

## 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.

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Q 1. Do cities and towns in Massachusetts assess a personal property tax?

A 1. 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.

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Q 2. What is considered personal property for local property tax purposes?

A. 2. 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.

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Q 3. What personal property is subject to local taxation?

A 3. All personal property situated in the commonwealth is subject to tax, unless specifically exempt by law. See Massachusetts [GL c. 59, §2](#). 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. Such household personal property at a persons domicile (primary

residence) is expressly exempt from personal property tax. [GL c. 59, §5, cl. 20](#). This exemption does not apply to such property located at a second home.

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Q 4. Which municipality has authority to assess the tax?

A 4. The community in which the property is situated on January 1 has the authority to assess the personal property tax under [GL c. 59, §18](#). 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. [GL c. 59, §18, Second A](#).

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Q 5. To whom is the tax assessed?

A 5. The owner of the property as of January 1 preceding the fiscal year is generally the person assessed the tax, under [GL c. 59, §18 & 18, First](#). In the case of machinery or tangible personal property leased for profit, the tax may also be assessed to the person in possession, under [GL c. 59, §18, Second](#). Personal property of a deceased person may be assessed to the estate or executor. [GL c. 59, §18, Third](#). Jointly owned property may be assessed to one or more of the owners. [GL c. 59, §18, Fourth](#). Partnership property is assessed in the partnership name. [GL c. 59, §18, Sixth](#).

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Q 6. 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. 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. Charitable organizations seeking

exemptions under [GL 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. See [GL c. 59, §29](#).

The list of property is filed under oath. [GL c. 59, §31](#). 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. [GL c. 59, §32](#).

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 [Form 5941](#) on or before March 1. See [GL c. 59, §41](#). 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. See [GL c. 59, §38A](#). 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 original cost and date of acquisition. 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 original cost and year of acquisition, but the local board of assessors will determine the value of the property and whether the exemption applies.

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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.

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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, even if an owner fails to file a return or does so in an untimely manner. [GL c. 59, §36](#). If no return is filed, the owner will be barred from any appeal to the Appellate Tax Board 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, up to 30 days after the bill is mailed, the owner will be limited in any remedy to seek abatement. In such 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 a reasonable excuse for the delay. See [GL c. 59, §61](#).

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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 an 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 actual tax bill (stating the value), generally 30 days from the date of issue. 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 application. [GL c. 59, §64](#).

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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 [GL c. 59, §5](#). 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 [GL 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 \(State Tax Form 2\)](#).

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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 under [GL c. 60A](#), boats subject to or exempt from excise under [GL c. 60B](#), ships and vessels assessed under [GL c. 59, §8](#), farm animals and equipment subject to excise under [GL c. 59, §8A](#), non-commercial airlines paying a fee for registration under [GL c. 90, §49\(b\)](#) and manufactured homes in licensed parks for which a fee is charged, under [GL c. 59, §5, cl. 36](#).

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 under [GL c. 59, §5, cl. 44](#) or for solar or wind-powered systems under [cl. 45](#). Goods in transit temporarily located at a licensed public storage warehouse is generally exempt, provided the owner has no domicile or place of business in the commonwealth. [GL c. 59, §2](#).

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. [GL c. 59, §5, cl. 54](#).

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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. [GL c. 59, §5 cl. 20](#). 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, and carpenter or auto mechanic and does not include a professional, such as an accountant, lawyer, dentist or doctor.

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Q 13. What exemptions apply to partnerships?

A 13. Partnerships are not entitled to special exemptions per se. 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. Partnerships are subject to property tax on all other personal property. See [GL c. 59, §18, Sixth](#). Partnerships include limited partnerships and limited liability partnerships. Limited liability companies treated as partnerships for federal tax purposes are also taxable on all other personal property. See [GL c. 59, §18, First](#).

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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. [GL c. 59, §5, cl. 16](#). However,

telephone and cable TV corporations may not be taxed on network poles and wires in public ways. See GL c. 59, §18, Fifth; Assessors of Springfield v. Commissioner of Corporations and Taxation, 321 Mass. 186 (1947) & Warner Amex Cable Communications, Inc. v. Assessors of Everett, 396 Mass. 239 (1985). Corporations are specifically exempt from tax for all 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. GL c. 59, §5, cl. 16(3). 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. The owner or board of assessors may appeal the Commissioner's denial, approval or revocation of manufacturing status under the provisions of GL c. 58, §2.

