

Statutory Provisions of

G.L.c. 61A

ASSESSMENT AND TAXATION OF AGRICULTURAL AND HORTICULTURAL LAND

Including Summaries of All Sections

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<p>1. When Land Deemed to be in Agricultural Use.</p> <p>Land shall be deemed to be in agricultural use when primarily and directly used in raising animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, for the purpose of selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for market.</p>	<p>SUMMARY OF 1:</p> <ul style="list-style-type: none"> • Land must be used primarily and directly for raising animals (see listing)
<p>2. When Land Deemed to be in Horticultural Use.</p> <p>Land shall be deemed to be in horticultural use when primarily and directly used in raising fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products, and ornamental plants and shrubs for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a program certified by the state forester to be a planned program to improve the quantity and quality of a continuous crop for the purpose of selling such products in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such products and preparing them for market.</p>	<p>SUMMARY OF 2:</p> <ul style="list-style-type: none"> • Land must be used primarily and directly in raising fruits, vegetables, etc. (see listing)

3. When Land Deemed to be Actively Devoted to Agricultural or Horticultural Uses.

Land not less than five acres in area shall be deemed to be actively devoted to agricultural or horticultural uses when the gross sales of agricultural, horticultural or agricultural and horticultural products resulting from such uses together with the amount, if any, payable under a soil conservation or pollution abatement program of the federal government or the commonwealth total not less than five hundred dollars per year or when the use of such land is clearly proven to be for the purpose of achieving an annual total of not less than five hundred dollars from such gross sales and program payments within the normal product development period as determined by the farmland valuation advisory commission established pursuant to section eleven of this chapter. In cases where the land is more than five acres in area, the gross sales and program payment standard above set forth shall be increased at the rate of five dollars per acre except in the case of woodland or wetland for which such increase shall be at the rate of fifty cents per acre.

SUMMARY OF 3:

ö Area–

Land must be not less than five (5) acres

–AND–

ö Proceeds–

Gross sales from agricultural or horticultural (or both) uses

Plus any amount payable under soil conservation or pollution abatement program of federal government or Massachusetts

Not less than \$500

–OR–

Clearly proven that land is for purpose of achieving above goals as determined by farmland valuation advisory commission

ö Higher gross sales standard for land greater than five (5) acres–

Five (\$5.00) dollars additional per acre over five (5) acres (other than woodland or wetland)

Fifty (\$.50) cents additional per acre over five (5) acres for woodland or wetland

<p>¶4. Apportionment of Tax; Special Assessment; Tax Rate.</p> <p>For general property tax purposes, the value of land, not less than five acres in area, which is actively devoted to agricultural, horticultural or agricultural and horticultural uses during the tax year in issue and has been so devoted for at least the two immediately preceding tax years, shall, upon application of the owner of such land and approval thereof, be that value which such land has for agricultural or horticultural purposes. For the said tax purposes, land so devoted shall be deemed to include such contiguous land under the same ownership as is not committed to residential, industrial or commercial use and which is covered by application submitted pursuant to section six. Land shall be deemed contiguous if it is separated from other land under the same ownership only by a public or private way or waterway.</p> <p>Land under the same ownership shall be deemed contiguous if it is connected to other land under the same ownership by an easement for water supply. All such land which is contiguous or is deemed contiguous for purposes of this chapter shall not exceed in acreage one hundred per cent of the acreage which is actively devoted to agricultural, horticultural or agricultural and horticultural uses.</p> <p>The rate of tax applicable to such agricultural or horticultural land shall be the rate determined to be applicable to class three, commercial property under chapter fifty-nine.</p>	<p>SUMMARY OF ¶4:</p> <ul style="list-style-type: none"> ö Land qualifies to be valued under statute when– <ul style="list-style-type: none"> Used for agricultural or horticultural (or both) purposes In tax year For at least the two immediately preceding years ö Contiguous land can qualify if– <ul style="list-style-type: none"> Included in application Same owner Not committed to residential, industrial or commercial use Separated only by public or private way or watercourse <p style="text-align: center;">–OR–</p> <ul style="list-style-type: none"> Connected by easement for water supply ö The contiguous land may not exceed in acreage the land that is used for agricultural or horticultural (or both) purposes ö Tax rate is same as applicable to class three, commercial property (G.L.c. 59)
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<p>¶5. Contiguous Lands Located in More Than One City or Town.</p> <p>Where contiguous land in agricultural, horticultural or agricultural and horticultural uses under one ownership is located in more than one city or town, compliance with the five-acre minimum area requirements of section four shall be determined on the basis of the entire area of such land and not on the basis of the land area which falls within the bounds of any particular city or town.</p>	<p>SUMMARY OF ¶5:</p> <ul style="list-style-type: none"> ö The five-acre minimum of land can be located in more than one city or town
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¶6. Annual Determinations of Eligibility; Application Made to Board of Assessors.

