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Assessment Administration: Law, Procedures and Valuation

Module 8 – Personal Property

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Division of Local Services

Click the button to reference **Module 8** of the *DLS 101 Handbook*

 **DLS**
101
Handbook



Welcome

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Personal Property Definition

Personal property is a “**tangible item**” that is not real property.

- Tangible personal property has a physical form, is touchable and has intrinsic value
 - It includes goods, equipment and other objects that are **movable** without causing damage to themselves or the real estate on which they are located
 - It also includes poles, underground conduits, wires and pipes not located on their owners' land



Note: The distinction between personal and real property is not always clear-cut.

Assessors will often choose to assess property that could be treated as either personal or real as real property, because there is a lien to secure collection of real estate taxes, but not personal property taxes.



Personal Property Subject to Taxation

All personal property that is **situated** in Massachusetts, and all personal property owned by a **Massachusetts resident or business** that is **temporarily located** outside of Massachusetts, on January 1 is taxable, unless expressly exempt.

- Personal property is **situated** where it is **physically located** and is **intended to remain**
- Personal property intended to be **moved from location to location** is considered **situated** where the **owner lives** or has a **principal place of business**



Municipality that Assesses the Tax

The **city or town** where taxable personal property is **situated** on January 1 is the jurisdiction that imposes the tax.

- Machinery owned by a business corporation that is regularly used to transport people or goods, such as **commercial aircraft**, may be assessed by a city or town in which it is **repeatedly and regularly used regardless of physical location on January 1**
 - Assessment must be **allocated** based on amount of time the machinery is present in the jurisdiction during the year
 - The amount of time may be based on one or more representative periods of at least one week each



Assessed Owner

As a general rule, property is taxed to the **owner** of the personal property on January 1.

Special Circumstances:

- **Joint Owners** – You assess jointly owned personal property to **one or more of the joint owners**
 - Each owner liable for the whole tax
- **Partnerships** – You assess partnership personal property to the partnership in the **partnership name**
 - All partners are liable for the whole tax
- **Deceased Owner** – You assess personal property of a deceased owner to the **decedent's estate** and after appointment, to the **personal representative** of the estate
 - Once appointed, the personal representative becomes liable for the tax
- **Party in Possession** – You **may** assess to the person or entity in possession of (1) personal property leased for profit, (2) machinery used by a business corporation in the course of business or (3) machinery used in manufacture or the supply or distribution of water

Assessment Unit

You make a **single assessment** for **all** taxable personal property of the taxpayer on January 1.

- You make a single assessment even if the taxpayer has taxable personal property located at multiple locations within your city or town
- You identify all taxpayers with taxable personal property on January 1 and establish a **single account** for the taxable items



Entity Status

The taxation of personal property is determined primarily by the **legal form of the entity** that owns the property on January 1.

- Personal property may be owned by:
 - One or more individuals
 - An individual doing business (DBA) under another name as a sole proprietorship
 - A partnership
 - A limited liability company (LLC), association, business trust or other unincorporated entity
 - A corporation
- Corporations are taxed locally for only some of their personal property in order to avoid double taxation of property included in the state corporate excise base

Note: Unincorporated entities that file **federally as corporations** are treated as **corporations** for both state corporate excise and local property tax purposes.



Lesson Recap

Definition	Taxable personal property as a category includes all tangible items that are not real property and are movable.
Taxable Property	All personal property that is situated in Massachusetts on the January 1 assessment date is taxable, unless exempted by law.
Taxing Jurisdiction	As a general rule, the city or town where the personal property is situated on January 1 assesses the tax.
Assessed Party	As a general rule, the owner of the personal property is the party assessed the tax.
Assessment Unit	A single assessment is made for all taxable personal property of the party assessed.
Entity Status	The entity status of the owner of the personal property generally determines whether the property is taxable.

Exemption Eligibility Date

The **date** for determining whether personal property is **exempt** is January 1.

