

**Medicare Enrollment**  
Chapter 374 of the Acts of 2008  
Effective 11/7/2008 [1:1]

- Adds local acceptance § 18A to G.L. c. 32B
- Allows local government to require eligible employees who retire after acceptance to enroll in federal Medicare program
- Reduces penalty for late enrollment for previous retirees that occurs under local option G.L. c. 32B, § 18
- Local government still pays for Medicare Part B penalty for new retirees who enroll late

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**FY2009 Supplemental Budget**  
Chapter 377 of the Acts of 2008  
Effective 11/7/2008 [1:2]

**§§ 2, 2A & 10 Deadline for Joining GIC**

- Amends G.L. c. 32B, § 19(e)
- Makes 12/1 deadline to join GIC for active and retired employees' health insurance coverage in next fiscal year
- Reverts to 10/1 deadline on 1/1/2012

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**OPEB Liability Trust Funds**  
Chapter 479 of the Acts of 2008  
Effective 1/10/2009 [1:3]

- Adds local acceptance § 20 to G.L. c. 32B
- Allows cities, towns, districts, counties and municipal light plants to create special trust fund to cover future health insurance and other post employment benefits (OPEB) for retirees

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Chapter 479 of 2008 (continued)

- Requires actuary to determine unfunded liability and PERAC actuary to approve funding schedule
- Makes appropriations to the fund discretionary
- Makes treasurer, or light plant designee, the fund custodian
- Allows investments under prudent investor statute (G.L. c. 203C)

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**State Budget Reductions**

Chapter 1 of the Acts of 2009  
Effective 1/22/2009 [1:5]

- Expands Governor's power under G.L. c. 29, § 9C to cut state budget appropriations to address FY2009 revenue shortfalls
- Expanded power includes some local aid appropriations
- See Bulletin 2009-04B (1/2009)

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**FY2009 Supplemental Budget**

Chapter 5 of the Acts of 2008  
Effective 3/19/2009 [1:6]

**§ 20 Extended Unemployment Benefits**

- Allows payment of 13 weeks of extended benefits under 2008 federal act before paying state extended benefits
- Self-insured government entities not charged while federal funds used for extended benefits, but must pay 100% after
- See 6/10/2009 DUA notice

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## **Pension Reform**

**Chapter 21 of the Acts of 2009  
Effective 6/16/2009 [1:7]**

- Reforms applicable to public employees retiring after 7/1/2009
- Redefines regular compensation
- Excludes housing and other allowances
- Includes holiday pay for public safety employees and some additional services by teachers

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### **Chapter 21 of 2009 (continued)**

- Grandfathers old definition until collective bargaining agreement expires or 6/30/2012 if earlier
- Removes 1 day/1 year rule for elected officials retiring after 7/1/2009
- Eliminates termination allowance for elected officials who aren't reelected

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### **Chapter 21 of 2009 (continued)**

- Requires elected officials to have minimum 10 years service by age 55
- Removes purchase of creditable service for some unpaid positions
- Eliminates creditable service for those paid less than \$5,000 after 7/1/2009

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Chapter 21 of 2009 (continued)

- Restricts amount paid to retiree as independent contractor by employer
- Sets new pension calculation formula for retirees in more than 1 system, with each employment treated separately, as of 1/1/2010

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Chapter 21 of 2009 (continued)

- Requires inactive employees to begin withdrawals by age 70½ to conform to federal law
- Allows retirement board to require direct deposit of pension payments
- Requires retirement board to notify employer if pension insufficient to cover retiree's health insurance premium contribution

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Chapter 21 of 2009 (continued)

- Extends full funding schedule by 2 years to 2030
- Reestablishes special commission on public pensions, with report due 9/1/2009
- See PERAC Memo No. 24, 2009 (6/22/2009)

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**Pension Charges to Federal Education Grants**

Chapter 26 of the Acts of 2009  
Effective 6/29/2009 [1:13]

- Waives 9% pension chargeback on salaries funded by school grants made during FY2009 & 2010 under federal American Reinvestment and Recovery Act (ARRA)
- See G.L. c. 40, § 5D & IGR 90-106 (3/1990)

