



TO: Boards of Assessors
FROM: Marilyn H. Browne, Chief, Bureau of Local Assessment
DATE: May 13, 2011
TOPIC: CERTIFIED TELEPHONE & TELEGRAPH VALUATIONS
FISCAL YEAR 2012

The Commissioner of Revenue has determined and hereby certifies the full and fair cash valuation of taxable telephone and telegraph machinery, poles, wires and underground conduits, wires and pipes of the centrally valued telephone and telegraph companies, as of January 1, 2011. These valuations are certified for fiscal year 2012 under Massachusetts General Laws Chapter 59, Section 39. The property owner or the board of assessors desiring to do so must appeal the valuations to the Appellate Tax Board (ATB) on or before June 15, 2011.

Taxable Property

The Commissioner values only those designated telephone and telegraph assets that are taxable under the General Laws. With respect to machinery of a telephone and telegraph corporation, only electric generating machinery is subject to central valuation and taxation under M.G.L. c. 59, § 18, Second and M.G.L. c. 59, § 5, cl. 16(1) (machinery used in manufacture); Assessors of Springfield v. Commissioner of Corporation and Taxation, 321 Mass. 186 (1947). Telephone and telegraph companies doing business as partnerships, trusts or limited liability companies (LLCs) are subject to central valuation and taxation on all machinery used to provide telephone service, including switching and routing machinery. M.G.L. c. 59, § 39; M.G.L. c. 59 § 18, First and Sixth; RCN-BecoCom, LLC v. Commissioner of Revenue, 443 Mass. 198 (2005).

The Commissioner also values all telephone and telegraph company poles, wires, underground conduits, wires and pipes situated on public and private property. M.G.L. c. 59, § 39; M.G.L. c. 59, § 5, cl. 16(1); M.G.L. c. 59, § 18, First, Fifth and Sixth, as amended by St. 2009, c. 27, §§ 25 and 149. The 2009 act amended M.G.L. c. 59, § 18, Fifth and specifically provides for the taxation of poles and wires owned by telecommunication corporations and located on public ways beginning in FY2010. See also October 1, 2009 Decision of the ATB in Verizon New England Inc., Consolidated Central Valuation Appeals, ATB Docket No. C265966, ATB 2009-851, ruling that poles and wires of incorporated telephone and telegraph companies over public ways are taxable under M.G.L. c. 59, § 18, First. Partnerships, trusts and LLCs have been valued on poles, wires, underground conduits, wires and pipes wherever situated since Nashoba Communications Limited Partnership v. Assessors of Danvers, 429 Mass. 126 (1999), which ruled that a limited partnership is subject to tax on poles and wires over public ways under M.G.L. c. 59, § 18, Sixth. Further, partnerships, trusts and LLCs are subject to valuation and assessment locally on all other non-telephone personal property. Therefore, those companies must file a Form of List in all communities where such other personal property is located. (See the posted list of FY2012 Centrally Valued Telephone Company Addresses to identify these companies.)

In addition, the Commissioner values telephone and telegraph company property that is construction work in progress or is owned but not necessarily in service (CWIP). See March 13, 2008 Decision of the ATB in MCI Consolidated Central Valuation Appeals, ATB Docket No. C269462, and Decision of the ATB in Verizon New England Consolidated, which ruled that telephone company CWIP was also subject to tax. Also, as a result of the Verizon New England Consolidated Central Valuation Appeals, the Department applies economic obsolescence to personal property less than a year old. (Generators are not receiving economic obsolescence.)

Overlay Account Provisions – FY2012

Oral arguments in Verizon New England Inc., Consolidated Central Valuation Appeals were heard on November 9th, 2010 at the Appeals Court. The appeal challenges the ATB's decisions that (1) the company's poles and wires on public ways were subject to tax under M.G.L. c. 59, § 18, First, before the 2009 amendment of M.G.L. c. 59, § 18, Fifth, and (2) the company's CWIP is taxable. In FY2009 we required communities to set aside amounts in overlay to cover the valuation of poles and wires over public ways (these funds should be retained in overlay) and CWIP. Despite legislation that made poles and wires over public ways taxable for FY2010, CWIP remains an outstanding issue and as such funds should continue to be set aside for FY2009– FY2012 pending the outcome of the Verizon appeals. In order to assist assessors determine the potential liability as a result of these cases, the Commissioner is providing assessors with a separate dollar value for CWIP.

CWIP and New Growth

In an effort to comply with the ATB's FY2009 decision on the MCI Consolidated Central Valuation Appeals, the Bureau values CWIP. However, to avoid double counting last year's CWIP as new growth in the current year and to be as accurate as possible given the companies' reporting limitations, we subtract the prior year's CWIP number from the total new growth identified by companies for each community in the current year. In the event that a company reports a larger amount of CWIP in the prior year than new growth in the current year, we net the community's new growth only to zero, never a negative number. In the majority of instances we believe that growth from items placed in service is higher than the prior year's CWIP due to the addition of indirect costs.

New growth will remain a completely separate calculation so as not to affect the DOR's mass appraisal valuation model.

Company Local Filing Requirements

With respect to **local filing requirements**, telephone and telegraph companies organized as partnerships, trusts, LLCs or other unincorporated legal entities are not entitled to any corporate property tax exemptions. M.G.L. c. 59, § 5, cl. 16; M.G.L. c. 63, §§ 30(1), 30(2), 39, 52A and 68C. Except for the centrally valued telephone and telegraph property, they are subject to local valuation and assessment on all other personal property situated in the community. This may include dedicated cable TV and Internet access machinery of bundled carriers, but all property used for both telephone service and cable TV or Internet access should have been reported centrally and valued as part of this certification.

Telephone and Telegraph Company Issues

The following describes significant changes from the prior valuation year: RCN Corporation which included RCN Becocom, Inc. was purchased by Yankee Cable/ABRY Partners in 2010. The new owners reorganized their subsidiaries resulting in RCN Becocom becoming an LLC. Since the company was an LLC in FY2006 only non-generating machinery acquired subsequently will receive new tax base levy growth. Choice One Communications of Massachusetts, Inc. and Conversent Communications of Massachusetts, Inc., both One Communications companies, closed their Worcester site. They also reported that they conducted a full inventory that resulted in assets in other locations being removed.

DOR Categorical Listing of Data by Federal Communications Commission Codes (FCC)

On May 13, 2011, the Department posted to our [website](#) the *Additional Landline Telephone and Telegraph Personalty by FCC Code* by community for each of the centrally valued telephone and telegraph companies by any of 23 applicable (FCC) categories we use, plus categories for CWIP and spares by community. The additional data is available on our [website](#) in a second pivot table. That table is for informational purposes only and the numbers are not rounded. The data provided on the *FY2012 Centrally Valued Telephone and Telegraph Company Values* also issued on May 13, 2011 should be used for billing purposes and completing the LA4 (Assessment Classification Report) for tax rate setting purposes.

Company Lists and Addresses

Centrally valued telephone and telegraph company billing names and addresses as reported by the companies are posted on our [website](#) for your convenience. All other companies should be valued locally.

Questions regarding valuations may be directed to John Gillet at 617-626-3605.