

The following information is a reprint of an article from the April 2004 issue of *City & Town*. This synopsis of the tax billing and appeal process can be used as a reference document.

Local Property Tax Assessment & Billing

In Massachusetts, the property tax is exclusively a local tax and is assessed by municipalities (351 cities and towns) and local improvement districts (water, sewer, fire, etc.) to fund their budgets. There are no separate county or school district taxes levied directly on property owners. County and municipal or regional school costs are included in the municipal budget and tax levy.

There are overall limits on municipal tax levies and on the increases allowed annually in levies of municipalities with tax levels below the overall limit. Voter approval is required to increase levies above the annual limit.

Municipalities and districts may allocate the tax levy among the classes of residential, commercial and industrial real property, and personal property within prescribed statutory limits. Based on local decisions, the tax rate applicable to commercial and industrial realty and personalty may be higher than that applied to residential and open space property. Most communities, however, apply the same rate to all classes of property. Tax rates are expressed per thousand dollars of assessed valuation.

Municipalities and districts operate on a fiscal year that begins on July 1 and ends on June 30. Property taxes for a particular fiscal year are assessed as of January 1 before the beginning of the fiscal year.

Taxable property includes real and personal property unless expressly exempt. July 1 is the date established for determining eligibility for exemptions. Principal exemptions include the following:

- Publicly owned property (federal, state, local)
- Property owned and operated by charitable, religious, educational institutions
- Partial exemptions for homeowners who are 65 or older, surviving spouses or minors, disabled veterans or blind persons, and tax deferrals for homeowners 65 or older
- All intangible personalty; personal and household furnishings and effects at domicile; motor vehicles (subject to excise); machinery owned by manufacturing corporations; stock in trade and machinery used in administrative, accounting, selling, purchasing functions of business corporations.

Property is valued for tax purposes at its full and fair cash value on the January 1 assessment date. The physical characteristics of the property are **inventoried** as of the start of the fiscal year on July 1. While there is no prescribed valuation system, assessors must use accepted mass appraisal methods to value property. The state Department of Revenue reviews local assessment practices every three years and determines whether overall the municipality is assessing at full and fair cash value. The Town of Wellesley started annual revaluations in fiscal year 1997. There is no statutory requirement that property owners be notified of their valuations prior to tax billing. The tax bill is considered notification.

Certain forest, agricultural/horticultural, or recreational lands may qualify for special tax treatment and be assessed on the basis of current use rather than full and fair cash value.

Local Tax Billing

Taxes assessed for a fiscal year constitute a single liability that is payable in two or four installments depending on the payment system used.

Wellesley accepted the quarterly billing process starting in Fiscal Year 1991. Under that system, a preliminary bill is issued by July 1 and is payable in two (2) equal installments due on August 1 and November 1. The actual tax bill is mailed later after the tax rate is set. If the actual bill is mailed on or before December 31, the actual tax, after credit is given for the preliminary tax, is payable in two equal installments due on February 1 and May 1. If the actual bill is mailed after December 31, the entire balance is due on May 1. Late tax payments under this system are subject to 14% penalty interest from the payment due date.

Local Abatement Procedure

The abatement procedure is the exclusive remedy for taxpayers seeking to dispute and reduce their annual property tax. There are various procedural steps and deadlines involved in seeking an abatement, and taxpayers are charged with knowledge of those requirements.

The abatement procedure begins after the actual tax bills (not preliminary tax bills or notices of balance due) for the municipality have been mailed by filing an application for an abatement with the local assessors. The application for an abatement must be on a form prescribed by the Department of Revenue and must be filed with the Assessor's Office by February 1st (Applications with a proper mailing address, first class U.S. postage and

postmarked February 1st with this date are considered timely filed) or 30 days after the date the actual tax bills were mailed, whichever is later. This filing deadline cannot be extended or waived for any reason. A taxpayer loses all rights to any adjustment of his or her tax for the year, and the assessors lose their authority to grant an abatement if the application is not filed timely.

For most taxpayers, payment of the tax is not generally a prerequisite to filing an abatement application with or obtaining an abatement from the assessors. However, if the application is filed by someone other than the assessed owner of a parcel or someone who became its owner after the January 1 assessment date, all or a portion of the tax usually must be paid first. Even if the tax does not have to be paid to obtain an abatement on the local level, timely payment generally is required in order to appeal the assessors' decisions further.

