

CHAPTER 8 PERSONAL PROPERTY AGENDA AND OBJECTIVES

A. PRESENTATION TOPICS

1. Definition of personal property.
2. Municipality that assesses personal property tax and person or entity assessed.
3. Personal property exemptions based on the legal forms of property owners.
4. Personal property exemptions for different types of corporations: business, manufacturing, utility, insurance and financial institutions.
5. Requirements for reporting taxable personal property and applying for abatement.
6. Personal property valuation methodology.
7. Centrally valued personal property.
8. Audits of locally and centrally reported personal property.

EXERCISE

B. SESSION OBJECTIVES

1. Participants will understand how to distinguish between personal property and real estate for purposes of separate assessment and exemption.
2. Participants will learn the general statutory provisions concerning what personal property is subject to taxation; the circumstances in which any particular community can assess the tax; and which person or entity may be assessed.
3. Participants will learn the basic exemptions that apply to individuals, partnerships, corporations and other legal entities owning personal property.
4. Participants will understand the basic legal requirements for taxpayer reporting of taxable assets, the penalties associated with late-filing or non-filing, and the abatement procedures that apply to personal property tax.
5. Participants will be introduced to the basic method for valuing personal property.
6. Participants will learn the procedures used by the Department of Revenue to value pipelines and telephone utilities and the assessors' role in assessing that property.
7. Participants will learn the basic legal requirements for auditing personal property returns.

CHAPTER 8

PERSONAL PROPERTY

1.0 OVERVIEW AND DEFINITIONS

1.1 Tax Status

Personal property is taxable unless specifically exempted by law.¹ There are numerous exemptions depending on the ownership entity or use of the property.

1.2 Personal Property Definition

Personal property is composed of goods, merchandise, equipment, tools, machinery, furniture, cash, securities, stocks, promissory notes, furnishings and effects and other movable property.

1.2.1 Intangible Personal Property

All intangible personal property is exempt from local property taxation in Massachusetts.² Intangible personalty consists of items that have no intrinsic value themselves but are representative or evidence of value, *i.e.*, “paper” property such as stocks, bonds, cash, securities, promissory notes, trademarks, good will, franchises and copyrights.

1.2.2 Tangible Personal Property

Tangible personal property is the only type of personalty subject to local property taxation in Massachusetts. Tangible personalty is property that has a physical form, is touchable and has intrinsic value.

1.3 Distinguished from Real Estate

Real estate for local tax purposes is defined as land, buildings and things thereon or affixed thereto.³ Tangible property is considered real estate, not personalty, if it is so firmly attached to the land, buildings or other real estate improvements that removing it would cause significant damage.

Example

An above ground swimming pool not attached to a foundation is personal property. An in-ground swimming pool is part of the real estate.

Some property not firmly attached to land may still be considered part of real estate rather than personal property because of its bulk, special design, intended permanence and use, *i.e.*, it is specifically designed for the particular real estate.

Example

A crane used to haul ships out of the water into dry dock at a shipbuilding

site is machinery, but is considered part of the real estate because of its size and special design for use at that particular site.⁴

1.4 Separate Assessment

Separate assessments are made for personal property and the real estate on which it is situated. The personal property assessment should ordinarily include all personal property the taxpayer owns that is taxable by the municipality.

1.5 No Automatic Lien

Unlike real estate, no lien attaches to personal property upon assessment of the tax. In order to perfect a lien on personal property, a warrant to collect must be issued by the collector, a warrant to distrain or commit must be issued by a court, and the collector must seize and distrain the taxpayer's property.⁵

2.0 PERSONAL PROPERTY SUBJECT TO LOCAL TAXATION

2.1 Property Situated in Massachusetts

All personal property owned by Massachusetts and non-Massachusetts residents and businesses that is situated in Massachusetts on January 1 is taxable, unless an exemption applies. To be situated in Massachusetts, the property must be physically located in the state on January 1 and must have some degree of permanence. Property owned by non-Massachusetts residents and businesses and located temporarily in Massachusetts, such as property in transit, is not situated in Massachusetts and is not taxable.⁶ However, see Section 3.2 below, which discusses an exception to this rule.

Example

Goods owned by a New York resident or business being shipped and temporarily stored in Massachusetts on January 1 is not taxable because it is not situated in Massachusetts.

2.2 Property Owned by Massachusetts Domiciliaries

All personal property owned by a Massachusetts resident or business that is temporarily located outside of Massachusetts on January 1 is taxable, unless an exemption applies.

Examples

Construction machinery owned by a Massachusetts-based business that is temporarily located in New Hampshire at a particular job site would be taxable because it is deemed to be situated in Massachusetts.
Furniture of a Massachusetts resident that is intended to remain in Rhode Island at a summer home is not taxable in Massachusetts and would be subject to property tax in Rhode Island.

3.0 MUNICIPALITY AUTHORIZED TO ASSESS

3.1 Property Situs

The municipality where the property is situated on January 1 has the authority to assess the tax.⁷ Property is situated in a particular municipality if it is physically located in the community on January 1 and is intended to remain there.

Property intended to be moved from location to location is deemed situated where the owner lives or has a principal place of business.⁸

Example

The equipment of a construction company that is moved from site to site is situated in the municipality where the company is headquartered.

3.2 Transportation Machinery

Machinery owned by business corporations for interstate or intrastate transporting of people or goods, such as commercial airplanes, may be assessed by each municipality where the machinery is regularly located during the year.⁹ The assessment must be fairly apportioned among the municipalities based upon the amount of time the machinery is located in each respective municipality. This provision does not apply to foreign corporations chartered outside the United States.

4.0 PERSON ASSESSED

4.1 Ownership

As a general rule, personal property taxes are assessed to the owner of the property on January 1.¹⁰ The property tax is an assessment on the ownership of property, and the owner's tax liability is measured by the value of that property.

An exception exists where the personal property is leased for profit or is machinery used in manufacture or supplying or distributing water, or is machinery used by a business corporation in the conduct of its business. The tax may be assessed in that case to the person or entity in possession of the property.¹¹

4.2 Partnerships

Partnership property is assessed to the partnership in the partnership name. All of the partners are liable for the whole tax.¹²

4.3 Joint Owners

Jointly owned property may be assessed to one or more of the joint owners and any such assessed owner shall be liable for the whole tax.¹³

4.4 Deceased Owners

Personal property of a deceased owner is assessed to the decedent's estate and after appointment, to the executor or administrator of the estate. Upon appointment, the executor or administrator becomes liable for the tax.¹⁴

4.5 Limited Liability Companies (LLCs)

Personal property of a limited liability company (LLC) is assessed to the LLC.¹⁵ See Section 12 below.

5.0 PERSONAL PROPERTY TAX EXEMPTIONS**5.1 Exemption Laws**

Most exemptions from personal property taxation appear in various clauses of G.L. c. 59, § 5. However, a few are contained in other general laws and some are provided by court decisions. Exemptions are usually dependent on ownership, property type or property use. The exemption qualifying date as to ownership and other qualifying factors is January 1.¹⁶

5.2 Alternative Assessment

Some exemptions are not complete exemptions from all forms of taxation. The owner of the property may be subject to some other tax or assessment instead.

Exemptions of this type include the following property:

- Registered motor vehicles subject to the motor vehicle excise.¹⁷
- Boats subject to the boat excise.¹⁸
- Farm animals and machinery owned by individuals or non-corporate entities principally engaged in agriculture or minors involved with youth agricultural programs subject to the farm excise.¹⁹
- Manufactured homes in licensed parks subject to a monthly licensing fee.²⁰
- Registered non-commercial airplanes subject to a registration fee.²¹

Another example is that business and manufacturing corporations are exempt from local taxation on much or all of their personalty, but the exempted property is taxed at the state level as part of the corporate excise.²² The coordination of these complementary provisions avoids double taxation of these assets.

5.3 Local Acceptance Minimum Value Personal Property Tax Exemption

A local option exemption for small personal property accounts applies only in municipalities that accept it. This option allows the municipality to establish a minimum fair cash value required for personal property accounts to be taxed, and to modify that value from time to time.²³ The minimum value cannot be more than \$10,000. Acceptance, the vote to initially fix the minimum valuation or to modify it in future years, is by majority vote of the legislative body, subject to local charter provisions.²⁴

6.0 EXEMPTIONS FOR INDIVIDUALS

6.1 Overview

The primary exemptions for personal property owned by individuals, including persons operating businesses as sole proprietors, are found in G.L. c. 59, § 5, Clauses 20 and 21.

They include (1) household furnishings and effects, (2) clothing, (3) farm utensils, (4) tools of the trade of a mechanic, (5) boats, fishing gear and nets worth \$10,000 or less of persons engaged exclusively in fishing and (6) some young farm animals. Individuals are also exempt from personal property taxes for property subject to an alternative tax or assessment. See Section 5.2 above.

6.2 Household Furnishings and Effects

Individuals are exempt from personal property taxation on all of their household furnishings and effects kept at their domiciles.²⁵

6.2.1 Definition

Household furnishings and effects “include any personal property which can reasonably be said to be part of the household, whether the household is of high or low estate and whether the occupants are impoverished or affluent.”²⁶ This means movable belongings and items commonly or ordinarily kept in or around the house or garage, such as furniture, appliances, collectibles, jewelry, yard implements, bicycles and household pets.

6.2.2 Domicile

Domicile is the place where a person has his or her principal and legal home, is the place where family, social, civic and economic life is centered and where the person plans to return whenever he or she is away.

Indicators of domicile include where the person votes, registers a car, spends most of her time, replies to the census, files tax returns from and has ties to the community, such as where the person's spouse and children live and where memberships in churches, clubs and social organizations and where bank accounts are maintained.

6.3 Farming Utensils

Individuals are exempt from personal property taxation on small tools and other non-motorized equipment used in farming or gardening.²⁷ Farming utensils do not include farm machinery or vehicles.