Eligibility of land for valuation, assessment and taxation pursuant to section four shall be determined separately for each tax year. Application therefor shall be submitted to the board of assessors of each city or town in which such land is situated not later than October first of the year preceding each tax year for which such valuation, assessment and taxation are being sought and may not thereafter be withdrawn. Application shall be made on a form prescribed by the commissioner of revenue and provided for the use of claimants by said board of assessors. Such form shall provide for the reporting of information pertinent to the provisions of this chapter and of Article XCIX of the Articles of Amendment to the Constitution of the Commonwealth and for certification by the applicant that he will immediately notify the board of assessors in writing of any subsequently developing circumstance within his control or knowledge which may cause a change in use of the land covered by such form prior to October first next following. Any application submitted under this section and covering leased land shall be accompanied by a written statement signed by any lessee of his intent to use such land for the purposes set forth in said application. A certification by a landowner that the information set forth in his application is true may be prescribed by said commissioner to be in lieu of a sworn statement to that effect. An application so certified shall be considered as if made under oath and subject to the same penalties as provided by law for perjury.

SUMMARY OF ¶6:

- ö Eligibility determined separately each year
- ö Application filed with assessors by October 1 of preceding year
- ö Application may not be withdrawn
- ö Owner certifies to immediately notify of any developing circumstance that may change use
- ö Any lessee must give statement that of intention to use land as stated in application

7. Effect of Change in Use of Land Actively Devoted to Agricultural, etc., Use.

If a change in use of land actively devoted to agricultural, horticultural or agricultural and horticultural use occurs between October first and December thirty-first of the year preceding the tax year, the board of assessors shall disallow or nullify the application filed under authority of section six, and, after examination and inquiry, shall determine the full and fair value of said land under the valuation standard applicable to other land and shall assess the same according to such value. If, notwithstanding such change of use, the land is valued, assessed and taxed under the provisions of this chapter in the ensuing year, upon notice thereof said board shall enter an assessment and the amount of the increased tax resulting from such assessment, as an added assessment and tax against such land, in the "Omitted list" for the particular year involved in the manner prescribed in section seventy-five of chapter fifty-nine. The amount of the added assessment shall be equal to the difference, if any, between the assessment imposed under this chapter and the assessment which would have been imposed had the land been valued and assessed as other land. The enforcement and collection of additional taxes resulting from any additional assessment so imposed shall be as provided by said chapter fifty-nine. The additional assessment imposed under this section shall not affect the conveyance or roll-back taxes, if any, applicable under sections twelve and thirteen.

SUMMARY OF 7:

- Disallowance of application if change of use between October 1 and December 31 of pre-tax year
- Property will be taxed for full value
- If change of use between October 1 and December 31, but property nonetheless valued under statute, additional tax for difference assessed
- Additional tax does not affect applicability of conveyance or roll-back taxes

¶8. Effect of Program of Revaluation for Next Succeeding Tax Year on Application.

In any city or town in which a program of revaluation of all property therein has been or shall be undertaken and completed in time to be reflected in the assessments for the next succeeding tax year but not in sufficient time to permit landowners to make application prior to October first of the pre-tax year for the valuation, assessment and taxation of their lands for the ensuing tax year on the basis of being actively devoted to agricultural or horticultural use, any such application which has been or shall be filed with the board of assessors after October first and not more than thirty days following the mailing of the tax bill containing the new valuation shall be deemed to have been timely made for the tax year of the revaluation program, notwithstanding any provision of this chapter to the contrary. If such application is approved and the lands qualify for valuation, assessment and taxation as lands actively devoted to agricultural, horticultural or agricultural and horticultural use in the ensuing tax year, that portion of any tax assessed for such year which is in excess of the tax which would have been assessed on such lands had such application been timely made and approved shall be abated.

SUMMARY OF ¶8:

- ö If the municipality is in the process of a revaluation program which has been completed for assessments in ensuing year but not in time for landowner to make application before October 1st, application shall be deemed timely if filed within thirty days after the tax bill is mailed
- ö If application approved, any excess tax over and above that which would have been due if application timely made shall be abated

¶9. Disallowance of Application; Recording of Lien Statements; Release of Liens; Termination of Valuation as Agricultural or Horticultural Land.

An application for valuation, assessment and taxation of land under the provisions of this chapter shall be allowed or disallowed by the board of assessors of the city or town in which such land is located within three months of the filing thereof. An application for valuation, assessment and taxation of land under the provisions of this chapter shall be disallowed by the board of assessors of the city or town in which such land is located if, in their judgment such land, in whole or in part, does not qualify thereunder. If any board of assessors shall determine that any application pursuant to this chapter is submitted for the purpose of evading payment of full and proper taxes, such board shall be and hereby is authorized to disallow such application. The failure of a board of assessors to allow or disallow any such application within three months following the filing thereof, shall be deemed an allowance of such application. The board of assessors shall, within ten days of an allowance, or disallowance, send written notice of such allowance, or disallowance, by certified mail to the landowner applicant and shall set forth therein the reason or reasons for disallowance together with a statement advising the landowner of his right to appeal therefrom as provided in section nineteen. In the case of a partial disallowance, the landowner shall be permitted to file an amendment to the original application.

