INTRODUCTION

The agricultural and horticultural land classification program under Massachusetts General Laws Chapter 61A is designed to encourage the preservation of the Commonwealth's valuable farmland and promote active agricultural and horticultural land use. It offers significant local tax benefits to property owners willing to make a long term commitment to farming. In exchange for these benefits, the city or town in which the land is located is given the right to recover some of the tax benefits afforded the owner and an option to purchase the property should the land be sold or used for any purpose other than to continue raising farm products.

QUALIFICATIONS

Property must consist of at least 5 contiguous acres of land under the same ownership and be "actively devoted" to agricultural or horticultural use in order to qualify for and retain classification as agricultural or horticultural land under Chapter 61A. An equal amount of contiguous non-productive land may also qualify for classification

Land is used for agricultural or horticultural purposes if it is used primarily and directly to raise or grow the following for sale in the regular course of business:

1. Animals, including, but not limited to, dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, bees and fur-bearing animals, or products derived from the animals.
2. Fruits, vegetables, berries, nuts and other foods for human consumption, feed for animals, tobacco, flowers, sod, trees, nursery or greenhouse products.

3. Forest products under a forest management plan approved by the State Forester.

Land is also used for agricultural and horticultural purposes if it used primarily and directly in a manner related to the production of the animals or crops and that use is necessary and incidental to the actual production or preparation of the animals or crops for market.

For the land to be considered "actively devoted" to a farm use, it must have been farmed for the two fiscal years prior to the year of classification and must have produced a certain amount of sales. The minimum gross sales requirement is $500 for the first 5 acres or productive land. That amount is increased by $5 for each additional acre of productive land being classified, unless the additional acreage is woodland or wetland. In that case, the amount is increased by only $.50 for each additional acre.

The minimum gross sales requirement for land being used to cultivate or raise a farm product that takes more than one season to produce its firs harvest is satisfied if the land is being used in a manner intended to produce those sales within the product development period set by the Farmland Valuation Advisory Commission for the particular crop or animal. (*The Farmland Valuation Advisory Commission is a state board made up of a representative from the Department of Food and Agriculture, Department of Revenue, University of Massachusetts College of Food and Natural Resources, Executive Office of Communities and Development and a local board of assessors.*)

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

APPLICATIONS

For property to be classified as agricultural or horticultural land under Chapter 61A, the property owner must submit a written application to the board of assessors of the city or town in which the land is located by October 1 of the year before the start of the fiscal year for which taxation as classified land is sought. (*The fiscal year of cities and towns begins July 1 and ends the following June 30.*) If the city or town is undergoing a revaluation for that fiscal year, the application deadline is extended until 30 days after the date the year's tax bills with the new values are mailed.

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

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

LIEN

Once an initial application is approved, the assessors record a statement at the Registry of

Deeds indicating that the land has been classified as agricultural or horticultural land under Chapter 61A. That statement

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will constitute a lien on the land for all taxes due under Chapter 61A. The owner must pay all fees charged by the Registry for recording or releasing the lien.

ANNUAL TAXATION

Under Chapter 61A, the owner still pays an annual property tax to the city or town in which the classified land is located. However, the tax is based on the commercial tax rate for the fiscal year applied to the value of the land for agricultural or horticultural purposes, rather than its fair market value as would be the case if the land were not classified. The value of the land for agricultural or horticultural purposes is determined by the assessors based on the range of values published annually by the Farmland Valuation Advisory Commission, as well as their own appraisal knowledge, judgment and experience.

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

MUNICIPAL OPTION TO PURCHASE

The city or town has an option to purchase any classified land whenever the owner plans to sell or convert it to a residential, commercial or industrial use. The owner must notify by certified mail the mayor and city council or the selectmen, assessors, planning board and conservation commission of the city or town of any intention to sell or convert the land to those uses. If the owner plans to sell the land, the city or town has the right to match a bona fide offer to purchase it. If the owner plans to convert it, the city or town has the right to purchase it at its fair market value, which is determined by an impartial appraisal.

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The city or town may also assign its option to a non-profit, conservation organization. The owner cannot sell or convert the land until at least 120 days after the mailing of the required notices or until the owner has been notified in writing that the option will not be exercised, whichever is earlier.

This option is not available to the city or town and the notice requirement does not apply if the agricultural or horticultural use is simply discontinued, or if the owner plans to build a residence for his or her use, or the use of his or her parent, grandparent, child, grandchild, brother or sister, the surviving spouse of any of those relatives, or an employee working full time in the agricultural or horticultural use of the land.

PENALTY TAX

The owner must pay one of two alternative penalty taxes whenever any of the land is no longer "actively devoted" to agricultural or horticultural purposes, whether or not that land is subject to the purchase option and notice requirement.

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

However, the owner must pay the alternative conveyance tax instead if the land is sold for a non-qualifying use within 10 years of the date the owner acquired it, or the earliest date of its uninterrupted use

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by that owner for agricultural or horticultural purposes, whichever is earlier, or is converted to a non-qualifying use within 10 years of the date the owner acquired it, and the conveyance tax is greater than the roll-back tax that would be due. The conveyance tax is based on the conveyance tax rate applied to the sales price of the land, or if converted, to the fair market value of the land as determined by the assessors. The conveyance tax rate is 10% if the land is sold or converted within the first year of ownership, 9% is sold or converted within the second year, and so on with the rate declining each year by one percentage point until it is 1% in the 10th year of ownership.

APPEALS & ABATEMENTS

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

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

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

DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES
PROPERTY TAX BUREAU
Phone: **(617) 626-2300**
Fax: **(617) 626-2330**
Web site: **http://www.dls.state.ma.us**

AGRICULTURAL OR HORTICULTURAL LAND

Massachusetts Department of Revenue
Division of Local Services
Property Tax Bureau

TAXPAYER'S GUIDE TO CLASSIFICATION AND TAXATION IN MASSACHUSETTS

CHAPTER 61A