6.4 Mechanic's Tools

Individuals who are mechanics are exempt from personal property taxation on tools of the trade.²⁸

6.4.1 Tools of Trade

The tools of a mechanic's trade consist of handheld, motorized and non-motorized tools capable of being held and operated by hand, such as drills, chainsaws and other handsaws.²⁹ They do not include heavier equipment, such as table saws, drill presses and lathes.

6.4.2 Mechanic

A mechanic is a worker, tradesman or small craftsman, such as a plumber, electrician, carpenter, or tree surgeon skilled in the use of tools.³⁰ A professional, such as a doctor or dentist, or an artist, such as a photographer, is not a mechanic.

7.0 EXEMPTIONS FOR PARTNERSHIPS, ASSOCIATIONS AND TRUSTS**7.1 Overview**

Partnerships, associations and trusts not treated as corporations for federal income tax purposes are generally exempt from personal property taxation only for property subject to an alternative tax or assessment. See Section 5.2 above.

All other personal property owned by these entities is taxable.

7.2 Partnership Definition

Partnerships include limited partnerships and limited liability partnerships.³¹ A partnership, other than a utility, financial institution or insurance partnership, that elects to be treated as a corporation for federal income tax purposes is not treated as a partnership for local property tax and should be listed in the Corporations Database. See Sections 8.2 and 8.3 below.

8.0 EXEMPTIONS FOR CORPORATIONS**8.1 Overview**

The primary exemptions for personal property owned by corporations registered to do business in Massachusetts are found in G.L. c. 59, § 5, Clause 16.

Corporations are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) some machinery. The property within those two categories that is taxed depends on the type of corporation. See Sections 9, 10 and 11 below.

8.2 Domestic and Foreign Corporations

A domestic corporation is one incorporated under the laws of Massachusetts. A foreign corporation is one formed outside of Massachusetts, either in another state

or country. Before January 1, 2009, business corporations were divided into domestic and foreign companies. Few distinctions were made between the two, however. As of January 1, 2009, the definition of business corporation changed to eliminate any remaining distinctions between foreign and domestic business corporations.³² Nevertheless, distinctions still remain in the case of some foreign insurance corporations. See Section 11.4 below.

8.3 Corporations Database

Each year the Department of Revenue (DOR) issues a list of corporations doing business in Massachusetts for use by local assessors.³³ The list also includes unincorporated entities that are treated as corporations for federal income tax purposes, either under federal default rules or by election. Those entities are treated as corporations for state income tax purposes and are entitled to receive corporate property tax exemptions. See Sections 9 and 10 below.

The [Corporations Database](#) lists the corporations subject to property tax, motor vehicle excise or state corporations excise under G.L. c. 63 and separately identifies manufacturing (M) corporations so classified by the commissioner as of January 1. Corporations filing financial institution returns and foreign corporations filing insurance premium returns are listed in separate database categories. The database is published on the web on or about April 1 for use in the fiscal year that begins on the next July 1. The taxpayer and assessors may appeal a classification to the Appellate Tax Board (ATB) by April 30, or 30 days after the list is issued, whichever is later. Subject to appeal, the assessors must follow the business and manufacturing classifications found in the corporations' database in assessing personal property taxes on machinery used in the conduct of business.³⁴

8.4 Annual Certification of Entity Status

All corporations and other legal entities treated as corporations for federal and state income tax purposes are required to self-identify by filing an Annual Certification of Entity Tax Status (ACETS) with DOR using MassTax Connect for Business by April 1.³⁵ The purpose is to make the database more accurate by including more timely information provided by the entities themselves before DOR would ordinarily receive the information from tax return or regulatory filings.

9.0 EXEMPTIONS FOR BUSINESS CORPORATIONS

9.1 Overview

Business corporations are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) machinery used in the conduct of the business.³⁶ This includes poles and wires over public ways owned by telephone and cable television corporations.³⁷

9.2 Definitions

9.2.1 Business Corporation

A business corporation is a corporation formed and operated for the pursuit of profit or gain through the transaction of business, in the widest sense of the term.

A corporation formed solely to obtain a property tax benefit, that is not in business to earn a profit utilizing the labor of employees is not entitled to the business corporation exemptions.³⁸

A partnership, association, trust, limited liability company or other unincorporated legal entity that conducts a business that may be conducted by a business corporation and is treated as a corporation for federal income tax purposes, either under federal default rules or by election, is treated as a business corporation for purposes of local property taxation and exemption, with the exception of an unincorporated homeowners' association, financial institution or insurance company.³⁹

Utility corporations are treated as business corporations and, except for telephone corporations, are entitled to local personal property tax exemptions for business corporations. Telephone corporations continue to be treated like financial institutions and insurance companies for purposes of local property tax exemptions. See Section 11.0 below.⁴⁰

9.2.2 Machinery

A machine is a mechanical device with fixed or moving parts performing a function, or its electronic equivalent. Machinery consists of machines or machine parts, considered as a group. For example, a movie projector, including lens, reels, motor, housing and movie screen is considered machinery.⁴¹ A television set and a cable television signal converter box are considered machinery as well.

9.3 Machinery Used in the Conduct of Business

A business corporation is taxable for machinery used in the conduct of business, except machinery that is:

- Stock in trade
- Used directly in dry cleaning or laundering processes, to refrigerate goods or to air condition premises
- Used directly in purchasing, selling, accounting or administrative functions⁴²

9.3.1 Machinery Constituting Stock in Trade

A business corporation is exempt from local taxation on any machinery it owns that is its stock in trade. Stock in trade is the inventory carried for sale or lease in the ordinary course of the corporation's business.

Example

A business corporation leases machinery to others in the regular course of its business. The machinery is its stock in trade whether the transaction is a true lease or an installment sale financed by the corporation. If the machinery is the subject of an installment sale, it is owned by the “lessee” and is taxable unless the lessee is entitled to an exemption. In either case, the leasing corporation is not taxable for the machinery since it is inventory held by the business for lease or sale.

Machinery consigned to a business corporation to sell is not owned by the business corporation and its taxable status depends on whether the consigning owner is entitled to an exemption.

9.3.2 Machinery Used for Dry Cleaning, Laundering, Refrigeration and Air Conditioning

A business corporation is exempt from local taxation on any machinery it owns that is used directly in connection with dry cleaning or laundering processes, to refrigerate goods or to air condition premises. The exemption applies to machinery used for these purposes that is installed in a building that can be distinguished from the real estate, even though it might otherwise be considered part of the real estate.⁴³

9.3.3 Machinery Used in Selling or Purchasing Function

A business corporation is exempt from local taxation on any machinery it owns that is used directly in a selling or purchasing function.

Examples

Cash registers, credit card readers and scanners used at the point of sale are used directly in the selling function and are exempt.

Vending machines and bill changers used to dispense and sell a tangible product are used in a selling function and are exempt.⁴⁴

Machines used to provide entertainment for a fee, such as jukeboxes, pinball machines and video games, are not machinery directly used in a selling function, even though they accept money.⁴⁵

9.3.4 Machinery Used in Accounting or Administrative Function

A business corporation is exempt from local taxation on any machinery it owns that is used directly in an administrative or accounting function. The machinery must be used in-house directly for the corporation’s own internal record keeping purposes. Machinery used to store information, or

produce reports or other documents for clients or customers, is machinery used in the conduct of business and is taxable. Telephones, typewriters, copiers, fax machines and computers often fall into this category of machinery, but could be taxable depending on the nature of the business. Machinery that performs both in-house and income producing functions is exempt only if primarily used for in-house functions.

Examples

A computer owned and used by a design corporation to maintain its financial, payroll and other business records is exempt as accounting and administrative machinery. A computer owned by the corporation to produce designs for its clients is taxable as machinery used in the conduct of business.

A telephone owned by a corporate grocery store chain and used in its business is exempt as administrative machinery. A telephone owned and used by a telemarketer or polling corporation is taxable as machinery used in the conduct of business.

10.0 EXEMPTIONS FOR MANUFACTURING CORPORATIONS AND RESEARCH AND DEVELOPMENT CORPORATIONS

10.1 Overview

Manufacturing corporations are exempt from local taxation on all personal property, except certain electric generating machinery, poles, underground conduits, wires and pipes.⁴⁶ See Section 9.1 concerning the taxation of poles and wires over public ways, which applies equally to manufacturing corporations. All machinery, both manufacturing and non-manufacturing, and all other personal property a manufacturing corporation owns, is exempt, except electric generating machinery that is over 30 megawatts capacity or is not cogeneration machinery.⁴⁷ The machinery exemption applies even if the machinery is built or integrated into a structure and might otherwise be considered part of the real estate.⁴⁸

10.1.1 Local Acceptance Exemptions

10.1.1.1 Research and Development Corporations

In municipalities that accept a local option exemption, a research and development corporation is treated as if it is a manufacturing corporation and receives the manufacturing corporation exemptions.⁴⁹

10.1.1.2 Single Member Disregarded LLCs

In municipalities that accept a separate local option exemption, a single member LLC that (1) has its usual place of business in

Massachusetts; (2)(a) is engaged in manufacturing in Massachusetts and whose sole member is a manufacturing corporation or (b) is engaged in research and development in Massachusetts and whose sole member is a research and development corporation; and (3) is a disregarded entity, is treated as if it were a manufacturing corporation for the purpose of receiving the manufacturing corporation exemptions. In determining whether the sole member of disregarded LLC is either a manufacturing corporation or a research and development corporation, the attributes and activities of the LLC are taken into account by the member corporation along with the member's other attributes and activities.⁵⁰

10.1.1.3 Acceptance Procedures

The research and development corporation and single member disregarded LLC exemptions must be separately accepted. To apply for a fiscal year, acceptance must be voted before the January 1 assessment date. Acceptance is by majority vote of the legislative body, subject to local charter provisions.⁵¹ Municipalities that accept the local options must notify DOR.

