Frequently Asked Questions - Personal Property

Personal Property Tax Assessment
Frequently Asked Questions

The following frequently asked questions (FAQ) are intended as a quick reference for the general public, taxpayers and assessors. They are not intended to provide definitive answers to particular personal property tax issues, which may be very taxpayer and fact specific.

Q1. Do cities and towns in Massachusetts assess a personal property tax?

A1. Yes. The boards of assessors in each city and town assess personal property taxes on all personal property subject to tax situated within their communities as required by Chapter 59 of the Massachusetts General Laws. While personal property is generally taxable, a number of exemptions apply based on specific factors, including entity status of the owner, type of property and use of the property. For example, a "household furnishings" exemption makes individuals' personal effects at their domicile (primary residence) exempt from local personal property taxes. See answer to Question 12 for more details on this exemption.
The tax is calculated by multiplying the assessed value of the property by the personal property tax rate of the city or town. Personal property is assessed separately from real estate.

Q2. What is considered personal property for local property tax purposes?

A2. Personal property generally includes tangible items that are not firmly attached to land or buildings and are not specially designed for or of such a size and bulk to be considered part of the real estate. This includes merchandise, furnishings and effects, machinery, tools, animals and equipment. Such personal property will be taxable unless a specific exemption provision applies.

Q3. What personal property is subject to local taxation?

A3. All personal property situated in the commonwealth is subject to tax, unless specifically exempt by law. Property is situated in a particular city or town in the commonwealth if it is present on January 1 with the owner's intention that it remain with some degree of permanence. Property that is frequently moved from place to place or intended for use temporarily at different places is considered situated where the owner is an inhabitant or has a principal place of business (if the property is business personal property).
A primary example of exempt property involves household furnishings and effects. Household personal property at a person's domicile (primary residence) is expressly exempt from personal property tax. This exemption does not apply to property located at a second home.

See M.G.L. c. 59, §2 & §5, cl. 20
Q4. Which municipality has authority to assess the tax?

A4. The community in which the property is situated on January 1 has the authority to assess the personal property tax. If the property has established no particular situs, the city or town in which the owner resides (or has a principal place of business for business personal property) has the authority to assess the tax.

Commercial airplanes and other taxable transportation machinery is assessed by any community in which the machinery is present on a temporary basis at any time during the year, but the tax must be fairly apportioned based on the time the property is present in the community.

See M.G.L. c. 59, §18, generally, and §18, Second A, in particular.

Q5. To whom is the tax assessed?

A5. The owner of the property as of January 1 before the fiscal year begins is generally the person assessed the tax. In the case of machinery or tangible personal property leased for profit, the tax may also be assessed to the person in possession. Personal property of a deceased person may be assessed to the estate or executor. Jointly owned property may be assessed to one or more of the owners. Partnership property is assessed in the partnership name.

See M.G.L. c. 59, §18.

Q6. What are the reporting requirements for personal property in Massachusetts?

A 6. Generally, the owner of taxable personal property situated in any community must file a return, known as the Form of List or State Tax Form 2, with the local board of assessors of that community on or before March 1 prior to the fiscal year to which the tax relates, listing the taxable property. For example, for Fiscal Year 2010, beginning July 1, 2009 and concluding June 30, 2010, the return is due March 1, 2009. An owner of furnishings and effects at a residence in Massachusetts that is not the domicile of the owner, such as at a summer residence or weekend getaway, must file Form 2HF listing those furnishings and effects. Cellular/Mobile telecommunications companies must file Form 2MT. Charitable organizations seeking exemptions under M.G.L. c. 59, §5, cl. 3 must file a list of property exempt from taxation on Form 3ABC.

Fiscal years run from July 1 through June 30 of the following year. The return must provide a list of taxable property situated in the community on January 1 prior to the March 1 filing date. For cause shown, the board of assessors may extend the filing deadline up to 30 days after the mailing of the tax bill. The list of property is filed under oath. It is confidential and cannot be disclosed to anyone except persons who need to see the information to perform.
necessary duties in the office of the assessors and the department of revenue and to anyone specifically authorized by court order.

