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City and Town

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Supplemental Tax Assessments on New Construction: Are They Right for Your Community?

by Ronald W. Rakow, Commissioner of Assessing, City of Boston

Background

State law requires cities and towns to assess property based on its condition as of the lien date of January 1. In the past, some municipal officials expressed concern that new construction created after January 1 was not added to the tax base until the subsequent year. The Legislature addressed this issue by enacting two laws that allowed communities to tax the value of new construction occupied after the January 1 lien date.

The first, Section 40 of Chapter 653 of the Acts of 1989, allows cities and towns to assess an additional tax for the value of new buildings, structures, or other physical improvements added to real property between January 2 and June 30 for the fiscal year beginning July 1. The additional assessment for these properties is based on their status as of June 30. A subsequent law, Chapter 203 of the Acts of 1998, added Section 2D to Chapter 59 of the Massachusetts General Laws. This provision allows cities and towns to make a pro rata assessment on the value of improvements of greater than 50 percent of the billed value to real estate when an occupancy permit is issued after January 1. The assessment is based on the value of the improvement, multiplied by the tax rate, and prorated for the amount of time remaining in the fiscal year after the occupancy permit is issued (more details on the calculation of supplemental assessments are provided in DOR's IGR 03-209: Supplemental Tax Assessment on New Construction). This law also provides for the abatement of property taxes whenever a parcel of real estate loses 50 percent or more of its value after January 1 due to fire or other natural disaster. Both provisions required acceptance by municipalities to be effective. Only a handful of communities statewide elected to adopt both provisions.

Municipal Relief Act Change

Sections 41 and 42 of the municipal relief act (Chapter 46 of the Acts of 2003) amended Chapter 59, Section 2D so that the statute now *applies automatically* unless the local appropriating authority specifically rejects the provision. As a result, municipal officials must now carefully consider whether supplemental assessments are appropriate for their community.

The intention of supplemental assessments is to provide cities and towns with additional tax revenue from new development. Given the recent reductions in state aid and the resultant fiscal pressures facing many communities, any proposal to increase revenue is generally welcome. Nevertheless, there are some concerns regarding the supplemental tax assessment that require consideration:

Impact on Development. The first few years of any new development present significant financial challenges for any property owner. For larger commercial and residential projects, developers are forced to pay interest and expenses relating to the project before the property generates rental income. For some commercial projects, this problem is compounded by high vacancy rates and declining rents in the current market climate. Smaller residential property owners, after scraping together money for a down payment and closing costs, are similarly strapped for cash.

Given the fiscal challenges during the initial years of a project and the current weakness in sectors of the commercial real estate market, the additional property tax burden created by the supplemental tax assessment may negatively affect development. It is possible that some projects could be delayed or scaled back due to this additional tax. Others may seek tax relief through a Chapter 121A or a tax increment financing agreement to compensate for the additional liability created by the

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Inside This Issue

From the Acting Deputy Commissioner

From time to time, the Division receives requests for guidance regarding the use of municipal credit cards. Generally, we have taken the position that the use of credit cards is difficult to harmonize with provisions of the municipal finance laws. For example, M.G.L. Ch. 44 Sec. 2 prohibits a city from incurring debt except as specifically authorized by statute. Also, the use of credit cards, a mechanism for borrowing short term, is not specifically authorized by the general laws for local officials.

Furthermore, documentation for the charges on a credit card statement are often quite minimal, and further documentation of the purchase might have to be implemented to verify the validity of the charge as a non-personal, municipal related expense.

In addition, the use of credit cards might make it difficult to determine whether there has been compliance with the bid laws under Chapter 30B. A municipality may also be liable for late charges if the payment is not timely made to the credit card company.

Given the potential legal and oversight issues with respect to the use of credit cards, the Division advises against their use by municipalities.