10.1.2 Unincorporated Entities Treated as Corporations

A partnership, association, trust, limited liability company or other unincorporated legal entity that conducts a business that may be conducted by a manufacturing or research and development corporation, if so classified by the commissioner, and is treated as a corporation for federal income tax purposes, either under federal default rules or by election, is treated as a manufacturing or research and development corporation for purposes of local property taxation and exemption.⁵²

10.2 Definitions

10.2.1 Manufacturing

A corporation engages in manufacturing if it transforms raw or finished materials through human skill and knowledge into something with a new nature, a new name or a new use.

Examples

Producing baked goods, creating magazines, books and pamphlets out of paper, and converting logs to lumber are manufacturing activities. Breeding animals, constructing buildings, and transmitting television, radio or telephone signals are not manufacturing activities.

10.2.2 Research and Development

Research and development includes experimental or laboratory activity having as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products and the development or improvement of methods for producing products. It does not include testing or inspection for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities or research in connection with literacy, historical or similar projects.

Research and development corporations must derive more than two-thirds of their receipts, or incur more than two-thirds of their expenditures, attributable to Massachusetts from research and development activity during the taxable year. In determining the amount of research and development activity of a company, all manufacturing expenditures are excluded from the total, whether or not the manufacturing activity is substantial. Receipts from research and development include those from research and development services, royalties or fees from the licensing of patents, know-how or other technology developed from research and development.⁵³

10.3 Classification

10.3.1 Manufacturing Classification

A corporation must apply for and receive manufacturing (“M”) classification from DOR in order to qualify for the manufacturing corporation exemptions.⁵⁴ The application must be made on Form 355Q and received on or before January 31 to qualify for exemption in the following fiscal year. The manufacturing component of the business must be substantial for DOR to approve the manufacturing classification.⁵⁵

10.3.2 Research and Development Classification

Corporations engaged in research and development in communities that have accepted the local option research and development exemptions by the January 1 assessment date must apply for classification by January 31 on State Tax Form 355RD.⁵⁶

11.0 EXEMPTIONS FOR TELEPHONE, FINANCIAL INSTITUTION AND INSURANCE CORPORATIONS

11.1 Overview

Incorporated telephone, financial institution and insurance companies are exempt from local taxation on all their personal property, except (1) poles, underground conduits, wires and pipes and (2) machinery used in manufacture or in supplying or distributing water.⁵⁷ See Section 9.1 concerning the taxation of poles and wires

over public ways, which applies equally to telephone, financial institution and insurance corporations.

A partnership, association, trust, limited liability company or other unincorporated legal entity that conducts a business that may be conducted by a telephone corporation, incorporated financial institution or insurance corporation, and is treated as a corporation for federal income tax purposes, either under federal default rules or by election, is treated as a corporation for purposes of local property taxation and exemption.⁵⁸ Previously, unincorporated telephone, financial or insurance companies were not entitled to the exemptions even if they were treated as corporations for federal income tax purposes.

11.2 Telephone Corporations

Telephone corporations are business corporations for purposes of state corporate taxation.⁵⁹ Previously, they were included in a classification of utility corporations that were actual incorporated entities.

Although telephone corporations must file corporate excise returns, they remain taxable locally only on machinery used in manufacture or supplying and distributing water. Telephone companies that are not incorporated entities and treated as corporations for federal income tax purposes are entitled to any local property tax exemptions for incorporated telephone companies.⁶⁰ Previously, unincorporated telephone companies were not entitled to the exemptions even if treated as corporations for federal tax purposes.

11.3 Financial Institutions

Financial institutions include banks, mortgage, credit card and other lending companies or institutions. They must file an annual financial return with the Commonwealth and are separately identified in the Corporations Database issued by DOR. Credit unions are not included in that listing, but all their personal property is exempt from taxation.⁶¹

Financial institutions that are not incorporated entities, but are treated as corporations for federal income tax purposes, are entitled to the local tax exemptions available to incorporated financial institutions.⁶² Previously, unincorporated financial institutions were not entitled to the exemptions even if they were treated as corporations for federal income tax purposes.

11.4 Insurance Corporations

A foreign insurance corporation receives the insurance corporation exemptions only if the incorporating state, or state of the principal place of business in the United States if incorporated in another country, allows similar property tax exemptions for Massachusetts insurance corporations.

Example

The personal property of a New Hampshire insurance corporation receives the corporate exemptions because New Hampshire law provides the same exemptions for property owned by a Massachusetts insurance corporation.

The personal property of a Connecticut insurance corporation is subject to local taxation in Massachusetts because Connecticut law does not provide the same exemptions for property owned by a Massachusetts insurance corporation.

12.0 LIMITED LIABILITY COMPANIES**12.1 Overview**

A limited liability company (LLC) is a form of legal entity that allows for a choice of federal income tax treatment as a partnership, corporation or disregarded entity filing a consolidated return with a parent. The local legal entity tax status of the LLC is the same as its federal tax classification for all companies. Previously, LLCs that are telephone companies, financial institutions or insurance companies were not entitled to personal property tax exemptions as corporations.⁶³

12.2 Partnership or Disregarded Entity

An LLC that elects to be treated as a partnership or disregarded entity for federal income tax purposes is taxable on all its personal property.⁶⁴ However, see Section 10.1.1.2 above, which discusses a local option exception to this rule.

12.3 Corporation

All LLCs treated as corporations for federal income tax purposes are entitled to property tax exemptions as an incorporated business company, manufacturing or research and development company, telephone company, financial institution or insurance company, as the case may be, for local property tax purposes.

13.0 PERSONAL PROPERTY RETURNS**13.1 Annual Filing Requirement**

All persons or entities owning locally valued taxable personal property on January 1 are legally required to file a list or return of those assets (Form of List) with the assessors of the city or town where the property is situated.⁶⁵ The return contains property schedules for the taxpayer to detail its assets.⁶⁶ The taxpayer should provide original cost and date of acquisition, but does not have to provide an estimate of value. The information provided is not binding on the assessors. The return must be signed under oath. Property of telephone and telegraph companies

and pipeline companies that is subject to central valuation by DOR is reported to DOR. See Section 16 below.

13.2 Filing Deadline

The Form of List is due on or before March 1 prior to the fiscal year of the tax. The assessors may extend the filing date if the taxpayer shows a reasonable excuse for not filing on time. The latest the assessors can extend the deadline is the last day for applying for abatement of the tax for the fiscal year to which the return relates.

13.3 Disclosure

Taxpayers (or their authorized representatives) may have access to or copies of the returns they submit. Otherwise, the information contained in the schedules is confidential and may only be inspected by the assessors and their staff, DOR and designated private auditors, but may be shown to other persons by court order.⁶⁷ Other parts of the return are public records.

13.4 Penalties for Not Filing or Filing Late

If a taxpayer owning taxable personal property does not file a return, the assessors must assess the tax based on their best information and belief and they cannot grant an overvaluation abatement.⁶⁸

If a taxpayer files a late return, the assessors may abate the tax if (1) the taxpayer has a reasonable excuse for the late filing, or (2) the tax exceeds 50 percent of the tax that would have been assessed if the return had been timely filed. The taxpayer in that case is penalized because the assessors can only abate the amount over 150 percent of the amount that would have been assessed.

Example

If a taxpayer does not file a list and the assessors valued property actually worth \$1000 at \$2000, no abatement may be made.

If the taxpayer files the list after the deadline, but applied for abatement in a timely manner, the assessors may grant an abatement of up to \$500 of value.

13.5 Charitable and Veterans' Organizations

Charitable and veterans' organizations must file an annual return listing the property they own on January 1 for which they claim an exemption for the next fiscal year.⁶⁹ Returns submitted by charitable organizations must also include a copy of their annual public charity reports⁷⁰ to the Attorney General. The return is due on or before March 1 prior to the fiscal year of the tax. The assessors may extend the filing date if the organization shows a reasonable excuse for not filing on time. The latest the assessors can extend the deadline is the last day for applying for abatement of the tax for the fiscal year to which the return relates.

14.0 ABATEMENT PROCEDURE

14.1 Application and Processing

Assessors process applications for abatement of personal property taxes in the same manner and on the same forms as real estate abatements. The application filing deadline is also the same as for real estate taxes, *i.e.*, the due date of the first installment payment of the actual tax bill.⁷¹

14.1 Abatement of Uncollectible Taxes

Assessors may abate certain delinquent personal property taxes upon the collector's request. The collector notifies the assessors in writing under oath that the taxes are uncollectible because the taxpayer is dead, absent, bankrupt, insolvent or otherwise unable to pay.⁷² Within 30 days the assessors must review the request and certify to the collector abatements they grant.

14.3 8 of 58 Abatements

The DOR may authorize assessors to abate personal property taxes in other circumstances where they no longer have the legal power to abate because the taxpayer did not timely apply for abatement.⁷³ This is a discretionary administrative procedure assessors may use to clear uncollectible taxes or rectify significant assessment errors. It is not a taxpayer remedy. Assessors are not required to request abatement authority for any particular taxpayer, DOR is not required to grant it, and assessors are not required to exercise it if granted.

15.0 PERSONAL PROPERTY VALUATION

15.1 Cost Approach

Personal property is assessed at fair cash value as of January 1 each year.⁷⁴ Assessors usually use the cost method to estimate the value of personal property, typically relying on industry cost manuals. This may be reproduction, replacement or original cost, less depreciation as the situation warrants.⁷⁵

15.2 Depreciation

Depreciation must be based on age, condition and quality of the property. Property still in use has a utility value, even if its life expectancy has been exceeded and it has zero value for accounting or regulatory purposes. Generally, property in use should not be depreciated below 20 percent, although depreciation to as low as five percent might be appropriate where economic obsolescence principles apply. Assessors must document depreciation allowances.