The most common reason for seeking an abatement is overvaluation, which means the property is valued in excess of its fair cash value on January 1. Typically, overvaluation is claimed where a taxpayer simply disagrees with the assessors' appraisal of the property. It also would be claimed if an assessment is too high because it was based on incorrect information such as non-existent improvements as of July 1st (for example, a garage or pool) or valuation influences (for example, property condition or age). Other grounds for an abatement could be a property's being valued disproportionately in comparison with comparable properties or a property's being classified incorrectly as residential, open space or industrial property. Disproportionate assessment requires a showing that there is an intentional, discriminatory flaw in the valuation system.

The assessors have three months (unless extended by written consent of the taxpayer before the end of the three month period) to act on the application. The procedure used to review the application varies from community to community. In some cases, the assessors or their staff may meet with the taxpayer, or the taxpayer's attorney or authorized representative prior to making a decision. In addition, the assessors have the authority to require that the taxpayer provide pertinent information on the property or be barred from relief.

Within 10 days of their decision on the application, the assessors must send the taxpayer a notice of their decision. If the assessors do not act on the application within the

three month (or extended) period, the application is deemed denied by operation of law.

Appeals To Appellate Tax Board (617) 727-3100

The Appellate Tax Board (ATB) is a state administrative body that hears and decides taxpayer appeals from local assessors' decisions on abating property taxes. While the taxpayer may appeal to the county commissioners rather than to the ATB, this method of appeal is rarely done and even when it is, the assessors may and usually do transfer the appeal to the ATB. The ATB also hears cases involving disputes between taxpayers and the Department of Revenue on state tax matters and between municipalities and the Department of Revenue on centrally valued properties.

The taxpayer has three months from the date of the assessors' decision on an abatement application to appeal to the ATB. If the abatement application was deemed denied because the assessors did not act on it within three months (or the extended period agreed to by the taxpayer), then the taxpayer has three months from the date the abatement application was deemed denied to file an appeal. The ATB cannot hear an appeal if it is not filed within the deadline.

A filing fee of \$10-\$5,000 depending on the type of procedure, and in local cases, the assessed valuation of the property, is required.

In addition to timely filing, the taxpayer usually must have paid all or a portion of the tax in order to proceed with an appeal. For personal property tax appeals, the taxpayer must have paid at least half the tax. For appeals of a real estate tax exceeding \$2,000, the taxpayer must have paid every installment timely without incurring interest or, alternatively, paid an amount equal to the average tax assessed, reduced by abatements, for the preceding three years.

In proceedings before the ATB, taxpayers may appear and act for themselves, a partnership or board of which they are members or a corporation of which they are officers. The taxpayer may also be represented by an attorney.

A hearing before the ATB proceeds in much the same manner as a hearing or trial in any other Massachusetts administrative agency or court. However, practice before the ATB is governed by its own rules of procedure rather than the Massachusetts Rules of Civil Procedure. The taxpayer may use the informal or formal procedure. The informal procedure is designed primarily for residential

taxpayers. It eliminates the formal rules of procedure and evidence that typically govern cases before the ATB. Certain appeal rights are waived as well.

The ATB's role in an abatement case is to make a *de novo* determination of value by considering and deciding all factual and legal issues. The burden of proof is on the taxpayer.

Appeals Of Appellate Tax Board Decisions

Decisions of the Appellate Tax Board may be appealed to the Appeals Court and ultimately, to the Supreme Judicial Court. The ATB's findings of fact are final if supported by substantial evidence looking at the record as a whole.

Role of State Administrative Agency

The state Department of Revenue has supervisory authority over the administration of the local property tax. It establishes minimum standards of assessment performance, issues rules, regulations and guidelines to assist the assessors in the performance of their duties, renders legal opinions, prescribes various forms, conducts training programs and approves tax rates. However, the valuation and assessment of property for local tax purposes is the responsibility of municipal assessors, and all decisions on abatements rest with them as well.

FOR FURTHER ASSISTANCE:

Board of Assessors
Town Hall, 1st Floor
525 Washington Street
Wellesley, MA 02482

(781) 431-1019 ext. 2272
www.wellesleyma.gov

Monday-Friday
8:00 a.m. to 5:00 p.m.

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Property Tax Primer: Billing, Abatements and Appeals



Massachusetts Department of Revenue
Division of Local Services
Taxpayers Information Guide
Adapted for the Town of Wellesley