Gerard D. Perry
Acting Deputy Commissioner

Legal

in Our Opinion

Questions and Answers

by James Crowley

Q: *Property was acquired in the middle of fiscal year 2003 by an exempt, charitable entity. Taxes were apportioned between the private owner and the buyer at the time of closing. The new owner now seeks to have the fiscal year 2003 tax balance abated. For fiscal year 2004 the parcel received a charitable exemption under Chapter 59 Section 5 Clause 3. Can the assessors exempt or abate the fiscal year 2003 tax balance?*

A: No. Even if a timely exemption application had been filed, there would be no legal basis for the assessors to exempt the parcel for fiscal year 2003. Under the preamble of Chapter 59 Section 5, the exemption qualification date is July 1. Since the parcel was not owned and occupied for charitable purposes as of July 1, 2002, there could be no exemption for fiscal year 2003. Although the seller is personally responsible for the taxes as the owner on the January 1, 2002, assessment date, the tax obligation itself is secured by an automatic lien, which attaches to the real property. Consequently, the collector could make a tax taking to perfect the town's lien. The treasurer could then seek foreclosure in Land Court to satisfy the outstanding tax obligation.

Q: *A taxpayer sought to defer all of his taxes under Chapter 59 Section 5 Clause 41A. The same taxpayer also applied for assistance from the elderly and disabled taxation fund. Could the taxpayer defer all his taxes and then receive a cash payment from the fund?*

A: No. Chapter 60 Section 3D, a local option statute that must be accepted by the city council or town meeting, permits tax bills to be designed with a place for taxpayers to donate amounts to an elderly and disabled taxation fund to defray the real estate taxes of elderly and disabled persons of low income. The intent of the statute is to reduce the tax obligations of certain taxpayers. The Appellate Tax Board has ruled that an elderly taxpayer can receive a personal exemption and defer the balance of the taxes since a deferral is not a true exemption. Similarly here, a taxpayer can receive assistance from the fund to pay a portion of the real estate taxes. The taxpayer can then defer all or a portion of the remaining taxes. In our view, it is not contemplated that the taxpayer defer all the taxes and then receive a cash subsidy from the fund to help defray living expenses. By the express terms of the statute, assistance from the fund must be directly used to reduce the recipient's tax bill. No "refund" then should be issued to the taxpayer.

Q: *Can a town department charge expenses for its non-fee paying programs and activities to its departmental revolving fund?*

A: No. M.G.L. Ch. 44 Sec. 53E½, permits a city or town to establish revolving funds for specific departments to which are to be credited "only the departmental receipts received in connection with the programs supported by such revolving fund."

In our view, the statutory language quoted above requires there to be some nexus or connection between receipts and spending purposes. The statute would apply to user or participatory fees charged in order to make a program or service self-supporting. For example, a departmental revolving account might be used in conjunction with a council on aging musical concert program. Thus, fees from concert-goers could be used to pay for their travel and attendance expenses.

Such an interpretation is consistent with the purpose of a revolving account. A

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Focus

on Municipal Finance

Property Tax Primer: Billing, Abatements and Appeals

by Mary Mitchell

The following is an update of a synopsis of the tax billing and appeal process that ran in a previous edition of this newsletter. Readers can use this either as a refresher or an updated reference document.

Local Property Tax Assessment & Billing

In Massachusetts, the property tax is an ad valorem (based on value) tax. The annual tax levy is apportioned to individual properties based on the value of the property. The taxable valuations are called assessments.

Property taxes are assessed by municipalities (351 cities and towns) and local improvement districts (water, sewer, fire, etc.). There are no separate county or school district taxes levied directly on property owners.[1] Thus, in Massachusetts, the taxpayer generally receives only one bill issued by the community where the property is located.

The property tax levy is the revenue that a community can raise through real and personal property taxes. Under Proposition 2½, there are limits on the amount of the levy raised by a city or town and on how much the levy can be increased from year to year. Voter approval is required to increase levies above the annual limit. Proposition 2½, does not apply to individual tax bills.

Assessors annually classify all real property into one of four real property classes (residential, open space, commercial and industrial). Municipalities and districts may then allocate the tax levy among the classes of real property and personal property within prescribed statutory limits. Based on these local decisions, the tax rate applicable to commercial and industrial realty and to personalty may be higher than that applied to residential and open space property. Approximately 100 Massachusetts' communities opt each year to shift the tax burden from residential and open space classes of property to the commercial, industrial and personal property classes rather than to apply the same rate to all classes of property.

The tax year for Massachusetts' communities begins on July 1 and ends on June 30. The property tax is assessed to the person who is the owner of record on January 1 before the beginning of the fiscal year on July 1.