16.0 CENTRALLY VALUED PERSONAL PROPERTY

16.1 Overview

The valuation of some personal property is determined by DOR, not the assessors. Assessors must use these values in assessing taxes on the property.

16.2 Pipelines

DOR values pipelines of natural gas and oil companies that extend for more than 25 miles in Massachusetts.⁷⁶ Pipelines of gas and electric companies are valued locally.

Pipeline companies must file a return with DOR by January 31 of each year. DOR certifies the values to assessors by June 15. Pipeline owners and the assessors may appeal the valuations to the ATB by July 15.

16.3 Telephone and Telegraph Companies

DOR values the machinery, poles, wires, underground conduits, wires and pipes of telephone and telegraph companies.⁷⁷ Telephone and telegraph companies are not defined by statute for purposes of central valuation. DOR generally accepts a return filed by any company that actually provides telephone service over a network owned by the company.

A cable television company is not a telephone company as such. Similarly, an Internet service provider or mobile or cellular wireless service company is not a telephone company for central valuation purposes.⁷⁸ However, a company that provides telephone service and also provides cable television and Internet service is considered a telephone company if the telephone service is substantial.⁷⁹

The poles and wires of a telephone or telegraph company located over public ways are taxable.⁸⁰ See Section 9.1 above. All taxable property of telephone and telegraph companies not subject to central valuation is reported, valued and assessed locally.

Telephone and telegraph companies file returns with DOR by March 1 of each year.⁸¹ DOR certifies the values to assessors by May 15. The companies and the assessors may appeal the valuations to the ATB by June 15.

17.0 AUDITS

17.1 Personal Property Valued by Assessors

The assessors may audit the books, papers, records and other data of the taxpayer in order to determine whether the taxpayer has accurately reported all taxable personal property. The audit may be conducted within 3 years of the date the original return (Form of List) was due or filed, whichever is later. If the assessors discover unreported or inaccurately reported taxable personal property during the

audit, they may assess the additional taxes within 3 years and 6 months of the date the return is due or filed, whichever is later.⁸²

17.1 Disclosure

Details of the personal property contained in the books, papers, records and other data reviewed during the audit is confidential and may only be inspected by the assessors and their staff, DOR and designated private auditors, but may be shown to other persons by court order.⁸³

17.1 Penalties for Not Complying with Local Audit

If the taxpayer does not comply with audit requests for books, papers, records and other data, the assessors cannot grant an abatement for overvaluation of the personal property for that year.⁸⁴

17.2 Personal Property Valued by DOR

DOR may audit the books, papers, records and other data of centrally valued telephone or pipeline companies in order to determine whether the companies have accurately reported all taxable personal property. The audit may be conducted within 3 years of the date the original return was due or filed, whichever is later. DOR may certify an amended valuation for unreported or inaccurately reported taxable personal property discovered by the audit to the owner and the assessors of the city or town where the property is situated within 3 years and 6 months after the due date of the return or the date the return was filed, whichever is later. The assessors must then assess the additional taxes to the owner within 2 months of the date of the amended certification and the owner may appeal the valuation to the ATB within 1 month of the date of the additional assessment notice is sent.⁸⁵

¹ G.L. c. 59, § 2.

² G.L. c. 59, § 5, cl. 24.

³ G.L. c. 59, § 2A(a).

⁴ *Chelsea v. Richard T. Green Co.*, 319 Mass. 162 (1946).

⁵ G.L. c. 60, §§ 24 and 29; *Boston v. Rockland Trust Co.*, 391 Mass. 48, 56 (1984).

⁶ G.L. c. 59, § 2.

⁷ G.L. c. 59, § 18.

⁸ *Assessors of Sheffield v. J.F. White Contracting Co.*, 333 Mass. 306 (1955).

⁹ G.L. c. 59, § 18, Second A.

¹⁰ G.L. c. 59, § 18.

¹¹ G.L. c. 59, § 18, Second.

¹² G.L. c. 59, § 18, Sixth.

¹³ G.L. c. 59, § 18, Fourth.

¹⁴ G.L. c. 59, § 18, Third.

¹⁵ G.L. c. 59, § 18, First; *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005).

¹⁶ For exemptions allowed under G.L. c. 59, § 5, the exemption qualifying date is generally July 1 “unless another meaning is clearly apparent from the context.” Since the process for reporting, valuing, assessing and abating personal property all relate to the January 1 date, and there is no mechanism for assessing a tax on a non-exempt entity that acquires personal property after January 1, DOR considers January 1 the exemption qualifying date for personal property. See *In the Matter of the Valuation of MCI Worldcom Network Services, Inc.*, 454 Mass. 645, 650 (2009), in which the Supreme Judicial Court (SJC) upheld the ATB in ruling that the exemption qualifying date for telephone and telegraph companies is January 1.

¹⁷ G.L. c. 59, § 5, cl. 35; G.L. c. 60A.

¹⁸ G.L. c. 60B, § 2(d).

¹⁹ G.L. c. 59, § 5, cl. 21; G.L. c. 59, § 8A, as amended by St. 2008, c. 310, § 2 to allow communities by referendum to cease assessing the farm excise without eliminating the personal property exemption.

²⁰ G.L. c. 59, § 5, cl. 36; G.L. c. 140, § 32G.

²¹ G.L. c. 90, § 49.

²² G.L. c. 63, § 30.7.

²³ G.L. c. 59, § 5, cl. 54.

²⁴ G.L. c. 4, § 4.

²⁵ G.L. c. 59, § 5, cl. 20.

²⁶ *Op. Atty. Gen.* Aug. 1, 1952, p. 17.

²⁷ G.L. c. 59, § 5, cl. 20.

²⁸ G.L. c. 59, § 5, cl. 20.

²⁹ Paul Cocchi d/b/a *Paul's Tree Service v. Board of Assessors of the Town of Ludlow*, ATB 2006-680 at 687-689.

³⁰ See endnote 29.

³¹ Limited Liability Companies (LLCs) treated as partnerships for federal tax purposes are taxable on all personal property under G.L. c. 59, § 18, First. *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 *Mass. 198 (2005)*.

³² St. 2008, c. 173, §§ 2, 38 and 101.

³³ G.L. c. 58, § 2.

³⁴ G.L. c. 59, § 5, cl. 16(5).

³⁵ See [DOR Directive 12-5](#).

³⁶ G.L. c. 59, § 5, cl. 16(2).

³⁷ Until a March 2008 ATB order in the *Verizon New England Consolidated Appeals* case, poles and wires of telephone and telegraph or cable television corporations located on public ways were not considered taxable. G.L. c. 59, § 18, Fifth; *Warner Amex Cable Communications, Inc. v. Board of Assessors of Everett*, 396 *Mass. 239 (1985)* (cable TV); *Board of Assessors of City of Springfield v. Commissioner of Corporations and Taxation*, 321 *Mass. 186 (1947)* (telephone). Poles and wires over public ways owned by electric and gas utility corporations were taxable as part of the giant integrated machine used to generate electricity. *Boston Gas Co. v. Assessors of Boston*, 334 *Mass. 549 (1956)*. The ATB ruled in the *Verizon* case that poles and wires over public ways owned by telephone corporations were taxable under G.L. c. 59, § 18, First. Based on that ruling, DOR valued incorporated telephone company poles and wires over public ways in FY2009 for the first time and advised municipalities that cable corporations could be locally valued and assessed for such property as well. Verizon appealed the DOR central valuations of its property for FY2009 and previous years. Verizon won its appeals, but telephone and cable television corporations remain taxable for poles and wires located on public ways from FY2010 forward based on a 2009 legislative change. *Verizon New England Inc. v. Board of Assessors of Boston*, 81 *Mass. App. Ct. 444 (2012)*; St. 2009, c. 27, §§ 25 and 149 amending G.L. c. 59, §18, Fifth.

³⁸ *Brown, Rudnick, Freed & Gesmer v. Board of Assessors of Boston*, 389 *Mass. 298 (1983)*; *MASSPCSCO v. Commissioner of Revenue*, 80 *Mass. App. Ct. 398 (2011)*.

³⁹ G.L. c. 59, § 5, cl. 16(2), G.L. c. 63, §§ 30.1 and 39, as amended by St. 2008, c. 173, §§ 2, 38 and 84. An unincorporated homeowners association required to file a federal income tax return as a corporation must file a Massachusetts individual tax return and is not treated as a corporation for local property tax purposes effective for tax years on or after January 1, 2009.

⁴⁰ See St. 2013, Ch. 46, §§ 29-31, 39, 84 eliminating the utility tax under G.L. c. 63, §52A and amending G.L. c. 59, § 5, cl. 16(1) & 16(2), effective January 1, 2014 for FY2015. G.L. c. 63, § 52A, repealed as of January 1, 2014, listed utilities subject to the utility corporation franchise tax and thus, entitled to the utility corporation property tax exemptions. Utility corporations formerly subject to that tax included electric and gas transmission and distribution, telephone and telegraph, water, oil and natural gas pipeline, railroad and canal companies that were incorporated.

⁴¹ *Assessors of Brockton v. Brockton Olympia Realty Co.*, 322 *Mass. 351, 355 (1948)*.

⁴² G.L. c. 59, § 5, cl. 16(2).

⁴³ *Rudnick Realty v. Board of Assessors of Westborough*, 373 *Mass. 856 (1977)*. Compare *Pappas, Trustee of Hayward Street Realty Trust v. Board of Assessors of the Town of Ipswich*, ATB 1997-598, at 624-626,

in which the ATB found that integrated refrigeration and air-conditioning equipment that was visually indistinguishable from the real estate was part of real estate and not entitled to the personal property exemption.

⁴⁴ *Canteen Corporation v. Board of Assessors of Newton*, ATB Docket No. 127556 (3/4/1988).

