

CHAPTER 1

ASSESSMENT ADMINISTRATION

AGENDA AND OBJECTIVES

A. PRESENTATION TOPICS

1. Duties of assessors and the role of the Division of Local Services of the Department of Revenue in assessment administration.
2. Principles of four laws that regulate how public officials, including assessors, conduct public business.
3. Preparation of the annual property tax assessment roll.
4. Determining the assessed owner by understanding the different types of property interests, ownership forms and ownership records.
5. Defining a taxable parcel.

EXERCISE

6. Assessment records and reports.

B. SESSION OBJECTIVES

1. Participants will understand that assessors are municipal finance and public officials who act within a legal framework that governs assessment administration and overall operations.
2. Participants will understand the assessors' duties and interactions with other local officials and the Division of Local Services.
3. Participants will understand the types of property ownership and meaning of "assessed owner."
4. Participants will understand the meaning of "real estate parcel."
5. Participants will understand the importance of maintaining a set of well-organized records.

CHAPTER 1

ASSESSMENT ADMINISTRATION

1.0 ASSESSORS AS MUNICIPAL FINANCE OFFICERS

1.1. Team Management

Many issues facing municipal governments transcend the traditional boundaries and responsibilities of any single department or board. Because there is constant competition for budget dollars, it is essential that municipal officers work together to achieve sound financial policies and fiscal stability.

1.1.1. Duties and Responsibilities of Other Officials

All municipal officials should understand the duties and responsibilities of other officials and how these duties relate to their own.

1.1.2. Communication

Officials should (1) communicate frequently, in person and by report, concerning ongoing financial activities, (2) maintain deadlines and other commitments and (3) provide timely information regarding areas of mutual concern.

1.1.3. Financial Team

The Division of Local Services (DLS) emphasizes the importance of a “financial team” approach to sharing information and resources and to developing and implementing joint solutions throughout the annual budget process and fiscal cycle.

A municipality’s financial team should include the mayor in a city, and a representative from the board of selectmen and the finance committee in a town. Although membership may vary depending on particular issues, the team should also include the assessors, collector, treasurer and accounting officer.

1.2. Assessors’ Duties

1.2.1 Overview

Assessors are responsible for assessing property taxes, the major source of revenue for most communities, as well as miscellaneous excise taxes assessed in lieu of personal property taxes, such as the motor vehicle, boat and farm animal excises. Assessors also play a key role in the collection of special assessments and betterments and certain delinquent municipal charges.

1.2.2 Value Property

Assessors must value all real and personal property within their communities as of January 1 each year. They may perform this work with their own staffs or they may hire professional appraisal firms. By law, assessed valuations are based on "fair cash value,"¹ the amount a willing buyer would pay a willing seller on the open market.² See Chapter 2. The fair cash value standard protects the property owner's constitutional right to pay only his or her fair share of the tax burden.³ The valuations are used to fairly allocate the taxes needed to fund each year's budget among the community's taxpayers.

The Department of Revenue (DOR) reviews a community's values every three years and certifies they reflect current fair cash values.⁴ Assessed valuations in the intervening two years must also reflect current market value, but they are not certified by DOR.

1.2.3 Determine Tax Base Growth

Assessors calculate the annual "new growth" increase in the community's levy limit under Proposition 2½ and obtain certification of the amount by DLS.⁵ Proposition 2½ provides cities and towns with annual increases in their levy limits of 2.5 percent plus "new growth." New growth is an additional amount based on the assessed value of new construction and other growth in the tax base that is not the result of property revaluation. See Chapter 3.

1.2.4 Set the Tax Rate

Assessors set the annual tax levy and tax rate each year for their city or town, and any water, fire, light or improvement districts in the municipality, by submitting the tax rate recapitulation (recap) to DLS for approval.⁶ The recap displays the year's budgeted expenditures and revenues and establishes the amount that must be levied in property taxes to have a balanced budget. Recap preparation requires coordination and cooperation among various officials. See Chapter 5.

1.2.5 Assess Taxes

After the tax rate is approved, the assessors prepare the annual valuation and tax list or roll and commit the list to the collector with a warrant.⁷ The commitment fixes the tax liability of each taxpayer listed and the warrant authorizes the collector to collect the taxes. The list also contains a statement by the assessors signed under oath that they have assessed all taxable property at fair cash value.⁸ A notice of commitment is also given to the accounting officer.⁹ The collector and treasurer must be bonded before the assessors can make the commitment.¹⁰

1.2.6 Abate and Exempt Taxes

Assessors act on abatement applications filed by taxpayers disputing property valuations and seeking reductions in tax bills.¹¹ Taxpayers can file if they believe their property is overassessed, is not assessed fairly in comparison to other properties or is not classified correctly. If the assessors do not grant the desired abatement, the taxpayer can appeal to the state Appellate Tax Board (ATB) or county commissioners. See Chapter 6.

Assessors also act on applications for full or partial property tax exemptions allowed by state law for certain types of property, such as churches and charities, or persons, such as disabled veterans, blind persons and seniors. Exemptions for persons require an annual application and the assessors must grant the exemption if the applicant meets all of the qualifications set out in the law. The state reimburses local communities for a portion of most of the personal exemptions. The assessors are responsible for filing the forms necessary for reimbursement with DOR. See Chapter 7.

1.2.7 Oversee Overlay Account

Assessors must establish a reserve to fund anticipated property tax abatements and exemptions when they set the tax rate each year.¹² The account, known as the overlay, is maintained until the assessors determine that the funds are no longer needed, *i.e.*, all abatements have been granted or the potential liability for abatements is known. If the assessors determine any surplus exists, they notify the accounting officer to transfer the surplus to an overlay reserve. The monies are then available for appropriation for any purpose until the end of the fiscal year. If the chief executive of the community makes a written request, the assessors must certify within 10 days whether any surplus is available to transfer. Assessors have the final authority to determine how much to retain in the overlay and to decide when and if to transfer monies to overlay surplus.

1.2.8 Commit Original and Apportioned Betterments and Special Assessments

Assessors initiate the collection of betterments and special assessments, which are special taxes assessed to pay for the construction of public improvements, such as water and sewer systems. The community assesses each parcel that benefits from the improvement a proportionate share of the cost.

The selectmen, water or sewer commissioners, or other board in charge of the improvement project determine the assessment amount for each property and certify the amounts to the assessors. Assessors then commit the betterments or special assessments to the tax collector, who sends out the bills.¹³ The property owner can pay in full or in yearly installments for

up to 20 years.¹⁴ If the taxpayer chooses to pay over time, the assessors add one year's apportionment of the principal, with interest on the unpaid balance, to the tax assessed and committed for the property each year until all of the betterment has been billed and repaid. The board or officer that assessed the betterment, not the assessors, grants abatements.

1.2.9 Commit Delinquent Municipal Charges

Assessors initiate the collection of overdue municipal charges secured by liens on a property by adding them to the annual property tax commitment. Adding them to the tax allows the collector to collect the charges through the tax title process if they remain unpaid.

Liens are most commonly found for outstanding water user charges,¹⁵ sewer user charges,¹⁶ municipal light charges,¹⁷ trash fees¹⁸ and demolition charges¹⁹. The billing department or collector certifies the amounts to be added each year to the assessors. The board or officer that assessed the charge, not the assessors, grants abatements.

1.2.10 Assess and Administer Excises

Assessors administer the local excise taxes assessed in lieu of personal property taxes on motor vehicles, boats and farm animals. This process involves annual activities similar to those for assessing property taxes, including:

- Preparing a tax list.
- Committing the list to the collector with a warrant to initiate the billing process.
- Granting abatements and exemptions after billing, as appropriate.

1.3 Department of Revenue's Role

1.3.1 Supervise Local Taxation and Finance

DLS within the Department of Revenue (DOR) administers and enforces all laws relating to the valuation, classification and taxation of property by communities.²⁰ It may inspect the work of the assessors and may require certain reports.²¹ To provide assistance to local assessors in carrying out their various functions, DLS prepares, issues and periodically revises guidelines and provides training.²²

1.3.2 Establish Assessment Administration Standards and Prescribe Forms

DLS sets minimum standards for assessment performance.²³ These standards may apply to valuation methods, records, tax maps and assessors and assessing staff qualifications. It also prescribes the content of tax bills, abatement and exemption applications and various other forms used in assessment administration.²⁴

1.3.3 Certify Local Assessments

DLS through the Bureau of Local Assessment (BLA), reviews local assessing practices every three years and certifies that the assessments reflect fair cash value.²⁵

1.3.4 Determine Proposition 2½ Levy Limit and Certify Tax Rate

DLS calculates each community's levy limit under Proposition 2½,²⁶ approves the community's annual tax rate and ensures that the tax levy fixed by that rate reflects a balanced budget within the limit.

1.4 Interaction With Local Financial Officials

1.4.1 Annual Budget Process

The municipal budget represents the annual financial plan of a city or town. It establishes the revenues expected to be available during the fiscal year and defines service priorities and goals within those resources.

Adopting and implementing the annual budget is fundamental to the ability of local government to perform its vital functions, such as education and public safety. The level at which those services are delivered derives from the priorities and goals set forth in the budget.

The budget process is continuous and overlaps with the next cycle, from monitoring and implementing the current budget to using that information to plan for the next year's budget. Teamwork among community executives, budget and finance officials and department heads is essential to informed and timely decision-making.

1.4.2 Assessors' Role in Budget Development

1.4.2.1 Revenue Estimates

During the preparation of the budget, assessors provide budget officials with an estimate of the new growth increase in the community's Proposition 2 ½ levy limit so that a preliminary limit can be calculated and a revenue estimate established.

1.4.2.2 Expenditure Budgets

As department heads, assessors also provide a budget request for personnel, contractual services and other items. They estimate the amount needed to fund the overlay account, including any deficits in the overlay account of a prior year that must be funded in the current year.

1.4.3 Assessors' Role in Budget Implementation

The assessors' primary role is to ensure property tax bills are issued on schedule. This requires that they complete property tax assessments on time and coordinate setting the tax rate with other officials. Late issued

bills might require the treasurer to borrow for cash flow purposes, adding an unplanned expense for the community.

1.4.3.1 Tax Rate Preparation

Setting the rate requires assessors to gather information from the accounting officer, clerk, and treasurer. In addition, the selectmen, or city council and mayor, must make certain tax policy decisions under the classification law. See Chapter 4.

1.4.3.2 Tax Rate Timetable

Early on, the financial team should develop a realistic timetable for all actions necessary for timely tax bills. Officials should plan for additional time in certification years or in years during which the assessors' or collector's office is changing computer systems or vendors. The team should use as a guide the target dates suggested by DLS for preliminary certification of values and submission of the tax rate. See Chapter 5, Table 2. Assessors and members of the financial team should meet periodically to review the tax rate status.

2.0 ASSESSORS AS PUBLIC OFFICERS

2.1 The Conflict of Interest Law

2.1.1 Minimum Ethical Standards

The Conflict of Interest Law establishes minimum standards of ethical conduct for governmental employees.²⁷ It applies to all state, county and municipal officials and employees, whether elected or appointed, full or part-time, paid or unpaid. Certain employees who are unpaid or part-time can be designated special municipal employees, which means some provisions of the law apply less restrictively.

2.1.2 Activities Covered

The law generally restricts activities that occur (1) on the job, (2) after hours and (3) following government employment. There is also a general code of conduct standard.

2.1.2.1 On the Job

On the job provisions restrict public employees from using their positions to obtain special privileges or to give the impression they can be influenced. Municipal employees may not:

- Receive anything of value for performing their jobs.
- Accept gifts from anyone with whom they have official dealings.
- Appoint, promote or supervise relatives.

- Take actions that affect their financial interests or the interests of their immediate family or “after hours” employers, including any business or non-profit organization in which they are an officer, director, partner or trustee.

Example

Assessors cannot participate in valuing, or granting abatements for, property owned by, or abutting or nearby property owned by, themselves, close family members or businesses or organizations in which they have an interest or financial stake.

2.1.2.2 After Hours

After hours restrictions limit an employee’s ability to (1) enter into municipal contracts, (2) hold multiple positions or (2) disclose confidential information gained during the job.

Generally, a municipal employee cannot hold more than one paid position with the municipality or enter into contracts with it, but there are numerous exceptions particularly for elected officials and those holding positions designed “special municipal employee.”

2.1.2.3 After Government Employment

There are limits on lobbying and other activities by former government employees that involve their previous jobs and agencies in order to prevent the misuse of government connections.

2.1.2.4 Code of Conduct

Municipal employees may not take any action that gives the appearance of impropriety.

2.1.3 Enforcement

The State Ethics Commission is responsible for the interpretation and civil enforcement of the Conflict of Interest Law.

The Commission publishes a summary of the Conflict of Interest Law for state, county, and municipal employees on its website and provides it to employees within 30 days of employment and on an annual basis. Employees must acknowledge receipt of these summaries. Municipal employees receive the summary from and return their acknowledgements to their city or town clerk. The Commission also provides on-line training for public employees that must be completed within 30 days of employment and again every two years.

Municipal officers should obtain a formal opinion through their town counsel or city solicitor about whether a proposed activity would violate the Conflict of Interest Law before engaging in that activity. An employee with a potential conflict bears the legal responsibility to obtain an opinion and avoid the conflict.

Additional information can be obtained by writing the Commission, One Ashburton Place, Rm. 619, Boston, MA 02108, by calling (617) 371-9500 or by visiting the web at www.mass.gov/ethics.