All real and tangible personal property located within the Commonwealth of Massachusetts is taxable unless specifically exempted by statute. July 1 is the critical date for determining eligibility for exemptions. An exemption is a release from the obligation of having to pay taxes on all or part of a parcel of real property or certain personal property. Principal exemptions include the following:

- Property owned by the United States, Massachusetts, or any city or town in Massachusetts;
- Property owned by charitable, religious or educational organizations;
- Partial exemptions for elderly persons, surviving spouses or minors, disabled veterans or blind persons, and tax deferrals for homeowners 65 or older; and
- Intangible personal property and certain household furnishings; motor vehicles (subject to excise); machinery owned by manufacturing corporations; stock in trade and machinery used in administrative, accounting, selling, and purchasing functions of business corporations.

Assessors must assess property at full and fair cash value as of the January 1 assessment date each year. Full and fair cash value is the amount a willing buyer would pay a willing seller under no special circumstances and given a reasonable exposure to the market. A board of assessors may request a taxpayer to furnish information "as may reasonably be required by it to determine the actual fair cash valuation of such property."[2] Since municipal assessors also serve as assessors for improvement districts located within the municipality, the same value is used in assessing both municipal and district taxes. Assessors must use accepted mass appraisal techniques to value property.

To ensure full and fair cash value assessments, the Department of Revenue (DOR) certifies communities' property valuations every three years to make certain that such valuations accurately reflect the current market. Valuation changes, called interim year adjustments, are made in years between these certification programs. Interim year adjustments, if warranted, must be made annually in all cities and towns by the assessors in order to maintain full and fair values and to reduce large swings in value.

Certain forest, agricultural/horticultural, or recreational lands may qualify for special tax treatment and be assessed on the basis of current use rather than full and fair cash value.

Local Tax Billing

Communities can choose whether the annual property tax bill will be due in either two or four payments. Tax bills are due on a twice-yearly basis unless the municipality adopts a quarterly billing system.

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Actual tax bills for communities on semi-annual billing cycles should be issued by October 1 (but may be issued later). Payment of half the tax, and all betterments or delinquent local charges added to the tax bill, must be made by November 1 (or 30 days after the date the actual tax bills were mailed, whichever is later). The balance must be paid by May 1. Interest accrues at the rate of 14 percent a year on delinquent tax balances. Payments are delinquent if they are not received by the tax collector on or before the due date. Interest is computed on the unpaid and overdue first payment from October 1 (or from the date the bills were mailed, whichever is later) and on the unpaid and overdue balance from April 1 until payment is made.

Preliminary tax bills for communities on semi-annual billing cycles may be issued after October 1 where circumstances cause a delay in issuing actual tax bills. Preliminary tax bills may not exceed 50 percent of the prior year's tax and are due on November 1 (or 30 days after the preliminary tax bills were mailed, whichever is later). The actual bill is then mailed after the tax rate is set. The actual tax, after credit is given for the preliminary tax, is due on May 1 (or 30 days after the actual tax bills were mailed, whichever is later). Delinquent preliminary and actual tax payments are also subject to 14 percent interest.

Tax payments for communities on quarterly billing cycles are ordinarily due on August 1, November 1, February 1, and May 1. The preliminary tax bill should be issued by July 1 and is due in two equal installments on August 1 and November 1. If, however, the preliminary tax bill is issued between July 1 and August 1, half of the preliminary tax is due within 30 days after mailing, and the balance is due on November 1. If it is issued after August 1, the entire balance is payable in one installment due on November 1 (or 30 days after the bills were mailed, whichever is later). The actual tax bill is then mailed after the tax rate is set. If the actual bill is mailed on or before December 31, the actual tax, after credit is given for the preliminary tax, is payable in two equal installments due on February 1 and May 1. If the actual tax bill is mailed after December 31, the entire balance is due on May 1. Interest accrues at the rate of 14 percent a year on delinquent tax balances. Interest is computed on the unpaid and overdue amount from the installment due date until payment is made.

Local Abatement Procedure

A taxpayer may contest his real estate tax or personal property tax assessment by filing an application for abatement with the local board of assessors. An abatement is a reduction of a property tax. There are various procedural steps and deadlines involved in seeking an abatement, and taxpayers are charged with knowledge of the requirements.