- You determine whether personal property is taxable or exempt as of January 1.
- The key dates for personal property taxes are:
 - **January 1** - Assessment date for the next fiscal year
 - **January 1** - Exemption eligibility date for the next fiscal year
 - **March 1** – Return of taxpayer's taxable personal property on January 1 due for next fiscal year
 - **July 1** – Fiscal year begins

Exempt Personal Property Due to Other Exaction

Some personal property is **exempt** from local taxation regardless of the owner because the property is **subject to another tax or charge** instead.

- The following items of personal property are exempt:
 - Registered motor vehicles subject to or exempt from the **motor vehicle excise**
 - Boats subject to or exempt from the **boat excise**
 - Farm animals, machinery and equipment owned by individuals or non-corporate entities principally engaged in agriculture and subject to the **farm animal excise** or exempt from the excise at local option
 - Manufactured homes in licensed manufactured home parks for which a **monthly fee** is paid
 - Registered non-commercial airplanes for which a **registration fee** is paid



Local Option Minimum Valuation Exemption

A city or town may accept a **local option exemption** that exempts personal property accounts **beneath a minimum valuation** from taxation.

- Your city or town may set the minimum valuation at any amount up to **\$10,000**
 - A taxpayer is exempt for the year if the total valuation of the taxable items of personal property in the account is not more than that amount
- Taxpayers **still must file “forms of list”** each year so that you can determine the valuation of their taxable personal property as of January 1 and whether the exemption applies for the fiscal year
 - The failure to submit a form of list does not prevent you from exempting the taxpayer if the valuation of the account is not more than the minimum valuation

Note: Cities and towns that accept this local option exemption must notify the DOR. Acceptance and establishing exemption amount is by legislative body vote subject to charter.



Lesson Recap

Exemption Date	January 1 is the eligibility date for personal property tax exemptions.
Exempt Property	Some items of personal property are exempt regardless of ownership because another tax or charge is assessed instead.
Local Option Minimum Valuation Exemption	A local option minimum valuation exemption applies to personal property accounts with a total valuation beneath a threshold amount, which may not be greater than \$10,000.



Exemptions for Individuals – Household Effects

Individuals are exempt from personal property taxation on their **household furniture and effects** at their **domicile**.

- A person's domicile is the place he or she calls home and is the place where:
 - The individual has his or her principal and legal home
 - Family, social, civic and economic life is centered and
 - The individual plans to return whenever he or she is away
- Household furnishings and effects are **movable** belongings and items **commonly or ordinarily kept** in and around the **house or garage**
 - Includes furniture, appliances, jewelry, yard implements, bicycles and household pets
- Household furnishings and effects located at **a second or other home** are **taxable**



Exemptions for Individuals – Farming Utensils and Mechanic's Tools

Individuals are exempt from personal property taxation on their **farming utensils and tools of the trade of a mechanic**.

- Farming utensils are **small tools** and **non-mechanized** equipment used for farming or gardening
 - They do **not** include farm machinery or vehicles
- **Mechanics** are exempt from taxation on the **tools of their trade**
 - **Tools of a trade** are motorized and non-motorized tools able to be **held and operated by hand**, such as drills, chainsaws and other handsaws
 - A **mechanic** is a worker, tradesman or small craftsman **skilled in the use of tools**, such as a plumber, electrician, carpenter, or tree surgeon



Exemptions for Partnerships, Associations and Trusts

Partnerships, associations, trusts and other unincorporated business entities are **taxable for all personal property**, except items that are exempt because they are subject to another tax or charge.

- Partnerships include limited partnerships and limited liability partnerships

Note: Partnerships, associations, trusts and other unincorporated entities that file **federally as corporations are treated as corporations and entitled to corporate property tax exemptions.**

Limited Liability Companies

Limited liability companies are **taxable for all personal property**, except items that are exempt because they are subject to another tax or charge.