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. GL c. 59, §5, cl. 16(1). This includes electric generating machinery. Financial institutions and insurance companies are in separate databases in the corporations list. Those corporations are exempt for all other machinery.

Business corporations, the third category, are taxable on machinery used in the conduct of business in addition to the poles, conduits, wires and pipes. GL c. 59, §5, cl. 16(2). 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 exemptions applicable to LLCs treated as corporations under specific provisions of the general laws.

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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, utilities, insurance companies or financial institutions are not considered business corporations, which are separately described in the statutes and have differing exemptions. A business corporation must be more than a paper entity, however, and must be involved in an activity which 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. See Brown, Rudnick, Freed & Gesmer v. Board of Assessors of Boston, 389 Mass. 298 (1983).

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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.

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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, where 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 is in the business of leasing 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, are taxable.

Accounting and administrative functions are those that provide in-house record keeping functions, such as 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.

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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. See Commissioner of Corporation and Taxation v. Assessors of Boston, 321 Mass. 90 (1947). 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 are considered a manufacturing process. William F. Sullivan & Co. v. Commissioner of Revenue, 413 Mass. 576 (1992). In another case, mixing of pigment and base paint at a retail store location was considered manufacturing. The Sherwin-Williams Company v. Commissioner of Revenue, Appellate Tax Board Docket No. C259901 (5/9/03).

In order for a manufacturer to be so classified, the manufacturing must occur in Massachusetts and be a substantial part of its business. See [830 CMR 58.2.1\(6\)](#).

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

A 19. 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. 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. 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. See [GL c. 58, §2](#).

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Q 20. What exemptions apply to limited liability companies?

A 20. Limited liability companies (LLCs) that elect to be treated as corporations for federal income tax purposes are treated as business corporations for personal property tax purposes, unless classified as manufacturing corporations. [GL c. 59, §5, cl.16](#) & [GL c. 63, §30.1 & 30.2](#). Single member LLCs and other entities whose single members are S corporations are required to file a corporate excise return as a business corporation in Massachusetts, even if they choose to be disregarded as an entity federally, and therefore are treated as business corporations for personal property tax purposes, unless classified as manufacturing corporations. LLCs that do not elect to be treated as corporations for federal tax purposes, and LLCs disregarded for federal income tax purposes (except those whose single members are S corporations) are not entitled to be treated as corporations and would be subject to tax on all personal property not generally exempt to all owners.

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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, corporations subject to the financial institution excise under [GL c. 63, §2](#), the insurance company premium taxes under [GL c. 63, §20](#) or [23](#) or the utility franchise tax under [GL c. 63, §52A](#), 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. Insurance companies 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. RCN-BecoCom, LLC v. Commissioner of Revenue, 443 Mass. 198 (2005). 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.

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Q 22. How is personal property valued in Massachusetts?

A 22. Like real estate, all personal property must be assessed at its fair cash valuation, under [GL c. 59, §38](#). Generally, personal property is valued using the cost method. The particular method will vary, depending on the specific property. In some cases net book will still 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.

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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.

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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 personal property with the Commissioner of Revenue under [GL c. 59, §41](#). The Commissioner is then required to value the property and certify the values to the telephone companies and the local boards of assessors where the property is situated, under [GL c. 59, §39](#). The Commissioner has delegated this task to the Bureau of Local Assessment in the Department.

Telephone and telegraph returns ([Form 5941](#)) are due March 1 prior to the beginning of the fiscal year to which the tax relates. For example, for Fiscal Year 2006, beginning July 1, 2005 and concluding June 30, 2006, the return is due March 1, 2005.

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 local appropriate tax rate and using the valuation certified by the commissioner. Telephone company taxes are assessed at the same time as other municipal property taxes.

For more definitive information concerning telephone and telegraph company returns, see the annual filing forms and notices at the [DLS Website - Bureau of Local Assessment](#).

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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 under [GL c. 59, §38A](#). 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 2006, beginning July 1, 2005 and concluding June 30, 2006, the return is due January 31, 2005.

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 local appropriate tax rate and using the valuation certified by the commissioner. Pipeline company taxes are assessed at the same time as other municipal property taxes.

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