Machinery, poles, wires, underground conduits, wires and pipes owned by telephone and telegraph companies as of January 1 are reported to the Commissioner of Revenue on on or before March 1. Also, pipelines over 25 miles in length owned by oil or gas pipeline companies as of January 1 must be reported to the Commissioner of Revenue on or before January 31 prior to the fiscal year. The Commissioner certifies the telephone and pipeline values to the local assessors and the taxpayers, as set forth in the answer to Question 24.

The owner must properly identify and describe the property, including make and year of manufacture, and further provide the purchase price or original cost and year of purchase. The owner does not have to include an estimate of value.

If an owner has no taxable personal property, no return is required. However, if the owner has any property ordinarily subject to tax, regardless of the value, it should be reported to the local assessors as described.

Some communities have adopted a local option provision that exempts property of an owner if the total value is less than a minimum amount, which can be no more than $10,000. The owner is still expected to file the return, reporting the purchase price and year of acquisition, but the local board of assessors will determine the value of the property and whether the exemption applies.

See M.G.L., c. 59, §29, §31, §32, §38A, & §41.

Q 7. Who must report leased personal property?

A 7. The lessor of taxable personal property subject to a true lease is the owner for reporting purposes. A true lease is one in which the lessee must return the property at the end of the lease or may purchase the property at fair market value at the end or at any time during the course of the lease.

The lessee of such property subject to a finance lease (installment sale) is ordinarily considered the owner for reporting purposes. A finance lease is generally one where the property is leased for a period of time less than the useful life of the item and is or may become the property of the lessee at the end of the lease for a nominal sum.

Q 8. Is there any penalty for failure to file a return, or in filing a late return?

A 8. Boards of assessors are legally required to identify and value all taxable property in the community, except centrally valued telephone and telegraph company and centrally valued pipeline company property, even if an owner fails to file a return or files a return in an untimely manner. If no return is filed, the owner will be barred from any abatement on any tax assessed. If the form is filed late; i.e., after its due date or after the date of any extension to file, the owner will be limited in any remedy to seek abatement. In that case, the person or legal entity assessed will be unable to reduce any overvaluation below 150% of the actual value of the taxable property, unless the owner
demonstrates to the assessors or, if appealed, the board appealed to, a reasonable excuse for the delay. A person will
nevertheless be entitled to an abatement on personal property exempt from taxation as household furnishings &
effects at his domicile, tools of trade of a mechanic, farming utensils, wearing apparel and boats, nets & fishing gear
of $10,000 or less (if engaged exclusively in fishing) if he fails to bring in a list of taxable personal property.

M.G.L. c. 59, §5(20), §36, §37, §61 & §64.

Q 9. *What procedures exist for contesting a valuation or tax on personal property in Massachusetts?*

A 9. For locally valued and assessed personal property, the taxpayer generally must apply for abatement with the
local board of assessors within a relatively short period of time after the actual tax bill is issued. An abatement
application is made on *State Tax Form 128* which must be filed by the due date of the first installment payment of
the actual tax bill (the first bill stating the value). In a community issuing quarterly tax bills, the first payment due
date for the actual bill is usually February 1. In a community issuing semi-annual bills that is usually 30 days after
the first bill is issued. The due date should be specifically stated on the front of the bill. An extended deadline will
apply for omitted and revised assessments. See *State Tax Form 128* for a more detailed description of the abatement
process.

If the taxpayer is still aggrieved upon the denial of the abatement, the granting of a partial abatement or inaction of
the board of assessors for three months after the filing of the application, such that the application is deemed to be
denied, an appeal may be made to the Appellate Tax Board within three months of the denial or date of deemed
denial. At least half the personal property tax must be paid for the Appellate Tax Board to act on any abatement
appeal.

See M.G.L. c. 59, §64.

Appeal procedures for centrally valued telephone and telegraph company and pipeline company personal property
are set forth in the answers to *Questions 24 and 25*.