- 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 its parent company
- LLCs can have one or more owners, who are called **members**
 - Members may be individuals, partnerships, corporations or other entities
 - Members are not the owners of the LLC's personal property and their entity status does **not** determine the status of the LLC for local tax purposes
- LLCs that file federally as **partnerships or disregarded entities** are taxable on all personal property, **even if** their members or parents are corporations

Note: LLCs that file federally as corporations are treated as corporations and entitled to corporate property tax exemptions.



Lesson Recap

Individuals	Individuals are exempt on their household furniture and effects at their domiciles, farm utensils and tools of a mechanic's trade.
Non-corporate Entities	No specific exemptions apply to partnerships, associations, trusts and other unincorporated business entities. They are taxable for all personal property.
Limited Liability Companies	Limited liability companies are taxable on all personal property, unless they file federally as corporations. In that case, they are treated as corporations and entitled to corporate exemptions.

Corporations Book

The Department of Revenue publishes annually on its website a list of **corporations doing business in Massachusetts** as of January 1 for use by local assessors in identifying corporate entities entitled to exemptions.

- The list is called the **Corporations Book** and is published on or about April 1 for use in the fiscal year that begins on the next July 1
- The Corporations Book identifies corporations classified by the DOR as **manufacturing (M) corporations** as of January 1 and **separately lists incorporated financial institutions and insurance companies**
- A taxpayer and the assessors may **appeal a classification** to the Appellate Tax Board by April 30, or 30 days after the Corporations Book is published, whichever is later



Corporation Types

The personal property owned by corporations registered to do business in Massachusetts that is exempt depends on the **type of corporation**.

- The **three types** of corporations for personal property tax exemptions under M.G.L. c. 59, § 5, Clause 16 are:
 - **Business corporations** (M.G.L. c. 59, § 5, Clause 16(2))
 - **Classified manufacturing (M) corporations** (M.G.L. c. 59, § 5, Clause 16(3))
 - **Incorporated landline telephone companies, financial institutions and insurance companies** (M.G.L. c. 59, § 5, Clause 16(1))
- These categories generally apply to both corporations incorporated in Massachusetts (**domestic**) or incorporated in another state or country (**foreign**) **registered with the Secretary of the Commonwealth to do business in Massachusetts**



All Corporations – Taxable Network Property

All corporations are taxable for their aerial and underground **networks** of poles, underground conduits, wires and pipes in public and private ways.

- If a corporation's network property is located on the corporation's own land, you may assess it as part of the real estate instead of personal property
- Electric and gas distribution corporation networks in public and private ways are taxable as part of a great integral machine
- Telephone and cable corporation networks in public and private ways are taxable



Business Corporations

Business corporations are **exempt** for all personal property **except**

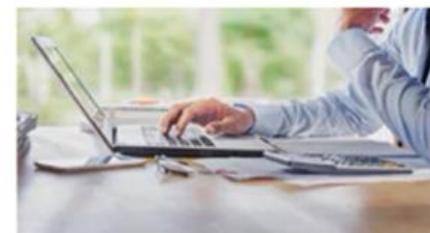
- (1) their **networks** of poles, underground conduits, wires and pipes and
- (2) **machinery used in the conduct of business.**

- A business corporation is a corporation formed and operated for the **pursuit of profit or gain** through the transaction of business
 - A corporation **not** in business to earn a profit using the labor of employees is not entitled to business corporation exemptions
- A partnership, association, trust, limited liability company or other unincorporated entity that conducts a business that may be conducted by a business corporation and **files federally as a corporation** is treated as a **business corporation** and **entitled to business corporation exemptions**

Business Corporations – Taxable Machinery

Business corporations are taxable for **machinery** used in the conduct of their **businesses**.

- Machinery is a mechanical device with fixed or moving parts performing a function or its electronic equivalent
 - Need not be actually in use if it is capable of use in the business
- Machinery used in the conduct of business does not include machinery that is:
 - Stock in trade or inventory
 - Used directly in selling, purchasing, accounting or administrative functions
 - Used directly in laundering and dry cleaning
 - Used directly in refrigeration of goods and air conditioning premises



Business Corporations - Exempt Machinery

- Machinery that is exempt stock in trade (inventory) is machinery held for sale or lease in the ordinary course of business
- Machinery used to sell goods is exempt, but not machinery used to provide entertainment or a service for a fee
- Machinery used for accounting and administrative functions means used for the business corporation's own internal record keeping functions



Manufacturing Corporations

Manufacturing corporations are **exempt** for all personal property **except**
(1) their **networks** of poles, underground conduits, wires and pipes and
(2) some **electric generating machinery**.