The abatement procedure begins after the actual tax bills (not the preliminary tax bills or notices of balance due) for the municipality or district have been mailed. The application must be filed with the local board of assessors "on a form approved by the Commissioner."[3] Applications are due on the same day as the first installment payment of the actual tax, and this date should be stated on the tax bill.[4] Application forms are available at the assessors office or on the DLS website at www.mass.gov/dls/Ptb/formbroc.htm#forms. In general, for communities on a semi-annual billing cycle, this means that the application must be filed by November 1 (or 30 days after the date the actual tax bills were mailed, whichever is later). For communities on a quarterly billing cycle, the application ordinarily must be filed by February 1. If, however, the actual bills are mailed after December 31, the application is due on or before May 1 (or 30 days after the actual bill is mailed, whichever is later). To be filed timely, applications must be (1) received by the assessors or (2) postmarked by the United States Postal Service as mailed first class postage prepaid to the proper address of the assessors, on or before the due date. The filing deadline cannot be extended or waived for any reason. The date required for filing must be strictly observed. A taxpayer who misses the filing deadline loses the right to any abatement.

For most taxpayers, payment of the tax is not a prerequisite to filing an abatement application with, or obtaining an abatement from, the assessors. However, if the application is filed by someone other than the assessed owner or someone who became the owner after the January 1 assessment date, all or a portion of the tax usually must be paid first. Further, even if the tax does not have to be paid to file for an abatement on the local level, *timely payment generally is required to appeal the assessors' decision to the Appellate Tax Board.*

A taxpayer may contest his or her tax liability for any of the following reasons:

- Overvaluation. Taxpayer disagrees with the assessors' appraisal of the property or believes that the appraisal is based on error or that the assessed value is too high.
- Improper classification. For instance, a property is classified as commercial when it is actually residential.
- Statutory exemption. The property or person is exempt from taxation based on ownership and use.
- Disproportionate assessment. Parcel is assessed at higher percentage of fair cash value than other properties; requires a showing that there is an intentional, discriminatory flaw in the valuation system.

Boards of assessors are authorized, by state statute, to request information that is necessary to properly determine the fair cash value of the property.[5] Taxpayers must provide all information requested by the board of assessors, and allow an inspection of the property,

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in order to preserve their rights to appeal abatement decisions.

The assessors have three months from the date the abatement application was filed to act on it. The procedure used to review applications varies from community to community, but final action must be taken at a board meeting open to the public. In some cases, the assessors or their staff may meet with the taxpayer, or the taxpayer's attorney or authorized representative, prior to making a decision.

Within 10 days of their decision on the application, the assessors must send the taxpayer written notice of their decision. If the assessors do not act on the application by the deadline date, it is deemed denied.

Appeals to Appellate Tax Board

If the local board of assessors denies the abatement or the abatement amount is less than desired, the property owner may appeal that decision to the Appellate Tax Board (ATB). The ATB is an independent administrative board of the state. Ninety percent of the petitions filed at the ATB are appeals of local property taxes. While taxpayers may appeal to the county commissioners, in practice most appeals are to the ATB because an appeal to the county commissioners can be, and usually is, removed by the assessors to the ATB. The ATB also hears appeals by taxpayers regarding all state taxes, including income tax, sales and use tax, corporate excise, bank excise and others. In addition, the ATB has jurisdiction to hear appeals by cities and towns of valuations set by DOR that are used in computing local aid and state assessments.

Taxpayers generally have a three-month window from the date that an application is denied in which to file an appeal with the ATB. If the abatement application was deemed denied because the assessors did not act on it within three months (or the extended period agreed to by the taxpayer), then the taxpayer has three months from the date the abatement application was deemed denied to file an appeal. The ATB cannot hear an appeal if it is not filed by the deadline.

A filing fee ranging from $10 ($0.10 per $1,000 of assessed value, with a maximum fee of $5,000) to $5,000 is required to be paid in order to file an appeal of local property taxes with the ATB.

In addition to timely filing, the taxpayer usually must have paid all or a portion of the tax in order to proceed with an appeal. For personal property tax appeals, at least one-half of the tax must be paid before the appeal can be filed. For real estate tax appeals, if the tax due is $3,000 or less, the tax does not need to be paid timely before the appeal can be filed. However, if the real estate tax is more than $3,000, the entire tax must be paid on or before its due date without incurring any interest charges before the appeal can be filed.[6]

In proceedings before the ATB, persons may appear and act for themselves, or for partnerships of which they are members, or for corporations of which they are officers, or for boards of which they are members. Taxpayers may also be represented by an attorney.