Q 10. *What property is exempt from personal property tax?*

A 10. Several exemptions from personal property tax may apply, depending on several factors, including the legal
form of the owner, the type of property, and in some cases the use of the property. Most of the exemptions are set
forth in several clauses of M.G.L. c. 59, §§. Others may be found in other statutes and special acts. For example, an
exemption for non-commercial airplanes paying a state regulatory fee appears in M.G.L. c. 90, §49(b).

In some cases the exemptions from personal property tax are offset by another form of taxation, excise or fee. A
good explanation of what personal property is taxable, based on the form of ownership (individual, partnership,
corporation, etc), may be found in Part 3 of the *Form of List (State Tax Form 2)*.
Q 11. *What personal property tax exemptions apply generally to all taxpayers, regardless of the form of entity of the owner?*

A 11. Most exemptions that apply generally are those that are offset by other taxes, excises or fees. That includes motor vehicles and trailers subject to or exempt from excise, boats subject to or exempt from excise, ships and vessels assessed a ship excise, farm animals, machinery and equipment subject to excise, non-commercial airplanes for which a registration fee is paid and manufactured homes in licensed parks for which a fee is charged. Exemptions may apply to any owner for certain pollution control devices certified by the Department of Environmental Management as effective in eliminating or reducing pollution or for solar or wind powered systems. Goods in transit temporarily located at a licensed public storage warehouse are generally exempt, provided the owner has no domicile or place of business in the commonwealth. A local option authorizes cities and towns to exempt personal property from tax if the value of the property does not exceed a minimum established by the town, which cannot in any case exceed $10,000 in value.

See M.G.L. c. 59, §2, §§(36, 44, 45 & 54), §8, & §8A, M.G.L. c. 60A & M.G.L. c. 60B

Q 12. *What exemptions apply specifically to individuals?*

A 12. The primary exemption for individuals is for household furnishings and effects at the person's domicile. This includes the personal property kept in or about the house or garage. The domicile of a person is the place he or she calls home and intends to return to when away. Determination of domicile often requires an analysis of several factors, including where the person is registered to vote, completes a census, registers an automobile and has community ties.

Individuals are also exempt on simple farming utensils, tools of trade of a mechanic and boats, fishing gear and nets valued at $10,000 or less of a fisherman engaged exclusively in fishing. Farming utensils include hand tools and simple mechanical devices but not machinery, such as tractors, combines, balers and the like, which are considered machinery. Tools of trade of a mechanic are hand tools, including hand-held electrical devices used in the vocation of the owner, but not lathes, table saws, routers and other machinery generally bolted to or resting on the floor for support. A mechanic is a tradesman, such as a plumber, electrician, carpenter or auto mechanic and does not include a professional, such as an accountant, lawyer, dentist or doctor. A tree surgeon is a mechanic and the chain saws used to prune the trees are tools of his trade.

See M.G.L. c. 59, §5 cl. 20: Cocchi, d/b/a Paul's Tree Service v. Board of Assessors of Ludlow [1], ATB Docket No. F271991.
Q 13. What exemptions apply to partnerships and other unincorporated entities?

A 13. Partnerships, limited liability companies, associations, trusts and other unincorporated entities that are NOT treated as corporations for federal income tax purposes are not entitled to special exemptions per se. This includes LLCs and other unincorporated entities treated as disregarded entities for federal income tax purposes. They are exempt only on property subject to (or specifically exempt from) an excise or fee for which a property tax exemption generally applies or on property that is otherwise entitled to exemption regardless of the form of ownership. See answer to Question 11. They are subject to property tax on all other personal property. Partnerships include limited partnerships and limited liability partnerships.

See M.G.L. c. 59, §18, First & Sixth.

A partnership, limited liability company, association, trust or other unincorporated entity (other than a financial institution, utility or insurance company) treated as a corporation for federal income tax purposes will be treated as a business, research and development or manufacturing corporation, as the case may be, for local tax purposes, as more fully described in the answers to Question 14 and Question 20, below.


Q 14. What exemptions apply to corporations?

A 14. Corporations are specifically taxable on networks of poles, underground conduits, wires and pipes as personal property. Corporations are specifically exempt from tax for all other personal property that is not machinery. However, corporations are generally classified into three categories, each with a different set of specific exemptions for all or certain categories of machinery.