2.2 Procurement

The Uniform Procurement Act establishes standardized procedures for public officials to follow when buying or contracting for supplies, equipment, services and real property.²⁸ It also governs the disposition of surplus supplies, equipment and real property. Certain types of contracts are exempt from these procedures.

2.2.1 Application

The Uniform Procurement Act applies to cities, towns, counties, special purpose districts, regional school districts and local authorities, such as housing and redevelopment authorities.

2.2.2 Purpose

The purpose of the Uniform Procurement Act is to (1) ensure competitive contracts, (2) save taxpayer money and (3) promote integrity and public confidence in government.

2.2.3 Enforcement

The Office of the Inspector General (IG) is responsible for interpreting and enforcing the Uniform Procurement Act. Assessors can obtain additional information about these procurement procedures by writing the IG's office, One Ashburton Place, Rm. 1311, Boston, MA 02108, by calling (617) 727-9140 or visiting the web at www.mass.gov/ig.

2.3 Open Meeting Law

The Open Meeting Law provides public access to the decision-making processes of government and promotes accountability in public officials. It applies to state, county and local governmental bodies.²⁹

2.3.1 Open Meetings

All meetings of governmental bodies must be open to the public. Governmental bodies include boards, commissions, committees or subcommittees of a municipality.

A meeting is a convening for which a quorum is required to make a decision, or attempt to make a decision, on public business or policy over which the governmental body had jurisdiction or power. A meeting

includes a convening that does not intend to make a decision or take a vote at the time, but which meets on a subject matter that must be decided by vote. Meetings do not include on-site inspections or chance or social meetings, so long as they are not used to circumvent the letter or spirit of the law.

2.3.2 Meeting Notice

Except in cases of emergency, the officer in charge of calling a meeting must file a notice of every meeting with the municipal clerk, and post the notice, at least 48 hours before the meeting takes place. Saturdays, Sundays and legal holidays are excluded from the 48 hours. Emergencies are sudden, generally unexpected occurrences or circumstances demanding immediate action and related directly to the responsibilities of the governmental body convening the meeting.

2.3.3 Executive Session

A governmental body may meet privately, in “executive session” to discuss sensitive issues. Executive sessions are limited to these purposes:

- *To discuss the reputation, character, physical condition or mental health, rather than the professional competence, of an individual.*
- *To consider the discipline or dismissal of, or to hear complaints or charges brought against a public officer, employee, staff member or individual.*
- *To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigating position. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; to conduct collective bargaining sessions and contract negotiations with non-union personnel.*
- *To discuss the deployment of security personnel or devices, e.g., a "sting operation."*
- *To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.*
- *To consider the purchase, exchange, taking, lease or value of real property if a public discussion may have a detrimental effect on the negotiating position of the governmental body.*
- *To comply with the provisions of any general or special law or federal grant-in-aid requirements (general privacy).*
- *To hold an initial screening (including interviews if they are part of the initial screening process) of candidates for employment if an open meeting would have a detrimental effect in obtaining qualified candidates.*
- *To meet with a mediator regarding any litigation or decision.*
- *To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities*

conducted by a governmental body in connection with certain of its activities as an energy supplier or distributor.

2.3.4 Meeting Minutes

A governmental body must maintain accurate minutes of its meetings and votes. The minutes should include the members present, the nature and content of the overall discussion, and all votes taken.

2.3.5 Enforcement

The Attorney General is responsible for interpreting and enforcing will enforce the new consolidated Open Meeting Law. Three or more voters may also bring a civil action in court. The court can invalidate actions taken at the meeting if it finds significant violations.

2.3.6 Additional Information

For more information or opinions about the Open Meeting Law, assessors should consult their city solicitor or town counsel or the Division of Open Government in the Office of the Attorney General. The Attorney General has prepared general guidelines on the Open Meeting Law, which can be obtained by calling (617) 727-2200 or visiting the web at www.mass.gov/ago/government-resources/open-meeting-law.

2.4 Public Records Law

Two, separate Massachusetts statutes set out the Public Records Law. The first defines a public record,³⁰ and the second governs disclosure of public records.³¹

2.4.1 Definition

Public records are broadly defined to include “all documentary materials or data, regardless of physical form or characteristics” made or received by state, county and municipal offices.

Most records generated by the assessors are public records, including property record files, valuation books, lists of granted abatements and exemptions, and minutes of board meetings. Public records received by assessors but originating elsewhere, such as copies of deeds sent from the registry of deeds, are also public records of the assessors.

2.4.2 Disclosure

The public has a right of access to a public record, either to inspect or receive a copy of it, regardless of motive or intention regarding its use.

A custodian must act on an oral request made in person, or a written request, for an existing record and must use his or her superior knowledge of the content, name and format of the records to assist the requester. The public records law does not apply to telephone requests for information

and does not require a custodian to create a particular record or program in order to generate a customized report for a requester.

2.4.3 Time Period and Fee

A custodian must provide a requested public record within 10 days and may charge a reasonable fee to recover the costs of filling the request. The Supervisor of Public Records in the Office of the Secretary of State sets the maximum fees that may be charged by custodians.

2.4.4 Disclosure Exemptions

Some records are exempt from public disclosure, usually for privacy or other public policy reasons. A custodian who denies a request for a record must cite a specific, statutory exemption provision. A requester denied access to a requested record may petition the Supervisor of Public Records for a determination. The Supervisor may order the custodian to disclose the record.

Some assessors' records are exempt from disclosure. These generally include documents submitted by taxpayers that may contain private information about financial matters or property holdings. Exempt records include:

- Abatement and exemption applications.³²
- Personal property schedules submitted with Forms of List.³³
- Pre-assessment and abatement information requests, such as income and expense statements.³⁴
- Appraisal reports prepared for Appellate Tax Board appeals.³⁵

2.4.5 Enforcement

The Supervisor of Public Records is responsible for the interpretation and enforcement of the public records law. For further information about the public records law, assessors should contact the Supervisor of Public Records, Office of the Secretary of State, by writing One Ashburton Place, 17th floor, Boston, MA 02108, by calling (617) 727-2832 or visiting the web at <http://www.sec.state.ma.us/pre/preidx.htm>.

3.0 ANNUAL TAX ROLL AND COMMITMENT

3.1 Assessment Date and Calendar

3.1.1 Assessment Date

Property taxes in Massachusetts are assessed as of January 1.³⁶ Liability and the basis for the tax are fixed as of that date. This date fixes tax liability for the entire fiscal year.³⁷ That liability is not affected by later changes in property ownership³⁸ or valuation.³⁹

3.1.2 Fiscal Year

In Massachusetts, governmental entities operate on a fiscal year basis. The fiscal year begins on July 1 and ends on the following June 30.⁴⁰ Property taxes for the fiscal year are assessed as of the January 1 before the year begins.

Taxes assessed for the fiscal year are a single liability or legal obligation, even though they are payable in several installments over the course of the fiscal year. Depending on the payment system a community uses, taxes are paid in two or four installments.

3.2 Annual Property Tax Assessments

Assessors prepare the annual assessment roll. To do so, they must create and maintain an extensive database on each property in the community and review it annually for changes. Each year, assessors must identify all taxable real and personal property, its ownership, fair market value, and usage classification as of January 1 in order to assess taxes.

3.2.1 Taxable Property

Assessors must identify and inventory all of the physical property that exists on January 1 and is taxable for the year.⁴¹ In communities that have adopted a local option, the physical status of real property on June 30 is deemed to be its condition on January 1.⁴²

3.2.2 Assessed Owner

Assessors must identify the owner of each parcel of real property and each item of personal property on January 1.⁴³

3.2.3 Taxable Unit

Assessors must determine the boundaries of all real estate parcels and identify all personal property accounts as of January 1.

3.2.4 Assessed Value

Assessors must determine the fair cash value of each parcel of real property and each item of personal property as of January 1.⁴⁴

3.2.5 Usage Classification

Assessors must classify each real estate parcel as residential, open space, commercial or industrial as of January 1, based on definitions found in the tax classification law.⁴⁵

3.3 Annual Collectibles

Assessors include in the annual tax assessment municipal fees, charges and assessments that constitute liens on the property. The assessors do not determine these charges, but they ensure their community can collect the amounts owed by adding them to the tax assessed on the property. These collectibles include:

- Apportioned betterments and special assessments, with interest.
- Delinquent fees and charges for municipal services.

4.0 ASSESSED OWNER

4.1 Assessed Owner

Property taxes are assessed to the owner of the real or personal property on January 1. The property tax is an assessment on the ownership of real and personal property, and the owner's tax liability is measured by the value of that property.

4.1.1 Record Owner

For real property, the record owner of the land is the owner for assessment purposes.⁴⁶ The record owner is found in the records of the registry of deeds and the registry of probate of the county where the city or town is located. Assessors are considered to have knowledge of the content of these records.

Record ownership is not identical with title, although the terms are often used as synonyms. In most cases though the record owner also has title to the property on January 1.

Examples

Ann sells Blackacre to Barbara. The new deed is not recorded. Barbara has title, but Ann is still the owner of record.

The last deed for Greenacre was recorded in 1978 from Dan to Ed. According to the town clerk, Ed died in 1985. There is no record of his death or probate of his estate at the Registry of Probate. Ed is still the owner of record, although someone else is the actual owner of the property.

4.1.2 Administrative Convenience

Assessors may rely exclusively on the records of the registries of deeds and probate to determine ownership and an assessment to the record owner is always valid.⁴⁷ They may also assess to someone other than the record owner, but those assessments are valid only if that person is in fact the owner on January 1.⁴⁸ If not, the municipality may be unable to collect the tax if it remains unpaid.

4.2 Personal Liability

The assessed owner is personally liable for paying the tax for the entire year since it is a single obligation. Payment is the taxpayer's legal obligation, even if the

property is sold and the new owner agrees to assume responsibility for paying some of it. Any allocation of the tax is a private agreement between the parties.

5.0 PROPERTY INTERESTS

5.1 Classification of Property Interests

Ownership interests in real property are classified either by the time of possession or by duration.

5.1.1 Time of Possession

Estates are classified based on when the holder is entitled to the exclusive possession, use and enjoyment of the property. A person currently entitled to the exclusive possession, use and enjoyment of a property has a present or possessory interest in that property. If the person's right to possession is postponed until a later date, the person has a future interest in that property.

5.1.2 Duration

Estates are measured in terms of the maximum potential duration of the time of ownership.

5.2 Type of Property Interests

5.2.1 Fee Simple Estate

The fee simple estate is the maximum allowable property interest permitted by law and is the estate assessors value for property tax purposes. An estate in fee simple gives the owner and the owner's heirs the right to possession and ownership for a potentially unlimited time.

A fee simple estate may be sold, inherited or devised by will. The only limits are those imposed by the exercise of government's powers of:

- **Taxation** - The power to assess taxes on property.
- **Police power** - The power to protect and regulate for the public health, safety and welfare.
- **Eminent domain** - The power to take and use property for the public good.
- **Escheat** - The power to revert property to the state for the benefit of all citizens if an owner dies without heirs.

5.2.2 Life Estate

A life estate is an estate of finite duration. This duration is measured by a specific person's life (called the measuring life). A life estate creates successive interests in the same property: (1) a present possessory interest

and (2) a future remainder interest. The life tenant holds the present interest. The remainderman holds the future, remainder interest. The remainderman has a future right to possession that does not begin until the life estate ends.

5.2.2.1 Creation of Life Estate

A life estate can be created by deed, will or recorded, lifetime lease. Most commonly, the creator conveys property by deed and expressly reserves a life estate or right to occupy the property for life in the deed.

Example

Ann grants Blackacre to Bob “reserving to Ann a life estate.”

- **Ann, the grantor who reserves is the life tenant, with the life estate measured by her life.**
- **Bob is the remainderman who takes upon Ann’s death.**

Other language can be used to create a life estate.

Examples

Ann grants to “Ann for my lifetime, then to Bob.”

Ann grants to Bob “subject to the right of Ann to occupy the property for the rest of her life.”

Ann grants to Ann “for as long as she is physically able to occupy the property, then to Bob.”⁴⁹

Usually, a life estate is measured by the life of the creator of the estate. However, a life estate can also be measured by the life of someone other than the grantor.

Example

Ann grants to “Bob during his life, then to Carol.”

- **Bob is the life tenant and the estate ends upon his death, rather than Ann’s death.**
- **Carol is the remainderman who takes upon Bob’s death.**

5.2.2.2 Life Tenant’s Powers

A life tenant has a right to the undisturbed possession of the land, including any income and profits.

A life tenant can convey his or her interest, but not the future right of the remainderman to possession. If the life estate is conveyed, the estate still ends upon the end of the measuring life.

Example

Ann grants Blackacre to Bob, reserving a life estate. Ann conveys her life estate interest to Carol. Ann dies 6 months later. The remainderman Bob takes Blackacre upon Ann's death.

A life tenant cannot ordinarily give a mortgage or sell the fee interest, but may be granted these powers in the instrument that creates the life estate.

Example

Ann grants Blackacre to Bob, "reserving a life estate, with full power to mortgage, sell and convey."

5.2.2.3 Life Tenant's Obligations

A life tenant is the owner of the property for property tax assessment and exemption purposes. The life tenant cannot diminish the property's value to the remainderman and, therefore, must make the ordinary repairs and pay the current expenses expected of a property owner, including annual property taxes.⁵⁰

5.2.3 Leasehold Estate

A life estate is an estate of finite duration. The lessee tenant has a present possessory interest in the leased property for a finite period. The lessor landlord has a future reversionary interest in the property at the end of the leasehold and usually the right to receive rent during the tenant's possession. The lessor also holds the fee interest. Any transfer of the property is subject to the lease, and the new owner succeeds to the rights of reverter and rent.

