

**DIVISION OF LOCAL SERVICES  
DEPARTMENT OF REVENUE**

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**2014  
“What’s New in Municipal Law”**

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**RECENT LEGISLATION  
AGENCY DECISIONS**

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**Local Taxes**

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**VALOR II Act**

**Veterans’ Allowances, Labor, Outreach and Recognition  
Chapter 62 of the Acts of 2014  
Effective 7/2/2014 [1:1]**

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**§§ 9, 11, 12 and 13 Paraplegic Veterans  
Exemption**

- Adds Clause 22F to G.L. c. 59, § 5 to codify full exemption for paraplegic veterans and their surviving spouses
- Makes spouses who own domicile eligible during paraplegic veteran’s lifetime
- Begins in FY2016

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Chapter 62 of 2014 (continued)

**§§ 10 and 16 Personal Exemptions**

- Amends G.L. c. 59, §§ 5 and 59
- Adds new Clause 22F and other recent personal exemptions to those:
  - Received by taxpayers that limit other exemptions on domicile
  - With application deadline of 12/15 or 3 months after bills issued, if later

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Chapter 62 of 2014 (continued)

**§§ 14 and 27 Optional Additional Exemption**

- Adds G.L. c. 59, § 5C½ to codify 1986 act providing for additional exemption up to 100% of personal exemptions
- Updates exemptions eligible for increase
- Begins in FY2016
- To implement (or continue) for FY, by July 1 legislative body must vote to:
  - Accept new G.L. c. 59, § 5C½
  - Specify exemption %

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Chapter 62 of 2014 (continued)

**§ 15 Veteran Work-off Abatement**

- Amends local acceptance G.L. c. 59, § 5N allowing work-off abatement program for veterans
- Makes spouses of veterans who have service-connected disabilities, or the surviving spouses of deceased veterans, eligible to participate

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Chapter 62 of 2014 (continued)

**§ 17 Motor Vehicle Excise Exemption**

- Amends local acceptance G.L. c. 60A, § 1 motor vehicle excise exemption for servicemembers who are MA residents
- Makes servicemember eligible if deployed outside MA for 45 days of excise year
  - Previously had to be deployed outside continental US
- Begins in CY2015

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**FY2015 State Budget**  
Chapter 165 of the Acts of 2014  
Effective 7/1/2014 [1:5]

**§§ 91-94 Motor Vehicle Excise Exemptions**

- Amends G.L. c. 60A, § 1 exemptions for disabled veterans and non-veterans, former prisoners of war (local acceptance) and MA resident servicemembers (local acceptance)
- Extends exemption to leased vehicles
- Begins in CY2015

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**Registry of Motor Vehicles Policy**  
Eligibility for Disabled Veteran Plates  
8/2014 [1:32]

- Medical Advisory Board (MAB) to issue letter upon determination that veteran permanently disabled and eligible for disabled veteran (DV) plate
- Veteran then chooses DV or other plate
- Veteran with MAB letter or DV plate now eligible for motor vehicle excise exemption

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**FY2015 State Budget**  
**Chapter 165 of the Acts of 2014**  
**Effective 7/1/2014 [1:5]**

**§ 90 Personal Property Taxes**

- Amends G.L. c. 59, § 5(16)(1)
- Changes term "bank" to financial institution to conform with state tax laws
- Extends exemptions for incorporated financial institution, telephone and insurance company to non-corporate companies treated as corporations for federal and state taxes
- Makes exemptions apply to out-of-state financial institutions operating in MA
- Begins in FY2016

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**CLASSIFIED LAND CORRECTIVE CHANGES**  
**Chapter 247 of the Acts of 2014**  
**Effective 11/4/2014 [1:9]**

- Amends classified forest, farm and recreational land statutes, G.L. c. 61, 61A and 61B
- Statutes amended in 2006 to clarify and standardize common features
- Corrects inadvertent drafting errors and makes conforming amendments
- Proposed by Massachusetts Association of Assessing Officers (MAAO)