Corporations classified as manufacturing are entitled to the broadest exemptions and are not taxable on any machinery. See answer to Question 19 for the process to apply for manufacturing classification. The corporation must appear as a designated manufacturing corporation on the department's annual list of corporations on the department's website to receive the manufacturing corporation exemptions. The owner or board of assessors may appeal the Commissioner's denial, approval or revocation of manufacturing status under the provisions of M.G.L. c. 58, §2. 
A local option provides for an exemption for research and development corporations classified as such, in communities that adopt the option in GL c. 59, §5, cl. 16(3). See answer to Question 19 for the process to apply for research and development classification. A classified R&D corporation is entitled to the same exemptions as a classified manufacturing corporation, but only in the communities that have accepted the local option.

Utility, insurance, and financial institution corporations comprise the second category and in addition to the poles, wires, conduits and pipes are taxable only on machinery used in manufacture or supplying and distributing water. This includes electric generating machinery. Utility, insurance and financial institution corporations are exempt for all other machinery. Financial institutions and insurance companies are in separate databases in the corporations list.

Business corporations, the third category, are taxable on machinery used in the conduct of business in addition to the poles, underground conduits, wires and pipes. Machinery used in the conduct of business expressly excludes machinery that is the corporation's stock in trade, or is directly used in laundering and dry cleaning, refrigeration of goods and air-conditioning of premises, or a selling, purchasing, accounting or administrative function, which is not subject to tax.

Out of state corporations not registered with the Massachusetts Secretary of State are not entitled to the property tax exemptions until they register, if so required. Out of state insurance corporations are entitled to the insurance corporation exemptions only if the state of incorporation or principal place of business (if a non-US corporation) extends similar exemptions to Massachusetts insurance corporations.

See answer to Question 20 for corporate exemptions applicable to LLCs and other unincorporated entities treated as corporations for federal income tax purposes.

See M.G.L. c. 58, §2 & M.G.L. c. 59, §5(16).

Traditionally the value of poles and wires of telephone and cable TV corporations over public ways have not been included in taxable personal property to be assessed because M.G.L. c. 59, §18, Fifth did not specifically authorize such assessment.


However, on March 3, 2008 the Appellate Tax Board ruled in the Verizon New England consolidated telephone cases that such property is taxable in light of the Supreme Judicial Court Decision in RCN-BecoCom. The Department implemented that ruling for the FY2009 telephone company filing season and advised cities and towns that they could include such property in valuing cable TV companies. This ruling will likely be appealed once the ATB issues its written opinion at the conclusion of the valuation portion of the Verizon New England case.

Q 15. What is a business corporation?

A 15. Business corporations comprise the broadest category of corporations and include most retail and wholesale businesses. Manufacturing corporations and utilities, insurance companies or financial institutions that are corporations are separately described in the statutes and are treated differently than business corporations for local tax exemption purposes. A business corporation must be more than a paper entity, however, and must be involved in an activity that occupies the time, attention and labor of men for the purpose of livelihood, profit or gain. A nominal corporation created by a partnership for the purpose of sale of its assets to the corporation and lease back to the partnership will not be considered a business corporation entitled to the business corporation exemptions if it employs no personnel of its own and is not in business to make a profit.


A partnership, trust, association, limited liability company or other non-corporate entity may be treated as a corporation for federal income tax purposes, either by federal default rules or by an election of the entity. Any such entity treated as a corporation for federal income tax purposes that carries on the same business as a business corporation will be treated as a business corporation for exemption purposes, as more fully described in the answer to Question 20 below.

Q 16. What is machinery for personal property tax purposes in Massachusetts?

A 16. Machinery is generally a mechanical device with independent moving parts or electronic components designed to perform a specific function or functions. Examples of such devices established by case law include electric generators, pumps, rotisserie toasters, air-conditioners, typewriters, refrigerators, calculators, movie projectors, electronic data drums and cable television set-top boxes. Machinery does not include simple tools or equipment, furniture, shelving and the like, such as hand saws, hammers, bubble levelers and other non-motorized hand tools and simple heating devices, even if electrical. However, machinery would include electrical tools with moving parts and other devices with electronic or programmable components.