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**FY2010 State Budget**

Chapter 27 of the Acts of 2009  
Effective 7/1/2009 unless noted [1:14]

- Item 8000-0040 Police Career Incentive Program (Quinn Bill) Reimbursement
- Makes police officers hired on or after 7/1/2009, or employed as of that date, who have not started accumulating points ineligible for career incentive program under G.L. c. 41, § 108L

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Chapter 27 of 2009 (continued)

**§ 24 Senior Work-off Abatements**

- Amends local acceptance G.L. c. 59, § 5K
- Increases maximum property tax abatement seniors may earn in exchange for voluntary services from \$750 to \$1,000

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Chapter 27 of 2009 (continued)

**§§ 25 & 149 Telecom Poles & Wires**

- Amends G.L. c. 59, § 18, Fifth
- Eliminates tax exemption for poles and wires owned by telecom corporations and located on public ways
- Makes assets taxable for FY2010
- Allows omitted/revised assessment of assets during FY2010
- See Bulletin 2009-14B (7/2009)

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Chapter 27 of 2009 (continued)

**§§ 50-52 & 154 Room Occupancy Excise**

- Amends G.L. c. 64G, § 2 to remove exemption for hotels or motels run by public & private educational institutions
- Amends local acceptance G.L. c. 64G, § 3A to increase maximum local room occupancy excise rate from 4% to 6%
- Effective 8/1/2009
- See Bulletins 2009-15B & 2009-17B (7/2009)

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Chapter 27 of 2009 (continued)

**§§ 60 & 156 Local Meals Excise**

- Adds local acceptance G.L. c. 64L
- Imposes local excise of .75% on restaurant meals
- Effective 10/1/2009
- See Bulletins 2009-15B & 2009-17B (7/2009)

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Chapter 27 of 2009 (continued)

**§ 62 School Construction Projects**

- Amends G.L. c. 70B, § 6(d)
- Authorizes regional school committees to borrow for local share of approved school construction project
- Effective 1/1/2008

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Chapter 27 of 2009 (continued)

**§ 114 Education Reform Waivers**

- FY2009 Ed Reform Waivers
- Allows DOR to adjust minimum required contribution for local & regional school districts for FY2010
- Applications Due 10/1/2009
- See IGR 09-302 (7/2009)

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Chapter 27 of 2009 (continued)

**§ 144 Water Infrastructure Commission**

- 17 member commission to develop long-range plan to finance water infrastructure for state and municipalities
- Study due in 2 years

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**Ethics Reform**

Chapter 28 of the Acts of 2009  
Effective 9/29/2009 unless noted [1:22]

- **Makes changes in Lobbying, Open Meeting, Campaign Finance and Ethics Laws**

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Chapter 28 of 2009 (continued)

- **§§ 17-20 & 106 Consolidate all open meeting laws into new G.L. c. 30A, §§ 18-25 effective 7/1/2010**
- **Places oversight and enforcement in Attorney General (AG)**
- **Provides for AG to train local officials and issue advisory opinions and regulations**

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Chapter 28 of 2009 (continued)

- **Provides for AG to investigate violations and after hearing, impose sanction from options in law if violation occurred**
- **Allows electronic posting of notices and some email communications**

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Chapter 28 of 2009 (continued)

- §§ 23-59 & 105 Amend Campaign Finance Law effective 1/1/2010
- §§ 35, 54-56 & 105 expand reporting requirements for local campaigns
- Requires electronic reporting to Office of Campaign & Political Finance (OCPF) for some mayoral candidates
- Provides for local web posting of reports from candidates for other local offices

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Chapter 28 of 2009 (continued)

- §§ 61-97 Amend Conflict of Interest Law
- §§ 84, 101 and 102 establish ethics law training requirements for public employees
- Requires State Ethics Commission (SEC) to publish summary of law on website and provide to public employees within 30 days of employment and every year

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Chapter 28 of 2009 (continued)

