

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES**

Property Tax Bureau
Informational Guideline Release (IGR) No. 90-224
November 1990

**ASSESSORS' AUTHORITY TO OBTAIN WRITTEN INFORMATION REGARDING THE FAIR CASH
VALUATION OF REAL AND PERSONAL PROPERTY**

G.L. Ch. 59 §38D & 38F
and
Chapter 718 §3 of the Acts of 1989
(Amending G.L. Ch. 59 §61A)

SUMMARY:

General Laws Chapter 59 §§38D, 38F and 61A provide authority for assessors to obtain written information to determine the fair cash valuation of real and personal property. The authority provided by Sections 38D and 38F is available while assessors are making their initial assessments for any particular fiscal year, prior to the mailing of actual tax bills for that year. The authority provided by Section 61A is available while assessors are processing applications for abatement.

The failure of a taxpayer to timely respond to a request for information under any of these sections may bar that taxpayer from any statutory appeal of his property assessment.

GUIDELINES:

**I. ASSESSORS' ACCESS TO WRITTEN INFORMATION FROM TAXPAYERS PRIOR TO MAILING
OF ACTUAL BILLS**

A. General Authority to Obtain Information

General Laws Chapter 59 §38D and §38F provide assessors with express authority to request a written return under oath containing any information reasonably necessary for them to determine the actual fair cash valuation of taxable property. Section 38D pertains to real property and Section 38F pertains to personal property.

B. When and to Whom a Request May be Made

1. The assessors may make a request to either the owner or lessee of real or personal property.
2. The Appellate Tax Board has ruled that authority to make a request under Sections 38D and 38F is only available prior to the mailing of the actual tax bill for the year to which the request relates.
3. Since these sections require any person to whom a request is made to reply within 60 days, any requests must be made more than 60 days prior to the mailing

C. Penalties for Failure to Comply

1. Any owner or lessee of real or personal property who fails to reply timely to any reasonable request for information under these sections is barred from any statutory appeal under Chapter 59, unless his failure was for reasons beyond his control.
2. Any owner or lessee who makes a material statement which he knows to be false on a return under these sections is also barred from any statutory appeal under Chapter 59. A statement is material if it has an important effect on the underlying question of the fair cash value of the particular property.

3. In addition, if any owner or lessee of real property fails to reply timely and in the form prescribed by the assessors, a \$50.00 penalty is to be added to the tax levied on the subject property for the next ensuing fiscal year. This \$50.00 may be added, however, only if the assessors notified the owner or lessee of this penalty provision at the time they made the request.

II. ASSESSOR'S ACCESS TO WRITTEN INFORMATION FROM TAXPAYERS WHILE PROCESSING APPLICATIONS FOR ABATEMENT

A. General Authority to obtain Information; To Have Property Exhibited

1. General Laws Chapter 59 §61A provides assessors with express authority to request a written return under oath containing any information reasonably necessary for them to determine the actual fair cash valuation of any real and personal property for which an application for abatement has been filed.
2. This statute also authorizes assessors to have the property identified and exhibited to them.

B. When and to Whom a Request May be Made

1. The assessors may make a request of any person who applies for an abatement.
2. The request may be made at anytime during the pendency of an abatement proceeding.

C. Information Which May Be Requested

Formerly, as well as requiring an applicant for an abatement to exhibit and identify the subject property to the assessors, Section 61A authorized assessors to obtain limited economic information relating to the property. Specifically, they were limited to requesting information concerning rents received from and expenses incurred to maintain particular property. However, Ch. 719 §3 of the Acts of 1989 expanded the scope of the information which assessors may request. Assessors may now request any information which may be reasonably required to determine the fair cash value of a particular property for which an abatement application has been filed.

D. Penalties for Failure to Comply

Any applicant for abatement who, within 30 days, fails (1) to comply with a request to exhibit property or (2) to reply in writing to any reasonable request for information made under Section 61A will be barred from any statutory appeal under Chapter 59, unless:

1. His failure was for reasons beyond his control, or
2. He attempted to comply in good faith.

III. DEVELOPMENT AND CONTENT OF RELATED FORMS

The assessors should develop forms for the purpose of requesting information under Chapter 59 §§38D, 38F and 61A necessary to determine the fair cash value of real and personal property.

Items of information requested under these sections may be identical. The essential difference between the authority granted under these sections relates to when the request may be made, not what type of information may be requested.

A. Information Which May Be Requested

The assessors may request any information that is reasonable.

For example, if a property has sold, the assessors may request information on its physical condition at the time of the sale and on the circumstances of the sale in order to determine if the sale was arms-length and the sales price is indicative of fair market value. Depending on the type of property being valued and the appraisal method being used, they may also request descriptive data about the physical characteristics and condition of the property as well as economic data such as income and expense information. They may also request copies of any annual returns filed with applicable regulatory agencies if pertinent.

B. Information Which Is Required

The following specific information must be included:

1. Forms relating to Sections 38D and 38F should state that failure to make the return within 60 days will bar the taxpayer from pursuing his statutory right of appeal. Forms relating to Section 61A should state a 30 day deadline.
2. Forms relating to Section 38D should also state that, in addition to the loss of statutory appeal rights, a \$50.00 penalty will be added to the tax imposed on the property if the return is not properly and timely made.

C. Requests for Clarifying or Additional Information

If the assessors have questions regarding the information contained in a return or otherwise submitted in response to a request made under these sections, they may require the taxpayer to address those questions, under oath, in a subsequent return.

The Division of Local Services is responsible for oversight of and assistance to cities and towns in achieving equitable property taxation and efficient fiscal management.

The Division regularly publishes IGRs (informational Guideline Releases detailing legal and administrative procedures) and the BULLETIN (announcements and useful information) for local officials and others interested in municipal finance.

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