With respect to the first application relating to a parcel of land which has been approved, and any subsequent such applications after a lapse of time when such land has not been valued, assessed and taxed under this chapter or after a change of record ownership of such land, the board of assessors shall forthwith cause to be recorded in the registry of deeds of the county or district in which the city or town is situated a statement of their action which shall constitute a lien upon the land covered by such application for such taxes as may be levied under the provisions of this chapter. The statement shall name the owner or owners of

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SUMMARY OF ¶9:

- Application allowed or disallowed within three months of filing with board of assessors
- Application disallowed if **A**n judgment of board of assessors land does not qualify or application was made to evade taxes
- Failure of the board to act within the three-month period deemed to be an allowance
- Within ten days of taking action on application board to send certified notice to owner–
 - Of allowance or disallowance
 - If disallowed, reasons for disallowance
 - Notification of right to appeal under ¶ 19
 - If partially disallowed, owner permitted to file amendment
- Statement constituting lien recorded–
 - First application
 - Subsequent applications–
 - After lapse of time when property not assessed under statute
 - After change in record ownership
- Unrecorded lien not good against bona fide purchaser or other transferee without knowledge

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¶9. *(continued from previous page)*

record and shall include a description of the land adequate for identification. Unless such a statement is recorded the lien shall not be effective with respect to a bona fide purchaser or other transferee without actual knowledge of such lien. Upon application by any record owner, such liens shall be released by the board of assessors with respect to any parcel of land as provided below in this section upon the applicable facts being established by their records or by affidavits or otherwise.

All liens for special assessments or betterment assessments under section eighteen shall be released in full or in part upon its being so established that any such assessment or portion of such assessment which have become due have been paid.

All liens for conveyance tax under section twelve, shall be released upon its being so established that no conveyance or change of use by the owner at the time of such release will result in a conveyance tax under said section twelve or that any such taxes which have become due have been paid.

All liens for roll-back taxes under section thirteen, other than roll-back taxes based on change of use after the date of such release, shall be released upon its being so established that no roll-back taxes have become due or that any such taxes which have become due have been paid.

The board of assessors shall also have the power and authority to release any such liens to correct any errors or omissions. Any release under this section shall be recorded with the registry of deeds.

When any land which has been valued, assessed and taxed under this chapter ceases to be so valued, assessed and taxed the board of assessors shall forthwith record in the registry of deeds a statement to that effect which shall include the name of the record owner or owners, the date when such land ceased to be so valued, assessed and taxed and a description of the land adequate for identification.

All recording fees paid pursuant to the provisions of this chapter whether for statements of liens, certificates, releases or otherwise shall be borne by the owner of record of the land.

SUMMARY OF ¶9: *(continued from previous page)*

- Board of assessors shall release liens upon facts established by their records, affidavit or otherwise—
 - Special assessment under ¶18, upon evidence of payment
 - Conveyance tax under ¶12, where no conveyance or change of use by owner at time of release will result in conveyance tax, or that such taxes paid
 - Roll-back taxes under ¶13 (other than roll-back taxes based on a change of use after the date of such release), if no roll-back taxes have become due, or that such taxes paid
 - To correct any errors or omissions
 - When land no longer valued, assessed and taxed under statute

10. Indicia of Value Considered in Valuing Land.

The board of assessors of a city or town, in valuing land with respect to which timely application has been made and approved as provided in this chapter, shall consider only those indicia of value which such land has for agricultural, horticultural or agricultural and horticultural uses. Said board, in establishing the use value of such land, shall use the list of ranges, published pursuant to section eleven and its personal knowledge, judgment and experience as to such agricultural land values.

SUMMARY OF 10:

• In making valuations board shall use–

Its personal knowledge, judgment and experience

List of ranges published pursuant to 11

Only indicia of value such land has for agricultural and horticultural uses

11. Farmland Valuation Advisory Commission; Membership, Duty to Determine Range of Values, etc.

There is hereby created a farmland valuation advisory commission, the members of which shall be the commissioner of revenue who shall be chairman, the commissioner of agriculture, the director of housing and community development, the dean of the college of food and natural resources of the University of Massachusetts, or their respective designees, and one person to be appointed by the governor who shall be a member of a local board of assessors. The commission shall meet from time to time at the call of any of the above named commissioners and shall, prior to January first of each year, determine, for application during the ensuing tax year, a range of values on a per acre basis for each of the several classifications of land in agricultural or horticultural uses in the several counties of the commonwealth. The annual list of value ranges so determined shall be published by the commissioner of revenue and shall be mailed by him to the board of assessors of each city and town in the commonwealth no later than February first of each year. In determining such ranges in value, the commission shall consider evidence of agricultural or horticultural land use capability available from soil surveys and such other evidence and documentation as may, in its judgment, appear pertinent.

The commissioner of revenue may expend such sums as may be appropriated from the agricultural purposes fund for the purposes of securing data for use in determinations by said commission and for expenses incurred in the administration of this chapter.