The landlord, who still owns the fee, is the owner for assessment purposes. If the lease is for 100 years or more, with at least 50 years to run, however, it is treated as a fee simple estate and the lessee is the assessed owner.⁵¹

6.0 OWNERSHIP FORMS

6.1 Sole Ownership

A single owner may hold property, without any other person or entity sharing ownership.

6.2 Multiple Ownership

More than one person or entity may hold property as multiple co-owners. Co-owners are jointly and severally liable for the tax assessed on property they own. This means that the community can assess or collect from all or any one of the co-owners. Assessors should assess in the full name of at least one of the owners of record and then include as many other owners as their billing system allows.

6.2.1 Tenancy in Common

A tenancy in common is shared ownership where each co-tenant has an undivided interest in the whole property. The interests may be unequal, but each co-owner has a right to the possession, use and enjoyment of the entire property.

Example

Alex, Bob and Carl own Blackacre. Alex has a 50% ownership share and Bob and Carl have 25% each. All three can possess any or all of Blackacre.

This form of ownership allows each co-tenant to transfer his share independently, *i.e.*, co-tenants may acquire and convey their interests at different times. When a co-tenant dies, the co-tenant's share goes to his or her heirs or devisees rather than to the co-tenants. There is no right of survivorship.

6.2.2 Joint Tenancy

A joint tenancy is a shared ownership with two distinguishing characteristics. A joint tenancy (1) has a right of survivorship and (2) requires unity of interest, possession, time and title.

6.2.2.1 Survivorship

When a joint tenant dies, the joint tenant's share passes to the surviving joint owners by law. The last survivor becomes the sole owner.

6.2.2.2 Unity

Each joint tenant has an equal, undivided interest in the property and must acquire title at the same time and in the same instrument. Each tenant has a right to the possession, use and enjoyment of the entire property.

6.2.2.3 Creation

The intent to create a joint tenancy must ordinarily be clearly expressed in the deed or will conveying title. Intent is typically expressed by using the words "joint tenants" or "right to survivorship" in the instrument. An ambiguity about the intended tenancy is resolved by finding that it is a tenancy in common.

6.2.2.4 Conveyance

Joint tenants can convey their interests. A conveyance by one tenant of his or her share creates a tenancy in common with the other tenants. The other tenants still hold their interests in the property as joint tenants.

Example

Alex, Bob and Carl own Blackacre as joint tenants with an equal undivided 1/3 interest each. Alex sells his 1/3 interest to Dave. Bob and Carl now have an undivided 2/3 interest as joint tenants and Dave has an undivided 1/3 interest as a tenant in common.

If Alex had sold his interest to Bob, one of his co-tenants instead, Bob would hold 1/3 interest as a tenant in common and still hold a 2/3 interest with Carl as joint tenants.

6.2.3 Tenancy by the Entirety

A tenancy by the entirety is a shared ownership with two distinguishing characteristics. A tenancy by the entirety (1) may only be held by a married couple and (2) has an indestructible right of survivorship during the marriage.

6.2.3.1 Marriage

A tenancy by the entirety can only be granted to and held by a married couple. A conveyance to two persons who are not married at the time is not a tenancy by the entirety and is not transformed into one by their later marriage. If a marriage ends by divorce, the tenancy also ends by operation of law, and the former spouses become tenants in common.

6.2.3.2 Survivorship

A tenancy by the entirety has an indestructible right of survivorship during the marriage. Neither spouse acting alone can defeat the right of the surviving spouse to the entire property. Both spouses must join in a deed to convey the entire property and end the right of the survivor to it.⁵²

6.2.3.3 Conveyance

Spouses may be able to convey their individual interests, not the other spouse's survivorship right, depending on when the tenancy was created.

If the tenancy by the entirety was created before February 11, 1980, the husband has the exclusive present interest in the

possession, use and income of the property during his lifetime, and his future right to the entire property if he survives. He can convey those interests without his wife's consent. The wife has only her future survivorship right. Any conveyance by her is void.⁵³

For later tenancies, both spouses have co-equal rights in the possession, use and income of the property.⁵⁴ Either spouse can convey his or her interest without the other's consent, but still cannot defeat the right of the other spouse to the property if he or she survives.⁵⁵

6.3 Trusts

A trust is a form of ownership that establishes a fiduciary obligation in the person(s) holding legal title to trust assets to use them for the benefit of others. The distinguishing characteristic of a trust is that it divides the ownership into two simultaneous and concurrent interests in the same property: (1) a legal interest and (2) a beneficial interest. A trust may be created by will, deed, or declaration of trust. Trust property may include real estate, tangible personal property or intangible personal property, such as cash, stocks, or bonds.

6.3.1 Trust Parties

The person who creates a trust is called a settlor, grantor, creator or donor. A person who creates a trust by will is a testator.

The trustee is the person who holds legal title to all trust property. The beneficiary is the person for whose benefit a trust is created.

6.3.2 Trust Types

Trusts may be described depending on how they are created, the trust assets or the relationship of the parties to the trust.

- **Creation** - An inter-vivos trust is a trust created during the lifetime of the settlor. A testamentary trust is a trust created by will.
- **Assets** - A realty trust is a trust that contains real estate assets.
- **Parties** - A family trust is a trust where the trustees and beneficiaries are related. A nominee trust is an arrangement for holding title to real estate under which one or more persons declare they hold the realty as trustees for undisclosed beneficiaries. The trustees have no power to deal with the property except as directed by the beneficiaries.

6.3.3 Property Taxation

The trustee is the owner of trust property for property tax purposes.⁵⁶

A trustee who also has a sufficient beneficial interest in the property is an owner for exemption purposes.⁵⁷ A person who is only a trustee or a beneficiary is not entitled to an exemption. See Chapter 7.

7.0 OWNERSHIP RECORDS

7.1 Registry of Deeds

Documents related to the title of real estate are recorded at the registry of deeds for the county, or branch, where the land is located. At the time of recording, each document is given a unique book and page number and then indexed by grantor (seller) and grantee (buyer). The index allows individuals to search the chain of title for a particular property. Registrars of deeds are required by law to notify assessors of recorded or registered instruments that affect title.⁵⁸ These records include deeds, certificates of title and trust documents.⁵⁹

7.1.1 Deeds

A deed is the legal instrument necessary to transfer ownership of real estate. To be valid, a land conveyance must be in writing and signed by the seller.

7.1.1.1 Content

A deed contains:

- The name of the seller (grantor) and the buyer (grantee).
- How the grantees own the property, *e.g.*, as joint tenants.
- The grantee's address.
- The amount of money paid for the property or other consideration.
- The conveyance and recording dates.
- A legal description of the property conveyed. Generally, a deed description is given by metes and bounds, which is a method of describing land by listing compass directions and distances of boundaries, or by reference to a recorded plan. The physical area within the metes and bounds or recorded plan referenced in the legal description determines the amount of land conveyed and controls if different than the area stated in the deed.
- A title reference showing when and from whom the property was acquired, giving the book and page where the prior transaction is recorded.

7.1.1.2 Classification

Deeds may be classified based on the covenants or guarantees they contain about the quality of the grantor's title and the nature of the grantor's obligation to defend a grantee from adverse claims.

Warranty deeds include covenants that make the grantor

responsible for any defects of title and guarantee the grantor and heirs will defend the title against the lawful claims of all persons whether the claim arose before or after the grantor's ownership.⁶⁰ Quitclaim deeds are most often used in Massachusetts. They simply transfer whatever title the grantor has, without any covenants as to the quality of title.⁶¹

Deeds may be classified based on the identity of the grantor or the purpose of the deed. Specialized deeds include:

- **Trustee**- Transfers title to real estate held in trust from the trustee.
- **Personal Representative**-Authorizes the person named in a will by a decedent to act as the estate's representative (also called the executor), or the person appointed by the court in the case of a decedent who died without a will (also called the administrator), to transfer title of real estate.
- **Fiduciary** - Authorizes a legal representative to convey title to real estate for the benefit of another. Property transferred to an adult custodian under the Massachusetts Uniform Transfers to Minors Act for the benefit of a minor is assessed to the minor, who is the legal owner of the property.⁶²
- **Conservator** - Authorizes a court appointed representative of a living person who lacks legal capacity to convey title (incapacitated person). While the protected person's property is being managed by a conservator appointed by the probate court, it is held in a fiduciary capacity for the person.⁶³.
- **Sheriff** - Court ordered deed to convey title of an owner to satisfy judgment creditors. The owner may redeem the property for a period of one year after the sale⁶⁴ and continues to be the owner for assessment purposes within that period. The grantee should be assessed once the redemption period has ended.
- **Foreclosure** - Court ordered deed to foreclose property interest of an owner to satisfy a mortgage creditor.⁶⁵

7.1.2 **Certificates of Title**

Massachusetts has a system of registering title to land through the Land Court in order to resolve title discrepancies. The Land Court is located in Boston, but each registry has a Land Court section.⁶⁶

7.1.2.1 Certificate of Title and Decree Plan

An original certificate of title and a decree plan are recorded in the Land Court section of the registry for a parcel of real estate for which the Land Court has adjudicated title. The certificate describes the property and lists any easements or encumbrances. The certificates are recorded by certificate of title or document number.

7.1.2.2 Conveyances

Registered land is conveyed by registering the transfer. If a fee simple is conveyed, a new certificate in the name of the new owner is issued.⁶⁷ A voluntary conveyance of a lesser interest is registered by filing the deed or other instrument creating or transferring the interest and noting the change on the certificate.

7.1.3 Trusts

Recorded documents related to trusts that include real estate in the trust assets include trust instruments, amendments and trustee changes.

7.1.3.1 Trust Instruments

The instrument that creates an inter-vivos trust by a settlor is called a declaration of trust. Taxes are assessed to the trustee, who is usually identified within the text of the declaration, or a certificate of trust that may be recorded instead.⁶⁸ The beneficiaries may also be identified in the text, but more often they are identified in a referenced schedule, which is usually not recorded.

7.1.3.2 Trust Amendments

Most inter-vivos trusts are revocable and amendable. Amendments may be recorded that may affect the ownership interests.

7.1.3.3 Trustee Changes

Most trusts permit the appointment of additional or successor trustees. A change in the title to and record ownership of trust assets, including real estate subject to the trust, is established by recorded documents showing the resignation or death of a trustee, the appointment of a successor and the acceptance of the position by the new trustee, or a new certificate of trust.

Taxes should be assessed generally to "Trustee, (Name of Trust)" if there is record notice that the trustee has resigned or is deceased, but the appointment and acceptance of a successor is not yet on record. Taxes should also be assessed to "Trustee, (Name of Trust)" when a trust, not the trustee, is named in a deed as the

grantee and no trust instrument, or certificate of trust, identifying the trustee has been recorded.

7.2 Registry of Probate

The probate court is a specialized court that handles family law, and the probate or disposition of the real and personal assets or estates of people when they die. Although these proceedings affect real estate titles, registrars of probate are not required to send assessors information about them. Assessors are charged with knowledge of these records, however, and must be familiar with them.⁶⁹

7.2.1 Wills

A will is a written document in which a person provides for the disposition of property after death. The person generally appoints someone in the will to oversee the payment of outstanding debts and distribution of the remaining estate. The person who dies is referred to as the decedent or testator. The person who manages the estate is the personal representative. A person who is left real or personal property under a will is known as a devisee.

7.2.2 Intestate Estates

A person who does not make a will dies “intestate,” and the disposition of property is by operation of law.⁷⁰ The probate court appoints a personal representative to carry out the same duties as the personal representative under a will. A person who takes property under the law of intestacy is known as an heir.

If the decedent was married, the surviving spouse takes all of the intestate property if (1) the surviving children belong to the decedent and surviving spouse and the spouse has no other surviving children, or (2) the decedent has no surviving children or parent.⁷¹ For unmarried decedents, the property goes to the (1) decedent’s children, (2) if there are no surviving children, the decedent’s parents or (3) if there are no surviving parents, the children of the decedent’s parents.⁷² The property reverts (escheats) to the Commonwealth when there are no heirs. These rules also apply to the disposition of property not included in a will.

7.2.3 Title

Title to a decedent’s real property vests as of the date of death in the devisees named in the will or the heirs at law.

Example

Ellen is the sole owner of Greenacre. Ellen dies on September 15. If she has a will and devises Greenacre to Fred, or has no will and Fred is her sole heir, Fred is the owner of Greenacre as of September 15.

7.2.1 Record Ownership

Whenever a person who was the sole owner of real estate, or owned the real estate as a tenant in common, dies before January 1, probate records must be reviewed to determine any changes in record ownership. Since title relates back to the date of the decedent's death, assessors must make a final review of all proceedings before the actual commitment.

7.2.4.1 Death of Record

If probate records show only that a death certificate or petition for probate has been filed for a person who died before January 1, the death is a matter a record, but not the identity of the new owner. The property should be assessed generally to the "Devises" or "Heirs" of the decedent.⁷³

7.2.4.2 New Record Owner

If probate records show that a will has been allowed, or an intestate estate has been settled, the devisees named in the will or heirs identified in the probate court decree are the new owners of record. The property should be assessed to them by name.⁷⁴

7.2.4.3 Will Contest

If probate records show that an unresolved will contest is pending, the identity of the new owner is not a matter of record. The property should be assessed generally to the "Estate" of the decedent.⁷⁵

8.0 ASSESSMENT UNIT

8.1 Overview

Assessors must determine the boundaries of real estate parcels and identify personal property accounts as of January 1.

