

HOUSE No. 24

Accompanying the tenth recommendation of the Commissioner of Corporations and Taxation (House, No. 14). Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Nine.

AN ACT REPEALING THE LAW MAKING PAYMENT OF TAXES
A CONDITION PRECEDENT TO THE RIGHT OF APPEAL AND
RELATIVE TO ABATEMENT OF CERTAIN TAXES.

1 *Whereas*, The deferred operation of this act would
2 tend to defeat its purpose, therefore it is hereby
3 declared to be an emergency law, necessary for the
4 immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter fifty-nine of the General
2 Laws is hereby amended by striking out section sixty-
3 four, as most recently amended by section one of
4 chapter four hundred and seventy-eight of the acts
5 of nineteen hundred and thirty-eight, and inserting
6 in place thereof the following:—

7 *Section 64.* A person aggrieved by the refusal of
8 assessors to abate a tax may, within sixty days after
9 receiving the notice provided in section sixty-three,
10 or within ninety days after the time when the applica-
11 tion for abatement is deemed to be refused as herein-

12 after provided, appeal therefrom by filing a complaint
13 with the clerk of the county commissioners, or of the
14 board authorized to hear and determine such com-
15 plaints, for the county where the property taxed lies,
16 and if on hearing the board finds that the property
17 has been overrated, and that the complainant has
18 complied with all applicable provisions of law, it shall
19 make a reasonable abatement and an order as to
20 costs. Whenever a board of assessors, before which
21 an application in writing for the abatement of a tax
22 is or shall be pending, fails to act upon said applica-
23 tion, except with the written consent of the applicant,
24 prior to the expiration of four months from the date
25 of filing of such application it shall then be deemed
26 to be refused and the assessors shall have no further
27 authority to act thereon; provided, that during the
28 period allowed for the taking of an appeal the assessors
29 may by agreement with the applicant abate the tax
30 in whole or in part in final settlement of said applica-
31 tion, and shall also have the authority granted to
32 them by section seven of chapter fifty-eight A to
33 abate, in whole or in part, any tax as to which an
34 appeal has been seasonably taken. If the list of
35 personal property required to be brought in to the
36 assessors was not brought in within the time specified
37 in the notice required by section twenty-nine, no tax
38 upon personal property shall be abated unless the
39 board appealed to finds good cause for this delay or
40 unless the assessors have so found as provided in
41 section sixty-one, or unless such tax exceeds by fifty
42 per cent the amount which would have been assessed
43 on such estate, if the list had been seasonably brought
44 in, and in such case only the excess over such fifty per
45 cent shall be abated. A tax or assessment upon real

46 estate may be abated although no list of property
47 was brought in within the time specified by the notice
48 required by section twenty-nine; provided, that the
49 application for an abatement of such tax or assess-
50 ment included a sufficient description of the particu-
51 lar real estate as to which an abatement is requested.

52 Upon the filing of a complaint under this section
53 the clerk of the county commissioners or of the board
54 authorized to hear and determine the same shall
55 forthwith transmit a certified copy of such complaint
56 to the assessors and the assessors or the city solicitor
57 or town counsel may within thirty days after receipt
58 of said copy give written notice to said clerk and to
59 the complainant that the town elects to have the same
60 heard and determined by the appellate tax board.
61 Thereupon, the clerk of the county commissioners or
62 of the board authorized to hear and determine such
63 complaints shall forward all papers with respect to
64 such complaint then in the file of the county commis-
65 sioners or other such board to the clerk of the appel-
66 late tax board and proceedings with respect to such
67 complaint shall thenceforth be continued as provided
68 in chapter fifty-eight A. If upon hearing it appears
69 that the complainant has complied with all applicable
70 provisions of law and the appellate tax board finds
71 that the complainant is duly entitled to an abatement,
72 it may grant him such reasonable abatement as justice
73 may require, and shall enter an order directing the
74 treasurer of the town to refund said amount, if the tax
75 sought to be abated has been paid, together with all
76 charges and interest at five per cent on the amount
77 of the abatement from the date of the payment of
78 the tax. The board may make such order with
79 respect to the payment of costs as justice may require.

1 SECTION 2. Section sixty-five B of said chapter
2 fifty-nine, inserted by section three of chapter four
3 hundred and seventy-eight of the acts of nineteen
4 hundred and thirty-eight, is hereby repealed.

1 SECTION 3. Section six of chapter fifty-eight A of
2 the General Laws, as most recently amended by sec-
3 tion four of chapter four hundred and seventy-eight
4 of the acts of nineteen hundred and thirty-eight, is
5 hereby further amended by striking out, in the sev-
6 enth line, "sixty-five B", — so that the first sentence
7 of said section six shall read as follows: — The board
8 shall have jurisdiction to decide appeals under the
9 provisions of section forty-two E of chapter forty;
10 of sections eleven, fourteen and twenty-five of chapter
11 fifty-eight; of clauses seventeenth and twenty-second
12 of section five of chapter fifty-nine; of sections
13 seven, thirty-nine, sixty-four, sixty-five, seventy-
14 three and eighty-one of said chapter fifty-nine; of
15 section two of chapter sixty A; of section forty-five
16 of chapter sixty-two; of sections two, eighteen A,
17 twenty-eight, fifty-one, sixty and seventy-one of
18 chapter sixty-three; of section six of chapter sixty-
19 four; of sections five and ten of chapter sixty-four A;
20 of sections twenty-five and twenty-six of chapter
21 sixty-five; of section four of chapter sixty-five A;
22 and under any other provision of law wherein such
23 jurisdiction is or may be expressly conferred.