### 3.5 Taxing unlisted property

Assessors may set the value and assess unlisted taxable property.

If a list is not submitted the board shall ascertain as best it is able the kind, amount and value of personal property according to its best information and belief.<sup>26</sup> The value is entered in the valuation book and is conclusive if no list is submitted later.<sup>27</sup>

### 3.6 List submitted after the due date

If a list is submitted after the due date, as extended, the assessors may abate it as if timely filed, provided the person assessed shows a reasonable excuse for late filing. If there was no reasonable excuse for filing late, an abatement of the amount that exceeds 150 percent of the proper assessed value may be made. Without a Form of List, no abatement may be made. This penalty does not prohibit any real estate tax abatement.<sup>28</sup>

## 4. Preparation for billing

Assessors prepare a Personal Property Valuation List giving the name and address of the person assessed, the total tax and the value of the personal property assessed. The list exhibits the valuation, classification and assessment of all property subject to taxation. Personal property descriptions should be very general, but may specify broad categories of property such as those set forth on the form of list (machinery, tools and equipment, business furniture, merchandise and other personal property). No further detail or specification should appear on the valuation list, which is a public record and must be made available for inspection.<sup>29</sup>

## 5. Abatements and uncollectible taxes

### 5.1 Applications

If the personal property tax ought not to have been assessed or if the amount of the assessment is too high due to an error, an application for abatement can be made on State Tax Form 128. This application must be filed with the board of assessors on or before the due date of the first installment of the actual tax bill for the fiscal year. The application and appeal process are essentially the same as for real estate.

### 5.2 Abatement of uncollectible taxes

The assessors may grant an abatement on certain personal property tax upon the written request of the collector. The collector notifies the assessors that such taxes are uncollectible due to death, absence, poverty, insolvency, bankruptcy or other inability to pay.<sup>30</sup> The board of assessors must make due inquiry and act within 30 days after receipt of the collector's notice. The assessors may abate the tax in whole or in part, and certify the abatement to the collector so that he may be discharged from further obligation to collect. (See State Tax Form 166/380). If the person assessed fails to file an application for abatement in a timely manner, an abatement may still be granted upon application by the board of assessors to the Commissioner (See Informational Guideline Release (IGR) 92-206).<sup>31</sup>

## 6. Excise on farm animals and machinery

### 6.1 Eligibility

Any person engaged principally in agriculture (not including a corporation), or any individual under 18 years of age who raises animals in connection with an agricultural youth program, pays the farm animal excise on farm animals, machinery and equipment in lieu of a tangible personal property tax.<sup>32</sup> Animals subject to the excise are mules, horses, neat cattle (bovine animals raised for meat or dairy products), swine, sheep, goats, domestic fowl and mink, which are not otherwise specifically exempt.<sup>33</sup> Other animals are subject to the personal property tax. Plastic covered greenhouses may qualify for assessment under the farm equipment excise. (See IGR 90-204)

### 6.2 Application

Eligible people may make a return under oath to the assessors annually on or before March 1 listing the make, age, model and purchase price of such machinery and equipment and the number and kind of each class of such animals and fowl owned on the preceding January 1. (See Application for Excise on Farm Animals, Machinery and Equipment).

### 6.3 Valuation and rate

Assessors assess the excise on such farm animals, machinery and equipment at the rate of ~~five dollars per one thousand dollars of valuation.~~ The Commissioner of Revenue determines the values for farm animals annually and sends a letter to the assessors informing them of those values. Assessors may set values for prize animals and other special animals. Assessors should consult the property owner prior to setting such values. Assessors determine values for farm machinery and equipment. With respect to farm vehicles, if a motor vehicle excise is assessed, neither the farm machinery excise nor the personal property tax is assessed.