A hearing before the ATB proceeds in much the same manner as a hearing or trial in any other Massachusetts administrative agency or court. However, practice before the ATB is governed by its own rules of procedure rather than the Massachusetts Rules of Civil Procedure. Taxpayers may use the informal or formal procedure. The informal procedure is designed primarily for residential taxpayers. It eliminates the formal rules of procedure and evidence that typically govern cases before the ATB. Certain appeal rights are waived as well.

The ATB's role in an abatement case is to make a *de novo* determination of value by considering and deciding all factual and legal issues. In other words, the ATB is not restricted to a review of the administrative record, but is required to consider all admissible evidence relating to the valuation of the subject property. The burden of proof is on the taxpayer.

Appeals of Appellate Tax Board Decisions

Decisions of the ATB may be appealed to the Appeals Court and ultimately, to the Supreme Judicial Court. The Appeals Court reviews the action of the ATB.

Role of State Administrative Agency

DOR has supervisory authority over the administration of the local property tax. It establishes minimum standards of assessment performance; issues rules, regulations and guidelines to assist the assessors in the performance of their duties; renders legal opinions; prescribes various forms; conducts training programs and approves tax rates. However, the valuation and assessment of property for local tax purposes is the responsibility of municipal assessors, and all decisions on abatements rest with them as well. ■

1. County and municipal or regional school costs are included in the municipal budget and tax levy.
2. G.L. c. 59, §§ 38D and 38F.
3. G.L. c. 59, § 59.
4. G.L. c. 60, § 3A.
5. G.L. c. 59, § 61A.
6. Alternatively, where the real estate tax is more than $3,000, the taxpayer has the option of paying a portion of the tax bill which equals the average tax assessed, reduced by abatements, for the three years preceding the tax assessment year.

DLS Update

Spring Course 101

The Department of Revenue's basic course for assessors, Course 101 Assessment Administration: Law, Procedures, Valuation, will be offered in the evening in May and June 2004 at the Burlington Public Library, 22 Sears Street, Burlington, MA. This program will be conducted from 6:00 p.m. to 9:00 p.m. for six consecutive Wednesdays (May 12, 19, 26 and June 2, 9, and 16, 2004).

Attendance at Course 101 and successful completion of the examination satisfies the minimum qualification requirements for assessors that were established by 830 Code of Massachusetts Regulation (CMR) 58.3.1. Assessors, and assistant assessors with valuation responsibilities, must fulfill minimum qualifications within two years of the date of their original election or appointment. All participants who successfully complete this course will receive a certificate.

For more information, link to a registration bulletin online at www.mass.gov/dls/PUBL/BULL/2004/2004_05B.pdf.

New Officials Finance Forum

The Division of Local Services (DLS) is presenting a seminar for recently elected officials on Friday, June 4 at the Best Western Yankee Drummer Inn (formerly the Ramada Inn) in Auburn. Selectmen, mayors, city/town council members, accountants, auditors, assessors, collectors, treasurers, clerks, finance directors, city/town managers and finance committee members and their staffs are invited to participate. New officials will gain a basic understanding of Proposition 2½, budgeting, setting the tax rate, free cash and reserve and debt policies.

The structure of the seminar is intended to encourage a team approach to fiscal management. After a presentation by DLS staff, participants will have the opportunity to work with other local officials to calculate a levy limit and to complete a tax recapitulation sheet.

Participants will return to their communities with knowledge and understanding that should enable them to be effective and efficient members of their local financial management teams. They will know whom to contact at DLS for technical assistance if needed. Attendees will receive written materials, providing an excellent resource. DLS will award certificates to those who complete the seminar. A registration bulletin containing further information is available on the DLS website (www.mass.gov/dls) under "Training and Seminars."

Property Tax Classification Hearings

Commissioner of Revenue Alan LeBovidge has announced that the Department of Revenue (DOR) will solicit public input and written comments on the current property tax classification system. This is in accordance with Chapter 3 of the Acts of 2004, which requires DOR to study the property tax classification system to determine methods for addressing the situation where residential and commercial, industrial and personal property (CIP) values diverge causing abrupt shifts of the tax burden among these classes. To remedy this situation in the short-term, the Legislature enacted Chapter 3 that provides for an increase in the allowable shift to the CIP class on a temporary basis. The Legislature seeks DOR's study to determine a sustainable and equitable method to mitigate future abrupt shifts in the tax burden.

