

Municipal Relief

Chapter 188 of the Acts of 2010
Effective 7/27/2010 [1:11]

§ 25 Certification Review Schedules

- Amends G.L. c. 40, § 56
- DLS/DOR may reschedule triennial certification reviews more evenly over 3 year cycle
- DLS may consider balancing reviews each year, facilitating shared or regional assessing agreements

Chapter 188 of 2010 (continued) [1:12]

§ 26 Joint Assessing Agreements

- Amends G.L. c. 41, § 30B
- Lets cities and towns to share all assessing department staff
- May have 1 person, 1 board of assessors or a regional board of assessors serve as assessors for all parties

Chapter 188 of 2010 (continued) [1:13]

§ 38 Streamlined 8 of 58 abatements

- Amends G.L. c. 58, § 8
- Lets DOR delegate its power to authorize local boards and officers to abate some taxes and charges where local jurisdiction no longer exists
- May now authorize local abatements by guideline rather than case by case
- May require annual reports and audits

Chapter 188 of 2010 (continued) [1:13]

§ 39 Financial Hardship Deferrals

- Amends G.L. c. 59, § 5(18A)
- Lets city or town set lower interest rate on deferred taxes than 8% statutory rate
- Legislative body must vote rate change by July 1

Chapter 188 of 2010 (continued) [1:14]

§ 40 Veteran Exemption

- Amends G.L. c. 59, § 5(22E)
- Eliminates “incapable of working” eligibility requirement
- Veteran still must have 100% disability rating
- Applies to 7/1/11 determinations (FY12)

Chapter 188 of 2010 (continued) [1:14]

§ 41 Senior Exemption

- Amends local acceptance senior exemption G.L. c. 59, § 5(41C $\frac{1}{2}$)
- Applies gross receipts limit to combined receipts of married applicant and spouse
- Applies to 7/1/11 determinations (FY12)

Chapter 188 of 2010 (continued) [1:14]

§ 42 National Guard Exemption

- Adds new local acceptance exemption G.L. c. 59, § 5(56)
- Exempts up to 100% real and personal property for MA guardsmen
- Applies only in FY deployed overseas
- Assessors determine eligibility criteria
- Expires 2 years after acceptance unless legislative body votes to extend

Chapter 188 of 2010 (continued) [1:14]

§ 42 Senior Exemption

- Adds new local acceptance exemption G.L. c. 59, § 5(57)
- Exempts seniors who qualify for MA income tax “circuit breaker” credit
- Maximum exemption same as credit
- Exemptions subject to appropriation

Chapter 188 of 2010 (continued) [1:14]

§ 43 Senior Work-off Abatement

- Amends G.L. c. 59, § 5K
- Allows maximum abatement of 125 hours worked or \$1,000
- Allows proxy to work for eligible senior
- Legislative body vote required

Economic Development

Chapter 240 of the Acts of 2010
Effective 8/1/2010 unless noted [1:47]

§§ 75-78, 109, 206 Tax Increment Financing (TIF) Exemptions

- Amends G.L. c. 40, §§ 59, 60, 60A
- TIF agreements to specify exemption % for real and personal property
- Amends G.L. c. 59, § 5(51) exemption for TIF property based on agreement

Chapter 240 of 2010 (continued) [1:47]

§§ 108, 200 Disregarded LLC Exemption

- Adds new local acceptance exemption to G.L. c. 59, § 5(16)(3)
- Gives manufacturing corporation exemption to LLC that is disregarded entity and whose sole owner is manufacturing or R & D corporation
- Effective for 1/1/11 (FY12) taxes

Chapter 240 of 2010 (continued) [1:47]

§§ 105, 110, 206 Gateway Community Housing Program Exemption

- Adds G.L. c. 40V and c. 59, § 5M
- Creates Gateway community housing incentive program for multi-unit market rate residential units
- Exempts 10-100% of incremental value for 5-20 years by agreement
- Administered by DHCD
- Effective for 1/1/11 (FY12) taxes

Mortgage Foreclosures

Chapter 258 of the Acts of 2010
Effective 8/7/2010 [1:55]

§ 1 Affordable Housing Exemption

- Adds new local acceptance option to G.L. c. 59, § 5(3)
- Gives charity extra time to develop affordable housing and keep exemption
- Charity must have bought property from party that acquired it by mortgage foreclosure sale
- Must meet CPA community housing definition
- Property exempt until rented or sold, or 7 years after acquisition, if earlier

