

## **BETTERMENTS**

A betterment may only be assessed to the extent that the betterment supports the forestry, farm or recreational use of the land.

## **APPEALS AND ABATEMENTS**

The owner may contest decisions made by the local assessors to disapprove all or part of an application for classification by applying for a modification of the decision. The owner may also contest an annual property tax or any penalty tax assessed under Chapter 61B by applying for an abatement.

Applications to modify a decision or abate a tax must be made in writing and must be filed with the assessors within 60 days of the date the owner is notified of the decision or tax. If the owner disagrees with the assessors' decision, or the assessors do not act on the application, the owner may appeal to the Appellate Tax Board within 30 days of the date the owner is notified of the assessors' decision, or 3 months from the date the application was filed, whichever is later. If the appeal concerns an annual property tax, the tax must be paid for the owner to maintain the appeal. The assessors cannot modify any decision or grant any abatement if the owner does not comply with all application deadlines and procedures.

**FOR FURTHER INFORMATION CONTACT YOUR  
LOCAL BOARD OF ASSESSORS**

# **CLASSIFICATION AND TAXATION OF RECREATIONAL LAND IN MASSACHUSETTS CHAPTER 61B**



## INTRODUCTION

The recreational land classification program under Massachusetts General Laws Chapter 61B is designed to encourage the preservation of the Commonwealth's open space and promote recreational land uses. It offers significant local tax benefits to property owners willing to make a long term commitment to preserving land in an undeveloped condition or for use for outdoor activities. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner and an option to purchase the property should the land be sold or used for any purpose other than to maintain it as open space or for recreational use.

## QUALIFICATIONS

Property must consist of at least 5 contiguous acres of land under the same ownership in order to qualify for and retain classification as recreational land under Chapter 61B. The land must fall into one of the following two categories to qualify:

- 1 It must be maintained in a substantially natural, pastured condition, in a managed forest condition under a certified forest management plan approved by and subject to procedures established by the State Forester or must be maintained in a landscaped condition permitting the preservation of wildlife and natural resources. It does not have to be open to the public, but can be held as private, undeveloped, open space land.
- 2 It must be used for certain recreational purposes and must be open to the public or members of a nonprofit organization.

Recreational purposes include land used primarily for any of the following outdoor activities, so long as they do not materially interfere with the environmental benefits of the land: hiking, camping, nature study and observation, boating, golfing, horseback riding, hunting, fishing, skiing, swimming, picnicking, private noncommercial flying, hang gliding, archery and target shooting, or commercial horseback riding and equine boarding.

Buildings and other structures located on the land, as well as any land on which a residence is located or regularly used for residential purposes, do not qualify for classification and will continue to be assessed a regular local property tax.

The owner must pay a roll back tax for a 5 year period if the use of the land changes to a non qualifying use. If the change in use occurs when the land is classified, the tax is imposed for the current fiscal year and the 4 prior years. If the land is not classified at that time, the tax is imposed for the 5 prior years. In either case, the roll back tax is the difference between the amount the owner would have paid in annual property taxes on the land if it had been taxed at its fair market value and the amount of taxes he or she paid on the land under Chapter 61B during the same time along with 5% interest per annum.

However, the owner must pay the alternative conveyance tax instead if the land is sold for a non-qualifying use within 10 years of the date the owner acquired it, or the earliest date of its uninterrupted use by that owner for agricultural or horticultural purposes, whichever is earlier or is converted to a nonqualifying use within 10 years of the date the owner acquired it and the conveyance tax is greater than the roll back tax that would be due.

The conveyance tax is based on the conveyance tax rate applied to the sales price of the land, or if converted, to the fair market value of the land as determined by the assessors. The conveyance tax rate is 10% if the land is sold or converted within the first year ownership, 9% if sold or converted within the second year, and so on with the rate declining each year by one percentage point until it is 1% in the 10th year of ownership.



### MUNICIPALITY'S RIGHT OF FIRST REFUSAL:

When a landowner decides to sell classified land for a residential, commercial or industrial use, or convert it to such a use, it extends the operation of the first refusal option for one full tax year after the property is removed from classification. This protects the municipality's opportunity for acquisition in the event the landowner removes the land from classification and immediately decides to develop the land. They now follow the definition of a bona fide offer and the appraisal procedures that apply in cases of conversion. The revised assignment provision authorizes a city or town to assign its option to a nonprofit conservation organization or to the Commonwealth or any of its political subdivisions under the terms or conditions that the mayor or board of selectmen may consider appropriate, provided that no less than 70% of the land is maintained in the forest, agricultural or horticultural, or recreational use.