- Only corporations that have **applied to the DOR** for classification as manufacturing (M) corporations and **have obtained** that classification from DOR are eligible for manufacturing corporation exemptions
 - To be classified as a manufacturing corporation as of any January 1, a corporation must apply on or before the following January 31 on Form 355Q
 - A partnership, association, trust, limited liability company or other unincorporated entity that engages in manufacturing and **files federally as a corporation** may apply **for classification** as a **manufacturing corporation**
 - Manufacturing activities need to be **substantial** to obtain classification



Manufacturing Corporations – Taxable Machinery

Manufacturing corporations are **taxable for electric generating machinery** that is over 30 megawatts capacity or is not co-generation machinery.

- The following electric generating machinery owned by a manufacturing corporation is **exempt** from taxation:
 - Machinery of a corporation classified as a manufacturing corporation on or before January 1, 1996
 - Machinery of an electric co-generation plant of 30 megawatts of less
 - A co-generation plant makes electricity and another form of energy, such as heat or steam
 - Machinery of an electric generating plant that qualifies as a pollution control device under M.G.L. c. 59, § 5, Clause 44



Definition of Manufacturing

Manufacturing transforms **raw or finished** materials through human skill and knowledge into something with a **new nature, new name or new use**.

- Activities considered manufacturing
 - Turning logs into lumber
 - Recycling junk
 - Creating a book
 - Chopping lettuce into a chilled salad
 - Making baked goods
 - Developing a blueprint for manufacture of a product or prototype
- Activities **not** considered manufacturing
 - Construction
 - Transmitting television or radio signals
 - Information processing
 - Breeding
 - Crushing rocks



Research & Development Corporations – Local Option Exemption

A city or town may accept a **local option exemption** for research and development corporations.

- Research and development includes **experimental and lab activities** to develop **new products** and **improve existing products**
- If accepted, **manufacturing corporation exemptions apply** to corporations that have applied to the DOR for classification as research and development (RD) corporations and have obtained that classification from DOR
 - To be classified as a research and development corporation as of January 1
 - The city or town must have accepted the option by January 1
 - The corporation must apply to DOR on or before the following January 31 on Form 355RD
 - The corporation must have over two-thirds of receipts or two-thirds of expenditures attributed to Massachusetts from research and development activity during the taxable year



Note: Cities and towns that accept this local option exemption must notify the DOR. Acceptance is by legislative body vote subject to charter.



Disregarded Entities – Local Option Exemption

A city or town may accept a **local option exemption** for **single member limited liability companies (LLCs)** that file federally as **disregarded entities**.

- If accepted, **manufacturing corporation exemptions apply** to single member LLCs filing federally as disregarded entities if:
 - The LLC has a usual place of business in Massachusetts
 - The LLC is engaged in manufacturing or research and development in Massachusetts
 - The **sole member** has been **classified by the DOR** as a manufacturing or research and development corporation
 - The attributes and activities of the **disregarded LLC**, as well as those of the **sole member**, are **taken into account** by the DOR when determining whether the member of disregarded LLC is either a manufacturing corporation or a research and development corporation

Note: Cities and towns that accept this local option exemption must notify the DOR. Acceptance is by legislative body vote subject to charter.