Q 17. What is machinery used in the conduct of business?

A 17. Machinery used in the conduct of business that is subject to tax to a business corporation includes machinery directly used by or capable of use by the corporation in generating its revenues, but specifically excludes its stock in trade (inventory) and any machinery directly used in laundering and dry cleaning, refrigeration of goods and air-conditioning of premises and in any selling, purchasing, accounting or administrative function for its own, in-house purposes.
Stock in trade includes machinery that is sold or leased by a business corporation in the usual course of its business, but excludes property subject to finance leases or installment sales, since the property is legally transferred to the lessee. It also excludes goods consigned to the corporation, since ownership is retained by the consignor. In the latter cases the property will be subject to tax to the owner in fact unless another exemption applies. Machinery that the corporation truly leases to others will be exempt as stock in trade if the corporation leases property in the ordinary course of its business.

Machinery used to sell goods is exempt, such as soda and candy vending machines, but machinery used to provide entertainment or service, such as video game machines, pinball machines and juke boxes, is taxable.

Accounting and administrative machinery provides in-house record keeping functions. This includes copiers, typewriters, computers and FAX machines that are used for the corporation's internal functions. If machinery is used to provide a service for a fee it will be taxable.

Q 18. What is manufacturing?

A 18. Manufacturing is not defined in the general laws, but has been described in cases as a process that transforms raw or finished materials by hand or machinery, and through human skill and knowledge, into something possessing a new nature and name and adapted to a new use. Building construction, gravel making, the breeding of animals and transmission of information are not considered manufacturing. Baking, publishing, cutting lumber from trees and the making of dairy products and other packaged and treated foods are considered manufacturing. Many cases have been decided delineating what constitutes manufacturing. Some of these cases have held that even processes commenced only at the very beginning or very end of a manufacturing process is considered manufacturing. For example, collecting, sorting, bundling and compacting of scrap metal for sale to other companies for manufacturing a finished product is considered a manufacturing process. However, the mere crushing of cars for resale to a scrap metal company is not considered manufacturing. In another case, mixing of pigment and base paint at a retail store location was considered manufacturing. In order for a manufacturer to be so classified, the manufacturing must occur in Massachusetts and be a substantial part of its business.

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.

In order to qualify for classification as a research and development corporation, the company must meet certain income and expense minimums set forth in two statutes and Technical Information Release 04-15.

A trio of Appellate Tax Board decisions involving product development as manufacturing or research and development has raised several issues concerning the distinction between the two. At least one of the cases is being
appealed by the Commissioner on the issue of what constitutes income for the research and development test. The
case was argued at the appeals court and a decision is pending.

See Commissioner of Corporation and Taxation v. Assessors of Boston, 321 Mass. 90 (1947); William F.
Sullivan & Co. v. Commissioner of Revenue, 413 Mass. 576 (1992); King Crusher Inc v. Commissioner of
Revenue, Appellate Tax Board Docket No. C278113 (1/15/08); The Sherwin-Williams Company v.
Commissioner of Revenue, Appellate Tax Board Docket No. C259901 (5/9/03); 830 CMR 58.2.1(6) & 64H.6.4;
M.G.L. c. 63, §38C & §42B; Technical Information Release 08-02.

Q 19. How does a corporation become classified as a manufacturer?

A 19. Generally, a manufacturing corporation (and research and development corporation) need not be formally
classified as such in order to be eligible for certain corporate excise tax benefits. However, for property tax purposes
a business corporation that is engaged substantially in manufacturing must apply to and be classified as a
manufacturer by the Commissioner of Revenue in order to receive the manufacturing corporation exemptions. In
addition, a corporation must be classified as a research and development corporation in order to receive the research
and development corporation exemptions in a city or town which has accepted that exemption.