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**Chapter 247 of 2014 (continued)**

- § 1 makes October 1 deadline to submit application to assessors for Chapter 61 forest land classification for 10 years
  - Now same date as annual applications for Chapter 61A farm land and 61B recreational land classification
  - Begins with Chapter 61 applications for FY2017 due 10/1/2015

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Chapter 247 of 2014 (continued)

- § 2 conforms Chapter 61 billing and appeal provisions to those of Chapters 61A and 61B
- §§ 3 and 4 exempt acquisition of classified Chapter 61 and 61A land by municipality, state or non-profit entity for natural resources from roll-back taxes

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Chapter 247 of 2014 (continued)

- §§ 5 and 7 correct error in Chapter 61A and 61B right of first refusal sections
- § 6 corrects error in Chapter 61B roll-back section so all references are 5 years
- § 8 conforms Chapter 61B abatement and appeal deadline section reference to 30 days same as other chapters

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**Economic Development**  
Chapter 287 of the Acts of 2014  
Effective 8/13/2014 [1:18]

**§§ 9-25 and 37 Economic Development Exemptions**

- Amends G.L. c. 23A, §§ 3A-3F and G.L. c. 40, § 59
- Makes mostly technical and clarifying amendments and some substantive changes broadening projects eligible for state and local tax incentives

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**Chapter 287 of 2014 (continued)**

- Amends definition of “Certified project” to include new category of “Job creation project” that:
  - Creates 100 or more jobs and out-of-state sales
  - Does not involve building a new or expanding existing facility where to be jobs located
  - Creates jobs within 2 years and maintains for 5 years

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**Chapter 287 of 2014 (continued)**

- Amends definition of “Economic development incentive program” or “EDIP” to allow certified expansion projects outside Economic Target Area (ETA) or Economic Opportunity Area (EOA) within the ETA
- Adds definitions for “Municipal project endorsement,” “Special tax assessment” (STA) and “Tax increment financing agreement” (TIF)

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**Chapter 287 of 2014 (continued)**

- Allows municipality to give STA to company proposing project not eligible for certification by Economic Assistance Coordinating Council (EACC)
- Amends G.L. c. 40, § 59 regarding TIF agreements to eliminate requirement municipality develop TIF plan and zone
  - Parcels must be in ETA or “area presenting exceptional opportunities for increased economic development”

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**EACC Policy**  
**Termination of Local Tax Incentives after  
 Revocation of Certification**  
 6/24/2014 [1:31]

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- EACC amended Policy 2013-3 on effect of EACC revocation of project certification on local TIF exemptions
- TIF for decertified project terminates if:
  - TIF agreement provides for termination OR
  - Project no longer consistent with economic development terms and conditions of municipal authorization OR
  - EACC decides municipal plan no longer furthers purpose of encouraging business

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**EACC Policy (continued)**

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- If TIF would terminate, municipality may amend agreement to change economic goals and continue exemption
- To amend, municipality must:
  - Notify EACC of plan to amend
  - Have amended agreement approved by town meeting, town council or city council with approval of mayor
  - Submit executed amendment to EACC for approval
- EACC will allow TIF for 1 year pending amendment process

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**RECENT AND PROPOSED  
 LEGISLATION**

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**Local Finances**

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**FY2015 State Budget**  
**Chapter 165 of the Acts of 2014**  
**Effective 7/1/2014 [1:5]**

**§ 83 Municipal Collections**

- Amends G.L. c. 41, § 38A option to expand powers and duties of tax collector to collect accounts due as city or town collector
  - Tax collector only collects taxes committed by assessors (and certain overdue charges added to tax by assessors)
- Amends option so community may designate accounts to be collected by municipal collector

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**Drinking Water and Wastewater Infrastructure**  
**Chapter 259 of the Acts of 2014**  
**Effective 8/6/2014 [1:12]**

