

INTRODUCTION

The recreational land classification program under Massachusetts General Laws Chapter 61B is designed to encourage the preservation of the Commonwealth’s valuable 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, wild or open condition 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 non-profit organization.

Recreational purposes include land used primarily for any of the following outdoor activities, so long as they

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do not materially interfere with the environmental benefits of the land: hiking, camping, nature study and observation, boating, golfing, non-commercial youth soccer , horseback riding, hunting, fishing skiing, swimming, picnicking, private non-commercial flying, hang gliding, archery, and target shooting.

Buildings and other structures located on the land, as well as the 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.

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

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The owner must file a separate application by October 1 (or 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 is approved, the assessors 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. However, the tax is based on the commercial tax rate for the fiscal year applied to the value of the land for recreational purposes, rather than its fair market value as would be the case if the land were not classified. 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 in the city or town.

Interest is charged on any overdue taxes at the same rate applicable to overdue local property taxes.

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MUNICIPAL OPTION TO PURCHASE

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 of any intention to sell or convert the land to those uses. If the owner plans to sell the land, the city or town has the right to match a bona fide offer to purchase it. If the owner plans to convert it, the city or town has the right to purchase it at its fair market value, which is determined by an impartial appraisal. The city or town may also assign its option to a non-profit, conservation organization. The owner cannot sell or convert the land until at least 120 days after the mailing of the required notices or until the owner has been notified in writing that the option will not be exercised, whichever is earlier.

This option is not available to the city or town and the notice requirement does not apply if the recreational use is simply discontinued, or if the

owner plans to build a residence for his or her use, or the use of his or her parent, grandparent, child, grandchild, brother or sister, the surviving spouse of any of those relatives, or an employee working full time in the recreational use of the land.

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.

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The owner must pay a roll-back tax for a 10 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 9 prior years. If the land is not classified at that time, the tax is imposed for the 10 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 the taxes he or she paid on the land under Chapter 61B during the same time. Interest at the same rate applicable to overdue local property taxes will also be added to the roll-back tax.

However, the owner must pay the alternative conveyance tax instead if the land is sold for or converted to a non-qualifying use within 10 years of the beginning of the fiscal year it was first classified 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 5 years of classification and 5% is sold or converted within the 6th through 10th year of classification.

APPEALS & ABATEMENTS

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

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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, it 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.

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**FOR FURTHER INFORMATION,
CONTACT YOUR LOCAL BOARD OF
ASSESSORS, OR CONTACT:**

**DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES
PROPERTY TAX BUREAU**

**Phone: (617) 626-2300
Fax: (617) 626-2330
Web site: <http://www.dls.state.ma.us>**

**TAXPAYER’S GUIDE TO
CLASSIFICATION AND TAXATION
IN MASSACHUSETTS**

CHAPTER 61B

RECREATIONAL LAND

**Massachusetts Department of Revenue
Division of Local Services
Property Tax Bureau**