Application for classification as a manufacturer must be made on or before January 31 in order to be classified as of
January 1 prior, the fiscal year assessment date. For example, an application for manufacturing classification filed
November 1, 2008 may be approved as of January 1, 2009. An application for classification filed January 15, 2009
may be approved as of January 1, 2009 as well. However, an application for classification filed February 15, 2009
may be approved as of January 1, 2010, but not as of January 1, 2009. Application is made on Form 355Q pursuant
to 830 CMR 58.2.1, a comprehensive regulation on the qualification and classification procedure for manufacturing
companies. Foreign and domestic corporations may qualify for manufacturing corporation status. Taxpayers and
assessors may appeal the denial or approval of such status.

Application for classification as a research and development corporation must be made on or before January 31 in
order to be classified as of January 1 prior, the fiscal year assessment date. Application is made on Form 355RD.

See M.G.L. c. 58, §2. See 830 CMR 64H.6.4 for a detailed explanation of the qualifying factors for R&D.

Q 20. What exemptions apply to limited liability companies, partnerships, trusts and other unincorporated legal
entities that are treated as corporations for federal income tax purposes?

A 20. Limited liability companies (LLCs), partnerships, associations, trusts and other unincorporated entities treated
as corporations for federal income tax purposes, other than utility, insurance and financial institution companies, are
treated as business, manufacturing or research and development corporations for personal property tax purposes, as
the case may be. Any such entities will be treated as business corporations unless they apply for and are classified as
manufacturing or research and development corporations, as the case may be. See answer to Question 19.
Unincorporated entities that are utility, insurance or financial institution companies treated as corporations for federal income tax purposes are NOT entitled to any of the local corporate property tax exemptions. See answer to Question 13 as to the property tax treatment of unincorporated entities that are NOT treated as corporations for federal income tax purposes.


Q 21. What are the qualifying factors that make a corporation a financial institution, insurance corporation or utility corporation, which are entitled to special personal property tax exemptions in Massachusetts?

A 21. Generally speaking, incorporated entities, subject to the financial institution excise under MGL c. 63, §2 or §2B, the insurance company premium taxes under MGL c. 63, §§20-29E, the utility franchise tax under MGL c. 63, §52A or the corporate franchise tax under M.G. L. c. 63, §58, are entitled to local property tax exemptions on all personal property except poles, wires, underground conduits, wires and pipes and machinery used in manufacture or in supplying and distributing water. An insurance company incorporated in another state will be entitled to the exemptions only if the state in which such company is incorporated or, if incorporated in another country, has its principal place of business, offers similar exemptions to personal property tax for Massachusetts insurance companies.

Cable television is not considered a utility, but the Supreme Judicial Court has determined that a company providing bundled services, including CATV service, may qualify as a telephone and telegraph utility if it provides "substantial" telephone service. Whether the telephone service is substantial will depend on several factors, including revenues from telephone services, proportion of telephone revenues to total income, percentage of capital invested in telephone services, number of telephone service employees compared to total work force, and the ratio of telephone services to entire business activities.


Utilities, insurance companies and financial institutions that are not incorporated, even if treated as corporations for federal income tax purposes, are NOT entitled to the utility, insurance and financial institution corporation exemptions.

Compare M.G.L. c. 59, §5, cl. 16(1) with M.G.L. c. 59, §5, cl. 16(2).
Q 22. How is personal property valued in Massachusetts?

A 22. Like real estate, all personal property must be assessed at fair cash value. Generally, personal property is valued using the cost method. The particular method will vary, depending on the specific property. In some cases, such as highly regulated utilities, net book will be used, which is original cost less depreciation. In other cases a reproduction or replacement cost new less depreciation method is used.

Ordinarily the market and income approaches do not lend themselves to personal property valuation. However, if a specific property or type of property has a demonstrated resale value in the market or a specific earning capacity as leased property that can be distinguished from business earnings, a market or income approach may also be used.

In most cases the local board of assessors in the town where the personal property is situated is responsible for valuing and assessing the personal property. However, in the case of telephone and telegraph companies and pipeline companies, the Commissioner of Revenue determines the values and notifies the local boards of assessors, which then assess the local taxes. See answers to Question 24 and Question 25 for central valuation procedures for telephone & telegraph companies and pipeline companies, respectively.