SUMMARY OF 11:

- o Farmland Valuation Advisory Commission
 - Commissioner of revenue
 - Commissioner of agriculture
 - Director of housing and community development
 - Dean of college of food and natural resources of University of Massachusetts
 - Member of board of assessors appointed by governor
- o Determines yearly range of values per acre for the several classifications of agricultural and horticultural land in several counties

12. Conveyance Tax on Certain Sales and Changes of Use of Lands in Agricultural, etc., Use Within Ten Years.

Any land in agricultural, horticultural or agricultural and horticultural use which is valued, assessed and taxed under the provisions of this chapter, if sold for other use within a period of ten years from the date of its acquisition or the earliest date of its uninterrupted use by the current owner in agriculture or horticulture, whichever is earlier, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to such taxes as may be imposed under any other provision of law. Said conveyance tax shall be at the following rate: ten per cent if sold within the first year of ownership; nine per cent if sold within the second year of ownership; eight per cent if sold within the third year of ownership; seven per cent if sold within the fourth year of ownership; six per cent if sold within the fifth year of ownership; five per cent if sold within the sixth year of ownership; four per cent if sold within the seventh year of ownership; three per cent if sold within the eighth year of ownership; two per cent if sold within the ninth year of ownership; one per cent if sold within the tenth year of ownership. No conveyance tax shall be imposed under the provisions of this section following the end of the tenth year of ownership. Said conveyance tax shall be due and payable by the grantor at the time of transfer of the property by deed or other instrument of conveyance and shall be payable to the tax collector of the city or town in which the property is entered upon the tax list; provided, that, in the case of taking by eminent domain, the value of the property taken shall be determined in accordance with the provisions of chapter seventy-nine and the amount of conveyance tax, if any, shall be added thereto as an added value; and provided further, that if there is filed with the board of assessors an affidavit by the purchaser that such land is being purchased for agricultural, horticultural or agricultural and horticultural use, no conveyance tax shall be payable by the seller by reason of such sale, but if such land is not in fact continued in such use, the purchaser shall be liable for any conveyance tax that would have been payable on such sale as a sale for other use. Except with respect to eminent domain takings, the provisions of this section shall not be applicable to the following: mortgage deeds; deeds to or by the city or town in which such land is located; deeds which correct, modify, supplement or confirm

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SUMMARY OF 12:

- o Conveyance tax due if land valued, assessed and taxed under statute sold for other use–
 - Within ten years of acquisition by the owner
 - OR–
 - Within ten years of the earliest date of its uninterrupted use by current owner for agricultural or horticultural (or both) purposes
 - Whichever is earlier
- o If conveyance tax applicable it is figured as follows:
 - 10% of sales price if sold in first year of ownership
 - 9% of sales price if sold in second year of ownership
 - 8% of sales price if sold in third year of ownership
 - 7% of sales price if sold in fourth year of ownership
 - 6% of sales price if sold in fifth year of ownership
 - 5% of sales price if sold in sixth year of ownership
 - 4% of sales price if sold in seventh year of ownership
 - 3% of sales price if sold in eighth year of ownership
 - 2% of sales price if sold in ninth year of ownership
 - 1% of sales price if sold in tenth year of ownership
- o Conveyance tax due upon transfer of property by deed or other instrument of conveyance
- o In case of taking by eminent domain the amount payable as damages will be increased by the amount of any conveyance tax due
- o Affidavit by purchaser that land is being purchased for agricultural or horticultural purposes–
 - No conveyance tax due by seller
 - If thereafter use changed, purchaser liable for conveyance tax

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12. (continued from previous page)

a deed previously recorded; deeds between husband and wife and parent and child when no consideration is received; tax deeds; deeds releasing any property which is a security for a debt or other obligation; deeds for division of property between owners without monetary consideration; foreclosures of mortgages and conveyances by the foreclosing parties; deeds made pursuant to a merger of a corporation or by a subsidiary corporation to its parent corporation for no consideration other than the cancellation and surrender of capital stock of such subsidiary which do not change beneficial ownership; and property transferred by devise or otherwise as a result of death. A nonexempt transfer subsequent to any exempt transfer or transfers shall be subject to the provisions of this section. Upon such nonexempt transfer the date of acquisition by the grantor, for purposes of this section, shall be deemed to be the date of the last preceding transfer not excluded by the foregoing provisions from application of this section; except that in the case of transfer by a grantor who has acquired the property from a foreclosing mortgagee the date of acquisition shall be deemed to be the date of such acquisition. If any tax imposed under this section should not be paid, the collector of taxes shall have the same powers and be subject to the same duties with respect to such taxes as in the case of the annual taxes upon real estate, and the law in regard to the collection of the annual taxes, to the sale of land for the nonpayment thereof and to redemption therefrom shall apply to such taxes, so far as the same are applicable. Any land in agricultural or horticultural use which is valued, assessed and taxed under the provisions of this chapter, if changed by the owner thereof to another use within a period of ten years from the date of its acquisition by said owner, shall be subject to the conveyance tax applicable hereunder at the time of such change in use as if there had been an actual conveyance, and the value of such land for the purpose of determining a total sales price shall be fair market value as determined by the board of assessors of the city or town involved for all other property.