### 6.4 Billing and payment

The farm animal excise is annual, payable in one payment on or before November 1 or within 30 days from the mailing of the bill if mailed after October 1. Assessors send the commitment list and the warrant (See State Tax Form 57 F.A.E.-M.E.) to the collector. The farm animal excise is billed on State Tax Form 207 F.A.E.-M.E.

within the time prescribed by the notice under section twenty-nine, a sworn statement of the amount secured thereon or on each separate parcel thereof, with the name and residence of every holder of an interest therein as mortgagor or mortgagee. If such property is situated in two or more places, or if a recorded mortgage includes two or more estates or parts of an estate as security for one sum, such statement shall include an estimate of the interest of the mortgagee in each estate or part thereof. The assessors shall, from such statement or otherwise, ascertain the proportionate interests of the mortgagor or mortgagee respectively in said estates, and shall assess the same accordingly. If, in any year, such statement is not brought in, the tax for that year on such real estate shall not be invalid merely for the reason that the interest of the mortgagee therein has not been assessed to him.

Historical and Statutory Notes

- St.1882, c. 175, § 1.
- R.L.1902, c. 12, § 45.
- St.1909, c. 490, pt. 1, § 45.

§ 35. Repealed, 1989, 718, Sec. 4

Historical and Statutory Notes

- St.1785, c. 50, § 9.
- R.S.1836, c. 7, § 22.
- G.S.1860, c. 11, § 25.
- P.S.1882, c. 11, § 40.
- R.L.1902, c. 12, § 46.
- St.1909, c. 490, pt. 1, § 46.

§ 36. Failure to furnish lists; ~~estimating value~~

Assessors shall ascertain as nearly as possible the particulars of the personal estate, and of the real estate in possession or occupation, as owner or otherwise, of any person not bringing in such list, and shall estimate its just value, according to their best information and belief.

Historical and Statutory Notes

- St.1785, c. 50, § 1.
- R.S.1836, c. 7, § 23.
- G.S.1860, c. 11, § 27.
- P.S.1882, c. 11, § 41.
- R.L.1902, c. 12, § 47.
- St.1909, c. 409, pt. 1, § 47.

§ 37. Conclusiveness of estimate

Such estimate shall be entered in the valuation book, and, except as provided in section sixty-one, shall be conclusive upon any person not seasonably bringing in such list, unless he shows a reasonable excuse for the omission.

Historical and Statutory Notes

- St.1785, c. 50, § 9.
- R.S.1836, c. 7, § 24.
- G.S.1860, c. 11, § 28.
- P.S.1882, c. 11, § 42.
- R.L.1902, c. 12, § 48.
- St.1909, c. 490, pt. 1, § 48.

VALUATION OF PROPERTY

§ 38. Fair cash valuation; classification of assessed valuation; taxable valuation

The assessors of each city and town shall at the time appointed therefor make a fair cash valuation of all the estate, real and personal, subject to taxation therein, and such determination shall be the assessed valuation of such estate. In cities, the assessors may, in any year, divide the city into convenient assessment districts.

The assessed valuation of real property subject to taxation under this chapter shall be classified as follows:—

- Class one, residential;
- Class two, open;
- Class three, commercial, and
- Class four, industrial.

The resulting amount shall be the taxable valuation of each class of property to which the assessors shall apply the tax rates applicable to each class as determined under section twenty-three A of chapter fifty-nine of the city or town, to determine the tax due and payable on such property.

Amended by St.1975, c. 853; St.1978, c. 514, § 80; St.1978, c. 576, § 1; St.1979, c. 797, § 15.

Historical and Statutory Notes

- St.1785, c. 50, § 1.
- R.S.1836, c. 7, § 24.
- St.1853, c. 319, § 1.
- G.S.1860, c. 11, § 24.
- P.S.1882, c. 11, § 45.
- St.1889, c. 115.
- R.L.1902, c. 12, § 51.
- St.1909, c. 490, pt. 1, § 50.
- St.1919, c. 51.

§ 38A. Pipelines; valuation; exceptions

Every person, other than a gas or electric company as defined in section one of chapter one hundred and sixty-four, owning a pipeline used for transmitting for a distance of twenty-five miles or more natural gas or petroleum or the products or by-products of either, shall, on or before January thirty-first in each year, make a return to the commissioner signed and sworn to by such person, which shall be in such form and detail as the