Military Spouses Residency Relief Act

Public Law 111-97
Effective 11/11/2009 [1:56]

- Amends Servicemembers Civil Relief Act
- Establishes domicile of servicemember's spouse for state or local tax purposes
- Spouse domiciled in same state as servicemember also retains that domicile when living with member elsewhere due to military orders
- Vehicles owned by non-domiciliary spouse alone also exempt from motor vehicle excise

Municipal Relief

Chapter 188 of the Acts of 2010 [1:14]

§§ 44-46, 49-53 Personal Property Audits

- Allows assessors and DLS to audit local and central valuation personal property returns (forms of list)
- Gives assessors power to compel production of taxpayer records similar to DOR's authority in state tax audits

Chapter 188 of 2010 (continued) [1:14]

- **Look-back period runs 3 years from date form of list was due or filed, whichever is later**
- **Allows revised/omitted assessments based on audit findings, up to 3½ years after form of list was due or filed, whichever is later**
- **Taxpayers' right to seek abatement restricted for non-compliance with audit**

Chapter 188 of 2010 (continued) [1:15]

§§ 47, 48 Pre-assessment Property Returns

- **Increases penalty for failure of business property owners to file pre-assessment income and expense returns to \$250 (now \$50)**
- **Owners must be notified about potential for fine for non-filing**

Chapter 188 of 2010 (continued) [1:15]

- **Automatic dismissal of appeal for non-compliance with informational return requirements**
- **No ATB-ordered filing extensions unless applicant unable to comply with information request for reasons beyond his control, or tried to comply in good faith**

Municipal Fine Collection

Chapter 26 of the Acts of 2010
Effective 5/11/2010 [1:4]

- Allows some unpaid municipal fines, plus accrued interest and late fees, to be added as a lien to real estate
- By-laws or ordinances fix fines for housing/sanitary code and snow and ice removal violations
- Violator has 21 days from date of citation to pay fine or request a hearing

Chapter 26 of 2010 (continued) [1:4]

- May tie the placement of lien to number and dollar amount of fines for violations
- Question as to how and when lien arises; ordinance or by-law should address payment procedures to define when the lien arises

Municipal Relief

Chapter 188 of the Acts of 2010 [1:15]

§§ 54, 55 Tax and Charge Bills

- Allows property tax bills to show personal exemptions and net tax due
- Allows e-billing of property tax bills under voluntary program set up by collector with approval of mayor or selectmen

Chapter 188 of 2010 (continued) [1:15]

- Allows separate bills for municipal charges (water, sewer, trash, light) in same envelope or e-billing as tax bill
- Nonpolitical municipal informational material may be included with e-bill same as with mailed bills
- Requires payment due date on motor vehicle excise bills

Chapter 188 of 2010 (continued) [1:16]

§ 68 Local Tax Amnesty

- Program must be established by local legislative body
- All or fixed, uniform percentage of interest and penalties may be waived on payment of underlying tax
- Some charges may not be waived
- Amnesty period begins when program established and ends by 6/30/11

FY2010 Supplemental Budget

Chapter 120 of the Acts of 2009
Effective 11/7/2008 [1:1]

§ 13 Tax Credit Bonds

- Adds G.L. c. 44, § 21B
- Lets cities, towns and districts designate debt issues for capital projects as tax credit bonds
- Bondholders get federal tax credits against interest income from bonds
- Municipal bonds tax exempt, so US treasury refunds credit to issuer
- For Build America bonds issued before 1/1/11
- Must be for lawful borrowing purpose

Municipal Relief

Chapter 188 of the Acts of 2010 [1:12]

§§ 27, 29, 32-34, 56-57 Borrowing Flexibility

- Longer term for most purposes in G.L. c. 44, §§ 7 & 8, based on useful life up to 30 years, under DLS guidelines
- Level debt service as general repayment schedule

Chapter 188 of 2010 (continued) [1:12]

- Longer term for MSBA projects under G.L. c. 70B, § 6(d), based on useful life up to 30 years, under DLS guidelines
- Longer term for RSD projects under G.L. c. 71, § 16(d), 30 years unless DLS guidelines have lesser term

Chapter 188 of 2010 (continued) [1:13]

§§ 30, 31 New Borrowing Authority

- Dredge waterways - 10 years (G.L. c. 44, § 7(17A))
- Clean-up of pollution on municipal facilities - 10 years (G.L. c. 44, § 7(32))
- Construct seawalls – 20 years (G.L. c. 44, § 7(33))
- Public work, improvement or asset with useful life of at least 5 years – 5 years (G.L. c. 44, § 7(34))