### CONVERSION NOT INVOLVING A SALE

The town or its assignee will contract (at their expense) to conduct a first appraisal. If the landowner is dissatisfied with such appraisal, the landowner, at the landowner's expense, may contract for a second appraisal. If after the completion of the second appraisal the parties do not agree on a price they may contract for a third appraisal with a mutually agreed upon Appraiser, the cost to be born by both parties equally. The third appraisal is the final determination of price. It must be delivered to the parties within 90 days of the initial notice to convert. At any time in the process, the landowner may withdraw their notice to convert (and the subsequent ability of the town or its assignee to purchase the property with no penalty, but they may not follow through with the conversion.

### PENALTY TAX

The owner must pay one of two alternative penalty taxes whenever any of the land is no longer maintained as open space or used for recreational purposes, whether or not that land is subject to the purchase option and notice requirement.



### APPLICATIONS

For property to be classified as recreational land under Chapter 61B, the property owner must submit a written application to the Board of Assessors of the city or town in which the land is located by October 1 of the year before the start of the fiscal year\* for which taxation as classified land is sought. If the city or town is undergoing a revaluation for that fiscal year, the application deadline is extended until 30 days after the date the year's tax bills with the new values are mailed.

The assessors must approve or disapprove an application for classification within 3 months of the filing date. If they do not act within that time, the application is considered disapproved. The assessors must notify the owner by certified mail whether the application has been approved or disapproved within 10 days of their decision. Classification and taxation of the land as recreational land under Chapter 61B will begin on the following July 1, which is the start of the next fiscal year.

\*The fiscal year of cities and towns begins July 1 and ends the following June 30.

The owner must file a separate application by October 1 (or the extended deadline if applicable) each year for classification of the land to continue into the next fiscal year. The land cannot be classified as recreational land for a fiscal year if the owner does not comply with all application deadlines and procedures.

## LIEN

Once an initial application for classification has been approved, the local assessors will record a statement at the Registry of Deeds indicating that the land has been classified as recreational land under Chapter 61B. That statement will constitute a lien on the land for all taxes due under Chapter 61B.

## ANNUAL TAXATION

Under Chapter 61B, the owner still pays an annual property tax to the city or town in which the classified land is located based on the current use of the property. The value of the land for recreational purposes is determined annually by the assessors and cannot exceed 25% of the fair market value of the land.

The property tax is due in the same number of installments and at the same time as other local property tax payments are due in the city or town. Interest is charged on any overdue taxes at the same rate applicable to other overdue local property taxes.



## MUNICIPAL OPTION TO PURCHASE

**Land cannot be sold or converted for another use within one year of being taxed under the chapter without giving the town a notice to sell or convert.**

The city or town has an option to purchase any classified land whenever the owner plans to sell or convert it to a residential, commercial or industrial use. The owner must notify by certified mail the mayor and city council or the selectmen, assessors, planning board and conservation commission of the city or town with the following information:

- A statement of intent to sell or convert, a statement of proposed use of the land, the location and acreage of land as shown on a map drawn at the scale of the assessors map in the city or town in which the land is situated, and the name, address and telephone number of the landowner
- A certified copy of an executed purchase and sale agreement specifying the purchase price and all terms and conditions of the proposed sale, which is under this chapter (for intent to sell)

The Purchase and Sale Agreement may not be dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use or the potential for, or the potential extent of development of the property for industrial or commercial use.

During the 120-day period, the city or town or its assignees, shall have:

- The right, at reasonable times and upon reasonable notice, to enter upon said land for the purpose of surveying and inspecting said land, including but not limited to soil testing for purposes of Title V and the taking of water samples.
- All rights assigned to the buyer in the purchase and sales agreement contained in the notice of intent.

The town or its assignee shall, prior to the end of the 120 decision period, provide “a proposed purchase and sale contract or other agreement between the assignee and landowner which, if executed, shall be fulfilled within a period of not more than 90 days” unless otherwise agreed to in writing by the landowner.