SUMMARY OF 12: (continued from previous page)

- o Except for eminent domain takings, the following transfers are exempt from the conveyance tax—
 - Mortgages
 - Deeds to or by city or town in which such land is located
 - Deeds which confirm, modify or supplement prior recorded deeds
 - Deeds between husband and wife and parent and child for no consideration
 - Tax deeds
 - Partial releases or discharges of mortgages
 - Boundary line deeds for no consideration
 - Foreclosure of mortgages and conveyances by the foreclosing parties
 - Certain transfers between parent and subsidiary corporations for no consideration
 - Property transferred by devise or otherwise as a result of death

Nonexempt transfers made after an exempt transfer are subject to the conveyance tax

In the case of a nonexempt transfer after an exempt transfer, the date of acquisition of the grantor (except in the case of a mortgage foreclosure—see below) is deemed to be the date of the last preceding transfer not exempted from the application of the statute

In the case of a transfer by a grantor who has acquired the property from a foreclosing mortgagee the date of acquisition of the grantor shall be deemed to be the date of such acquisition

- o Conveyance tax due upon change of use by owner within ten years of acquisition property
- o Value of property in such case shall be the fair market value

13. Roll-Back Taxes on Agricultural, etc., Land Undergoing Change in Use.

Whenever land which is valued, assessed and taxed under this chapter no longer qualifies as actively devoted to agricultural, horticultural or agricultural and horticultural use, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in the current tax year in which it is disqualified and in such of the four immediately preceding tax years in which the land was so valued, assessed and taxed; provided that such roll-back taxes shall not be applicable unless the amount thereof as computed pursuant to this section, exceeds the amount, if any, imposed under the provisions of section twelve and, in such case, the land shall not be subject to the conveyance tax imposed under said section twelve; and provided, further, that no roll-back taxes shall be applicable if the land involved is purchased for a public purpose by the city or town in which it is situated. For each year, the roll-back tax shall be an amount equal to the difference, if any, between the taxes paid or payable in accordance with the provisions of this chapter and the taxes that would have been paid or payable had the land been valued, assessed and taxed without regard to such provisions. If, at the time during a tax year when a change in land use has occurred, the land was not then valued, assessed and taxed under the provisions of this chapter, then such land shall be subject to roll-back taxes only for such of the five immediately preceding years in which the land was valued, assessed and taxed thereunder. In determining the amount of roll-back taxes on land which has undergone a change in use, the board of assessors shall have ascertained the following for each of the roll-back tax years involved:

- (a) The full and fair value of such land under the valuation standard applicable to other land in the city or town;
- (b) The amount of the land assessment for the particular tax year.

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SUMMARY OF 13:

- o Roll-back taxes applicable if property that is valued, assessed and taxed under statute no longer qualifies as actively devoted to agricultural or horticultural (or both) purposes
- o Tax imposed in tax year of disqualification and four immediately preceding tax years in which property was valued, assessed and taxed under statute
- o If change in use occurs when property no longer valued, assessed and taxed under statute, land shall be subject to roll-back tax only for such of the five immediately preceding years in which the land was valued, assessed and taxed under statute
- o Roll-back taxes not applicable unless they exceed conveyance tax
- o If roll-back taxes applicable, conveyance tax is not collected
- o No roll-back tax applicable if property purchased by city or town for public purpose in which it is located
- o Roll-back tax equal to difference between tax under statute and tax that would be payable if property not taxed under statute.

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13. *(continued from previous page)*

- (c) The amount of the additional assessment on the land for the particular tax year by deducting the amount of the actual assessment on the land for that year from the amount of the land assessment determined under subsection (a); and,
- (d) The amount of the roll-back tax for that tax year by multiplying the amount of the additional assessment determined under subsection (c) by the general property tax rate of the city or town applicable for that tax year.

SUMMARY OF 13: *(continued from previous page)*

- The assessors shall determine amount of roll-back taxes for each roll-back tax year by calculating—
 - A. Fair value of land under standard of assessment for other land
 - B. The amount of the land assessment under the statute for each year
 - C. The difference between A and B for each year
 - D. The roll-back tax for each year by multiplying C by the general property tax rate