8.2 Personal Property

Assessors make a single assessment that includes all of the personal property that a taxpayer owns that is taxable by the municipality. Personal property generally includes goods, equipment, furniture and other movable objects. It also consists of poles, underground conduits, wires and pipes not located on the owner's land. See Chapter 8.

8.3 Real Estate

Real estate includes land, buildings and other improvements or attachments to the land.⁷⁶ It may also include items ordinarily considered personal property but which are firmly attached to or integrated into the land or buildings due to their bulk, size, special design or permanence.⁷⁷

8.3.1 Single Unit

All interests in real estate are assessed as a single unit to the fee owner of the land.⁷⁸ Land and buildings are not separately assessed even if owned by different persons.⁷⁹ Separate assessments are not made to those parties having other interests in the real estate either, such as a lease,⁸⁰ mineral, power⁸¹ or other rights.

8.3.2 Parcel

A separate assessment is made for each parcel of real estate. There is no general definition of the term parcel for purposes of property taxation. An assessment is valid if assessors have a reasonable basis for their determination.⁸² Assessors generally rely on the description of real estate found in a deed or plan to define a parcel, but they are not bound by it. Typically, however, land described in one deed is defined as a single parcel.

8.3.2.1 Merger

Assessors may merge and assess as one parcel contiguous land described in several deeds and owned by the same person.⁸³ Land is still contiguous if divided by a road or waterway.⁸⁴ Merger is advisable when land is used together as a single site and is likely to be sold together. The most common situations where a single parcel and tax bill should be used are for:

- **Assembled sites** – Contiguous parcels acquired in order to be developed or used for a single purpose, as in the case of a developer who acquires parcels at different times to build a shopping mall or office building.
- **Accessory land** - Contiguous parcels accessory to property under the same ownership, as in the case of two lots of a homeowner, the second lot abutting or across the street from the residential lot.

8.3.2.2 Separation

Assessors may assess as separate lots contiguous land described in one or more deeds and owned by the same person based on the division of the land shown on a subdivision plan approved by the planning board or a plan endorsed by the board as not requiring subdivision approval (an Approval Not Required (ANR) plan). This avoids having to apportion the tax and liens if the owner of the land sells any of the lots. Assessors may rely on any approved or endorsed plan, even if not recorded by January 1, but the better practice is to rely only on recorded plans. Plans can be amended before recording, and assessors should avoid variations in parcel boundaries from year to year since taxes and liens should be on the same physical area.

8.3.2.3 Effect on Zoning and Valuation

The assessors' determination of a parcel is solely for assessment and billing purposes. It does not affect the development potential of the land, which is determined by zoning and land use laws. The determination also should not affect the assessed valuation of the land area, which cannot exceed its fair cash value, regardless of the number of taxable parcels established by the assessors.⁸⁵

8.3.3 Parcels Defined by Law

8.3.3.1 Conservation Restrictions

Land subject to a permanent conservation restriction must be assessed as a separate parcel.⁸⁶

Example

Blackacre is a 25-acre tract that includes a house. The owner places a conservation restriction on a 15-acre, vacant portion of the tract that abuts a stream. Assessors must separately assess the owner for the 15-acre portion.

8.3.3.2 Condominium

A condominium is a form of real estate comprised of units and common areas. Unit owners own their individual units in fee simple. They also own a percentage interest in the common areas of the condominium, usually (1) the land, (2) common facilities, such as swimming pools and tennis courts, and (3) the structural parts of the buildings, such as the roof. An association made up of the unit owners manages the common areas and facilities, and each unit owner pays a fee to the association to finance maintenance and repairs.

A condominium is created by recording a master deed that defines each unit and the common areas and facilities. Each unit, together with its undivided interest in the common areas and facilities, constitutes a separate taxable parcel and is assessed to the record owner of the unit.⁸⁷ Common areas are not separate parcels for assessment purposes and are not assessed separately to the association. Areas or facilities not included as part of the condominium in the master deed are assessed separately to the owner.

Some developers reserve the right in the condominium master deed to construct additional condominium units in the common areas of the condominium and to add those units to the condominium in the future by amendment to the master deed. These amendments to the master deed are typically called "phasing" amendments. Once these additional condominium units are added to the master deed

by amendment, they are separate taxable parcels.⁸⁸ The developer is not subject to tax for the unexercised development rights reserved in the master deed.⁸⁹

However, once the developer exercises those rights by physically occupying the condominium common area to the exclusion of others through the construction of units to be added to the condominium by future amendment, the developer may have a sufficient present interest in real estate that will be subject to property tax if authority is obtained by the assessors from the commissioner of revenue to assess a present interest in real estate.⁹⁰ The assessment date for additional units added to a condominium by amendment to a master deed and regarding the assessment of present interests in real estate is January 1, as it is for all real property.⁹¹

8.3.3.3 Time-shares

A time-share estate is a right to occupy a time-share unit during five or more separated time periods (sometimes called “intervals”) over a period of at least five years. A time-share instrument creates and governs the time-share estates in a time-share property. Each time-share estate is coupled with either a fee or leasehold estate in a time-share property.⁹² Unlike condominium units, the individual time-shares estates and units in a time-share property are not assessed as separate parcels. Instead, the time-share property (facility in which the time-share units are located) is assessed as a single parcel and the bill is sent to, and paid by, the management entity.⁹³

If a parcel is subject to both a recorded condominium master deed and a time-share instrument, then the parcel is treated as a time-share for purposes of the assessment and collection of real property taxes.⁹⁴

9.0 ASSESSMENT RECORDS

9.1 Assessment Records

Well-organized and maintained records are vital to effective assessment administration. Important records found in the assessors’ office include:

- **Property records** – Ownership and descriptive data for each parcel and personal property account. See Chapter 2.
- **Tax maps** – Maps showing the location, boundary, dimensions and acreage of each parcel, as well as physical features that affect value, and the location of streets, lakes and rivers. See Chapter 2.

- **Property lists** – Valuation and commitment lists, maintained by taxpayer name (alphabetical list) and location (street list).
- **Abatements and exemptions** – Applications and supporting information and a record of abatements and exemptions granted that shows the taxpayer’s name, fiscal year, tax assessed, tax abated or exempted, date granted and statutory reference. Abatement and exemption applications should be considered “source” or “audit” documents. Assessors should date-stamp each application upon its receipt. Upon taking final action on an application, they should note that action on the application and sign it. They may also note other interim actions on applications, such as the dates abatement information requests were mailed and the information received.
- **Tax rate recapitulations** – Copies of the approved tax rate for each fiscal year.
- **Excises** – Motor vehicle, boat and farm excise commitment lists and abatement and exemption records.

9.2 **Records Management**

As record custodians, assessors must safely store their records. They must also retain all original records, both public and non-public, unless the Supervisor of Public Records authorizes their destruction. The Supervisor and Archives Division - Records Management Section in the Office of the Secretary of State has prepared a **[Municipal Record Retention Manual](#)** that lists each municipal record, form or document, its statutory reference, and its retention period.

Assessors must maintain some records permanently. Permanent records include.

- Minutes of board meetings.
- Tax maps.
- Property record cards, including ownership history.
- Tax rate recapitulations.
- Property valuation lists.
- Abatement and exemption record books.

Almost all other records maintained by assessors can be disposed of or destroyed under certain conditions, usually after a specified number of years or completion of a satisfactory audit. Assessors may obtain permission to dispose of unnecessary records from the Records Management Unit. For further information about records disposition, assessors should contact the Public Records Management Unit of the Office of the Secretary of State, by writing Massachusetts Archives at Columbia Point, 220 Morrissey Boulevard, Boston, MA 02125, by calling (617) 727-2816 or visiting the web at **www.sec.state.ma.us/arc/arcrmu/rmuidx.htm**.

10.0 REPORTS

10.1 Overview

Assessors are responsible for submitting numerous reports to other financial officials within the municipality and to DOR. Some reports are required by law and must be filed on or before a specified date. Other reports may be required of the assessors as a department head, as part of the operation of their community.

10.2 Local Finance Officers

10.2.1 Collector

Assessors must notify the collector of all commitments of taxes, excises and betterments. They also notify the collector of any amendments in those commitments that result from abatements, exemptions, apportionments, reassessments, additional omitted or revised assessments.

10.2.2 Accounting Officer

Assessors must provide a copy of the approved tax rate recapitulation to the accounting officer as notice of the tax levy, the tax levy by class, the overlay and estimated receipts for the fiscal year.⁹⁵ In addition, the assessors must provide the accounting officer with the same information submitted to the collector regarding commitments, abatements and other commitment amendments, so that the collector and accounting officer can reconcile receivables.⁹⁶

10.2.3 Treasurer

Assessors must report and turn over any monies they receive from the operation of their office, such as fees charged for public records, to the treasurer at least once a week.⁹⁷

10.3 Department of Revenue

10.3.1 Annual Reports

10.3.1.1 Interim Year Adjustment Report

Assessors must adjust values between certification years if the values no longer reflect market value. See Chapter 2. All assessors must report the results of their market analysis to BLA on form "Interim Year Adjustment Report" whether or not any valuation adjustments were made. This form should be submitted as early as possible during the tax rate process, but no later than the time the Form LA-4 "Assessment/Classification Report" is submitted.

10.3.1.2 Tax Base Growth Report

The "Tax Base Growth Report" (LA-13) is used to report "new growth" in the tax base that increases the community's levy limit under Proposition 2½. It must be submitted to BLA annually before the tax rate can be set.

10.3.1.3 Classification Tax Allocation

Before setting the tax rate each year, a classification hearing is held by the selectmen or city council to determine the shares of the tax levy to be paid by each class of property in the community, and whether to allow an open space discount, residential exemption or small commercial exemption. See Chapter 4. The assessors provide information about the impact of these options at the hearing. The decisions of the selectmen and city council, with the mayor's approval, are reported to the Bureau of Accounts (BOA) using the "Classification Tax Allocation" (Form LA-5).

10.3.1.4 Tax Rate Recapitulation

The tax rate recapitulation sheet with all supporting documentation must be submitted to BOA for approval before tax bills can be sent out. See Chapter 5.

10.3.1.5 Exemption Reimbursements

Assessors must report the exemptions granted to DOR each year in order for their municipality to be reimbursed for various personal exemptions. The reports are submitted to the Municipal Databank. Assessors should submit the reports as soon as possible after all exemption applications have been processed, but no later than August 20. See Chapter 7.

10.3.2 Certification Year

As part of the certification review process, assessors must provide BLA with sales data showing the proposed new values. They must also provide land schedules, cost data, depreciation schedules, income and expense information, analytic spreadsheets and other documentation that supports the valuations placed on real and personal property.

10.3.3 Other Reports**10.3.3.1 Equalized Valuation**

Assessors must provide sales data to BLA for the calculation of the equalized valuations (EQVs) every two years.⁹⁸ The EQV estimates the total valuation of each community as of the same January 1 to adjust for different revaluation cycles and is used in some state aid distributions and in county tax allocations.

10.3.3.2 State Owned Land

Assessors must provide BLA with acreage and valuation information about certain types of land in their community that is owned by the Commonwealth every four years.⁹⁹ BLA uses the data to develop fair cash values for reimbursable land. The valuations are used to allocate an annual state budget

appropriation to reimburse communities for the loss of revenue from previously taxable land.

¹ G.L. c. 59, §§ 2A and 38.

² *Boston Gas Company v. Assessors of Boston*, 334 Mass. 549 (1956).

³ Mass. Const. Pt. II, c. 1, § 1, art. 4; Pt. I Declaration of Rights, art. 10.

⁴ G.L. c. 40, § 56.

⁵ G.L. c. 59, § 21C(f).

⁶ G.L. c. 59, §§ 21 and 23.

⁷ G.L. c. 59, §§ 43 and 53.

⁸ G.L. c. 59, § 52.

⁹ G.L. c. 59, § 23A.

¹⁰ G.L. c. 59, § 53

¹¹ G.L. c. 59, § 59.

¹² G.L. c. 59, § 25.

¹³ G.L. c. 80, § 4.

¹⁴ G.L. c. 80, § 13.

¹⁵ G.L. c. 40, §§ 42A-42F.

¹⁶ G.L. c. 83, §§ 16A-16F.

¹⁷ G.L. c. 164, §§ 58B-58F.

¹⁸ G.L. c. 44, § 28C(f).

¹⁹ G.L. c. 111, §§ 125 and 127B; c. 139, § 3A; c. 143, § 9; c. 148, § 5.

²⁰ G.L. c. 58, §§ 1A, 4-4C.

²¹ G.L. c. 58, § 1A.

²² G.L. c. 58, § 3.

²³ G.L. c. 58, § 1.

²⁴ G.L. c. 58, § 31.

²⁵ G.L. c. 40, § 56; c. 58, § 1A; c. 59, § 2A (c).

²⁶ G.L. c. 59, § 21D.

²⁷ G.L. c. 268A.

²⁸ G.L. c. 30B.

²⁹ G.L. c. 30A, §§ 18 – 25.

³⁰ G.L. c. 4, § 7, cl. 26.

³¹ G.L. c. 66, § 10.

³² G.L. c. 59, § 60.

³³ G.L. c. 59, § 32.

³⁴ G.L. c. 59, § 52B.

³⁵ G.L. c. 59, § 52B.

³⁶ G.L. c. 59, § 21.

³⁷ *Miller v. Wadsworth, Howland & Co.*, 296 Mass. 172 (1936).

³⁸ *Irving Usen Co., Inc. v. Assessors of Boston*, 309 Mass. 544 (1941).

