

HOUSE No. 143

The Commonwealth of Massachusetts

BOARD OF TAX APPEALS,
20 SOMERSET STREET, BOSTON, December 6, 1932.

To the General Court of Massachusetts.

In accordance with the provisions of section 33 of chapter 30 of the General Laws, copies of the recommendations for legislation to be contained in the annual report of this Board (Pub. Doc. No. 148) are submitted herewith, together with drafts of bills embodying the legislation recommended. These drafts have been submitted to counsel for the House of Representatives, as required by law.

ALEXANDER HOLMES,
JOHN D. WRIGHT,
ALEXANDER LINCOLN,

Board of Tax Appeals.

RECOMMENDATIONS.

I. The provisions of section 59 of chapter 59 of the General Laws, limiting the right to apply for an abatement of local taxes to "a person aggrieved by the taxes assessed upon him" (except in the case of a tenant paying taxes) make it necessary for persons who, to preserve an interest in property, pay taxes thereon assessed to another, to cause application for abatement to be made in the name of that other person. Persons who may be so affected include an owner of record when the tax is assessed to the person in possession, a mortgagee, a purchaser subsequent to April first, a remainderman when the tax is assessed to the life tenant, and a beneficial owner when the tax is assessed to the trustee. To avoid frequent uncertainty as to the right to use the name of the person assessed, it would seem desirable and we recommend an amendment to that section authorizing persons who have an interest in property, and who pay taxes thereon which are assessed to another, to apply for abatement in their own names.

II. When a local tax is invalid because it is assessed to the wrong person or for some other reason, the assessors are authorized, by section 77 of General Laws, chapter 59, to reassess the tax at any time. If such reassessment is made more than a year after April first of the year to which the tax relates, the person assessed is given no right to apply for an abatement. This obvious omission to provide for relief against an over-assessment should be corrected, and we recommend an amendment to section 77 providing a period of time within which application for abatement may be made under such circumstances.

III. Section 6 of General Laws, chapter 58A, provides that upon failure of the Commissioner or of a board

of assessors to act on an application for abatement within four months, the application shall be deemed to be denied and the taxpayer shall then have the right to take an appeal; and further provides that the statute of limitations shall not begin to run until the application is in fact denied. This provision fills a needed want in giving the taxpayer a right of appeal without mandamus proceedings, but the public interest seems to require some limitation of time within which an appeal may be taken, similar to that where an actual decision has been made, in order that cities and towns may be protected from the possibility of liability for many years' abatements to be settled out of the overlay of one year, to the serious disarrangement of their finances. We recommend an amendment to this section which will require the taxpayer to file his petition within four months after the application is deemed to be denied.

IV. The terms used in limiting the time within which appeals may be taken from decisions of assessors or of the Commissioner vary in phraseology throughout the statutes relating to taxation, and where the time is limited by the giving of notice there is considerable doubt whether notice by mail is given when it is mailed or when received. We recommend amendments to certain sections of General Laws, chapters 59, 62 and 63, in order to provide uniformity and remove uncertainty as to the time within which the right of appeal may be exercised.

