

COUNSEL TO THE SENATE
STATE HOUSE
BOSTON

HOUSE No. 2

The Commonwealth of Massachusetts

APPELLATE TAX BOARD,
20 SOMERSET STREET, BOSTON, December 1, 1942.

To the General Court of Massachusetts.

In accordance with the provisions of section 4 of chapter 58A of the General Laws, a copy of the recommendations for legislation to be contained in the annual report (Pub. Doc. No. 148) of this Board is submitted, together with drafts of bills embodying the legislation recommended. These drafts have been submitted to the Counsel to the House of Representatives, as required by law.

JOHN D. WRIGHT,
Chairman.

RECOMMENDATIONS.

1. RELATIVE TO THE EXEMPTION OF CERTAIN PERSONAL PROPERTY OF CORPORATIONS.

Much confusion has arisen over the interpretation of the so-called machinery exemption clause in General Laws, chapter 59, section 5.

Clause 16 provides that real estate, polls, underground conduits, wires and pipes owned by any corporation shall be subject to local taxation. Machinery of manufacturing corporations, whether domestic or foreign, is exempt.

The said clause also provides that machinery used in the conduct of the business when owned by domestic business corporations, or by foreign corporations as defined in section 30 of chapter 63, shall be taxable. The clause also defines the term "machinery used in the conduct of business" and provides that the classification by the Commissioner of Corporations and Taxation of domestic business corporations and foreign corporations shall be followed in the assessment of machinery used in the conduct of the business. The proposed change in said clause 16 does not in any manner change the substance of the law, but in the opinion of the Board it restates the provisions of the clause with greater clarity and in a manner which we believe will be comprehended more readily by those reading it. The present confusion in the interpretation of the clause undoubtedly arises from the fact that amendments have been added from time to time without separating the various provisions and setting them forth more definitely. It will be noted in the proposed substitute clause that the several provisions have been divided into paragraphs, and this arrangement, we believe, will, if adopted, render this clause, which has been so obscure, clear and intelligible.

2. ESTABLISHING A UNIFORM ENTRY FEE FOR APPEALS
TRANSFERRED TO THE APPELLATE TAX BOARD
FROM COUNTY COMMISSIONERS.

A person aggrieved by the refusal of assessors to abate a tax on real estate may appeal to the county commissioners under chapter 59, section 64, or to the Appellate Tax Board under section 65.

If the appeal is taken to the county commissioners under section 64, the taxpayer may enter his appeal upon the payment of an entry fee of three dollars. (Chapter 262, § 4.)

If the taxpayer takes an appeal to the Appellate Tax Board under section 65 he is required to pay an entry fee established by chapter 58A, § 7, equal to ten cents on each one thousand dollars of the assessed value of the real estate.

It is also provided under section 64 that the assessors or the city solicitor may cause the appeal pending before the county commissioners to be transferred to and heard by the Appellate Tax Board without the payment of the entry fee required by section 7 of chapter 58A. Obviously, in order to avoid paying the statutory fee of ten cents per thousand dollars when they file their appeal directly with the Appellate Tax Board, some taxpayers have first filed their appeals with the county commissioners by paying the entry fee of three dollars there, and then by an apparently prearranged plan have the appeal transferred to the Appellate Tax Board at no additional expense. Our records show that this practice has resulted in a loss of several thousand dollars in revenue to the Commonwealth.

The proposed legislation will establish a uniform entry fee in appeals transferred from county commissioners and those taken from assessors to the Appellate Tax Board.

3. TO ESTABLISH A MINIMUM ENTRY FEE IN CERTAIN
APPEALS TO THE APPELLATE TAX BOARD.

A taxpayer who owns and occupies a dwelling now has the benefit of a special fee established by the Legislature

in 1938 to especially aid the small home owner. If the assessed value of his home does not exceed \$20,000 he may file an appeal with the Appellate Tax Board by the payment of a fee of two dollars.

The taxpayer who is aggrieved by an assessment on his household furniture and effects, however small the value, is now required to pay a minimum filing fee of five dollars.

The accompanying bill if enacted into law would correct this situation and make the fee uniform.