⁴⁵ *In re South Shore Vending, Inc.*, 25 B.R. 111 (1982).

⁴⁶ G.L. c. 59, § 5, cl. 16(3).

⁴⁷ G.L. c. 59, § 5, c. 16(3), as amended by St. 1997, c. 164, § 70 (Electric Restructuring Act). Generation of electricity is considered a manufacturing process. Electric co-generating plants of 30 megawatts or less, electric generating plants classified as manufacturing on or before January 1, 1996 and portions of electric generating plants qualifying as pollution control devices under G.L. c. 59, § 5, cl. 44 are still exempt to classified manufacturing corporations under this provision. A co-generation plant makes electricity and another form of energy, such as heat or steam.

⁴⁸ *Board of Assessors of Swampscott v. Lynn Sand & Stone Co.*, 360 Mass. 595 (1971).

⁴⁹ G.L. c. 59, § 5, cl. 16(3), as amended by St. 2010, c. 240, § 108, effective for tax years beginning on or after January 1, 2011.

⁵⁰ See endnote 49.

⁵¹ G.L. c. 4, § 4.

⁵² G.L. c. 59, § 5, cl. 16(3), G.L. c. 63, §§ 30.1, 39 and 42B, as amended by St. 2008, c. 173, §§ 2, 3, 38, 84 and 85.

⁵³ Research and development corporations are specifically defined in G.L. c. 63, § 42B.

⁵⁴ G.L. c. 58, § 2; 830 Code of Massachusetts Regulations 58.2.1.

⁵⁵ *Fernandes Supermarkets, Inc. v. State Tax Commission*, 371 Mass. 318 (1976).

⁵⁶ See [Form 355RD](#).

⁵⁷ G.L. c. 59, § 5, cl. 16(1).

⁵⁸ St. 2014, c. 165, § 90.

⁵⁹ G.L. c. 63, § 52A, repealed as of January 1, 2014, listed utilities subject to the utility corporation franchise tax and thus, entitled to the utility corporation property tax exemptions. See Section 9.2.1 above and footnote 40 above.

⁶⁰ See endnote 58.

⁶¹ G.L. c. 59, § 5, cl. 15

⁶² See endnote 58.

⁶³ See endnote 58.

⁶⁴ G.L. c. 59, § 18, First. The issue of whether LLCs treated as partnerships for federal tax purposes are treated as partnerships under G.L. c. 59, § 18, Sixth was not addressed although raised in *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005).

⁶⁵ G.L. c. 59, § 29.

⁶⁶ State Tax Forms 2 (general taxpayers), 2MT (mobile telecommunications taxpayers) and 2HF (household furnishings and effects at residence that is not the domicile of the taxpayer)

⁶⁷ G.L. c. 59, § 32.

⁶⁸ G.L. c. 59, § 61.

⁶⁹ G.L. c. 59, § 5, cl. 3(b); cl. 5 and 5A; c. 59, § 29; State Tax Form 3ABC.

⁷⁰ Form PC.

⁷¹ G.L. c. 59, § 59.

⁷² G.L. c. 59, § 71.

⁷³ G.L. c. 58, § 8.

⁷⁴ G.L. c. 59, § 38.

⁷⁵ The income and market sales approaches may be used in special circumstances, but are considered less reliable in the vast majority of personal property valuations.

⁷⁶ G.L. c. 59, § 38A.

⁷⁷ G.L. c. 59, § 39.

⁷⁸ *Bell Atlantic Mobile of Massachusetts Corporation, Ltd. d/b/a/ Verizon Wireless v. Commissioner of Revenue*, 451 Mass. 280 (2008).

⁷⁹ See *RCN-BecoCom LLC v. Commissioner of Revenue*, 443 Mass. 198 (2005)

⁸⁰ St. 2009, c. 27, §§ 25 and 149 amending G.L. c. 59, § 18, Fifth.

⁸¹ Form 5941.

⁸² G.L. c. 59, §§ 31A, 75 and 76, as amended by St. 2010, c. 188, §§ 45, 52 and 53.

⁸³ G.L. c. 59, § 32.

⁸⁴ G.L. c. 59, § 61, as amended by St. 2010, c. 188, §§ 50 and 51.

⁸⁵ G.L. c. 59, § 42A, as added by St. 2010, c. 188, § 49.

TABLE 1. Personal Property Tax Exemption Quick Reference

OWNER					
Type of Personal Property ↓			Corporations		
	Individual	Partnership, Joint Owner, Trust, Estate & LLC (Treated as partnership or disregarded entity for federal income tax purposes)	Business Corporation (Including Partnership, Joint Owner, Trust & LLC treated as a corporation for federal income tax purposes)	Manufacturing Corporation (Including Partnership, Joint Owner, Trust & LLC treated as a corporation for federal income tax purposes) [must be classified by DOR after taxpayer application]	Telephone, Financial Institution, Insurance Company & Other Corporation Subject to Excise under Chapter 63, other than business or manufacturing corporation (Including Partnership, Joint Owner, Trust & LLC treated as a corporation for federal income tax purposes) *
* Out of state insurance company entitled to exemption only if state of incorporation or state where it principally conducts business provides reciprocal exemptions for Massachusetts insurance companies.					
Wearing Apparel, Household Furnishings & Effects (HF&E)	Exempt except Taxable for HF&E located out of domicile	Taxable	Exempt	Exempt	Exempt
Autos, Trailers, Boats, Private Airplanes, Manufactured Homes, Farm Animals/ Machinery/Equipment (Subject to Excise or Other Fee)	Exempt	Exempt	Exempt except Taxable for Farm Machinery used in Conduct of Business (since corporations are not subject to farm machinery excise)	Exempt	Exempt
Tools & Equipment other than Machinery	Taxable except for Farming Utensils & Mechanics Tools	Taxable	Exempt	Exempt	Exempt
Merchandise	Taxable	Taxable	Exempt	Exempt	Exempt
Poles, Underground Conduits, Wires & Pipes (Utilities, Cable, Telephone, other Telecoms)	Taxable	Taxable	Taxable	Taxable	Taxable
Machinery used in the Conduct of Business	Taxable except for hand held machine tools of trade of a mechanic	Taxable	Taxable except for Stock in Trade, Refrigeration, Air-conditioning, Laundering, Dry Cleaning, Purchasing, Selling, Accounting or Administrative	Exempt except Taxable for certain Electric Generating Machinery**	Exempt except Taxable on Machinery Used in Manufacture or to Supply & Distribute Water
** Electric generating machinery classified manufacturing on or before January 1, 1996, cogeneration machinery of 30 megawatts or less capacity & machinery certified as pollution control device are exempt.					

TABLE 2. Valuation of Telecommunication Company Personal Property

<i>Form of Entity</i>	<i>Type of Equipment</i>	<i>Taxable/Exempt</i>	<i>Valued Centrally/Locally</i>
Landline Telephone & Telegraph <i>Corporations</i> (Includes unincorporated entities treated as corporations for federal income tax purposes)(Includes bundled carriers that provide substantial telephone/telegraph service)	Telephone switching machinery, furniture, office equipment & machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on poles, wires, underground conduits, wires, pipes & machinery used in manufacture (electric generators) Exempt on all other machinery and personal property (Including Cable TV & Internet property that would be taxable to a non-utility corporation)	Centrally (Cable TV & Internet Machinery of Bundled Telephone Carrier that Would Otherwise be Valued and Assessed Locally Is Exempt)
Landline Telephone & Telegraph <i>Partnerships, Trusts, LLCs and Other Non-corporate Entities</i> (Does NOT include unincorporated entities treated as corporations for federal income tax purposes) (Includes bundled carriers that provide substantial telephone/ telegraph service)	Telephone switching machinery, furniture, office equipment & office machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on poles, wires, underground conduits, wires, pipes and all other personal property	Centrally on Poles, Wires, Underground Conduits, Pipes and Telephone/Telegraph Machinery, Locally on All Other Machinery & Property, Including Cable TV & Internet Related Property
Cellular/Mobile Telecommunications <i>Corporations</i> (Includes unincorporated entities treated as corporations for federal income tax purposes)	Wireless telecommunications machinery, furniture, office equipment & office machinery, electric generators, batteries, video electronics, studio machinery, Internet computers & electronics, poles, wires, fiber, coaxial cable, related transmission machinery and equipment	Taxable on poles, wires, underground conduits, wires, pipes, machinery used in the conduct of business, which excludes stock-in-trade and machinery directly used in a laundering or dry cleaning, refrigeration of goods and air-conditioning of premises, and in any selling, purchasing, accounting or administrative function	Locally
<i>Unincorporated Cellular/Mobile Telecommunications Companies NOT treated as corporations for federal income tax purposes</i>	Same as above	Taxable on all personal property	Locally

Assessors' Use only
Date Received

Name of City or Town

FISCAL YEAR _____ -- FORM OF LIST
Return of personal property subject to taxation
General Laws Chapter 59, § 29

TO BE FILED BY ALL INDIVIDUALS, PARTNERSHIPS, ASSOCIATIONS OR TRUSTS, CORPORATIONS,
LIMITED LIABILITY COMPANIES AND OTHER LEGAL ENTITIES
SUBJECT TO TAXATION IN THIS CITY OR TOWN
PERSONAL PROPERTY SCHEDULES NOT OPEN TO PUBLIC INSPECTION
(See General Laws Chapter 59, § 32)

Return to: Board of Assessors
Form must be filed by March 1 unless an
extension is granted by the board of assessors