Telephone, Financial Institutions and Insurance Corporations

Incorporated telephone companies, financial institutions and insurance companies are exempt on all personal property except
(1) their **networks** of poles, underground conduits, wires and pipes and
(2) **machinery used in manufacture or to supply or distribute water.**

- Financial institutions include banks, mortgage, credit card and other lending companies or institutions
 - They do **not** include credit unions, but they are exempt from taxes on their personal property under M.G.L. c. 59, § 5, Clause 15
- **Unincorporated** telephone companies, financial institutions and insurance companies that file **federally as corporations** are treated as **corporations** and **entitled to exemptions**



Note: Foreign insurance corporations receive the personal property exemptions only if the state in which they are based allows similar exemptions for Massachusetts-chartered insurance companies.



Lesson Recap

Corporations Book	The corporations book lists entities eligible for corporate tax exemptions. In the book, a corporation designated with a M is a manufacturing corporation and a RD is a research and development corporation. Incorporated financial institutions and insurance companies are listed separately.
Corporation Types	There are three types of corporations for personal property tax exemptions: (1) business corporations, (2) manufacturing corporations and (3) incorporated telephone companies, insurance companies and financial institutions. Unincorporated entities conducting the same business activities of these corporations that file federally as corporations are treated as corporations entitled to the applicable corporate exemptions.
Network Property	All corporations are taxable on their networks of poles, underground conduits, wires and pipes.
Machinery	A corporation's taxable machinery depends on the type of corporation. Business corporations are taxable for machinery used in the conduct of their business. Manufacturing corporations have the broadest exemption and are only taxable for some electric generating machinery. Incorporated telephone companies, insurance companies and financial institutions are taxable for machinery used in manufacture or to supply or distribute water.
Local Option Exemptions	Local option exemptions, if accepted, give exemptions to research and development corporations and certain single member limited liability companies.



Forms of List – Personal Property Return

All persons or entities owning locally valued taxable personal property on January 1 **must file** a list or return of those assets, known as the Form of List, with the assessors of the city or town where the property is situated.

- **State Tax Form 2** is the form prescribed by the DOR for the taxpayer to make a return of taxable personal property
- There are **separate forms of list** prescribed by the DOR for:
 - Mobile telecommunications companies (Form 2MT)
 - Owners of taxable home furnishings (Form 2HF)
 - Charitable and veteran organizations (Form 3ABC)



Forms of List - Contents

- The declaration of personal property is made **under oath**
- The information about the items of taxable personal property contained in the schedules is **confidential**
 - Confidential information may only be inspected by the assessors and their staff, the DOR and designated private auditors
 - The other information in the return is public
- The filer is **not** required to declare a value for the reported personal property
 - You determine the fair cash value of all taxable property so any **reported value is not binding**



Forms of List – Filing Due Date

Forms of list of taxable personal property must be filed **on or before March 1.**

- You may **extend** the filing deadline if the taxpayer has a reasonable excuse for not filing on time
 - The **latest date** to which you can extend the filing deadline is the **date abatement applications are due** for the fiscal year



Personal Property Valuation

The **cost method** is the usual method to estimate the fair cash valuation of personal property as of January 1.

- Depending on the property, you use the **replacement, reproduction or original cost less depreciation** method to estimate values
 - Assessors often rely on industry cost manuals to estimate costs
 - Depreciation is based on the age, condition and quality of the property and must be documented
- For property tax purposes, you value **property still in use** beyond its expected useful life at its **residual or utility value**
 - You do not depreciate property in use to zero even if it has that value for accounting or regulatory purposes

Central Valuation of Pipelines

The DOR centrally values **pipelines of 25 or more miles in length in Massachusetts that are not owned by gas and electric utility companies.**

- Pipeline companies must file personal property **returns** of centrally valued property with the DOR by **January 31**
- The DOR **certifies** its valuations to the pipeline companies and assessors by **June 15**
 - You must use the certified values when assessing taxes
 - The companies and assessors may **appeal** the valuations to the Appellate Tax Board by **July 15**
- Pipelines owned by **gas or electric utility companies** are reported on returns filed with you and are valued **locally**



Central Valuation of Landline Telephone Companies

The DOR centrally values the aerial and underground network of **poles, wires, underground conduits, wires and pipes** and the **machinery** owned by telephone companies and used to provide **landline telephone service**. This includes construction work in progress (CWIP) of that property.