The legislation also requires that DOR examine ways to provide temporary tax relief to various taxpayers including increasing the residential exemption for low-income residents, increasing elderly exemptions, increasing the state income tax deduction for renters, extending the payment period for property taxes and any other means of targeted relief.

Toward this end, DOR will conduct a series of public hearings across the state to encourage public comment and solicit testimony as to how the property tax burden should be allocated among classes. The dates, times, locations and directions for these hearings are listed below. All hearings begin at 10:00 a.m.

- April 30, 2004: State Offices, 436 Dwight Street, Springfield, MA 01103, Room B-42 (Directions online at www.mass.gov/dls/training/springfield_directions.pdf)
- May 4, 2004: Worcester Public Library, 3 Salem Square, Worcester, MA 01608, Saxe Room (Directions online at www.worcpublib.org/)
- May 11, 2004: Fall River City Hall, One Government Center, Fall River, MA 02722, City Council Chambers, (Directions online at www.fallriverma.org)
- May 18, 2004: State House, Boston, Legislative Hearing Room B-1, (Directions online at www.mass.gov/sec/trs/trsdir/diridx.htm)

We welcome your written comments on these topics. Please submit written comments to Joan Grourke, Division of Local Services, PO Box 9569, Boston, MA 02114-9569 no later than May 31, 2004. Comments may be submitted by e-mail to grourkej@dor.state.ma.us. ■

Supplemental Tax Assessments **continued from page one**

supplemental tax assessment. In either case, the amount collected by the city or town would be reduced, offsetting the additional revenue generated by the supplemental assessment.

Equity. Massachusetts law establishes a single lien date, or effective date, of January 1 to establish the ownership and condition of each property for tax purposes. Any property subject to the supplemental assessment, however, would have a different, later date based on the date a certificate of occupancy is issued. One of the central precepts of the property tax in Massachusetts is that all properties should be treated consistently. The supplemental assessment provision appears to run counter to this important notion.

Also, in communities that offer the residential exemption, residential property owners subject to the supplemental assessment would not be eligible for the residential exemption because they fail to meet the occupancy requirement of the exemption. Taxpayers subject to the supplemental assessment will rightly be angered when the law moves the effective date to subject their property to an additional tax, but leaves fixed the effective date for the exemption and prevents the taxpayer from qualifying.

Administration. The supplemental assessment creates an additional administrative burden on assessing, treasury, and building departments. New procedures need to be established with the building department to ensure timely identification and delivery of certificates of occupancy to the assessor. Assessing staff will have to develop a separate valuation for each affected property as of its occupancy date, and then perform the analysis to determine if the property qualifies for the supplemental assessment. In addition, substantial changes in assessment, billing, and tax collection software may be required to handle the supplemental assessments, particularly in larger communities.

Since the supplemental assessment is a new, somewhat complicated tax, a significant outreach effort to affected taxpayers is advised. If this is not done, taxpayers would receive bills for a tax which has not been adequately explained and which they have not anticipated. This scenario is likely to lead to confusion and frustration for numerous taxpayers.

All of these administrative issues can be addressed. Nevertheless, they will all require time to build the necessary administrative infrastructure as well as generate both one-time start-up costs and ongoing administrative costs.

Conclusion

While supplemental assessments offer communities an opportunity to enhance the revenue from new development, the decision to implement this provision warrants careful consideration. Additional revenue needs to be weighed against the impact on development, equity considerations, and administrative concerns. Where possible, communities should compile the data necessary to perform a thorough cost-benefit analysis before deciding on whether supplemental assessments are in the city or town's best interest. ■

Q&A **continued from page two**

departmental revolving account is an alternative financing mechanism for those fee based programs whose expenses fluctuate with demand. Generally, program expenses can be easily separated from other departmental expenses and can be matched by program revenues received and on hand. By annual vote of city council or town meeting, there could be established a departmental fund for specific fees and specific expenses associated with a program. By this statute, expenditures from the fund must be limited to those expenses arising from programs that generated the revenue.

Q: *Would land used exclusively for boarding horses be eligible for Chapter 61A classification?*

A: No. Although there is limited case law under Chapter 61A, the statute itself supports the non-eligibility of the applicant.