1. TAXPAYER INFORMATION. Complete all sections that apply. Please type or print.		
A. Name of taxpayer: _____	FID Number: _____ (NOT SSN)	B. Assessors' use only
(1) Owner's name: _____		
(2) Business name: _____		
C. Indicate status:		
<input type="checkbox"/> Individual. (Do not include social security number above)		
<input type="checkbox"/> Partnership. Provide names of all partners: _____		
<input type="checkbox"/> Association or Trust. Provide names of all members/trustees: _____		
<input type="checkbox"/> Limited Liability Company. Provide names of all members: _____		
If any of above, or other non-corporate entity, treated as corporation for federal income tax purposes (a) by default rules, check here <input type="checkbox"/> or (b) by election form, check here. <input type="checkbox"/> Effective date: _____ Attach federal election form 8832.		
Check here <input type="checkbox"/> if entity filing federally as a corporation is classified as a manufacturer by Department of Revenue. (To be classified as a manufacturer, an application must be made to the Department on or before January 31 on form 355Q. G.L. c. 63, §§ 39 & 42B; c. 58, § 2; c. 59, § 5(16)(5) and 830 C.M.R. 58.2.1)		
<input type="checkbox"/> if entity filing federally as a corporation files Massachusetts return 63-20P, 63-23P or 63FI. (see below)		
<input type="checkbox"/> Corporation. (Check this box only if an incorporated entity)		
Check here <input type="checkbox"/> if corporation classified as a manufacturer by Department of Revenue. (To be classified as a manufacturer, an application must be made to the Department on or before January 31 on form 355Q. G.L. c. 63, § 42B; c. 58, § 2; c. 59, § 5(16)(5) and 830 C.M.R. 58.2.1)		
<input type="checkbox"/> if an insurance company filing premium excise return 63-20P or 63-23P (G.L. c. 63, §§ 20 & 23)		
<input type="checkbox"/> if a financial institution filing financial institution excise return 63 FI (G.L. c. 63, §§ 1 & 2)		
<input type="checkbox"/> Executor/administrator. Indicate estate of: _____ Decedent's last residence: _____		
<input type="checkbox"/> Other. Specify: _____		
D. Annual certification of entity tax status (all except individuals must complete):		
Has entity filed Certification of Entity Tax Status as of this January 1 with Department of Revenue? Yes <input type="checkbox"/> No <input type="checkbox"/> (Certification must be filed annually on or before April 1. DOR Directive 12-05). If yes, provide confirmation number _____.		
E. Nature of business or profession: _____	F. State of formation: _____	G. Date of formation: _____
H. Business address		
(1) Address of principal place of business: _____		
(2) Mailing address (if different): _____		
(3) Telephone number: () _____		
I. Location(s) of personal property:		

2. GENERAL INFORMATION

- A. WHO MUST FILE A RETURN.** This Form of List (State Tax Form 2) must be filed each year by all individuals, partnerships, associations, trusts, corporations, limited liability companies and other legal entities that own or hold taxable personal property on January 1 unless required to file another local or central valuation personal property return as follows. Pipeline and telephone and telegraph companies that own taxable personal property subject to central valuation under G.L. c. 59, §§ 38A or 41 must file a personal property return with the Massachusetts Department of Revenue listing such property. Any other taxable personal property owned by such pipeline or telephone and telegraph companies must be reported on this return. Taxable personal property of mobile wireless telecommunications companies must be reported on State Tax Form 2MT. Individuals who own or hold household furnishings and effects not situated at their domicile on January 1 must file State Tax Form 2HF. Business or other taxable personal property owned by individuals must be reported on this return. Literary, temperance, benevolent, charitable or scientific organizations that may be exempt under G.L. c. 59, § 5 Clause 3 must file State Tax Form 3ABC listing all property they own or hold for those purposes on January 1.
- B. WHEN AND WHERE RETURN MUST BE FILED.** This return must be filed by March 1 with the board of assessors in the city or town where the personal property is situated on January 1. If the property has no situs on January 1, it must be listed on a return filed with the assessors in the city or town where you are domiciled (legal residence or place of business). A return is not considered filed unless it is complete.
- C. FILING EXTENSION.** The board of assessors may extend the filing deadline if you make a written request and show sufficient reason for not filing on time. The latest the filing deadline can be extended is the last day for applying for abatement of the tax for the fiscal year to which the filing relates.
- D. AUDITS.** The board of assessors may audit your books, papers, records and other data in order to determine whether you have accurately reported all taxable personal property. Any audit will be conducted within 3 years of the date your return is due or filed, whichever is later. The assessors may assess taxes on unreported or inaccurately reported taxable personal property discovered by the audit within 3 years and 6 months of the date your return is due or filed, whichever is later.
- E. PENALTY FOR NOT FILING, FILING LATE OR NOT COMPLYING WITH AUDIT.** If you do not file a return for the fiscal year and comply with audit requests for books, papers, records and other data, the assessors cannot abate for overvaluation of the personal property for that year. If your return is not filed, or you do not comply with audit requests, on time, the assessors can only abate if you show a reasonable excuse for the late filing or the tax assessed is more than 150% of the amount that would have been assessed if the return had been timely and properly filed. In that case, only the amount over that percentage can be abated.
- F. USE OF AND ACCESS TO RETURN AND RECORDS.** The information in the return is used by the board of assessors to determine the taxable or exempt status of your personal property and, if taxable, its fair market value. You may also be required to provide the assessors with further information about the property in writing and asked to permit them to inspect it. **Personal property information listed in Schedules A-I, or obtained during an audit, is not available to the public for inspection under the state public records law. It is available only to the assessors and Massachusetts Department of Revenue for purpose of administering the tax laws.**

3. TAXABLE PERSONAL PROPERTY

In general, all tangible personal property situated in Massachusetts and all tangible personal property owned by Massachusetts domiciliaries is taxable unless expressly exempt. [G.L. c. 59, §§ 2 & 18]. Exemptions are usually based on (1) ownership, (2) type of property, or (3) use of property. The following chart summarizes the personal property that is taxable and must be listed in the return. If you have any questions about the taxable status of your personal property, please contact your board of assessors.

A. INDIVIDUALS, PARTNERSHIPS, ASSOCIATIONS, TRUSTS, and LIMITED LIABILITY COMPANIES filing for federal income tax purposes as individuals, partnerships, or disregarded entities; and other non-corporate entities.	All tangible personal property requested in the schedules that follow. Individuals are entitled to exemption for (1) household furniture and effects at their domicile, (2) farm utensils, (3) tools of a mechanic's trade, and (4) boats, fishing gear and nets up to a value of \$10,000 owned and actually used in the individual's business if engaged exclusively in commercial fishing. [G.L. c. 59, § 5, cl. 20].
B. BUSINESS CORPORATIONS as defined in G.L. c. 63, § 30 and taxable under G.L. c. 63, § 39, including Massachusetts and out-of-state corporations treated as such for federal income tax purposes and LIMITED LIABILITY COMPANIES and other unincorporated entities treated as corporations for federal income tax purposes. Does NOT include corporations or entities treated as corporations for federal income tax purposes described in C & D below.	Poles, underground conduits, wires and pipes. All "machinery used in the conduct of business" <u>except</u> machines that are (1) stock in trade, or (2) used directly in dry cleaning or laundering processes, to refrigerate goods or air condition premises, or in purchasing, selling, accounting or administrative functions. [G.L. c. 59, § 5, cl. 16(2)].
C. MANUFACTURING CORPORATIONS and LIMITED LIABILITY COMPANIES and other unincorporated entities treated as corporations for federal income tax purposes that are manufacturers as defined by G.L. c. 63, § 42B and classified as "manufacturing" by the Department of Revenue under G.L. c. 58, § 2 after application. See State Tax Form 355Q.	Poles, underground conduits, wires and pipes. All tangible personal property used in the manufacture or generation of electricity <u>except</u> property that (1) is a cogeneration facility of 30 megawatts or less in capacity, or (2) was exempt due to a manufacturing classification effective on or before January 1, 1996. [G.L. c. 59, § 5, cl. 16(3)].
D. FINANCIAL INSTITUTIONS that are CORPORATIONS, or LIMITED LIABILITY COMPANIES or other unincorporated entities treated as corporations for federal income tax purposes, and taxable as financial institutions under G.L. c. 63, INSURANCE COMPANIES that are CORPORATIONS, or LIMITED LIABILITY COMPANIES or other unincorporated entities treated as corporations for federal income tax purposes, and taxable as insurance companies under G.L. c. 63, §§ 20 or 23 (if state of incorporation or principal place of business if incorporated in foreign country exempts similar tangible personal property of Massachusetts insurance companies) and CORPORATIONS taxable under G.L. c. 63, § 58.	Poles, underground conduits, wires and pipes. Machinery used in manufacture, or in supplying or distributing water. [G.L. c. 59, § 5, cl. 16(1)].
E. OUT-OF-STATE INSURANCE CORPORATIONS if the state of incorporation or principal place of business if incorporated in a foreign country does not exempt tangible personal property of Massachusetts insurance companies.	All tangible personal property requested in the schedules that follow. [G.L. c. 59, § 5, cl. 16(1)].

4. INSTRUCTIONS FOR COMPLETING SCHEDULES

List all items of taxable personal property owned or held on January 1 in the appropriate schedules that follow, including items in your physical possession on that date under a lease, consignment, license, mortgage, pledge or other arrangement. You must also list all real property owned in the city or town on January 1. For your return to be considered complete, all information specified in the schedules except the "Estimated Market Value" must be provided and all copies of leases, consignments, etc., for any property in your possession under such arrangements must be attached. Construction work in progress (CWIP) and property no longer in service but not yet removed is taxable and must be separately listed as such, as shown in the tables. The board of assessors may require that this list be filed electronically.