Chapter 188 of 2010 (continued) [1:13]

**§§ 28, 36 Renewable Energy
Betterment Loan Program**

- **Similar to Septic Betterments**
- **May borrow for loans to property owners for alternative and green energy improvements – 20 years (G.L. c. 44, § 7(3C))**

Chapter 188 of 2010 (continued) [1:13]

- **May create local loan program**
 - **Authorize by by-law/ordinance**
 - **Loans repaid over 20 years on annual property tax bill**
 - **Special revenue fund set-up for loan proceeds, repayments, grants**

Chapter 188 of 2010 (continued) [1:13]

§ 35 State House Notes

- **Eliminates fees for cities, towns and districts issuing notes**

Chapter 188 of 2010 (continued) [1:15]

§ 58 RSD Stabilization Funds

- Allows use of RSD stabilization fund by 2/3 vote of RSD school committee members

Chapter 188 of 2010 (continued) [1:16]

§ 65 Abandoned Checks (Tailings)

- Amends G.L. c. 200A, § 9A
- Makes statute local acceptance
- Uncashed checks abandoned after 1 year
- Establishes new notice requirements

Economic Development

Chapter 240 of the Acts of 2010 [1:47]

§§ 99-104, 198 District Increment Financing (DIF)

- Amends G.L. c. 40Q
- Allows elimination of inflation adjustment in calculation of tax increment
- Applies only to districts formed after 8/1/10 that elect option

Municipal Relief

Chapter 188 of the Acts of 2010 [1:11]

§ 16, 71 Actuarial Valuations

- Amends G.L. c. 32, § 21(3)(f)
- Requires actuarial valuations every 2 years, rather than 3 under prior law
- Continues requirement of experience investigation every 6 years
- Conducted in manner considered appropriate by PERAC and actuary
- 1st valuation by 1/1/11

Chapter 188 of 2010 (continued) [1:11]

§ 17 Pension Funding Schedule

- Amends G.L. c. 32, § 22D(1)
- Limits payment reductions under § 22D funding schedule to 95% of amount appropriated in previous year

Chapter 188 of 2010 (continued) [1:11]

§ 18 Pension Funding Relief

- Adds G.L. c. 32, § 22F
- Authority for local retirement systems to extend funding schedule to 2040
- § 22F payment in any year must not be less than payment in prior year under then current schedule
- Increase in amortization component under § 22F from year to year cannot exceed 4% (compare with 4.5% under § 22D)

Chapter 188 of 2010 (continued) [1:11]

§ 19 Increased COLA Base

- Amends G.L. c. 32, § 103
- Allows retirement systems to increase cost of living adjustment base upwards from current \$12,000 in multiples of \$1,000
- See PERAC Memo 2010-33 (8/12/10)

Chapter 188 of 2010 (continued) [1:12]

§§ 20-21 Optional Life & Accidental Death Insurance

- Increases maximum benefit to \$150,000 from \$74,000

Chapter 188 of 2010 (continued) [1:16]

§ 66 Municipal Early Retirement Incentive

- Authorizes incentive program (ERIP)
- Requires CEO to submit plan to PERAC actuary by 9/28/10
- After approval, plan submitted to legislative body at next meeting
- Once legislative body accepts, must publish and notify employees within 1 month

Chapter 188 of 2010 (continued) [1:16]

- CEO determines employees allowed to participate and notifies them within 1 month of application deadline
- Employees must retire within 2 months of date of notification
- Employees have 2 months from publication to apply

Chapter 188 of 2010 (continued) [1:16]

- Requires 20 years creditable service
- Salary from municipal budget, not grants
- Must forego sick and vacation accrual (savings to fund ERIP)
- CEO determines which employees allowed to participate based on potential adverse impact on city/town

Chapter 188 of 2010 (continued) [1:16]

- Combination of age/creditable service not to exceed 3 years
- Limitation on filling vacancies
- Amortization of costs over 10 years
- See PERAC memo 7/30/10

Calvao v. Town of Framingham

599 F.3d 10 (1st Cir. 2010) [2:27]

- Fair Labor Standards Act challenge
- Determination of pay period for calculating overtime under FLSA
- No duty to give notice to employees of pay period determination under FLSA

