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DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

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# TAXPAYER'S GUIDE TO LOCAL PROPERTY TAX DEFERRALS

## SENIORS
### Clause 41A

The Department of Revenue (DOR) has created this fact sheet to provide general information about local property tax deferrals for seniors. **It is not designed to address all questions or issues and does not change any provision of the Massachusetts General Laws. To find out about the specific eligibility and application requirements in your city or town, you must contact your local board of assessors**. The DOR cannot determine your eligibility or give you legal advice. Property taxes are assessed and collected by cities and towns, not by the DOR. Under state law, only your board of assessors, as the local tax administrator, can decide whether you qualify for a deferral. If you disagree with its decision, you may appeal to the state Appellate Tax Board (or county commissioners if your county's government has not been abolished).

## INTRODUCTION

Cities and towns may give property tax exemptions to some individuals as defined by state law. An exemption discharges the taxpayer from the legal obligation to pay all or a part of the tax assessed for the fiscal year. Exemptions are found in various clauses of Massachusetts General Laws Chapter 59, Section 5 (M.G.L. c. 59, § 5).

Under Clause 41A, seniors may also be able to **delay payment** of their property taxes. A property tax deferral does not discharge the tax obligation like an exemption. Instead, it defers payment until the senior sells the property or passes away. A deferral allows seniors to use resources that would go to pay taxes to defray living expenses instead. Taxpayers who qualify for personal exemptions under other clauses in M.G.L. c. 59, § 5 (for example, for seniors, disabled veterans, blind persons or surviving spouses) may defer all or part of the balance of their reduced taxes.

If you qualify, you must enter into a written tax deferral and recovery agreement with the local assessors. The assessors will record a statement at the Registry of Deeds to continue the lien that exists on your property by law to secure payment of the deferred taxes. Joint owners, remaindermen and mortgagees must give prior written approval.

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| **APPLICATIONS** | You must file an application for each fiscal year with the assessors in the city or town where your property is located. The application is due on December 15, or three months after the actual tax bills are mailed, whichever is later. ***Filing on time is required. By law, the assessors may not waive this filing deadline, nor act on a late application, for any reason.*** Filing an application does not entitle you to delay your tax payment. |

**For more information, please contact your local assessors.**

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| **DOCUMENTATION** | You must provide the assessors with whatever information is reasonably required to establish eligibility. This information may include, but is not limited to:<br>1. Birth certificates.<br>2. Evidence of ownership, domicile and occupancy.<br>3. Income tax returns. |
| **ELIGIBILITY REQUIREMENTS** | You must satisfy tests relating to age, domicile, ownership, occupancy and annual income. **You must meet <u>all</u> eligibility requirements as of July 1 of the tax year.** (*The fiscal year of cities and towns begins July 1 and ends the following June 30*.) **If you do not meet all requirements as of July 1, you <u>cannot</u> defer all or any portion of your taxes for that tax year.** |
| **AGE** | You must be 65 or older. |
| **DOMICILE** | You must have had a domicile in Massachusetts for at least 10 consecutive years before the tax year begins. You must also be domiciled in the property. Your domicile is where your principal and legal home is located, your family, social, civic and economic life is centered and you plan to return whenever you are away. You may have more than one residence, but only one domicile. |
| **OWNERSHIP AND OCCUPANCY** | You must have owned and occupied the property, or other real property in Massachusetts, as a domicile for at least 5 years. The years do not have to be consecutive or at the same location.<br>1. You may own the property solely, as a joint owner or as a tenant in common.<br>2. If you hold a life estate in the domicile, you are the owner.<br>3. If your domicile is held in a trust, you are the owner only if:<br>a. You are a trustee or co-trustee of that trust, **and**<br>b. You have a sufficient beneficial interest in the domicile. |
| **INCOME LIMITS**<br><br>**FY2016 = $57,000** | Your income (gross receipts) for the previous calendar year cannot exceed ~~$28,000~~ XXXX. If you are married, the combined gross receipts of you and your spouse cannot exceed ~~$28,000~~ XXXX. The gross receipts limit may be increased up to the income limit allowed for the "circuit breaker" state income tax credit for single non-head of household filers, by vote of the legislative body of your city or town.<br><br>**Gross receipts means income from <u>all</u> sources and is broader than taxable income for federal or state income tax purposes**. Ordinary business expenses and losses are deducted but not personal or family expenses. |

