



February 1, 2006



Re: CPA Exemption Applications
Our File No. 2006-22

Dear [Redacted Name]

This is in response to your letter to Commissioner LeBovidge about an exemption application form promulgated by the Department of Revenue. Specifically, you question why applications for exemptions from the Community Preservation surcharge for low-income persons or low and moderate-income seniors require applicants to disclose their income, as well as provide certain documentation, such as birth certifications, income tax returns and schedule of trust beneficiaries.

While we understand your privacy and other concerns, the burden is squarely on a taxpayer seeking a tax exemption to prove he or she meets each and every eligibility requirement established by the legislature. Assessors have a duty to ensure that exemptions are granted only to those who clearly qualify. Toward that end, they may require any documentation reasonably necessary to ensure that the taxpayer satisfies all eligibility standards. Retention of that information is also essential so that internal audits of their procedures can verify that exemptions are being properly granted.

The surcharge exemption at issue here requires the applicant to own and occupy the property as a domicile and meet certain income limits, which vary depending on the applicant's age. G.L. c. 44B §3. These eligibility requirements were established by the legislature, not the Department of Revenue. All of the information requested on the form, including supporting documents, relate directly to establishing whether an applicant meets these requirements. For example, tax returns are used to verify the applicant's income. The reason medical expense information is sought is because in defining income, the legislature allowed for deduction of certain medical expenses in the same manner that such expenses are deducted from the income of persons seeking to qualify for certain state affordable housing programs. G.L. c. 44B §2. Schedules of beneficiaries would be required if a property is subject to a trust because an applicant must not only be a trustee, but must have a sufficient beneficial interest in the property in order to be considered the owner for exemption purposes. *Kirby v. Board of Assessors of Medford*, 350 Mass. 386 (1966).

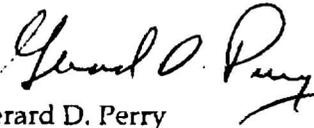
With respect to providing a social security number, applications we have previously promulgated for other exemptions have made submission of that information optional in the initial filing. We note, however, that legislation enacted in 2002 now allows the Department to exchange information with assessors for the purpose of verifying residency. G.L. c. 90 §3½. That would necessitate obtaining a taxpayer identification number, which for individuals would be their social security numbers.

[REDACTED]
Page Two

Please note that state and federal tax and privacy laws protect tax return and other personal data from being disclosed to the public. In addition, the Supervisor of Public Records (SPR) has ruled that certain personal information on CPA exemption applications is exempt from disclosure under the general privacy exemption of the state public records law. G.L. Ch. 4 §7(26)(c). See SPR opinion 01-692, issued July 22, 2002.

I hope this information is helpful.

Very truly yours,


Gerard D. Perry
Deputy Commissioner

GDP:KC