Under Chapter 61A Section 1, raising animals qualifies for agricultural classification provided the land is used "for the purpose of selling such animals … in the regular course of business." Alternatively, the land may be "primarily and directly used in a related manner which is incidental thereto and [such use] represents a customary and necessary use in raising such animals and preparing them … for market."

Consequently, Chapter 61A applicants having horses must establish that their *primary purpose* is the raising and selling of the horses. If the taxpayers claim some sales of horses, they must establish what proportion of gross receipts came from sales and what proportion came from boarding and operating a stable. Finally, land used for a stable must be classified as Class 3, commercial property, which is the catch-all provision under Chapter 59 Section 2A. ■

DLS Profile: IT Assistant Director

Evelyn McDonald-Hyde

Evelyn McDonald-Hyde has been the assistant director of the Division of Local Services' (DLS) Information Technology (IT) section since 1986. Before coming to the Division, she had gained considerable experience in property taxation, assessment and information technology in her position as senior research analyst for the City of Boston.

In the early 1980s, Evelyn began assisting the City's technology staff with computerizing Boston's assessment practices. This led to her interest in computers, and from that point onward, she wanted to work in the municipal technology field.

Currently, as the assistant director of the IT section, she spends a great deal of time assisting communities that are members of the Community Software Consortium (CSC) in planning enhancements to their mass appraisal systems. Troubleshooting networking problems and technology assessments are other services Evelyn performs for CSC communities. At DLS, Evelyn supervises six IT staff members located in Boston as well as in the regional offices and coordinates the DLS website.

Diane O'Connor, principal assessor in Northborough, recalls that "Evelyn did a great deal of work in helping us with our conversion from map and lot numbers to GIS numbers. This was a massive project. She was superb. Her knowledge and expertise is priceless."

Evelyn holds a bachelor's degree from Boston State College and a certificate in engineering from Northeastern University. A native of Weymouth, she currently resides in Mansfield. ■

State Computers Available to Small Communities

A new program designed to assist small communities obtain surplus state computers for a nominal fee has been announced by the Department of Revenue (DOR).

According to Revenue Commissioner Alan LeBovidge, "the Department has begun expanding its e-government services to cities and towns and in many instances, has shifted from hard copy mailings to e-mail notifications. However, some communities have stated that they lack Internet access." Under this program, municipalities can obtain surplus computers from DOR for a $15 administration fee.

In April, DOR will declare over 500 desktop computers surplus. State agencies will have first pick, but after 30 days cities, towns and school districts can apply. Computers from other agencies are currently available from the state's surplus program, but the cost may be slightly higher.

LeBovidge emphasized that this program is for "smaller communities that lack Internet connections." This program will be administered through DOR's Division of Local Services, which will help communities obtain and install appropriate surplus computers.

The communities, on the other hand, will have to arrange and pay for a modem, telephone lines or cable connections. The state can advise communities on free Internet service providers and e-mail services. Once communities assume ownership, however, all maintenance and repair become municipal responsibilities.

Communities that are interested in surplus computers can contact the Division of Local Services at (617) 626-2350. ■

Schedule A Filing Deadline Enforced

The Schedule A is a detailed statement of revenues and expenditures that cities and towns must prepare and submit to the Department of Revenue each fiscal year by no later than October 31. Town accountants and city auditors usually are responsible for completing the Schedule A. This information is added to the Division of Local Services' (DLS) Municipal Data Bank, and is used by many state agencies and the Legislature for research and analysis of various programs, including grants. DLS also provides Schedule A data to the U.S. Census Bureau for use by federal agencies.

General Law Chapter 58, Section 18F authorizes the Commissioner of Revenue to delay payment of state aid to cities and towns that miss the filing deadline. In March 2004, DLS sent reminders to several communities advising them to submit these reports or face a delay in receiving local aid payments. Some communities complied with this notice, while others have experienced delays in receiving their third quarter state aid payments because they still have not submitted Schedule A.

Acting Deputy Commissioner Gerard D. Perry urges cities and towns to make every effort to comply with the Schedule A filing deadline. If your community experiences any problems with filing the Schedule A, your Bureau of Accounts field representative is available to offer assistance or answer questions regarding this matter. ■

City & Town
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Joan E. Grourke, *Editor*

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