³⁹ *Donlon v. Board of Assessors of Holliston*, 389 Mass. 848 (1983) (subdivision plan affecting development status of land rescinded after January 1); *Sarris v. Board of Assessors of Swampscott*, 2 Mass. App. Ct. 841 (1974) (property damaged by fire after January 1).

⁴⁰ G.L. c. 44, §§ 56 and 56A.

⁴¹ G.L. c. 59, § 2.

⁴² G.L. c. 59, § 2A(a).

⁴³ G.L. c. 59, §§ 11 and 18.

⁴⁴ G.L. c. 59, § 38.

⁴⁵ G.L. c. 59, § 2A(b).

⁴⁶ G.L. c. 59, § 11.

⁴⁷ *Boston v. Quincy Market Cold Storage & Warehouse Co.*, 312 Mass. 638 (1942).

⁴⁸ *City of Springfield v. Schaffer*, 12 Mass. App. Ct. 277 (1981).

- ⁴⁹ Ann could occupy the property until her death. Therefore, the maximum potential duration of the estate is Ann's life. Since the estate could end sooner, it is called a "life estate determinable."
- ⁵⁰ *Thayer v. Shorey*, 287 Mass. 76 (1934); *Matteson v. Walsh*, 79 Mass. App. Ct. 402 (2011).
- ⁵¹ G.L. c. 186, § 1A.
- ⁵² *Bernatavicius v. Bernatavicius*, 259 Mass. 486 (1927).
- ⁵³ *Licker v. Gluskin*, 265 Mass. 403 (1929).
- ⁵⁴ G.L. c. 209, § 1.
- ⁵⁵ *Corracio v. Lowell Five Cents Savings Bank*, 415 Mass. 145 (1993).
- ⁵⁶ *Taylor v. Bettnick-Smith*, 304 Mass. 430 (1939); *Dunham v. City of Lowell*, 200 Mass. 468 (1909); *Miner v. Pingree*, 110 Mass. 47 (1872).
- ⁵⁷ *Kirby v. Board of Assessors of Medford*, 350 Mass. 386 (1966).
- ⁵⁸ G.L. c. 36, § 24B.
- ⁵⁹ Most registries of deeds have a website with an on-line database of its recorded documents accessible to the public.
- ⁶⁰ G.L. c. 183, §§ 10 and 16.
- ⁶¹ G.L. c. 183, §§ 11 and 17.
- ⁶² G.L. c. 201A, § 11(3)(b).
- ⁶³ G.L. c. 190B, §§ 5-401 and 5-419.
- ⁶⁴ G.L. c. 236, § 33.
- ⁶⁵ G.L. c. 244, § 11.
- ⁶⁶ G.L. c. 185, § 10.
- ⁶⁷ G.L. c. 185, § 57.
- ⁶⁸ G.L. c. 184, § 35; c. 203, § 2.
- ⁶⁹ Registry of Probate records are not generally available on-line; however, some basic case filing information may be accessible through the Mass. Trial Court Electronic Case Access website: <http://www.masscourts.org>.
- ⁷⁰ G.L. c. 190, §§ 1-3; effective March 31, 2012 G.L. c. 190B, §§ 2-101 – 2-108.
- ⁷¹ G.L. c. 190, §§ 1-2; effective March 31, 2012 G.L. c. 190B, § 2-102(1).
- ⁷² G.L. c. 190, §§ 2-3; effective March 31, 2012 G.L. c. 190B, § 2-103.
- ⁷³ G.L. c. 59, § 12D.
- ⁷⁴ *Tobin v. Gillespie*, 152 Mass. 219 (1890).
- ⁷⁵ G.L. c. 59, § 12E.
- ⁷⁶ G.L. c. 59, § 2A(a).
- ⁷⁷ *Board of Assessors of Wilmington v. Avco Corp.*, 357 Mass. 704 (1970) (towers installed on foundations and secured by wires); *Chelsea v. Richard T. Greene Co.*, 319 Mass. 162 (1946) (cradle, track, and hoisting machinery used to operate marine railway); *Franklin v. Metcalfe*, 307 Mass. 386 (1940) (lunch cart belonging to lessee mounted on foundation).
- ⁷⁸ *Donovan v. Haverhill*, 247 Mass. 69 (1923).
- ⁷⁹ *Newton Building Co. v. Commissioner of Corporations and Taxation*, 285 Mass. 471 (1934); *McGee v. City of Salem*, 149 Mass. 238 (1889).
- ⁸⁰ *Paine v. Board of Assessors of Weston*, 297 Mass. 173 (1937); *Donovan v. Haverhill*, 247 Mass. 69 (1923).
- ⁸¹ *Crocker-McElwain Co. v. Assessors of Holyoke*, 296 Mass. 338 (1937).
- ⁸² *Boston v. Boston Port Development Co.*, 308 Mass. 72 (1941).
- ⁸³ *Town of Franklin v. Metcalfe*, 307 Mass. 386 (1940).
- ⁸⁴ *Lenox v. Oglesby*, 311 Mass. 269 (1942).
- ⁸⁵ Fair cash valuation is based on the highest and best use of the land, which should reflect the applicable zoning, building or other land use laws and regulations, as well as the physical characteristics of the land.
- ⁸⁶ G.L. c. 59, § 11.
- ⁸⁷ G.L. c. 183A, § 14.
- ⁸⁸ G.L. c. 183A, § 14.
- ⁸⁹ *Spinnaker Island and Yacht Club Holding Trust v. Board of Assessors of Hull*, 49 Mass. App. Ct. 20 (2000); *First Main Street Corp. v. Board of Assessors of Acton*, 49 Mass. App. Ct. 25 (2000).
- ⁹⁰ G.L. c. 59, § 11.

⁹¹ G.L. c. 59, § 11. In communities that have adopted a local option, the physical status of real property on June 30 is deemed to be its condition on January 1. G.L. c. 59, § 2A(a).

⁹² G.L. c. 183B, § 3(a).

⁹³ G.L. c. 183B, § 3(b).

⁹⁴ G.L. c. 183B, § 9.

⁹⁵ G.L. c. 59, § 23A.

⁹⁶ G.L. c. 59, §§ 23B and 70A.

⁹⁷ G.L. c. 44, § 53.

⁹⁸ G.L. c. 58, §§ 9-10C.

⁹⁹ G.L. c. 58, §§ 13-17.

ADDITIONAL RESOURCES ASSESSMENT ADMINISTRATION

The following are additional resources on Assessment Administration produced by DLS that are available on our website: www.mass.gov/dls.

- [*A Guide to Financial Management for Town Officials*](#) – Provides an overview of town financial operations, including roles and responsibilities of town officers. Much of the information also applies to city officials. **Supplements the course handbook.**
- [*Municipal Finance Glossary*](#) – Provides definitions of terms regarding property tax administration and municipal finance and includes commonly used acronyms and internet addresses. **Supplements the course handbook.**
- [*Municipal Calendar*](#) – Sets out key dates in property tax administration and municipal finance. **Supplements the course handbook.**
- [*Betterments and Special Assessments – Assessment and Collection Procedures*](#) – Explains the basic procedures for assessing and collecting betterments and special assessments.
- [*Informational Guideline Release \(IGR\) 11-101, Overlay and Overlay Surplus \(June 2011\)*](#) – Guidelines that explain the statutory standards for maintaining an adequate overlay.

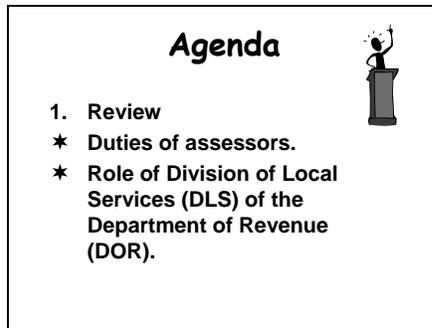
Slide 1



Slide 2



Slide 3



Slide 4

Agenda 

2. Discuss

- * Principles of four laws that regulate how public officials, including assessors, conduct public business, and identify the agencies that enforce those laws.

Slide 5

Agenda 

3. Discuss

- * Preparation of the annual property tax assessment roll with focus on:
 - ◆ Assessed owner.
 - ◆ Assessment unit.

This includes:

Slide 6

Agenda 

- * Identifying the components of the annual tax roll.
- * Determining the ownership of property by understanding the different types of property interests, ownership forms and ownership records.
- * Defining a taxable parcel.

Slide 7

Agenda



4. Review

- * Essential assessment records assessors should maintain.
- * Reports assessors must submit to other local officials and to the Division of Local Services.

Slide 8

Objectives



To Learn -

1. That assessors are municipal finance and public officials who act within a legal framework that governs assessment administration and overall operations.

Slide 9

Objectives



To Learn -

2. The duties of the assessors and their interactions with other local officials and the Division of Local Services.
3. The types of property ownership and meaning of "assessed owner."

Slide 10

Objectives

To Learn -

- 4. The meaning of "real estate parcel."
- 5. The importance of maintaining a set of well-organized records.



Slide 11

Section 1

**Assessor
as
Municipal Finance Officer**

Slide 12

**Team
Management**



The "Financial Team"

Slide 13

The Financial Team Should Include

- * Mayor of a city or
- * Representative from selectmen and finance committee in a town.
- * Assessors.
- * Collector.
- * Treasurer.
- * Accounting officer.

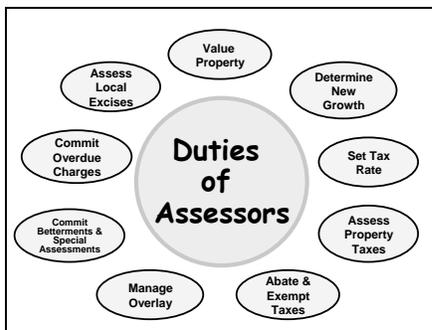


Slide 14

Duties of Assessors



Slide 15



Slide 16

**Duties of Assessors
Property Taxes**



- * Value property.
- * Determine new growth.
- * Set the tax rate.
- * Assess property taxes.
- * Abate and exempt taxes.
- * Manage overlay.

Slide 17

**Duties of Assessors
Other Taxes and Revenues**



- * Commit betterments and special assessments.
- * Commit overdue charges.
- * Administer local excises.

Slide 18

Value Property



- * Allocates tax levy among taxpayers.
- * Assessments based on fair cash value.
- * Certified by DOR every three years.

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Determine New Growth

- * Allowed as annual increase in Proposition 2½ levy limit.
- * Based on value added to tax base since last year.
- * Reported to DOR before tax rate set.



Slide 20

Set Tax Rate

- * Assessors coordinate and oversee preparation of annual tax rate recapitulation – the “recap.”
- * Recap displays budget plan and assessed valuation used to set rate.



Slide 21

Assess Property Taxes

- * Assessors prepare valuation and commitment list and commit to collector with warrant.
- * Assessors notify accounting officer of commitment.



Slide 22

Abate and Exempt Taxes

- * Abatement is reduction in tax liability granted to taxpayer who applies and shows overassessment.
- * Exemption is full or partial forgiveness of tax liability for persons or property.
- * Assessors notify taxpayer, collector and accounting officer.



Slide 23

Manage Overlay

- * Annual reserve to fund anticipated abatements and exemptions.
- * Assessors determine surplus to be released.
 - ◆ Accounting officer notified to transfer surplus to overlay reserve.



Slide 24

Commit Betterments and Special Assessments

- * Betterments and special assessments are special property taxes assessed to recover cost of public improvements and infrastructure specially benefiting abutters.



Slide 25

Commit Betterments and Special Assessments

- * Selectmen, water or sewer commissioners, or other board member in charge of the project
 - ◆ Determine the assessment for each property.
 - ◆ Certify assessments to assessors.



Slide 26

Commit Betterments and Special Assessments

- * Assessors commit betterments to collector with a warrant.
- * Collector sends out bills for the betterments.
 - ◆ Property owner can pay in full, or in up to 20 yearly installments.



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Commit Betterments and Special Assessments

- * Collector certifies to assessors betterments not fully paid before next year's commitment.
- * Assessors add one year's apportionment, with interest on unpaid balance, to tax on property each year until paid.



Slide 28

Commit Betterments and Special Assessments

- * Abatements are administered by the board or officer that assessed the betterment.



Slide 29

Commit Overdue Charges

- * Charges or fees for services that are liens on real property are added to tax to initiate collection.
- * Most common charges added:
 - ◆ Water and sewer.
 - ◆ Municipal light use.
 - ◆ Trash.
 - ◆ Demolition.



Slide 30

Commit Overdue Charges

- * Billing department or collector certifies unpaid charges to assessors.
- * Assessors add charge to real estate tax on property.
- * Abatements are administered by the board or officer that assessed the charge or fee.



Slide 31

Administer Excises

- * Prepare a tax list.
- * Commit tax list to collector with a warrant to initiate the billing process.
- * Grant abatements and exemptions.

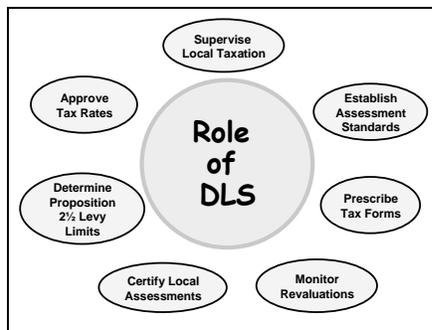


Slide 32

Role of Division of Local Services



Slide 33



Slide 34

**Role of
Division of Local Services**

- * Supervise local taxation and finance.
- * Establish assessment administration standards and prescribe tax forms.
- * Monitor revaluations and certify local assessments.
- * Determine Proposition 2½ levy limits.
- * Approve tax rates.