14. Notice of Intent to Sell or Convert Agricultural, etc., Land to Other Use; Options to Purchase Granted City or Town.

Land which is valued, assessed and taxed on the basis of its agricultural or horticultural use under an application filed and approved pursuant to this chapter shall not be sold for or converted to residential, industrial or commercial use while so valued, assessed and taxed unless the city or town in which such land is located has been notified of intent to sell for or convert to such other use; provided, however, that the discontinuance of the use of such land for agricultural or horticultural purposes shall not be deemed a conversion. Specific use of land for a residence for the owner or a parent, grandparent, child, grandchild, or brother or sister of the owner, or the surviving husband or wife of any deceased such relative, or for living quarters for any persons actively employed full time in the agricultural or horticultural use of such land, shall not be deemed to be a conversion for purposes of this section; and a certificate of the board of assessors, recorded with the registry of deeds, shall conclusively establish that a particular use is such a use. For a period of one hundred twenty days subsequent to such notification, said city or town shall have, in the case of an intended sale, a first refusal option to meet a bona fide offer to purchase said land, or, in the case of an intended conversion not involving sale, an option to purchase said land at full and fair market value to be determined by impartial appraisal. After a public hearing, said city or town may assign either of said options to a nonprofit conservation organization under such terms and conditions as the mayor or board of selectmen deem appropriate. Such assignment shall be for the purpose of continuing the agricultural or horticultural use of the major portion of the property subject to this assignment. Notice of said public hearing shall be given in accordance with the provisions of section twenty-three B of chapter thirty-nine. Such notice of intent shall be sent by the landowner via certified mail to the mayor and city council of a city, or to the board of selectmen of a town, to its board of assessors and to its planning board and conservation commission, if any, and said option period shall run from the day following the latest date of deposit of any of such notices in the United States mails. No sale or conversion of such land shall be consummated unless and until either said option

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SUMMARY OF 14:

- o Land valued, assessed and taxed under statute shall not be–
 - Sold for, or
 - Converted toThe following uses–
 - Residential
 - Industrial
 - CommercialWhile so valued, assessed and taxed
 - Unless requirements of notification and option to purchase are observed
- o Discontinuance of the use of the land for agricultural or horticultural purposes is not a conversion
- o Specific use of land for the residence of any of the following persons is not a conversion–
 - Owner
 - Parent of the owner
 - Grandparent of the owner
 - Child of the owner
 - Grandchild of the owner
 - Brother of the owner
 - Sister of the owner
 - Surviving husband or wife of any of the above
 - Persons actively employed full time in the agricultural or horticultural use of the land
 - Recorded certificate from the board of assessors as to such use is conclusive

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▪ **14.** *(continued from previous page)*

period shall have expired or the landowner shall have been notified in writing by the mayor or board of selectmen of the city or town in question that said option will not be exercised. Such option may be exercised only by written notice signed by the mayor or board of selectmen, mailed to the landowner by certified mail at such address as may be specified in his notice of intention and recorded with the registry of deeds, within the option period. If either option has been assigned to a nonprofit conservation organization as provided in this section, said written notice shall state the name and address of said organization and the terms and conditions of said assignment. An affidavit by a notary public that he has so mailed such a notice of intent on behalf of a landowner shall conclusively establish the manner and time of the giving of such notice; and such an affidavit, and such a notice that the option will not be exercised, shall be recorded with the registry of deeds. Each such notice of intention, notice of exercise of the option and notice that the option will not be exercised shall contain the name of the record owner of the land and a description of the premises so to be sold or converted adequate for identification thereof; and each such affidavit by a notary public shall have attached to it a copy of the notice of intention to which it relates. Such notices of intention shall be deemed to have been duly mailed to the parties above specified if addressed to them in care of the town or city clerk; and in the case of notice to a city council or a board or commission, addressed to it as such entity. The provisions of this section shall not be applicable with respect to a mortgage foreclosure sale; but the holder of a mortgage shall, at least ninety days before a foreclosure sale, send written notice of the time and place of such sale to the parties and in the manner above provided in this section for notice of intent to sell or convert, and the giving of such notice may be established by an affidavit of a notary public as set forth above.

SUMMARY OF ▪ 14: *(continued from previous page)*

- Upon nonexempt sale or change in use, notice to be sent by certified mail to–
 - Mayor and City Council of a city or Board of Selectmen of a town
 - Board of Assessors
 - Planning Board
 - Conservation Commission
- Notices deemed to have been duly mailed to above parties when addressed to them in care of the town or city clerk, but each notice to a board or commission must be addressed to it as such entity
- City or town has 120 days after last notice sent to exercise option to purchase–
 - At value of bona fide offer in the case of a sale
 - At full and fair market value in the case of a conversion
- After public hearing city or town can assign right to nonprofit conservation organization
- No sale or conversion permitted until either–
 - Option period expires
 - Landowner is notified that city or town will not exercise option
- Option may be exercised only if within option period signed exercise of option by mayor or selectmen is–
 - Mailed by certified mail to landowner
 - Recorded with registry of deeds

(continued on next page)

