

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

Property Tax Bureau
Informational Guideline
Release No. 87-229 Assessment Administration Practices
May, 1987

ASSESSMENT ADMINISTRATION PRACTICES

Chapter 395 of the Acts of 1986
(Amending General Laws Ch. 36, 58A and 59)

SUMMARY:

This act provides assessors with increased powers to discover information needed to determine the full and fair cash value of real and personal property for local tax purposes. Specifically, the statute:

- Increases the assessors' authority to obtain information from property owners,
- Provides additional sanctions for failure to furnish the assessors with certain information, and
- Expands the assessors' rights of discovery in Appellate Tax Board proceedings.

The act also addresses the public disclosure of certain information furnished to or collected by the assessors. These provisions are the subject of a separate Informational Guideline Release.

DISCUSSION:

1. **Collection of Information**

G.L. Ch. 36 and Ch. 59 have been amended to increase the authority of the Department of Revenue and the assessors to collect information from property owners.

- a. Ch. 36 §24B now authorizes the Commissioner of Revenue to require that certain information needed to establish the equalized valuations be provided by persons seeking to record deeds after January 1, 1987. The information would be provided on a form prescribed by the Commissioner. Copies of the completed forms would then be forwarded to the Department of Revenue and the Board of Assessors of the city or town in which the property is located.

See Guidelines below for further information on the Department's decision not to require such information at this time.

- b. At the present time, the only information that personal property owners must furnish the assessors is a Form of List, which is merely a listing of the items of personalty they own. Ch- 59 has been amended, by adding S. 38F and 38G, to provide assessors with increased authority to obtain information needed to value personal property.
 - (i) The new §38F is similar to §38D, which authorizes the assessors to request information from the owners or lessees of real property. Under § 38F, the assessors may now request that owners or lessees of personal property make a written return. The return is to contain information the assessors determine is necessary to establish the fair cash value of the property and is to be submitted to the assessors within sixty days of the request. If the taxpayer does not respond, he is barred from any statutory appeal unless he was unable to respond for reasons beyond his control.
 - (ii) The new §38G is similar to §38E, which authorizes the assessors to request testimony under oath from taxpayers on returns and abatement applications concerning real property. Under §38G, the assessors may now require the same of personal property taxpayers.

2. **Failure to Comply with Information Requests**

G.L. Ch. 59, §38D has been amended to provide for a monetary penalty for failure to supply the assessors with certain information.

- a. Ch. 59, §38D authorizes the assessors to request that owners or lessees of real property provide information needed by the assessors to value the property. This provision is used by assessors primarily to obtain income and expense data needed to apply the income approach to value. Failure to furnish the information bars the taxpayer from any statutory appeal unless he was unable to respond for reasons beyond his control.
- b. §38D has now been amended to provide for the addition of fifty dollars (\$50) to the tax imposed on the property for the next ensuing tax year if the requested information is not submitted.
- c. The \$50 dollar penalty is in addition to the loss of statutory appeal rights.
- d. The penalty may be imposed only if the assessors notify the owner or lessee that failure to comply with the information request will result in the penalty.
- e. The \$50 penalty will not apply where there is a failure to provide information on personal property as requested under the newly inserted Ch. 59, §38F.

3. Appellate Tax Board Proceedings

G.L. Ch. 58A has been amended to provide the assessors with additional rights of discovery in Appellate Tax Board (ATB) proceedings.

- a. Under §7, the assessors may now file, in certain appeals, a motion seeking to require a taxpayer to file audited income and expense statements with the ATB. If granted by the ATB, the taxpayer must file the statements within forty days from the date of the appeal. The property involved in the appeal (i) must be classified as residential over 8 units, commercial or industrial property and (ii) must have been assessed for more than \$200,000 in the previous fiscal year.
- b. Under §8A, either party may now file a motion seeking to require the exchange of appraisal reports. If granted by the ATB, the reports are to be exchanged at least 30 days prior to the hearing of the appeal. The reports are to contain any information about the property that the ATB determines is necessary.

GUIDELINES:

1. The Department of Revenue has determined it does not require any additional information on property transfers in order to establish the equalized valuations at this time and has informed Registers of Deeds and Assistant Land Court Recorders that it will not be promulgating a form for filing with deeds.

Therefore, assessors should be aware that they will not be receiving from the Registry of Deeds any information on property transfers in addition to the information currently provided.

In the event the Department's informational requirements change and a form is prescribed, the assessors will be notified.

2. The assessors should develop a form or forms for the purpose of obtaining information needed to value personal property from the owners or lessees of such property.
 - a. Depending on the type of personal property being valued and the appraisal method being used, the assessors may request descriptive data such as the age, condition, and cost of the items of personalty in the account, as well as financial information such as income and expense data and annual returns filed with applicable regulatory agencies.
 - b. The form should include a statement that failure to return the form to the assessors within 60 days will bar the taxpayer from pursuing his statutory appeal rights.
 - c. If the assessors have questions regarding the information contained in the return or submitted in connection with an application for abatement of the taxes assessed on the property, they may also require the taxpayer to address those questions, under oath.

- d. Once the deadline for filing the returns has passed, it would be appropriate for the assessors to provide notice of their failure to receive requested returns from the owner or lessee and of the resulting loss of appeal rights. The notice should reference the original information request. Copies of such notices should be maintained for future reference.
3. The assessors should revise the form currently used for the purpose of obtaining information needed to value real property from the owners or lessees of such property.
 - a. The form should now include a statement that, in addition to the loss of statutory appeal rights, a \$50 penalty will be added to the tax imposed on the property if the owner or lessee fails to submit the requested information.
 - b. Once the deadline for filing the returns has passed, the assessors should provide notice of the failure to receive requested returns from the owner or lessee and of the resulting loss of appeal rights and the addition of the \$50 penalty to the next tax bill. The notice should reference the original information request, as well as the statutory authority for imposing the penalty. Copies of such notices should be maintained for future reference.
 - c. Procedures should be established for ensuring that the \$50 penalty is added to the tax on the property and committed for collection in the next tax year.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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