**§ 26 Municipal Water Infrastructure Investment Fund**

- Adds local acceptance G.L. c. 40, § 39M
- Requires legislative body vote and approval of referendum by voters
- Permits up to 3% surcharge on real estate tax
- Blind, disabled veterans, seniors of limited means, others receiving personal exemptions exempted from surcharge

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**Chapter 259 of 2014 (continued)**

- Collections deposited to separate fund
- Interest earned belongs to fund
- Fund monies may be appropriated for maintenance, improvements and investments to municipal drinking, wastewater and stormwater infrastructure assets
- Surcharge may be revoked in same manner as accepted

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**Tax Title Collection Revolving Fund**  
**Senate 2298 [1:29]**

- Adds local acceptance G.L. c. 60, §15B
- Allows city or town to establish by by-law, ordinance or vote separate fund for tax collector, treasurer, treasurer-collector
- Fund credited with collection fees, charges, costs incurred by officer and collected on redemption or sale of tax title
- Fund may be spent without appropriation for tax taking and tax title foreclosure expenses
- Interest earned belongs to general fund
- Requires annual report

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**RECENT LEGISLATION**

**Local Employees**

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**FY2015 State Budget**

Chapter 165 of the Acts of 2014  
Effective 7/1/2014 [1:5]

**§ 73 Health Insurance for Surviving Spouses of Public Safety Personnel**

- Adds local acceptance G.L. c. 32B, § 9C½
- Applies to surviving spouses (and dependents) of call, volunteer, intermittent, part-time or reserve firefighters, emergency medical service providers or police officers killed in the line of duty, or who sustain injury that is direct and proximate cause of death
- Allows spouse to continue group health insurance until remarriage by paying full premium

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## RECENT CASES

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### Property Taxes

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***New England Forestry Foundation, Inc.  
v. Assessors of Hawley***  
468 Mass. 138 (2014) [2:28]

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- Supreme Judicial Court (SJC) reverses Appellate Tax Board (ATB) decision
- SJC ruled that nonprofit corporation holding land for conservation purposes was exempt
- Nonprofit conservation corporation eligible for Clause 3 charitable exemption

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***Rheault v. Assessors of Oxford***  
ATB 2014-245 (May 8, 2014) [2A:22]

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- ATB upholds denial of veterans exemption
- Property held in trust ownership
- Exemption applicant was not a trustee and lacked legal title

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***Truss Engineering Corporation v. Assessors of Springfield***  
ATB 2013-1010 (October 4, 2013) [2A:29]

- ATB rules it had jurisdiction over personal property valuation appeal
- Taxpayer paid one half the assessed tax, but incurred interest
- Payment applied to interest first, leaving more than half assessed tax unpaid

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***Zaniboni v. Assessors of Pembroke***  
ATB (January 24, 2014) [2A:106]

- ATB abated Chapter 61A rollback tax on 88 acres where federal government was granted an easement on 58 acres
- ATB found no change in use requiring payment of rollback tax as condition of releasing lien
- ATB did not address town's claim if remaining 30 acres were later developed

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**RECENT CASES**

**Tax Procedures**

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**Haar v. Commissioner of Revenue**  
ATB 2014-515 (July 23, 2014) [2A:10]

- ATB abated \$100 penalty imposed on taxpayer who failed to electronically file returns and requests for extensions as required
- Commissioner authorized to require electronic filing under G.L. c. 62C, § 5
- \$100 penalty imposed if mandate to file electronically disregarded if applicable under G.L. c. 62C, § 33(g)

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**Haar v. Commissioner of Revenue (continued)**

- Proffer of paper returns and checks reflected exercise of due care given taxpayer's fear of data or identity theft
- ATB found taxpayer had reasonable cause for opting out of electronic filing and abated penalty
- Commissioner's Administrative Procedure that discomfort with filing electronically not reasonable cause for opting out disregarded