See M.G. L. c. 59, §38, 38A, & 39-42.

Q 23. Do cities and towns in Massachusetts use fixed depreciation schedules for valuing personal property?

A 23. Massachusetts prescribes no specific depreciation tables, either by statute or regulation. Property in use is considered to have some residual value, even if it has exceeded its useful life, but the exact amount of depreciation and residual value is dependent on the specifics of the property and its use. Assessors should apply physical, functional and economic depreciation, if applicable, in order to arrive at a fair cash valuation.

Q 24. What are the procedures and timelines for central valuation of telephone and telegraph company property?

A 24. Telephone and telegraph companies are required to file returns of taxable telephone or telegraph personal property with the Commissioner of Revenue. The Commissioner is then required to value the property and certify the values to the companies and the local boards of assessors where the property is situated. The Commissioner has delegated this task to the Bureau of Local Assessment in the Department.

There is no specific definition of what constitutes a telephone and telegraph company for central valuation purposes, and the Commissioner uses a variety of information to make that determination, based on the filed returns. Factors used include the regulatory status of the company with the Department of Telecommunications and Cable TV, whether voice transmission services are provided, local or long distance, whether the company owns taxable telephone infrastructure, and whether the telephone service provided is substantial. As previously mentioned, the
Supreme Judicial Court has ruled that a broadband landline provider of telephone service that also provides high speed Internet service and Cable TV service may qualify as a telephone and telegraph company if the telephone service provided is substantial. The SJC has also ruled that wireless cellular providers are NOT telephone and telegraph companies and are therefore not subject to central valuation.

Telephone and telegraph returns (Form 5941 file size 3MB) are due March 1 prior to the beginning of the fiscal year to which the tax relates. For example, for Fiscal Year 2010, beginning July 1, 2009 and concluding June 30, 2010, the return is due March 1, 2009.

Generally, the Bureau of Local Assessment must value the property and certify the values on or before May 15 prior to the beginning of the fiscal year, and the telephone companies and local assessors have the right to appeal those values to the Appellate Tax Board on or before June 15.

Local boards of assessors must assess the tax to the telephone companies utilizing the appropriate local tax rate and using the valuation certified by the commissioner. Telephone company taxes are assessed at the same time as other municipal property taxes.

In March 2008 the Appellate Tax Board ruled that poles and wires of telephone corporations situated over public ways were subject to tax, notwithstanding pre-existing Supreme Judicial Court decisions, followed by the Department, that had determined that such property was not subject to tax. The Department modified its reporting forms and valued such property for FY2009 and will continue to do so pending a decision on an expected appeal. See answer to Question 14 for further discussion of this issue.

For more definitive information concerning telephone and telegraph company returns, see the annual filing forms and notices at the


Q 25. What are the procedures and timelines for central valuation of pipeline company property?

A 25. Pipeline companies are required to file returns of pipelines with the Commissioner of Revenue. The Commissioner is then required to value the property and certify the values to the pipeline companies and the local boards of assessors where the property is situated. The Commissioner has delegated this task to the Bureau of Local Assessment in the Department.

Pipeline companies valued centrally are companies, other than gas or electric distribution companies that transmit oil or natural gas through pipelines at least 25 miles in length within the commonwealth. Companies with less than 25 miles of pipeline file locally with the communities in which the pipeline is laid.
Pipeline returns are due January 31 prior to the beginning of the fiscal year to which the tax relates. For example, for Fiscal Year 2010, beginning July 1, 2009 and concluding June 30, 2010, the return is due January 31, 2009.

Generally, the Bureau of Local Assessment must value the property and certify the values on or before June 15 prior to the beginning of the fiscal year, and the pipeline companies and local assessors have the right to appeal those values to the Appellate Tax Board on or before July 15.

Local boards of assessors must assess the tax to the pipeline companies utilizing the appropriate local tax rate and using the valuation certified by the commissioner. Pipeline company taxes are assessed at the same time as other municipal property taxes.

See M.G.L. c. 59, §38A.