Slide 35

**Interaction
with Local
Officials**



Slide 36

Annual Budget

- * Budget is annual financial plan.
 - ◆ Establishes revenues expected to be available.
 - ◆ Defines service priorities and goals within those resources.

Sound and timely budget is fundamental to ability to perform vital governmental functions.



Slide 37

**Annual Budget
Role of Assessors** 

- * **Adoption.**
 - ◆ Revenue - Estimate new growth increase in community's Proposition 2½ levy limit.
 - ◆ Spending – Submit departmental budget request and estimate for overlay.

Slide 38

**Annual Budget
Role of Assessors** 

- * **Implementation.**
 - ◆ Complete valuations and coordinate setting of tax rate so property tax bills are issued on schedule.

Slide 39

**Annual Budget
Setting the Tax Rate**

- * **Financial Team Coordination –** Coordinate steps to finalize budget, adopt tax policy and provide final information needed for tax rate.
- * **Timetable –** Set realistic timetable and review periodically.

Sharing information is essential. 

Slide 40

Review
Key Concepts
Assessor as
Municipal Finance Officer



Slide 41

Review



1. Statutory Duties
Assessors and the Division of Local Services within the DOR have specific statutory duties regarding assessment administration.

Slide 42

Review



2. Chief Revenue Officer
Assessors function as the chief revenue officers of the community.

- ◆ Assess property taxes and local excises.
- ◆ Initiate collection of betterments and municipal charges.

Slide 43

Review 

3. Team Management
Assessors are:

- ◆ Part of the financial team for their community.
- ◆ Must coordinate with other officials to ensure sound financial management.

Slide 44

Section 2

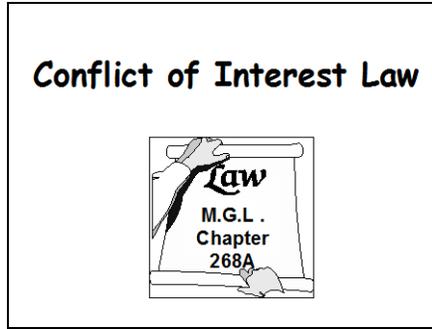
**Assessor
as
Public Official**

Slide 45

Four Laws

1. The Conflict of Interest Law.
2. The Uniform Procurement Act.
3. The Open Meeting Law.
4. The Public Records Law. 

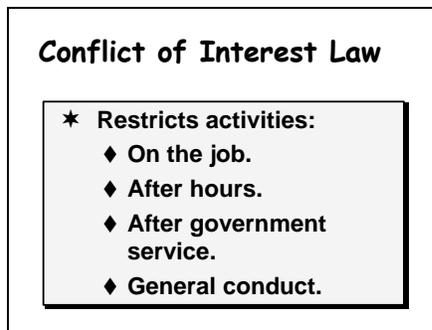
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Conflict of Interest Law

- * **State Ethics Commission:**
 - ◆ Interprets and provides civil enforcement of Conflict of Interest Law.
 - ◆ Criminal sanctions for egregious conduct.



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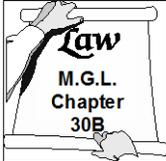
Conflict of Interest Law

- * **Municipal Counsel:**
 - ◆ Advises municipal officials and employees about proposed activities.
 - ◆ Employee (not employer) responsible for seeking opinion.



Slide 51

**Purchases and Contracts-
Uniform Procurement Act**



Slide 52

Uniform Procurement Act

* Establishes uniform procurement procedures public officials must follow *when ...*

Buying or Contracting for Supplies Equipment Services Real Property	Disposing of Surplus Supplies Equipment Real Property
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Slide 53

Uniform Procurement Act

Exceptions –
Certain types of contracts are exempt from Ch. 30B procurement procedures



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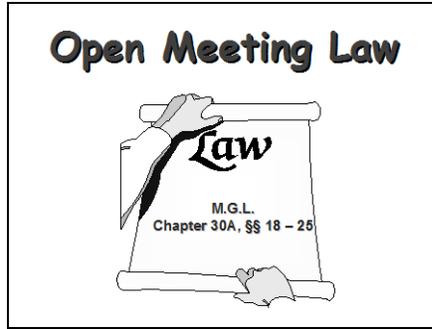
Uniform Procurement Act

* **Office of the Inspector General (IG):**

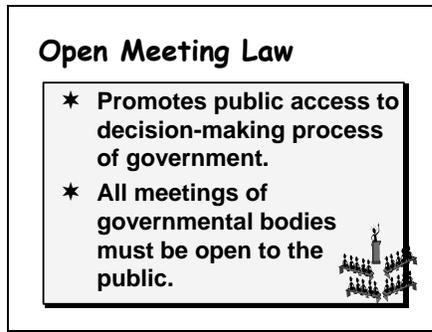
- ◆ Interprets and enforces Ch. 30B and other bidding laws.



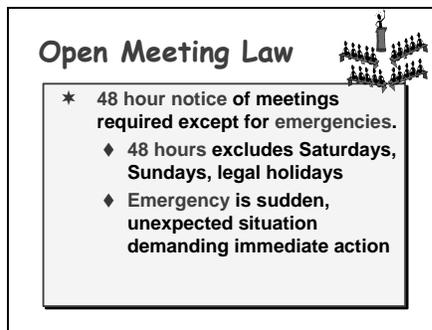
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Open Meeting Law

- * May meet privately in "executive session."
 - ◆ Must follow certain procedures.
 - ◆ Must be for a reason specified in law.



Slide 59

Open Meeting Law

- * Must maintain accurate records of meetings and votes.
- * Minutes of meeting should record:
 - ◆ Content of discussions.
 - ◆ All votes taken.



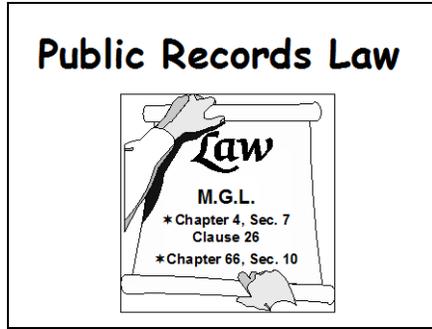
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Open Meeting Law

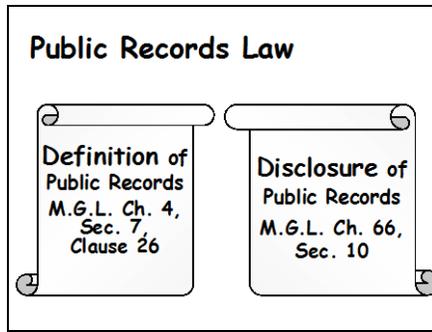
- * Enforcement by:
 - ◆ Attorney General
 - ◆ Three or more voters.
- * Court can invalidate action.



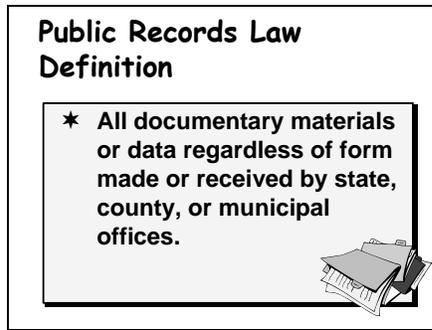
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Public Records Law Examples

* **Generated by assessors' office:**

- ◆ Property record files.
- ◆ Valuation books.
- ◆ Lists of abatements & exemptions.
- ◆ Minutes of board meetings.



Slide 65

Public Records Law Examples

* **Generated outside assessors' office:**

- ◆ Copies of deeds from Registry of Deeds
- ◆ Correspondence.



Slide 66

Public Records Law Disclosure

* **Any member of public has right to inspect or receive copy of public record.**



Slide 67

Public Records Law Disclosure 

* Covers oral request made in person, or written request, for an existing record.

◆ Phone request not covered. 

Slide 68

Public Records Law Disclosure

* Custodian must provide the record without unreasonable delay and within 10 days. 



Slide 69

Public Records Law Disclosure 

* Custodian may charge a reasonable fee to recover costs of fulfilling request.

◆ Maximum fees set by Supervisor of Public Records in the Office of Secretary of State. 

Slide 70

Public Records Law Disclosure

*** Some records are exempt from disclosure.**



Slide 71

Public Records Law Disclosure



*** Custodian must cite specific exemption statute when denying request.**

- ◆ **CANNOT cite general concerns about privacy or use of information.**

Slide 72

Public Records Law Disclosure



*** Some assessors' records are exempt from disclosure.**

*** Mostly taxpayer documents with information about:**

- ◆ **Financial matters.**
- ◆ **Property holdings.**



Slide 73

Public Records Law Examples

- * **Examples of Exempt Records:**
 - ◆ **Abatement and exemption applications.**
 - ◆ **Personal property schedules in Forms of List.**



Slide 74

Public Records Law Examples

- * **Examples of Exempt Records:**
 - ◆ **Pre-assessment and abatement information requests.**
 - ◆ **Appraisal reports prepared for Appellate Tax Board appeals.**



Slide 75

Public Records Law Disclosure

- * **Requestor denied a record may appeal to Supervisor of Public Records in Office of Secretary of State.**
 - ◆ **Supervisor may order custodian to disclose the record.**



Slide 76

Public Records Law

- * Supervisor of Public Records (SPR) in Office of the Secretary of State:
 - ◆ Interprets and enforces the public records law.



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Section 3

Annual Tax Roll and Commitment

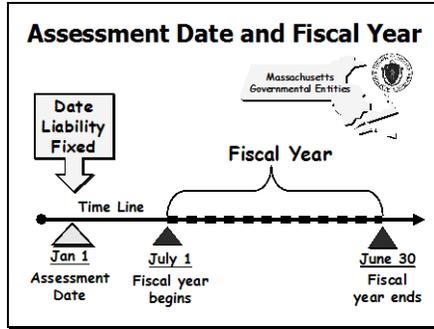
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Annual Tax Roll Calendar

Assessment Date
Fiscal Year



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Slide 80

Annual Tax Roll - Property Taxes

- * Taxable property.
- * Assessed owner.
- * Assessment unit.
- * Fair Cash Value.
- * Usage class.

Slide 81

Taxable Property

- * Assessors determine what property is taxable?
 - ◆ Identify all physical real and personal property existing on January 1.
 - ◆ Local option - physical status of real property on June 30 deemed to exist on January 1.

Slide 82

Assessed Owner 

- ★ Assessors determine who is assessed for that property?
 - ◆ Identify the owners of all real or personal property as of January 1.

Slide 83

Assessment Unit 

- ★ Assessors determine what unit is assessed and billed?
 - ◆ Identify all personal property accounts, and boundaries of real estate parcels, as of January 1.

Slide 84

Fair Cash Value 

- ★ Assessors determine how the property is assessed?
 - ◆ Determine fair cash value of all real and personal property on January 1.

Slide 85

Usage Class 

- * Assessors determine how the property is used?
 - ◆ Classify real property as residential, open space, commercial, industrial on January 1.

Slide 86

Annual Tax Roll - Collectibles



- * Apportioned betterments and special assessments.
- * Overdue charges and liens.

Slide 87

Who is Assessed?
Assessed Owner



Slide 88

Assessed Owner

* Property taxes assessed to owner of real or personal property as of January 1.



Slide 89

**Assessed Owner
Record Owner -**



* Record owner of the land is owner for assessment purposes.

- ◆ Found in the records of Registry of Deeds and Registry of Probate.
- ◆ NOT same as title.

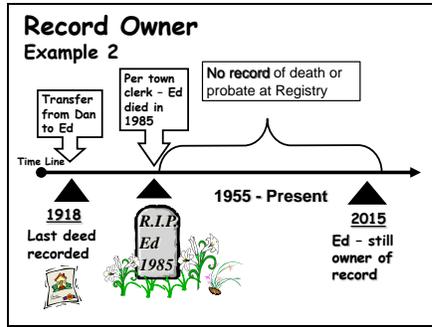
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**Record Owner
Example 1**

- * Ann sells Blackacre to Barbara.
- ◆ New deed is NOT recorded.
- ◆ Barbara has title, but Ann is still the owner of record.



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Assessed Owner
Administrative Convenience

- ★ Assessment to record owner for administrative convenience of assessors.
- ◆ May rely exclusively on public records.

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Assessed Owner
Personal Liability

- ★ Assessed Owner is personally liable for entire year's tax.
- ◆ Tax is single obligation.
- ◆ Allocation of tax is between parties to transfer.

Slide 94

**Property Interests
Classification**

Time of Possession
Duration



Slide 95

**Property Interests
Possession**



*** Is holder currently entitled to possession, use and enjoyment of property?**

- ◆ If YES, person holds a present interest.
- ◆ If NO, person holds a future interest in property.

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**Property Interests
Duration**

*** What is the maximum potential duration of the estate?**

- ◆ Measured by time of ownership.



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**Property Interests
Types**

Fee Simple Estate
Life Estate
Leasehold Estate



Slide 98

**Property Interests
Fee Simple**



- * Estate of potentially indefinite duration.
 - ◆ Owner and heirs have right to possession and ownership for unlimited period.



Slide 99

**Property Interests
Fee Simple**



- * May be sold, inherited or devised by will.
- * Only limits imposed by government:
 - ◆ Taxation.
 - ◆ Police power.
 - ◆ Eminent domain.
 - ◆ Escheat.



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**Property Interests
Life Estate**



- * Estate of finite duration.
 - ◆ Duration is measured by specific person's life.