- Requires SEC to provide on-line training to public employees within 30 days of employment and every 2 years
- Requires cities and towns to designate senior official to coordinate with SEC

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## **Regionalization Commission**

Chapter 60 of the Acts of 2009  
Effective 7/1/2009 [1:35]

- 19 member commission to study opportunities for regionalization of local services
- Study due 4/30/2010

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## **Municipal Relief Proposals**

Municipal Partnership Act (MPA) II (H. 104)  
Municipal Relief Commission (MRC)

### **Joint Assessing (MPA & MRC)**

- Allows cities and towns to share all assessing department staff
- Allows cities and towns to designate 1 person, 1 board of assessors of parties or regional board of assessors, to serve as assessors for all parties

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### **Municipal Relief Proposals (continued)**

### **Certification Review Schedules (MPA & MRC)**

- DLS may reschedule triennial certification reviews more evenly over 3 year cycle
- New schedule to consider facilitation of shared or regional assessing agreements

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Municipal Relief Proposals (continued)

**Personal Property Audits (MPA)**

- Allows assessors and DLS to audit local and central valuation personal property returns
- Allows revised/omitted assessments based on audits within 3 years
- Gives power to compel production of taxpayer records similar to DOR for state tax purposes

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Municipal Relief Proposals (continued)

**Pre-assessment Property Returns**

- Increases penalty for failure of business property owners to file pre-assessment income and expense returns to \$500 (now \$50)

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Municipal Relief Proposals (continued)

**Condo Development Rights & Fees**

- Allows taxation of development rights retained by developer, and other interests, in common area (MPA & MRC)
- Limits municipal liability for condo association fees after unit placed in tax title (MRC)

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Municipal Relief Proposals (continued)

**TIF Agreements (MRC)**

- Allow tax exemption % for personal property on site to be negotiated same as real estate % (now all exempt even if owned by different party than real estate)

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Municipal Relief Proposals (continued)

**Tax & Charge Bills (MRC)**

- Allows e-billing of property tax bills
- Allows mailing of bills for other municipal charges (water, sewer, trash, light plant) in same envelope as tax bill

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Municipal Relief Proposals (continued)

**Borrowing Flexibility (MPA & MRC)**

- Allows borrowing for longer term than in G.L. c. 44, §§ 7 & 8, up to 30 years or useful life under DLS guidelines
- Adds general authority to borrow for public work, improvement or asset with useful life of at least 5 years
- Adds level debt service as repayment option generally

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**OCPF Advisory**

Endorsing Proposition 2½ Questions  
10/2/2008 [1:37]

- Advisory Opinion (AO) 08-08
- Public officials may endorse Proposition 2½ ballot questions and hold informational meetings on subject
- Public officials may not use public resources to publicize endorsement
- Also see OCPF Interpretative Bulletin (IB) 92-02 (revised 1/9/2007)

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**Mary Ann Morse Healthcare Corp. v. Assessors of Framingham,**  
74 Mass. App. Ct. 701 (2009) [2:47]

- Exemption claim of assisted living facility for units and areas used by residents with Alzheimer's, dementia & memory impairment
- Appeals Court modified "community benefit test" saying that "nursing home for the elderly and the infirm" is "traditional" charitable work
- Rejected ATB view that high fees unduly limited access to services
- Residents' privacy rights were not so "absolute" as to preclude occupancy by corporation

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**Straight Ahead Ministries, Inc. v. Assessors of Hubbardston,**  
ATB (January 5, 2009) [2A:46]

- Exemption claim of organization offering short-term residential counseling and training programs for young men recently released from DYS detention
- Helping the Commonwealth rehabilitate "wayward young men" relieved a "burden of government"
- Explicitly religious character of program no bar to exempt status

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**Wiggins v. Assessors of Boston**

ATB (January 13, 2009) [2A:58]

- Application for residential exemption under G.L. c. 59, § 5C timely within 3 months of the mailing of the actual tax bill
- ATB adopted “facts and circumstances” (similar to domicile) analysis to determine “principal residence of a taxpayer as used by the taxpayer for income tax purposes”
- Rejected Boston’s view that eligible residential address must appear on the taxpayer’s income tax return from the prior year