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| **DEFERRAL AMOUNT** | You may defer payment of all or a part of the taxes owed each year so long as (1) you continue to qualify, and (2) the cumulative deferred taxes and accrued interest are not more than 50% of your proportional ownership share of the fair cash value of the property. For example, if you are a joint owner with one other person, the total amount deferred cannot be more than 25% of the property's value.<br><br>If you own the property with someone who is not your spouse, the amount you may defer annually is also limited to your proportional ownership share of the year's tax.<br><br>Interest on deferred taxes accrues at 8%, or a lower rate voted by the legislative body of your city or town before July 1 of the tax year. |
| **SURVIVING SPOUSE** | Your surviving spouse who qualifies may continue to defer taxes but must enter into a new deferral and recovery agreement. Surviving spouses who inherit a property must have occupied it, or other real property in Massachusetts, as a domicile for at least 5 years. Any additional taxes plus interest deferred by your surviving spouse, plus the amounts previously deferred and unpaid, cannot be more than 50% of the spouse's proportional ownership share of the fair cash value of the property. |
| **PAYMENT** | The payment of deferred taxes and accrued interest **is due when the property is sold or you pass away**, unless your surviving spouse continues to defer. As of that date, the interest rate goes up to 16%. If 6 months later, the deferred amount has not been paid, the treasurer may petition the Land Court to foreclose the lien on the property. |

| **APPEALS** | |
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| **Appellate Tax Board** | The Appellate Tax Board (ATB) is an independent, quasi-judicial state board that hears taxpayer appeals from local assessors' decisions on property tax abatements and exemptions. If county government has not been abolished, appeals may be made to the county commissioners instead, but assessors may and usually do transfer those appeals to the ATB. ATB decisions may be appealed to the Appeals Court and, ultimately, to the Supreme Judicial Court.<br><br>You can obtain the ATB's guide to the property tax appeal process from its website (www.mass.gov/atb) or by calling 617-727-3100. |

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| **Appeal of Action of Assessors** | You have three months from the date of the assessors' decision on your deferral application to appeal to the ATB. **This includes decisions to deny a deferral or to grant a deferral of a lesser benefit.** If the application was deemed denied, your appeal must be filed within three months of the deemed denied date. As a general rule, if the real estate tax on your domicile is over $3,000, you must also have paid each actual tax installment on time for the ATB to hear your appeal.<br><br>The assessors may grant the deferral or higher deferral in final settlement of your application during the three month period for filing an appeal. In that case, you do not have to have filed an appeal with the ATB. However, if a settlement is not reached and a deferral not granted during that period, you must have filed your appeal by the deadline. If not, the ATB cannot hear the appeal. |

| **ASSESSMENT AND DEFERRAL CALENDAR** | |
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| **January 1** | Property Tax Assessment and Lien Date for Next Fiscal Year |
| **July 1** | Fiscal Year Begins<br>Real Estate Deferral Eligibility Date for Fiscal Year |
| **October - December** | Actual Tax Bills Mailed for Fiscal Year |
| **November 1 (Semi-annual Payment Communities)**<br>**February 1 (Quarterly Payment Communities)** | 1st Actual Tax Installment Payment Due [1] |
| **December 15, or 3 Calendar Months from Mailing of Actual Tax Bill if later** | Deferral Applications to Assessors Due [2] |

[1] Contact your assessors. The due date depends on the payment system used in your community and the date actual tax bills were mailed for fiscal year.

[2] Some assessors may accept applications before actual tax bills are mailed. If not, or your application is not approved, you must apply by this deadline to claim the deferral.

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| **3 Calendar Months from Filing of Application (or Date of Written Extension Given by Taxpayer)** | Assessors Grant or Deny Deferral<br>Application Deemed Denied if Assessors Have Not Acted |
| **3 Calendar Months from Assessors' Action on Application, or Deemed Denial of Application** | Appeal to ATB Due |