- Companies that provide the following services are **not** centrally valued telephone companies and they file returns with you and are **valued locally**:
 - Mobile or cellular phone
 - Cable and broadcast television
 - Internet



Note: Companies that provide substantial telephone service in addition to cable and internet service (bundled carriers) are centrally valued.



Central Valuation of Landline Telephone Companies (continued)

- The DOR centrally values the following property of telephone companies:
 - Their aerial and underground network of poles, wires, underground conduits, wires and pipes
 - If a corporation or entity treated as a corporation, their electric generators (machinery used in manufacture).
 - If a partnership, LLC or other unincorporated entity, all machinery used in providing telephone service (including switching equipment and generators)
- Telephone companies must file personal property **returns** of centrally valued property with the DOR by **March 1**
 - Other taxable property of centrally valued telephone companies is reported on returns filed with local assessors and is valued locally
- The DOR **certifies** its valuations to the telephone companies and assessors by **June 15**
 - Assessors must use the certified values when assessing taxes
 - The companies and assessors may **appeal** the valuations to the Appellate Tax Board by **July 15**
 - A company or the assessors who did not file appeal by July 15 and receives notice the other party appealed may appeal in response by July 30, or 15 days after receiving the notice, whichever is later

Audits

Assessors may **audit** a taxpayer to verify that a **complete and accurate** report of all taxable personal property was made on the form of list.

- You may audit a taxpayer's books, papers, records and other data **within 3 years** after the **form of list** for the fiscal year was **due or filed**, whichever is later
 - You initiate an audit by issuing a **summons specifying the records** you want to examine and the date they must be produced
 - You may apply to the Superior or Supreme Judicial Court for an order **compelling** the taxpayer to produce those records
- You must **assess the taxes** on any additional personal property discovered during the audit **within 3 years and 6 months** after the form of list was **due or filed**, whichever is later
 - You make an omitted assessment if you discover an untaxed account and a revised assessment if you discover untaxed or undervalued assets
- The DOR may audit telephone and pipeline companies subject to central valuation to determine whether they have completely and accurately reported their property

Abatements

- Personal property abatement applications are processed in the **same manner** as real estate abatement applications and must be filed by the **same deadline on the same form**.
 - Taxpayers must use the abatement application form prescribed by the DOR (State Tax Form 128)
 - Taxpayers must file their applications on or before the due date of the first actual tax installment for the fiscal year
- You may abate **without** a timely filed application if:
 - The **collector** requests that you abate **uncollectible** personal property taxes
 - You are authorized to do so by the DOR under the **“8 of 58” procedure**

Non-compliance Penalties

A taxpayer's abatement rights are **limited** if it does **not** file a form of list or comply with audit summons or does **not timely** file or comply.

- You **cannot** grant an **overassessment abatement** to a taxpayer who **did not file** a form of list or comply with audit requests for the fiscal year
 - You may abate if the personal property was not taxable to the taxpayer and is uncollectible
- You **cannot** grant an **overassessment abatement** to a taxpayer who filed a form of list for the year after the filing deadline (March 1 or extended date), or complied with audit requests after the due date, unless:
 - The taxpayer has a reasonable excuse for being late or
 - The tax is more than 50 percent of the tax that would have been assessed if there was timely filing or compliance
 - You may only abate the **amount of the tax over 150%** of the tax that would have been assessed



Lesson Recap

Form of List	The form of list is the return required to report taxable personal property owned on January 1 and is due on March 1.
Valuation	The cost approach: replacement, reproduction or original cost less depreciation, is the method typically used to value personal property.
Central Valuation	The DOR centrally values certain pipeline and landline telephone company personal property.
Audits	Assessors may audit personal property accounts for possible non-reporting or underreporting of taxable personal property.
Abatements	Abatements of personal property taxes follow the same procedures as apply to abatements of real estate taxes, except that collector may initiate abatements of uncollectible personal property taxes. Non-compliance with form of list and audit requirements limits a taxpayer's abatement rights.