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**Browning v. Assessors of Boston**

ATB (April 1, 2009) [2A:5]

- Application for residential exemption under G.L. c. 59, § 5C
- ATB rejected Boston’s view that eligible residential address must appear on the taxpayer’s income tax return from the prior year
- Uncontroverted evidence that taxpayer owned and occupied the property on the 1/1 exemption qualifying date

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**CFM Buckley/North LLC v. Assessors of Greenfield**

453 Mass. 404 (2009) [2:15]

- Limited liability company (LLC) is not eligible for a charitable exemption on its real estate tax
- SJC held charitable exemption under G.L. c. 59, § 5, Clause 3 limited to charitable corporations or charitable trusts

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**Middlesex Retirement System, LLC v**

**Assessors of Billerica**

**453 Mass. 495 (2009) [2:72]**

- Limited liability company (LLC) with Middlesex Retirement System as sole member taxable on its real estate
- SJC held personal property owned by Middlesex retirement system, not the LLC, was exempt from property tax under common law

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**Morton Street LLC v.**  
**Sheriff of Suffolk County**

**453 Mass. 485 (2009) [2:78]**

- Sheriff could legally terminate 10 year lease with 7 years remaining when Commonwealth ceased funding source
- Standard city contract applicable to lease contained subject to appropriation and termination for convenience clauses

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**US Bank National Assn v. Ibanez**

**17 LRC 202 (March 26, 2009) [2A:74]**

- Mortgage foreclosures were ruled invalid because the notices failed to name the mortgage holder
- Land Court discussed the meaning of "newspaper of general circulation"

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**Cape Cod Five Cents Savings Bank v.**

**Assessors of Harwich**

ATB (July 17, 2009) [2A:9]

- Application for Chapter 61B classification of golf course as recreational land
- Course use limited to members of foundation and guests of particular resort
- "Favorable tax treatment of land available to select few, not the general public, has consistently been denied"

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**Adams v. Assessors of Westport**

ATB (December 30, 2008) [2A:1]

- Land subject to Chapter 61A agricultural classification
- Conversion of portion of land for residential use of owner's family
- No notice requirement for option to purchase when converting to personal family residence
- Conveyance tax implications of conversion of classified land for personal family residence

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**Silva v. City of Attleboro**

454 Mass 165 (2009) [2:104]

- SJC reversed Appeals Court decision that burial permit fee was improper tax
- Distinguished between regulatory fees and service fees
- Burial permit fee was valid, even though required
- Fees charged were reasonably calculated to cover town's expenses in its regulatory functions

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**Seideman v. City of Newton**  
**452 Mass. 472 (2008) [2:98]**

- 10 taxpayer action challenging city's use of CPA funds for recreational purposes
- Property used for recreational purposes but not acquired with CPA funds
- SJC held funds were being used to rehabilitate the recreational property rather than to create or preserve it
- Funds cannot be used for rehabilitation unless property originally acquired or created with CPA funds

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**Retirement Board of Salem v. CRAB**  
**453 Mass. 286 (2009) [2:89]**

- Accidental disability retirement claim
- Heart attack at home 1 hour after being told at work position was eliminated
- SJC ruled employee had been disabled by a personal injury sustained during the course of employment

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**Lynn v. Lynn Police Association**  
**73 Mass. App. Ct. 489 (2009) [2:37]**

- Collective bargaining agreement reached on pay reduction concessions in exchange for agreement to apply grant funds to police
- City failed to use grant money to repay police for concessions
- City ordered to pay back wages despite city charter restrictions on overspending

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**Boston v. Boston Patrolmen's Assn.**

74 Mass. App. Ct. 379 (2009) [2:5]

- Police officer admitted to sufficient facts on assault and battery and case continued without a finding for 1 year
- Officer terminated due to admission of felony
- Arbitrator reduced termination to suspension and ordered back pay after suspension period
- Appeals Court vacated because public policy requires upholding termination decision for police officer who has admitted to committing a felony