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**Property Interests
Life Estate**



- * Divides legal title by time and creates successive interests in property.
 - ◆ Life tenant holds, present possessory interest.
 - ◆ Remainderman holds future, remainder interest.

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**Property Interests
Life Estate**



- * May be created by:
 - ◆ Deed
 - ◆ Will
 - ◆ Recorded, lifetime lease.

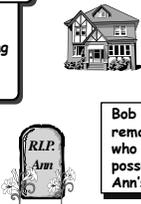
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Life Estate Example 1

Ann grants Blackacre to Bob "reserving to Ann a life estate."

Ann who reserves is the life tenant. The life estate is measured by her life.

Bob is the remainderman who will take possession upon Ann's death.



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Life Estate Example 2

Ann grants Blackacre to Bob for his life then to Carol.

Bob is the life tenant. The life estate is measured by his life.

Carol is the remainderman who will take possession upon Bob's death.

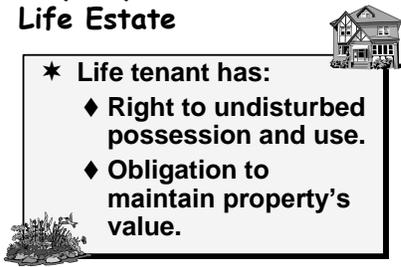


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Property Interests Life Estate

★ Life tenant has:

- ◆ Right to undisturbed possession and use.
- ◆ Obligation to maintain property's value.



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Property Interests
Life Estate



- * Life tenant is the owner of the property for:
 - ◆ Property tax assessment.
 - ◆ Exemption.



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Property Interests
Life Estate



- * Life tenant may convey own interest, but CANNOT mortgage or convey future right of remainderman.
- * But may be given power to mortgage, sell or convey fee in instrument creating life estate.



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Property Interests
Leasehold



- * Estate of finite duration.
 - ◆ Duration is for specific term measured in time.



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Property Interests
Leasehold



- * Tenant/lessee holds present, possessory interest for term.
- * Landlord/lessor has future, reversionary interest once term ends and right to receive rent during tenancy.



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Property Interests
Leasehold



- * Landlord/lessor is the owner and is assessed the tax.
 - ◆ Tenant/lessee is owner and assessed if lease 100 years or more, with 50 years left.



Slide 111

Ownership Forms

Sole Ownership
Multiple Ownership
In Trust



Slide 112

Ownership Forms
Sole Ownership



★ Title held by one person or entity.



Slide 113

Ownership Forms
Multiple Ownership



★ Title held by two or more persons or entities as multiple co-owners.



Slide 114

Ownership Forms
Multiple Ownership



★ May assess tax to one or more co-owners.
◆ Co-owners have joint and several liability for the tax.



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Ownership Forms
Multiple Ownership



- * Three types of multiple ownership are:
 - ◆ Tenancy in common.
 - ◆ Joint tenancy.
 - ◆ Tenancy by the entirety.



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Multiple Ownership
Tenancy in Common

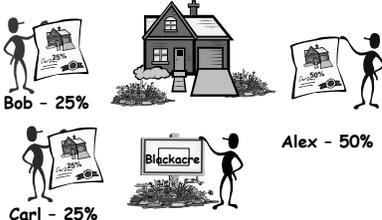


- * Each co-tenant has an undivided interest in the whole property.
 - ◆ Interests may be unequal.
 - ◆ Each co-owner has right to possession, use, and enjoyment of entire property.



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Tenancy in Common
Example



Bob - 25%

Carl - 25%

Alex - 50%

Blickkache

Slide 118

**Multiple Ownership
Tenancy in Common** 

*** Each co-tenant may acquire interest at different times and convey that interest.**



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**Multiple Ownership
Tenancy in Common** 

*** Interest of co-tenant who dies does NOT pass by law to surviving co-tenants.**

◆ Interest passes to co-tenant's heirs or under co-tenant's will.



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**Multiple Ownership
Joint Tenancy** 

*** Shared ownership with two distinguishing features:**

◆ Right of survivorship.

◆ Unity of interest, possession, time and title.



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**Multiple Ownership
Joint Tenancy** 

- * **Right of survivorship.**
 - ◆ Interest of co-tenant who dies passes by law to surviving co-tenants.
 - ◆ Last surviving co-tenant becomes the sole owner.



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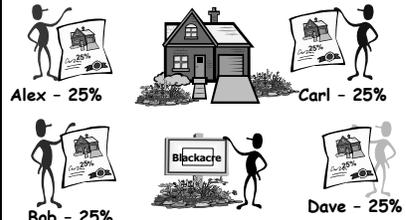
**Multiple Ownership
Joint Tenancy** 

- * **Unity.**
 - ◆ Interest and possession - Each co-tenant has equal, undivided interest in the whole property.
 - ◆ Time and title - Each co-tenant must have acquired interest at same time in same instrument.



Slide 123

**Joint Tenancy
Example**



Alex - 25% Carl - 25%

Bob - 25% Dave - 25%

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**Multiple Ownership
Joint Tenancy** 

- ★ Conveyance to two or more owners is a tenancy in common unless express intent create joint tenancy.
- ◆ Law favors form of ownership with least restrictions on disposition.



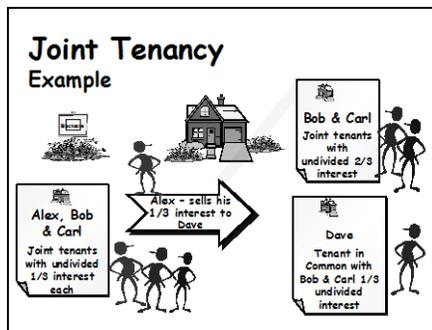
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**Multiple Ownership
Joint Tenancy** 

- ★ Joint tenants may convey their own interests.
- ★ Conveyance creates tenancy in common with other tenants.
- ◆ Conveyance destroys unity of time and title required for joint tenancy.



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**Multiple Ownership
Tenancy by the Entirety**

- * Shared ownership with two distinguishing features:
 - ◆ Can only be granted to and held by a married couple.
 - ◆ Indestructible right of survivorship during marriage.



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**Multiple Ownership
Tenancy by the Entirety**

- * Can only be granted to and held by married couple.
 - ◆ Grant to unmarried couple NOT transformed to tenancy by entirety if they marry.
 - ◆ Divorce makes former spouses tenants in common.



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**Multiple Ownership
Tenancy by the Entirety**

- * Indestructible right of survivorship during marriage.
 - ◆ Neither spouse can by acting alone defeat right of surviving spouse to entire property.



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**Multiple Ownership
Tenancy by the Entirety** 

- * Spouses may be able to convey their individual interests (NOT survivorship right of other spouse) depending on when tenancy was created.



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**Multiple Ownership
Tenancy by the Entirety** 

- * Pre-February 11, 1980 tenancy.
 - ◆ Wife – Only has survivorship right. Any conveyance is void.
 - ◆ Husband – Has full present interest. May convey present interest and his survivorship right.



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**Multiple Ownership
Tenancy by the Entirety** 

- * Post-February 11, 1980 tenancy.
 - ◆ Both spouses – Have survivorship right and 50% present interest. Both may convey those interests.



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Ownership Forms Trusts



- * A trust establishes a fiduciary obligation in person holding title to trust property to use it for the benefit of others.



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Ownership Forms Trusts



- * The property subject to the trust is the trust corpus or estate.
- * Property in a trust may include:
 - ◆ Real estate.
 - ◆ Tangible personal property.
 - ◆ Intangible personal property.



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Ownership Forms Trusts



- * Trust creates separate but simultaneous and concurrent interests in same property.
- * Division of ownership into two interests is essential.
 - ◆ Legal interest.
 - ◆ Beneficial interest.

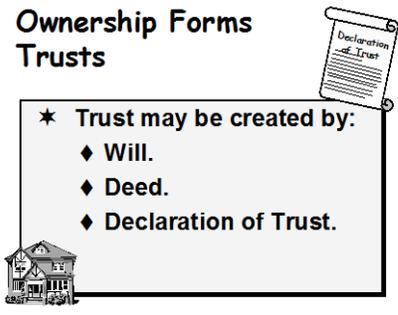


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Ownership Forms Trusts

★ Trust may be created by:

- ◆ Will.
- ◆ Deed.
- ◆ Declaration of Trust.



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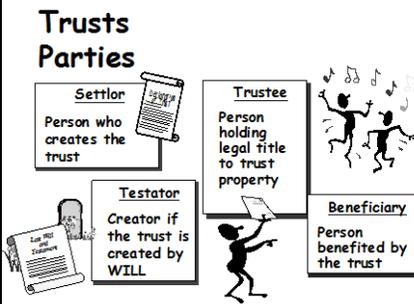
Trusts Parties

Settlor
Person who creates the trust

Trustee
Person holding legal title to trust property

Testator
Creator if the trust is created by WILL

Beneficiary
Person benefited by the trust

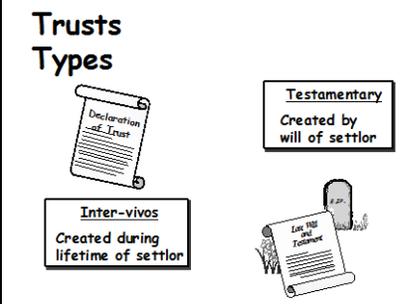


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Trusts Types

Inter-vivos
Created during lifetime of settlor

Testamentary
Created by will of settlor



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Trusts Types



Nominee

One or more persons declare they hold title to real estate as trustees for undisclosed beneficiaries.

Trustees do NOT have power to deal with property except as directed by beneficiaries.



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Trusts Types



Realty or Family Trusts

Description of trust based on:

- ✧ The assets making up the trust corpus.
- ✧ The relationship of the trustees or beneficiaries.



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Ownership Forms Trusts



- ★ Trustee is owner and is assessed tax.
- ◆ Trustee who also has sufficient beneficial interest is the owner for exemption purposes.



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Ownership Records

 Registry of Deeds
Registry of Probate 

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**Ownership Records
Registry of Deeds** 

*** Records found in the Registry of Deeds used by assessors include:**

- ◆ Deeds.
- ◆ Certificates of title.
- ◆ Trust instruments.



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**Ownership Records
Registry of Deeds** 

*** Deed is written legal instrument signed by grantor needed to transfer ownership interest.**



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Ownership Records Registry of Deeds 

*** Content of deeds:**

- ◆ Names of new owners and how property held.
- ◆ Dates property conveyed and deed recorded.
- ◆ Legal description of property conveyed.



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Ownership Records Registry of Deeds 

*** Classifying deeds:**

- ◆ By covenants or guarantees.
- ◆ By purpose of deed/grantor (Specialized Deeds).



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Ownership Records Registry of Deeds 

*** Certificate of title is written legal instrument that transfers ownership of registered land.**

- ◆ Certificate and decree plan describe property, list easements or encumbrances and identify how property owned.



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**Ownership Records
Registry of Deeds**



- ★ Records found in the Registry of Deeds related to trusts are:
 - ◆ Instruments.
 - ◆ Amendments.
 - ◆ Trustee changes.



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**Ownership Records
Registry of Deeds**



- ★ Declaration of trust or certificate of trust is recorded for inter-vivos trust.
 - ◆ Name of trustee to be assessed is identified.



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**Ownership Records
Registry of Deeds**



- ★ Amendments to trusts may be recorded.
 - ◆ Most inter-vivos trusts are revocable and amendable.



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Ownership Records Registry of Deeds



- * Title to and record ownership of trust assets can change without a deed.
- ◆ Documents recorded to show resignation or death of trustee, appointment of successor and acceptance by new trustee.



Slide 152

Ownership Records Registry of Probate



- * Probate court is a specialized court that handles disposition of real and personal assets (estates) of people when they die.



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Ownership Records Registry of Probate



- * A will is a written document in which a person chooses the disposition of his/her property after death.
- ◆ Person who takes real or personal property under a will is a devisee.



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**Ownership Records
Registry of Probate** 

- ★ A person who dies without a will dies intestate and disposition of his/her property is by law.
- ◆ Person who takes property under the law is an heir.



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**Ownership Records
Registry of Probate** 

- ★ Title to decedent's property vests in devisee or heir as of date of death.



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**Ownership Records
Registry of Probate** 

- ★ Assessors must annually review all probate proceedings up to actual commitment for any person who died before the January 1 assessment date and was sole owner or tenant in common.



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**Ownership Records
Registry of Probate** 

- ★ **Death of record by filing of death certificate or petition for probate.**
 - ◆ **Assess taxes to devisees or heirs of decedent generally.**



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**Ownership Records
Registry of Probate** 

- ★ **Will allowed or intestate estate settled.**
 - ◆ **Assess taxes to named devisees or heirs.**



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**Ownership Records
Registry of Probate** 

- ★ **Will contest pending.**
 - ◆ **Assess taxes to Estate of decedent.**



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Review
Key Concepts
Assessed Owner



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Review



1. Record Owner
Assessors assess taxes to the record owner of the property on January 1. Record ownership is determined from documents recorded at the Registry of Deeds and Probate.

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Review



2. Multiple Owners
Assessors may assess taxes on any or all co-owners of property regardless of the type of multiple ownership. The type determines the effect of a deed from, or the death of, one of the co-owners.

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Review 

3. Trusts
Trusts divide the legal and beneficial interest in the property subject to the trust.
Legal title is held by the trustee and ownership can be changed without a deed by changing the trustee.