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**Cocco v. Commissioner of Revenue**  
ATB 2013-1089 (October 30, 2013) [2A:1]

- ATB abated penalty imposed on taxpayer who filed paper sales tax returns and made payments by check
- Commissioner imposed \$100 penalty for each return not filed electronically
- Taxpayer testified she neither owned nor knew how to use a computer
- ATB found taxpayer's demonstrated record of timely paper filings consistent with reasonable cause

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## RECENT CASES

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### Local Finances

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***Woodward School for Girls, Inc.  
v. City of Quincy***  
469 Mass. 151 (2014) [2:133]

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- Appeal from Probate and Family Court decision finding City, as trustee, mismanaged private charitable trust created by President John Adams and currently benefiting Woodward School
- In 1973, Adams Trust assets split 90% fixed income vs. 10% equity securities
  - Investment advice that year: 60% equity securities, 35% fixed income, 5% savings

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***Woodward School for Girls, Inc. v. City of Quincy***  
(continued)

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- By 1990, portfolio almost entirely fixed income and cash assets
- As income declined, income beneficiary asserted breach of fiduciary duty for lack of asset diversification; claim governed by prudent investor rule
- SJC found that prudent trustee would balance prioritization of income with protection, preservation of principal

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**Woodward School for Girls, Inc. v. City of Quincy  
(continued)**

- Fiduciary duty breached where value of principal allowed to stagnate
- SJC reversed Probate and Family Court's damages award positing hypothetical trades based on 1973 advice
- Case remanded to Court to consider "totality of the circumstances" relevant to prudent investing in awarding damages

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**RJG Realty Trust v.  
Brockton Water and Sewer Department  
ATB 2014-92 (February 28, 2014) [2A:25]**

- ATB abated water charges for single-family homeowner billed for 7 year period during which City failed to take water meter readings
- City's imputed water usage for the 7 year period 250% greater than actual usage for subsequent periods reflected in readings from a new meter
- ATB found imputed water charges excessive, speculative; extrapolated readings from new meter more reliable

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**RECENT CASES**

**Employment**

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***Twomey v. Town of Middleborough***

468 Mass. 260 (2014) [2:125]

- Selectboard may enter HMO contracts for employee health insurance under G.L. c. 32B, § 16
- Middleborough Selectboard set retiree contribution rate at 20% of HMO premium; town meeting capped it at 10%
- SJC holds Selectboard, not town meeting, authorized to determine required premium contribution and upholds 20% contribution

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***Retirement Board of Somerville v. Buonomo***

467 Mass. 662 (2014) [2:62]

- Defendant receiving pension for prior public service as elected official contests pension revocation
- Defendant pled guilty to larceny, fraud, embezzlement and public theft crimes related to current public service
- SJC held pension forfeiture was required for the corruption offenses under G.L. c. 32, § 15(4)

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***School Committee of Lexington v. Zagaeski***

469 Mass. 104 (2014) [2:73]

- Town seeks to vacate arbitrator's award reinstating teacher fired for sexually inappropriate and offensive comments
- Arbitrator found that return of the teacher would be "in the best interests of the pupils" and awarded back pay
- SJC held arbitrator's award reinstating teacher "violated public policy" and reversed

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***Copley v. Town of Dartmouth***

85 Mass. App. Ct. 1103 (2014) [2:9]

- Plaintiff contests Town's non-renewal of employment agreement, which provided position was "subject to funding"
- Agreement also required future Selectboards to budget position and advocate for its funding
- Appeals Court held funding provision binding future boards was against public policy and unenforceable

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***McShea v. Town of Westford***

84 Mass. App. Ct. 1126 (2014) [2:23]

- Town manager entered into memorandum of agreement (MOA) with retired disabled police officer, without Selectboard approval, as required by charter
- MOA required town to fund post-retirement disability-connected medical expenses and supplemental health plan
- Appeals Court held MOA unenforceable due to lack of required Selectboard approval

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