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**Assn. of Weston Active & Retired Employees v. Weston**

07-P-1196 Mass. App. Ct. (2009) [2:1]

- Retirees required to sign up for Medicare coverage & Medicare extension plan
- Retirees claimed greater burden, fewer benefits
- Appeals Court ruled insufficient evidence that alternative health care coverage was not of comparable value

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**Spinosa v. Assessors of Wellesley**

ATB (August 6, 2009) [2A:42]

- Restaurant equipment sold by sole proprietor in June
- Seller claimed the equipment could not be taxed to the sole proprietorship because it was not owned on 7/1
- ATB ruled relevant date for determination of ownership of personal property for property tax purposes is 1/1

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**Electronic Data Systems Corp v. AG**

454 Mass. 63 (2009) [2:21]

- Employer's vacation pay policy required loss of accumulated earned vacation upon involuntary termination
- SJC ruled this violated payment of wage statute G.L. c. 149, § 148
- Did not decide policy issue in case of a voluntary termination
- Ruled that reasonable "use or lose" policy was not violation of statute

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**MBTA v. Boston Carmen's Union**

454 Mass. 19 (2009) [2:52]

- MBTA settled claim of disabled person claiming discrimination without MCAD order
- Settlement called for back-dated seniority
- Union grieved violation of collective bargaining agreement seniority provisions
- SJC upheld MBTA on public policy grounds

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**Secretary of A&F v. CERB**

74 Mass. App. Ct. 91 (2009) [2:93]

- Collective bargaining agreement included free parking fringe benefit
- Federal law requires value of benefit, in excess of federal maximum, be included in taxable income
- Appeals Court held state had duty to bargain over impact of change on wages before implementing withholding and retroactive application

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**City of Boston v. CERB**  
**453 Mass. 389 (2009) [2:7]**

- Boston unilaterally adopted extended overtime work period for police officers under federal OT guidelines
- Union grieved decision and claimed breach of city's duty to bargain
- SJC found city violated collective bargaining laws and ordered to pay back overtime

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**Maier v. Ret. Bd. of Quincy**  
**452 Mass. 517 (2008) [2:41]**

- Retiree, who had been city plumbing inspector, entered guilty plea for breaking & entering into city hall
- Retirement board determined pension was forfeited based on felony conviction
- Retiree argued excessive punishment
- SJC held statutory forfeiture was not excessive fine in violation of 8<sup>th</sup> Amendment to U.S. Constitution

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**Foresta v. CRAB**  
**453 Mass. 669 (2009) [2:27]**

- Mass. Turnpike Authority safety inspector injured on job
- Job was modified to accommodate injury
- Employee able to perform essential functions of modified job
- SJC held accidental disability retirement was properly denied based on ability to perform modified job

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**Patriot Ledger v. Masterson**

25 Mass. L. Rep. 261 (2009) [2A:93]

- Quincy newspaper requested names of doctors certifying municipal employees seeking disability pensions were disabled from performing their jobs
- Retirement board refused to provide citing claimant medical privacy requirements
- Superior Court ruled a strong public interest outweighed claimants' privacy interests and doctors' names could be disclosed

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**MCI Worldcom v. Comm. of Revenue**

454 Mass. 635 (2009) [2:62]

- Centrally valued landline telephone company properly valued using DOR's reproduction cost new less depreciation method utilizing FCC categories
- SJC upheld DOR's economic depreciation % in all years of appeal
- Ruled MCIWorldcom company formed as LLC not entitled to corporate exemptions, even though it changed to a corporation after 1/1 but before 7/1

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**MASSPCSCO v. Comm. of Revenue**

ATB (September 10, 2009) [2A:96]

- Appeals assessment of personal property of Delaware statutory trust
- Trust entitled to classification as foreign corporation
- Trust not entitled to business corporation exemptions under GL c. 59, § 5, Clause 16(2) for tax years
- Significant issue of tax avoidance by mere change of entity status
- Parties filed for findings of fact and report

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