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Review 

4. Owner's Death
Disposition of a property interest when the owner dies depends on the interest.

- ♦ Interest passes by right of survivorship if a joint tenant or a tenant by the entirety.
- ♦ Interest passes to devisees named in will or heirs at law if sole owner or a tenant in common.

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What is Unit Assessed?
Assessment Unit



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Assessment Unit 

- ★ **Assessors:**
 - ◆ Identify all personal property accounts as of January 1.
 - ◆ Determine boundaries of all real estate parcels as of January 1.

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**Assessment Unit
Personal Property** 

- ★ Personal property includes goods, equipment and other movable items.
- ★ Also poles, underground conduits, wires and pipes not located on owner's land.



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**Assessment Unit
Personal Property** 

- ★ Single assessment is made for all personal property taxpayer owns that is taxable by community.



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**Assessment Unit
Real Estate Parcel** 

- ★ Real estate is land, buildings and other improvements.
 - ◆ All interests in real estate are assessed as a single unit to the fee owner of land.



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**Assessment Unit
Real Estate Parcel** 

- ★ Separate assessment is made for each parcel.



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Real Estate Parcel 

- ★ Parcel boundaries are NOT defined by statute.
 - ◆ Assessment valid if assessors have reasonable basis.
 - ◆ May rely on deed or plan.



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Real Estate Parcel Merger 

- ★ May consolidate and assess as one parcel contiguous land described in several deeds that has same owner.



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Real Estate Parcel Separation 

- ★ May assess as separate parcels contiguous land described in several deeds that has same owner based on division shown in a plan.



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Assessment Unit Real Estate Parcel 

- ★ Determination of parcel is for assessment and billing purposes only.
 - ◆ Development potential determined by zoning and land use laws.



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**Real Estate Parcel
Parcels Defined by Law** 

- ★ Parcel is defined by law for some properties.
 - ◆ Land subject to conservation restriction.
 - ◆ Condominiums.
 - ◆ Timeshares.



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**Parcels Defined by Law
Conservation Restrictions**

- ★ Land subject to a permanent conservation restriction is assessed as a separate parcel.



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**Conservation Restrictions
Example**

 25- acre Tract	Conservation Restriction
 Blackacre	15-acres that abuts a stream 

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**Parcels Defined by Law
Condominiums** 

- ★ Condominium is a form of ownership created by recording a master deed.
- ★ The master deed defines:
 - ◆ Each unit.
 - ◆ The common areas and facilities



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**Parcels Defined by Law
Condominiums** 

- ★ Each unit, together with its interest in the common areas and facilities, is assessed as a separate parcel.
- ★ Condominium common area is not a separate parcel for assessment purposes.



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**Parcels Defined by Law
Timeshares** 

- ★ A time-share estate is a right to occupy a unit in a time-share property for specified time periods (intervals), coupled with a fee or leasehold estate.



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Parcels Defined by Law Timeshares 

- ★ A time-share estate is separate interest in real property, but is **not** separately assessed.
- ★ Time-share property (facility) is assessed as single parcel to the management entity.



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Review

Key Concepts
Assessment Unit



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Review 

1. Personal Property

A single assessment is made to each taxpayer for all of the taxable personal property the taxpayer owns in the municipality.

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§ **Review** 

2. Real Estate
A separate assessment to the landowner of each parcel of real estate is made for the value of all interests in the parcel.

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§ **Review** 

3. Parcel Definition
Assessors may use the description of real estate found in a deed or plan to define a parcel but have some discretion to merge or separate contiguous land under common ownership. For some properties, assessors must follow a statutory definition of parcel.

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Application Exercise Instructions

We are now going to apply the concepts discussed by deciding the assessed owner as of **January 1**.

The exercise is located at page 1-103 in the handbook. 

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Section 4
Assessment Records
and
Reports

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Assessment Records 

* **Assessment records include:**

- ◆ **Property record cards.**
- ◆ **Property lists.**
- ◆ **Abatement and exemption lists.**
- ◆ **Motor vehicle and boat excise bills, abatements and exemptions.**



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Assessment Records 

* **Assessment records must be retained for time shown in records retention schedule issued by the Archives Division - Records Management Section in the Office of Secretary of State.**



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Assessment Records 

★ Permanent records include:

- ◆ Tax maps.
- ◆ Property record cards.
- ◆ Property valuation and commitment lists.
- ◆ Abatement and exemption lists.
- ◆ Tax rate recapitulations.



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Assessment Records 

★ Abatement and exemption applications are treated as “audit” documents and should:

- ◆ Be date stamped when received.
- ◆ Note final action taken by vote of board.
- ◆ Be signed by the assessors.



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**Assessment Reports
Local Officers**

★ Reports to collector include:

- ◆ Commitments.
- ◆ Abatements and exemptions.
- ◆ Other changes to commitments.



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**Assessment Reports
Local Officers**

* Reports to accounting officer include:

- ◆ Levy and overlay amount.
- ◆ Commitments.
- ◆ Abatements and exemptions.
- ◆ Other changes to commitments.



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**Assessment Reports
Local Officers**

* Reports to treasurer:

- ◆ Turnover of monies received from operations.



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**Assessment Reports
Department of Revenue**

* Annual reports to DOR include:

- ◆ Total assessed valuation and assessed valuation by class, new growth, tax rate recapitulation, and supporting documents.
- ◆ Personal exemption reimbursement requests.



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Assessment Reports
Department of Revenue

* Periodic reports to DOR include:

- ◆ Triennial certification - Sales and valuation schedules.
- ◆ Biennial equalized valuation (EQV) – Sales and other data.
- ◆ Quadrennial state owned land valuation (SOL) – Tax maps, data on pre-acquisition tax status and site.



EXERCISE ASSESSMENT ADMINISTRATION

Decide the owner to assess as of January 1, 2016 for FY2017.

1. The town sells a parcel of land to Ann and Bill in October 2015. They do not record the deed. You should:
 - a. Continue to keep the parcel off the tax rolls.
 - b. Assess Ann and Bill.

2. Carol and her sister Delia own a residential parcel as joint tenants. They also own a 50-acre parcel of vacant land in another area of town as tenants in common. In January 2015 Carol dies without a will. Her estate is settled by the probate court in November of the same year. By law, all of Carol's property is inherited by her only child, Emma. You should assess:
 - a. Delia and Emma for both parcels.
 - b. Delia for the residence and Delia and Emma for the land.
 - c. Delia and Emma for the residence and Delia for the land.

3. Frank, George and Harry own a large parcel of developable land together as joint tenants. In January 2015, Frank sells his interest to Isaac and the deed is recorded immediately. One month later, George dies. Then in June, Isaac dies. George's estate is settled in December and his brother, Ken, inherits all of his property. Isaac's will is allowed by the probate court in April 2016. All of Isaac's real estate holdings are left to his wife, Jenny. You should assess:
 - a. Frank, George and Harry.
 - b. Jenny and Harry.
 - c. Isaac, Ken and Harry.
 - d. Jenny, Ken and Harry.

4. Larry establishes the L Realty Trust by a declaration of trust dated March 1, 2015 and names Mary as the sole trustee. On the same day, Larry conveys his residence by deed to Mary, as trustee of the L Realty Trust. The declaration of trust and deed are recorded immediately. Under the trust, Larry is the sole beneficiary and has the right to occupy the house during his lifetime. Later that year, Mary resigns as trustee and Nick is appointed as her successor. Mary's

- resignation and Nick's appointment and acceptance are recorded in December. You should assess:
- a. Larry
 - b. Mary
 - c. Nick
5. Sean and Tara establish the S&T Family Trust by a declaration of trust. Under the trust, their daughter Ursula is the sole trustee. The beneficiaries are Ursula and her brother Victor. On the same day, Sean and Tara convey their residence to Ursula, as trustee of the S&T Family Trust, by a deed that contained a reservation of a life estate in the grantors. The declaration of trust and deed are dated September 1, 2015 and recorded the same day. You should assess:
- a. Sean and Tara
 - b. Ursula
 - c. Ursula and Victor
6. In January 2015 Walt conveys 50 of the 100 acres he owns abutting Dana Lake to XYZ Development Company. XYZ builds a complex on the 50 acre tract that has 2 and 3 bedroom condo units and various recreational facilities, including private beach and marina, swimming pool and tennis courts. On November 30, 2015, XYZ records a master condominium deed for the Dana Lake Condominium that declares the units and their undivided interests in the common area. In the deed, XYZ reserves, and later on December 31, 2015 conveys, the part of the tract on which the recreational facilities are located to the Dana Lake Condominium Association. In order to build near the lake, the complex also had to have its own on-site sewage treatment and disposal plant. Dana Environmental Systems owns and operates the plant located on the common area through a lease and agreement with the Dana Lake Condominium Association. You should assess:
- a. Dana Lake Condominium Association for the entire property.
 - b. Dana Lake Condominium Association for the recreational facilities and the unit owners for the units and common areas.
 - c. Dana Lake Condominium Association for the recreational facilities, Dana Lake Environmental Systems for the sewage treatment facility and the unit owners for the units and common areas.

EXERCISE ANSWERS ASSESSMENT ADMINISTRATION

1. The town sells a parcel of land to Ann and Bill in October 2015. They do not record the deed. You should:
 - b. Assess Ann and Bill. They are the actual owners on January 1, 2016. Assessors may assess the actual rather than record owner. It is possible Ann and Bill transferred the property to others before January 1, 2016 and that deed was not recorded either. If that is true and you later discover the names of the actual owners, you can reassess the tax, if unpaid, to them. G.L. c. 59, § 77. Leaving the parcel off the tax rolls gives someone an unwarranted exemption.**

2. Carol and her sister Delia own a residential parcel as joint tenants. They also own a 50-acre parcel of vacant land in another area of town as tenants in common. In January 2015 Carol dies without a will. Her estate is settled by the probate court in November of the same year. By law, all of Carol's property is inherited by her only child, Emma. You should assess:
 - b. Delia for the residence and Delia and Emma for the land. Carol's death was a matter of record as of January 1, 2016 because of the probate proceeding during 2015. Emma only inherits Carol's interest in the vacant land, which she held as a tenant in common. Carol's interest in the residence passes to Delia immediately upon her death because joint tenants have a right of survivorship.**

3. Frank, George and Harry own a large parcel of developable land together as joint tenants. In January 2015, Frank sells his interest to Isaac and the deed is recorded immediately. One month later, George dies. Then in June, Isaac dies. George's estate is settled in December and his brother, Ken, inherits all of his property. Isaac's will is allowed by the probate court in April 2016. All of Isaac's real estate holdings are left to his wife, Jenny. You should assess:
 - b. Jenny and Harry. As joint tenants, Frank, George and Harry each had an undivided 1/3 interest in the land. When Frank conveyed his 1/3 to Isaac, Isaac becomes a tenant in common with George and Harry, who still had 2/3 interest as joint tenants. When George died, his interest passed to Harry as the surviving joint tenant. Harry now owns an undivided 2/3 interest in the land. As a tenant in common, Isaac's interest passed to Jenny, his devisee, as of the date of his death in June 2015.**

4. Larry establishes the L Realty Trust by a declaration of trust dated March 1, 2015 and names Mary as the sole trustee. On the same day, Larry conveys his residence by deed to

Mary, as trustee of the L Realty Trust. The declaration of trust and deed are recorded immediately. Under the trust, Larry is the sole beneficiary and has the right to occupy the house during his lifetime. Later that year, Mary resigns as trustee and Nick is appointed as her successor. Mary's resignation and Nick's appointment and acceptance are recorded in December. You should assess:

- c. **Nick. As trustee, Nick has legal title to the residence and all other assets of the trust on January 1, 2016. Nick is also the trustee of record on that date because the change in legal title from Mary to Nick is established by recorded documents. Larry is not assessed because his right to occupy is not a legal life estate. A right to occupy identified in a trust instrument merely defines or describes the nature of the beneficial interest created by the trust.**
5. Sean and Tara establish the S&T Family Trust by a declaration of trust. Under the trust, their daughter Ursula is the sole trustee. The beneficiaries are Ursula and her brother Victor. On the same day, Sean and Tara convey their residence to Ursula, as trustee of the S&T Family Trust, by a deed that contained a reservation of a life estate in the grantors. The declaration of trust and deed are dated September 1, 2015 and recorded the same day. You should assess:
- a. **Sean and Tara. As life tenants, they are the owners of the property until the survivor dies. At that point, the property becomes subject to the trust, *i.e.*, the trustee is the remainderman.**
6. In January 2015, Walt conveys 50 of the 100 acres he owns abutting Dana Lake to XYZ Development Company. XYZ builds a complex on the 50 acre tract that has 2 and 3 bedroom condo units and various recreational facilities, including private beach and marina, swimming pool and tennis courts. On November 30, 2015, XYZ records a master condominium deed for the Dana Lake Condominium that declares the units and their undivided interests in the common area. In the deed, XYZ reserves, and later on December 31, 2015 conveys, the part of the tract on which the recreational facilities are located to the Dana Lake Condominium Association. In order to build near the lake, the complex also had to have its own on-site sewage treatment and disposal plant. Dana Environmental Systems owns and operates the plant located on the common area through a lease and agreement with the Dana Lake Condominium Association. You should assess:
- b. **Dana Lake Condominium Association for the recreational facilities and the unit owners for the units and common areas. The land on which the sewage treatment plant was built is subject to the master deed. As part of the common area, it can only be assessed with the units. Therefore, the separate ownership of the plant structure does not matter for assessment purposes. The land on which the recreational facilities were built, however, was not included within the condominium master deed and it is assessed separately to its owner, the Dana Lake Condominium Association.**