	<p>SUMMARY OF § 14: <i>(continued from previous page)</i></p> <ul style="list-style-type: none"> ö Affidavit by notary public with notice of intention attached that said notice was mailed is conclusive ö Affidavit and any notice that option will not be exercised shall be recorded ö Notice provisions do not apply to mortgage foreclosure sales, but – <ul style="list-style-type: none"> Foreclosing mortgagee must give ninety day notice before sale to the above parties in the manner provided, and Affidavit of a notary public will establish such mailing
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<p>§ 15. Buildings Located on Land in Agricultural, etc., Use and Family Dwellings Treated as Other Taxable Property.</p> <p>All buildings located on land which is valued, assessed and taxed on the basis of its agricultural or horticultural uses in accordance with the provisions of this chapter and all land occupied by a dwelling or regularly used for family living shall be valued, assessed and taxed by the same standards, methods and procedures as other taxable property.</p>	<p>SUMMARY OF § 15:</p> <ul style="list-style-type: none"> ö Buildings and dwellings located on land used for agricultural and horticultural purposes and the land on which a dwelling is situated are taxed at normal rates
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Gary F. Casaly, Esquire

<p>¶ 16. Preferences Granted by Chapter Not Dependent Upon Continuance in Same Owner of Title to Land; When Liability to Roll-Back Taxes Attaches.</p> <p>Continuance of land valuation, assessment and taxation under the provisions of this chapter shall depend upon continuance of such land in agricultural or horticultural uses and compliance with other requirements of this chapter and not upon continuance in the same owner of title to such land. Liability to roll-back taxes, determined pursuant to section thirteen, shall attach when such land no longer qualifies as actively devoted to agricultural or horticultural use and shall be the obligation of the then owner of the land. For purposes relating to roll-back taxes such qualification shall depend on the actual use of such land, and not on the filing of application under section six for any year.</p>	<p>SUMMARY OF ¶ 16:</p> <ul style="list-style-type: none"> • Continuance of land valuation, assessment and taxation depend on actual use of property and not merely filing of application
<p>¶ 17. Effect of Separation of Land in Agricultural, etc., Use for Other Use.</p> <p>If, by conveyance or other action of the owner thereof, a portion of land which is valued, assessed and taxed under the provisions of this chapter is separated for a use other than agricultural or horticultural, the land so separated shall be subject to liability for conveyance or roll-back taxes applicable thereto, but such separation shall not impair the right of the remainder of such land to continuance of valuation, assessment and taxation thereunder; provided, that such remaining land continues to qualify under the usage, minimum acreage and other provisions thereof.</p>	<p>SUMMARY OF ¶ 17:</p> <ul style="list-style-type: none"> • If land is separated for other than agricultural or horticultural uses the separated land shall be subject to the conveyance or roll-back tax, but the remaining land will continue to be valued, assessed and taxed under the statute, provided that it meets the requirements of minimum acreage, usage, etc.

18. Liability of Lands in Agricultural, etc., Use for Special Assessments or Betterment Assessments; Dissolution of Liens.

Land qualifying for valuation, assessment and taxation under this chapter shall be subject to special assessments or betterment assessments to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capability of said land or for the personal benefit of the owner thereof. Any such assessment and interest on account of such suspended special assessments or betterment assessments shall, however, upon application, be suspended during the time the land is in agricultural or horticultural use and shall become due and payable as of the date when the use of such land is changed. The suspended interest shall be equal to the total amount of interest which would have been paid if interest had been paid annually. In the event only a portion of a tract of land which benefits from a suspension of payment is changed from such use, the assessment including interest shall become due and payable as of the date when the use was changed only to the extent of and in the proportion that the frontage of such portion bears to the street frontage of the entire tract of land which originally benefited from a suspension of payment. Upon full payment of a portion of a suspended assessment including interest, the tax collector may dissolve the lien for the assessment insofar as it affects the portion of the land changed from agricultural or horticultural use. The lien for the portion of the original assessment including interest which remains unpaid shall continue and remain in full force and effect until dissolved in accordance with law. A request for such release shall be made in writing to the tax collector, and shall be accompanied by a plan and such other information as is required in the case of a request for a division of an assessment pursuant to section fifteen.

SUMMARY OF 18:

- ö Land valued, assessed and taxed under the statute are subject to betterment assessment to such pro rata extent as the service or facility financed by such assessment is used for improving the agricultural or horticultural use capabilities of the land.
- ö Any such betterment assessment and interest thereon is suspended during the time the land is in agricultural or horticultural use and is payable when the use of the land is changed
- ö The amount of interest due when the betterment is payable is the total amount of interest which would have been paid if interest had been paid annually.
- ö If only a portion of the land is changed, the assessment including interest shall become due and payable only to the extent that the frontage of such portion bears to the street frontage of the entire tract which originally benefited from the suspended payment