- A. POLES, UNDERGROUND CONDUITS, WIRES AND PIPES.**
- B. MACHINERY.** Includes manufacturing and generating machinery and equipment (turbines, engines, etc.), construction machinery, copying and reproduction equipment, automated data and word processing equipment, appliances (freezers, refrigerators, air conditioners, etc.), electronics (televisions, microwaves, etc.) and any other machines and mechanical devices.
- C. TOOLS AND EQUIPMENT.** Includes trade, business, or professional tools and equipment, including restaurant, laboratory and medical equipment, not listed as machinery.
- D. BUSINESS FURNITURE AND FIXTURES.** Includes business, professional, commercial or service fittings and furnishings (desks, tables, cabinets, display cases), rugs, floor coverings and draperies, lamps, specialized lease-hold improvements (restaurant fittings, modular walls, etc.), works of art and decorations, books and professional libraries and all other fittings and effects.
- E. MERCHANDISE.** Includes goods, wares, or stock in trade in any store or other place of sale, in any warehouse or other place of storage, out on lease or consignment, etc.
- F. UNREGISTERED MOTOR VEHICLES AND TRAILERS.** Includes motor vehicles not carrying Massachusetts registration plates under G.L. c. 90, unregistered agricultural (except those subject to the farm excise under G.L. c. 59, § 8A) and industrial tractors, trailers, snowmobiles, motorized golf carts and all other unregistered vehicles.
- G. ANIMALS.** Includes: (1) mules and horses one year or older, (2) neat cattle (cows, yearlings, bulls, steers, heifers, etc.) one to three years old and not held for the owner's personal consumption, (3) neat cattle three years or older, (4) swine, sheep and goats six months or older, (5) domestic fowl (chickens, ducks, geese, turkey), and (6) all other domestic animals, wildlife and gamefish (mink, fox, etc.) not subject to the farm excise under G.L. c. 59, § 8A.
- H. FOREST PRODUCTS.** Includes forest products severed from the soil such as cordwood, timber, Christmas trees and other forest products not subject to the classified forest products tax under G.L. c. 61.
- I. OTHER TAXABLE PERSONAL PROPERTY.** Includes all other tangible personal property not specifically exempt from taxation.
- J. REAL PROPERTY.** Includes all real property owned in the city or town on January 1.

A. POLES, UNDERGROUND CONDUITS, WIRES AND PIPES

* Own/ Other	Type	Quantity/ Run feet	Size	Make	Nature of use	Years installed	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.								Subtotal Schedule A		
								Subtotal attachment		
								TOTAL		

B. MACHINERY

* Own/ Other	No.	Description	Nature of use	Manufacturer	Model	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.							Subtotal Schedule B		
							Subtotal attachment		
							TOTAL		

C. TOOLS AND EQUIPMENT

* Own/ Other	No.	Description	Nature of use	Type/model	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.					Subtotal Schedule C			
					Subtotal attachment			
					TOTAL			

D. BUSINESS FURNITURE AND FIXTURES

* Own/ Other	No.	Description	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.			Subtotal Schedule D			
			Subtotal attachment			
			TOTAL			

E. MERCHANDISE

* Own/ Other	Type	Description	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
	Finished goods or products					
	Work in progress					
	Materials or supplies					
Continue list on attachment, in same format, as necessary.			Subtotal Schedule E			
			Subtotal attachment			
			TOTAL			

F. UNREGISTERED MOTOR VEHICLES AND TRAILERS

* Own/ Other	Model, name, letter or number	Make	Type: Describe sufficiently for identification giving number of passengers, number of doors and type of body. If not required to be registered, so state and name use.	No. of cylinders or rated capacity	** Year of Manufacture	Year of purchase	Purchase price	Estimated market value
Continue list on attachment, in same format, as necessary.					Subtotal Schedule F			
					Subtotal attachment			
					TOTAL			

* Specify if property owned, leased, consigned, etc. and attach copies of lease or other agreement with owner.

** List property by most recent to earliest year of manufacture.

PERSONAL PROPERTY ADDITIONAL RESOURCES

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

- [*Corporations Database*](#) – Annual comprehensive listing of classification of all corporations for use by Massachusetts assessors in determining local tax status. The book is published exclusively on the web and has a search function.
- [*Personal Property Frequently Asked Questions*](#) – General guidance for assessors and taxpayers about taxation of personal property.
- [*Forms of List*](#) - Forms of List used by taxpayers to file local or central returns of taxable personal property.
 - [State Tax Form 2](#) Return of Personal Property Subject to Taxation - Filed by Individuals, Partnerships, Associations or Trusts, Corporations, Limited Liability Companies and Other Legal Entities
 - [State Tax Form 2HF](#) Return of Personal Property Subject to Taxation - Filed by Non-domiciliary Homeowners
 - [State Tax Form 2MT](#) Return of Personal Property Subject to Taxation - Filed by Mobile Telecommunication Providers)
 - [Form 5941](#) Return of Personal Property Subject to Valuation by the Commissioner of Revenue - Filed by Telephone and Telegraph Companies
 - [State Tax Form 3ABC](#) Return of Property Held for Charitable Purposes - Filed by Charitable and Veteran Organizations
- [*Bulletins*](#) – Bulletins that advise about new legislation or other issues regarding specific exemptions or deferrals include:
 - [2001-08B](#) Acceptance of Small Personal Property Account Exemption
 - [2013-06B](#) Local Option Exemptions for Research and Development Companies and Disregarded Limited Liability Companies

Slide 1

Commonwealth of Massachusetts
 Department of Revenue

Personal Property

COURSE 101: CHAPTER 8

Slide 2

Commonwealth of Massachusetts
 Department of Revenue

Agenda

1. Provide an overview of personal property tax
2. Discuss personal property tax exemptions
3. Explain personal property reporting requirements

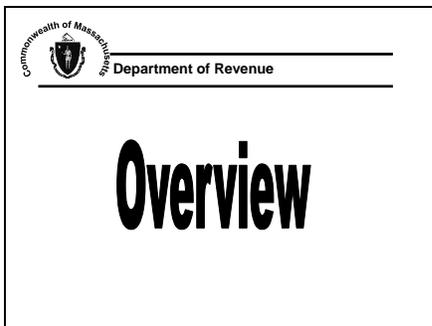
Slide 3

Commonwealth of Massachusetts
 Department of Revenue

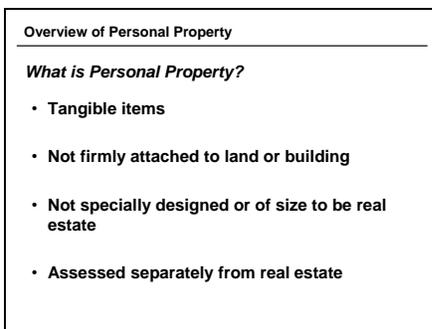
Agenda

4. Define valuation methodology
5. Review centrally valued personal property
6. Outline of audit authority

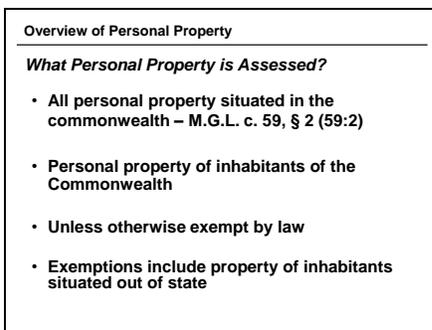
Slide 4



Slide 5



Slide 6



Slide 7

Overview of Personal Property

Which Municipality May Assess the Tax?
59:18

- Where property situated on 1/1
- Where the owner is domiciled or has a principal place of business on 1/1 if property not situated anywhere else
- Commercial airplanes - fairly apportioned based on time in municipality (59:18(2A))

Slide 8

Overview of Personal Property

To Whom is Tax Assessed? (59:18)

- Owner (59:18 & 59:18(1))
- Person in possession or owner - machinery or leased for profit (59:18(2))
- Estate of deceased or executor (59:18(3))
- One or more joint owners – each liable for the whole tax (59:18(4))

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Overview of Personal Property

To Whom is Tax Assessed? (59:18) (cont.)

- Corporate owner - poles, wires, underground conduits and pipes (59:18(5))
- Assessed in partnership name - all partners liable for whole tax (59:18(6))
- As of 1/1 for FY beginning following 7/1

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Commonwealth of Massachusetts

Department of Revenue

Exemptions

Slide 11

Exemptions for Individuals (59:5(20))

- Farming utensils
- Tools of trade of mechanic
- Household furnishings and effects at domicile
- Boats, fishing gear and nets - \$10,000 or less - if engaged exclusively in fishing

Slide 12

Exemptions for Individuals (cont.)

- Items subject to excise or other fee
- Registered motor vehicles and trailers taxable/exempt (59:5(35))
- Boats taxable/exempt (60B:2(d))

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Exemptions for Individuals (cont.)

- **Farm animals, machinery and equipment subject to Farm Animal Excise (59:8A)**
- **Manufactured homes in licensed manufactured home parks (59:5(36))**
- **Registered non-commercial airplanes (90:49)**

Slide 14

Exemptions for Partnerships

- **Taxable for all personal property, (except items subject to excise or other charge) (59:18(6))**
- **Applies to limited partnerships and limited liability partnerships**
- **Limited liability companies treated as partnerships for federal tax purposes taxable for all personal property (except items subject to excise or other charge) (59:18(1))**

Slide 15

Corporations

- **3 Categories of corporations:**
 - Business corps taxable under M.G.L. C. 63, § 39
 - Classified manufacturing (M) corps
 - Telephone*/insurance/financial institutions
- **Commissioner publishes website list**
- **List designates M corps and separately lists financial institutions and insurance companies**
- **2012 – introduced new Annual Certification of Entity Tax Status (ACETS) requirement**

Slide 16

Property Taxable to All Corporations

- Poles, wires, underground conduits and pipes taxable to all corporations (59:5(16))
- Business, electric and gas distribution corps taxable on network poles and wires over public ways (giant machines)
- Poles/wires over public ways are taxable to incorporated telephone and cable companies (59:18(5))

Slide 17

Exemptions for Business Corporations (59:5(16)(2))

- Business corporations taxable for machinery used in conduct of business
- Business corporation must be an endeavor of labor for profit or gain
- Machinery is a mechanical device with independent moving parts or its electronic equivalent
- Need not be actually in use if it is capable of use in the business

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Exemptions for Business Corporations (cont.)