Rudy v. City of Lowell

2010 U.S. Dist. Lexis 57046 [2:101]

- Fair Labor Standards Act challenge
- Standby pay considered to be part of regular pay
- For purposes of calculation of overtime pay under FLSA

Bell Atlantic Mobile of MA Corp., LTD

456 Mass. 728 (2010) [2B:99]

- Case remanded to ATB
- § 39 wireless appeals improperly dismissed by ATB
- ATB had jurisdiction to hear assessors' valuation challenges

MASSPCSCO v. Comm. of Revenue

ATB (May 7, 2010) [2B:106]

- Leasing company created by wireless company
- Reorganized from partnership to corporation following RCN-BecoCom
- Entitled to foreign corporation classification
- Not entitled to corporate property tax exemption due to tax avoidance purpose
- On appeal

Verizon New England Valuation Appeals

ATB (October 1, 2009) [2B:45]

- Landline telephone company with poles and wires
- Taxable on poles and wires over public ways and on CWIP
- Cities/towns must have filed § 39 appeals for ATB to increase valuations
- On appeal

Boston Gas Co. v. Assessors of Boston

ATB (December 16, 2009) [2B:1]

- Appeal of valuation of natural gas storage and distribution system
- Fair cash value of rate-regulated utility property not limited to net book value
- Assessed value is current market value
- On appeal

Onex Communications Corp. v. Commissioner of Revenue

457 Mass. 419 (2010) [2:94]

- Start-up company is engaged in manufacturing even if it has not produced a finished product
- Corporation engaged in manufacturing exempt from sales/use tax
- Exemption would extend to local personal property taxes

Trustees of Boston College v. Assessors of Boston,

ATB (February 4, 2010) [2A:42]

- Seminary property was acquired by private college
- Activity on parcel was not an intensive use
- Parcel was still exempt since it was occupied for charitable purpose

Bridgewater State College Foundation v. Assessors of Bridgewater

ATB (February 4, 2010) [2A:19]

- Charitable foundation was formed for exclusive benefit of state college
- Parcels owned by foundation were used by officers of foundation, college students and student groups
- All parcels were owned and occupied by foundation for charitable purposes
- ATB broadly defined the term occupancy

**Willowdale LLC v. Board of Assessors
of Topsfield**

ATB (March 15, 2010) [2A:61]

- Historic property owned by Commonwealth leased to private party who rehabilitated it at considerable expense
- Rehabilitated historic mansion used as bed and breakfast
- ATB found leased site taxable under G.L. c. 59, § 2B

**Union Street Realty Trust v. Board of
Assessors of Holbrook**

ATB (November 3, 2009) [2A:54]

- Owner challenged classification of entire parcel as commercial property
- Vacant land taxed at higher commercial rate
- Residential classification requires parcel to be located in a residential zone and subdivided into residential lots

Adams v. Assessors of Westport

76 Mass. App. Ct. 180 (2010) [2:1]

- Owner of land classified as Chapter 61A agricultural built residence for family use
- Building of personal family residence not change in use/conversion of land under municipal option to purchase provision
- Court held also not a change in use for assessment of conveyance tax
- Court's reasoning applies to assessment of roll-back tax

Kunelius v. Town of Stow, TPL

588 F.3d 1 (1st Cir. 2009) [2:81]

- Town exercises right of first refusal on sale of classified forest land (c. 61) and assigns option to purchase to nonprofit conservation organization (Trust for Public Land)
- Town and TPL fail to close purchase – owner loses private purchaser and sues town and trust for damages
- Federal court holds “Liquidated Damages” term of original P & S reasonable as measure of damages

Spillane v. Adams

76 Mass. App. Ct. 378 (2010) [2:108]

- Landowner, boat owners and town claim ownership, use or control of tidal flats
- Landowner removes moorings, and sues for ownership and control to low water mark
- Colonial Ordinances (1647) extend ownership of coastal owners into tidal flats to low water mark to promote commerce
- Court finds for town based on its ownership when Colonial Ordinances enacted
- Court adopts scientific NGVD standard to define usual or “mean” low water mark

Berehout v. City of Malden

431 B.R. 42 (June 22, 2010) [2:8]

- Bankruptcy case – enforcement of “automatic stay” of collection activities against city
- Debtors’ registrations marked at RMV for unpaid parking tickets before bankruptcy filing
- Mark remained 9 days after city notified of bankruptcy proceeding
- Court found city violated stay by retaining mark after notice of bankruptcy
- City fined and ordered to release mark