19. Procedures Relative to Assessment and Taxation of Omitted Property Applicable to Roll-Back Taxes.

The assessment, collection, apportionment and payment over of the roll-back taxes imposed by section thirteen shall be governed by the procedures provided for the assessment and taxation of omitted property under section seventy-five of chapter fifty-nine. Such procedures shall apply to each tax year for which roll-back taxes may be imposed notwithstanding the limitation set forth in said chapter fifty-nine with respect to the periods for which omitted property assessments may be imposed. Any person aggrieved by any determination or assessment by the board of assessors under this chapter may within sixty days of the date of notice thereof apply in writing to the assessors for modification or abatement thereof. Any person aggrieved by the refusal of the assessors to modify such a determination or make such an abatement or by their failure to act upon such an application may appeal to the appellate tax board within thirty days after the date of notice of their decision or within three months of the date of the application, whichever date is later. It shall be a condition of such appeal with respect to the annual general property tax that the asserted tax be paid, but no payment shall be required as a condition of such appeal with respect to any asserted conveyance tax or roll-back tax. If any payment of any tax imposed by this chapter should be made and as the result of any such modification or abatement by the board of assessors or decision by the appellate tax board it shall appear that any such tax has been overpaid, such excess payment shall be reimbursed by the town treasurer with interest at the rate of six per cent per annum from time of payment. Collection of any conveyance or roll back taxes, by sale or taking or otherwise, may be stayed by the appellate tax board while any such appeal is pending. Any partial payment of the asserted tax that may be required by the appellate tax board in connection with such stay shall not exceed one half of the asserted tax.

SUMMARY OF 19:

- o Appeal procedure

19A. Certificates as to Conveyance or Roll-Back Taxes.

In connection with any proposed or completed sale or other transfer of any land which has been valued, assessed and taxed under the provisions of this chapter, the owner of record of the land may apply to the board of assessors for a certificate of the amount of conveyance tax and roll-back tax, if any, payable by reason of such sale or other transfer, or that no such tax will or has so become payable and stating the amount of any conveyance or roll-back taxes that have theretofore become payable with respect to such land; and such a certificate shall be provided to the applicant within twenty days after application therefor. Such certificate may be recorded with the registry of deeds; and upon recording of such a certificate that no such tax will or has so become payable, or a certificate by the collector of taxes that the amount of tax stated in such certificate of the board of assessors has been paid, all liens on such land for taxes under this chapter shall terminate, except that any liens for any roll-back taxes assessed by reason of such land ceasing to qualify for valuation, assessment and taxation under this chapter after the date of such sale or other transfer, shall continue. In connection with the issuance of such a certificate, the board of assessors may rely upon their own records, affidavits and such other information as they may deem appropriate. The board of assessors shall charge six dollars for each certificate so issued, and the money so received shall be paid into the town treasury.

SUMMARY OF 19A:

- o In connection with a proposed or completed sale, owner may request certificate from the assessors as to taxes due or payable
- o Certificate to be provided within 20 day after request
- o Upon recording of a certificate that no tax will or has become payable or a certificate that any tax due has been paid all liens for taxes under the statute shall terminate (except liens for roll-back taxes assessed by reason of such land ceasing to qualify for valuation, assessment or taxation under the statute after the date of such sale or transfer shall continue)

20. Agricultural, etc., Lands Considered to be Assessed as Other Taxable Property for Any Other Purpose; Valuation for Equalization.

For any purpose, other than the provisions of this chapter, for which the assessed value of land is relevant, including exemptions under the provisions of chapter fifty-nine, land qualifying for taxation under this chapter shall be valued and deemed to have been assessed by the same standards, methods and procedures as other taxable property.

In determining the equalization required by section nine of chapter fifty-eight the commissioner of revenue shall determine the value of such land on the basis of its agricultural and horticultural use.

SUMMARY OF 20:

- o To the extent that the valuation of land is relevant for any purpose other than the purposes under the statute, the valuation of land qualifying for taxation under the statute shall be determine in the same way as any other land

<p>¶21. Factual Details Shown on Tax List of Board of Assessors Relative to Agricultural, etc., Lands to be Same as That of Other Taxable Property.</p> <p>The factual details to be shown on the tax list of a board of assessors with respect to land which is valued, assessed and taxed under this chapter shall be the same as those set forth by said board with respect to other taxable property in the same city or town.</p>	<p>SUMMARY OF ¶21:</p> <ul style="list-style-type: none"> • The details in the tax lists with respect to land taxed under the statute shall be the same as any other land
<p>¶22. Commissioner of Revenue to Promulgate Rules and Regulations, Forms and Procedures.</p> <p>The commissioner of revenue shall promulgate such rules and regulations and shall prescribe the use of such forms and procedures as he deems appropriate to and consistent with effectuation of the purposes of this chapter.</p>	<p>SUMMARY OF ¶22:</p> <ul style="list-style-type: none"> • Promulgation of rules and regulations
<p>¶23. Tax Evasion; Penalty.</p> <p>Any person using the valuation, assessment and taxation procedures set forth in this chapter for the purposes of evading payment of full and proper taxes shall be subject to a fine of not more than ten thousand dollars or imprisonment for one year or both and to payment to the city or town in which the land is located of an amount equal to three times the amount of taxes so evaded.</p>	<p>SUMMARY OF ¶23:</p> <ul style="list-style-type: none"> • Penalties for utilizing statute to evade taxes
<p>¶24. Severability Provision.</p> <p>If any clause, sentence, subdivision, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which said judgment shall have been rendered.</p>	<p>SUMMARY OF ¶24:</p> <ul style="list-style-type: none"> • Severability