- Exempt except poles, wires, underground conduits, pipes and machinery used in the conduct of business
- Specifically exempt for machinery that is:
 - Stock in trade
 - Used directly in laundering and dry cleaning
 - Used directly in refrigeration of goods and air conditioning premises
 - Used directly in selling, purchasing, accounting or administrative functions

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Exemptions for Business Corporations (cont.)

- Stock in trade means sold or leased in usual course of business and excludes financed sale and consignment goods
- Machinery used to sell goods are exempt, but not those providing entertainment or service
- Accounting and administrative functions means in-house/record keeping
- Exemptions apply to foreign and domestic corporations and non-corporate business entities treated as corporations for federal income tax purposes

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Exemptions for Telephone Corporations, Financial Institutions and Insurance Corporations (59:5(16)(1))

- Exempt **except** for real estate, poles, wires, underground conduits, pipes and machinery used in manufacture or supply/distribute water
- Financial institution includes mortgage companies, subsidiaries

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Exemptions for Telephone, Financial Institution and Insurance Corporations (cont.)

- Foreign insurance corporations get exemption only if reciprocity
- Exemptions apply to unincorporated telephone, financial institution or insurance companies treated as corporations for federal income tax purposes

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Exemptions for M Corporations (59:5(16)(3))

- **Manufacturing corps exempt for personal property, including machinery**
- **M classification requires application to DOR on or before 1/31 (Form 355Q)**
- **Manufacturing transforms raw or finished materials through human skill/knowledge into something with a new nature/name/use**

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Exemptions for M Corporations (cont.)

- **Not construction, breeding, information**
- **Must be substantial**
- **Exemptions apply to foreign and domestic corporations and non-corporate manufacturing entities treated as corporations for federal income tax purposes (59:5(16)(3))**

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Exemptions – Local Option R&D Corp (59:5(16)(3))

- **Cities and towns may adopt local option exemptions for research and development (R&D) corps by 7/1**
- **If accepted, M corp exemptions apply to R&D corps**
- **R&D includes experimental and lab activities to develop new and improve existing products**

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Exemptions – Local Option R&D Corp (cont.)

- 2/3 Receipts or 2/3 Expenditures
- Classified by DOR (Form 355RD)
- Must Notify DOR of Acceptance

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Limited Liability Companies

- LLC that elects to be treated as partnership or disregarded entity for federal income tax purposes is taxable on all personal property
- Except for telephone company, financial institution or insurance company, LLC that elects to be treated as corporation for federal income tax purposes is taxable as a business or M corp as the case may be

Slide 27

Limited Liability Companies (cont.)

- Telephone, financial institution or insurance company LLC is taxable only on machinery used in manufacture or in supplying or distributing water
- Single member LLC treated as a disregarded entity for federal income tax purposes is taxable on all personal property, even if parent is a corporation (but see local option below)

Slide 28

Other Non-corporate Entities

- Rules of the previous two slides apply to other unincorporated entities electing to be treated as corporations for federal income tax purposes
- Includes partnerships, associations and trusts

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Exemptions – Local Option Disregarded Entity M or R&D Corp (59:5(16)(3))

- Municipalities may also adopt local option M corp exemption for single member LLCs filing federally as disregarded entities
- If accepted M corp exemptions apply to those LLCs, provided:
 - LLC has usual place of business in MA
 - LLC engaged in M or R&D in MA and sole member is an M or R&D corp

Slide 30

Optional Minimum Value Assessment (59:5(54))

- Local acceptance required
- Minimum value cannot exceed \$10,000 (may be modified)
- Forms of list required in order for assessors to ascertain value
- Failure to submit form does not prohibit exemption if value below minimum

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Commonwealth of Massachusetts
Department of Revenue

Reporting Requirements

Slide 32

Filing Forms of List (59:29)

State Tax Forms 2, 2MT, 2HF & 3ABC

- File list of taxable property as of 1/1 by 3/1 (not 3ABC)
- Assessors may allow filing no later than abatement application deadline
- Up to 50% penalty for late filing
- No abatement without filing

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Filing Forms of List (cont.)

State Tax Forms 2, 2MT, 2HF & 3ABC

- Statement under oath
- List is confidential
- Filer need not list value
 - Not binding if listed
- Non-profits file list of exempt property as of 1/1 by 3/1 on form 3ABC

Slide 34

Abatement Procedures

- Overvaluation abatement processed in the same manner and form as real estate
- Abatement for inability to pay may be processed by assessors upon request of collector without DOR approval (59:71)
- Other abatements after filing deadline must be authorized by DOR (58:8)

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Department of Revenue

Valuation Methodology

Slide 36

Valuation of Personal Property

- Usually cost method - replacement or reproduction as appropriate
- Pricing manual often used
- Depreciation based on age, condition and quality
- Residual value if still in use beyond expected life of property (See Cumington ATB Decision 4-2-2008)

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Valuation of Personal Property (cont.)

- **Must document depreciation**
- **Valuation of regulated utilities may require net book value**
- **Income or hybrid method may be used where income from personal property may be differentiated from real estate and intangibles**

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Department of Revenue

Centrally Valued Personal Property

Slide 39

Valuation of Pipelines (59:38A)

- **Commissioner values pipelines of more than 25 miles in length owned by entity other than gas or electric company**
- **Returns filed by 1/31**
- **Certification by 6/15, right to appeal to ATB by 7/1**
- **Taxable non-pipeline property reported and valued locally**

Slide 40

Valuation of Telephone Companies (59:39-42)

- DOR values machinery, poles, wires, underground conduits, wires and pipes of telephone and telegraph companies used to provide telephone service (Form 5941)
- Other taxable personal property of telephone companies reported and valued locally (Form 2)

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Valuation of Telephone Companies (cont.)

- Cable/broadcast TV, internet and radio not telephone companies, reported and valued locally (Form 2)
- Bundled carriers providing substantial telephone are telephone companies – RCN-BecoCom case
- Wireless companies are not telephone companies under Bell Atlantic Mobile case – reported and valued locally (Form 2MT)

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Valuation of Telephone Companies (cont.)

- DOR values all telephone companies on poles, wires, underground conduits, wires and pipes, on public or private real estate, including construction work in progress (CWIP)

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Valuation of Telephone Companies (cont.)

- DOR also values:
 - Telephone corporations, and partnerships/LLCs or other unincorporated telephone companies treated as corporations for federal purposes, on electric generators (machinery used in manufacture)
 - Partnerships/LLCs and other unincorporated telephone companies on all machinery used in providing telephone service (includes switching equipment and generators)

Slide 44

Valuation of Telephone Companies (cont.)

- Returns filed by 3/1
- Certified values by 5/15
- Right to appeal by 6/15
- **Verizon New England Appeals Court decision affirmed taxability of CWIP**

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 Department of Revenue

Auditing Authority

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<p>Audit Authority (59:31A & 42A)</p> <ul style="list-style-type: none">• Assessors may audit books and records of locally valued taxpayers up to 3 years after return due or filed, whichever is later• If additional taxable property found, additional taxes may be assessed up to 3 years and 6 months after the return due or filed, whichever is later• DOR has similar authority for telephone and pipeline companies subject to central valuation
--

EXERCISE PERSONAL PROPERTY

Answer the following questions.

John Jones rents a warehouse and runs a bowling alley at the site. He purchased the lanes, pins, bowling shoes, balls, automatic ball returns, pin setters, cash registers, and other machinery used in that part of the business. The lanes were installed in sections, bolted to each other and the cement warehouse floor. They were originally installed at another building, from which they were unbolted, removed, and trucked to the warehouse site.

Jones and Jane Smith, as partners, operate a soda fountain at the alley and lease all the appliances and equipment for that operation from a leasing corporation. The partners have the right to purchase that equipment for \$1 at the end of a 5-year lease. The equipment has a useful life of 10 years.

1. Are the lanes personal property or real estate?

2. Is Jones taxable for the lanes? pins? balls? shoes? ball returns? pinsetters?

3. Is Jones & Smith partnership taxable for the soda equipment?

EXERCISE ANSWER PERSONAL PROPERTY

John Jones rents a warehouse and runs a bowling alley at the site. He purchased the lanes, pins, bowling shoes, balls, automatic ball returns, pin setters, cash registers, and other machinery used in that part of the business. The lanes were installed in sections, bolted to each other and the cement warehouse floor. They were originally installed at another building, from which they were unbolted, removed, and trucked to the warehouse site.

Jones and Jane Smith, as partners, operate a soda fountain at the alley and lease all the appliances and equipment for that operation from a leasing corporation. The partners have the right to purchase that equipment for \$1 at the end of a 5-year lease. The equipment has a useful life of 10 years.

1. Are the lanes personal property or real estate?

The lanes are personal property, since they were used at more than one location and can be removed without causing significant damage.

2. Is Jones taxable for the lanes? pins? balls? shoes? ball returns? pinsetters?

Jones is taxable for all the items used in the bowling alley portion of the business because as a sole proprietor he is taxable on all business personal property.

If Jones incorporated and the corporation acquired the personal property, however, the corporation would be taxable on all machinery used in the conduct of the business, but exempt on non-machinery personalty. In that case, the automatic ball returns and pinsetters would be taxable machinery. The lanes, pins, shoes and balls are not machinery and would be exempt. The cash registers are considered machinery directly used in a selling, purchasing, accounting and administrative function and are not considered machinery used in the conduct of business. They are exempt.

3. Is Jones & Smith partnership taxable for the soda equipment?

Jones & Smith partnership is taxable for the soda equipment because the partnership is the owner of the equipment and is entitled to no exemptions. While the leasing corporation would be exempt for its inventory as stock in trade, the lease to the partnership is not a true lease, but an installment or financed sale.

