

Review of Multiple Tax Rates across Massachusetts

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In 1974, the Massachusetts Supreme Judicial Court held that the Commissioner of Revenue had both the "power and the duty to direct local assessors" to maintain full and fair cash valuations. [Town of Sudbury v. Commissioner of Corporations and Taxation, 366 Mass. 558, 569.](#) After this decision, because the Massachusetts Constitution required that property taxation be "proportional and reasonable" and prohibited the imposition of taxes upon one class or persons or properties at a different rate from that which is applied to other classes, many predicted a property tax burden shift from business to residential properties. [Mass. Const. Pt. II, ch. 1, sec. 1, art. 4; Pt. I Declaration of Rights, art. 10.](#)

In 1978, however, voters approved an amendment to the Massachusetts Constitution that averted a wholesale shift of the tax burden to residential properties. The amendment authorized the Legislature to classify real property into as many as four classes. [Mass. Const. Amend. Article 112.](#) In 1979, the General Court adopted legislation that provided for the use of differential rates, provided a community was certified as assessing property at full and fair cash value. [St. 1979, c. 797.](#) The determination to implement differential tax rates is made by local option. In effect, the property tax burden could then be shifted to the business classes. [MGL c. 59, sec. 2A\(b\).](#)

Shifting the Property Tax Burden

Boards of Selectmen, Town Councils, and City Councils with approval of Mayors in communities assessing property at full and fair cash value must annually hold a public hearing ("classification hearing") to determine the percentage of the tax levy to be paid by each class of taxable property. [MGL c. 40, sec 56.](#) This determination is concluded by adoption of a residential factor.

The residential factor governs how much the Residential and Open Space (RO) classes' property tax burden may decrease and, consequently, how much the Commercial, Industrial and Personal Property (CIP) classes' property tax burden may increase.

Adopting a residential factor of "1," for example, (also called 100%), results in taxation of all property at the same rate. Adopting a factor less than "1" to as low as the legal minimum results in an increasingly greater tax burden shift from the RO classes to the CIP classes.

Review of Multiple Tax Rates across Massachusetts

Determining the Residential Factor

For the practitioner, calculating a residential factor within legal limits is best accomplished by using Gateway. Completing the LA-4 (Assessment/Classification form) also completes the LA-7 (Minimum Residential Factor Computation form) and the Chapter 200 form (Calculation of the Lowest Possible Residential Factor) and will provide the user with all the needed information.

Once these forms are completed, Gateway's LA-5 Options and Certification can produce a Table with information similar to the one below. The residential factor percentages shown in *Table 1* are reflective of this community's assessed values by class. In this case, provided the percentage does not exceed any legal limit (see the Chapter 200 form), an intended property tax burden shift from RO to CIP of 150% requires a residential factor of 92.0207 to be voted. For a 175% shift, a residential factor of 88.0311 must be voted.

Table 1

	Residential Factor	R/O Share of Levy	CIP Share of Levy	R/O Tax Rate	CIP Tax Rate
100%, No Shift	100.0000	86.2377	13.7623	17.93	17.93
125%	96.0104	82.7972	17.2028	17.21	22.41
135%	94.4145	81.4209	18.5791	16.93	24.21
150%	92.0207	79.3566	20.6434	16.47	26.89
165%	89.6270	77.2922	22.7078	16.07	29.58
175%	88.0311	75.9160	24.0840	15.78	31.38

Source: DLS Databank

Boards of Selectmen, Councils and Mayors often decide upon a residential factor by reviewing the factors shown in *Table 1* as well as by listening to advice from their Board of Assessors and other participants at the hearing.

Table 2 shows the number of cities and towns (including any "city known as the town of") that have and have not shifted the property tax burden for selected fiscal years and for fiscal years since FY2012. *Table 2* shows that:

- The majority of Massachusetts cities shifted, while the majority of towns did not.
- In the aggregate, most cities and towns did not shift.

The numbers each fiscal year have remained constant.

Review of Multiple Tax Rates across Massachusetts

Table 2

	FY2004	FY2008	FY2012	FY2013	FY2014	FY2015	FY2016
No Shift - Cities	11	11	13	13	13	13	13
No Shift - Towns	237	232	230	228	228	228	226
Subtotal - No Shift Cities and Towns	248	243	243	241	241	241	239
Shift - Cities	40	42	42	42	42	42	42
Shift - Towns	63	66	66	68	68	68	67
Subtotal - Shift Cities and Towns	103	108	108	110	110	110	109
Total	351	351	351	351	351	351	348

Source: DLS Databank

Most cities and towns are allowed by law to shift up to 150% of the property tax burden; some are allowed to shift up to 175%*. This is commonly known as the CIP shift. For cities and towns that adopted the shift, *Table 3* shows how many did so by the percentage they chose. Notice that at least one-half of those that chose to shift did so greater than 150%.

Table 3

Shift %	2012		2013		2014		2015		2016	
	Cities	Towns	Cities	Towns	Cities	Towns	Cities	Towns	Cities	Towns
less than 110	1	7	1	6	1	4	1	4	1	4
110 to 120	0	6	0	8	0	10	1	9	1	6
121 to 130	1	10	1	11	1	10	0	12	0	13
131 to 140	0	7	2	7	4	8	3	8	3	9
141 to 150	6	14	5	13	4	12	3	8	2	7
151 to 175	34	22	33	23	32	24	34	27	35	28
Total Cities	42		42		42		42		42	
Total Towns		66		68		68		68		67
Total	108		110		110		110		109	

Source: DLS Databank

Table 4 shows how much in tax dollars cities and towns have shifted from RO to CIP for selected fiscal years and then since FY2012. Since FY2004, the total dollar amount shifted has increased in total by about 52%, since FY2012 by 16%, and from FY2015 by about 4%.

Table 4

	2004	2008	2012	2013	2014	2015	2016
Cities	\$735.7	\$768.2	\$959.2	\$994.1	\$1,035.9	\$1,070.9	\$1,112.4
Towns	<u>\$204.1</u>	<u>\$233.9</u>	<u>\$272.7</u>	<u>\$285.0</u>	<u>\$293.4</u>	<u>\$306.4</u>	<u>\$317.2</u>
Total	\$939.8	\$1,002.1	\$1,231.9	\$1,279.0	\$1,329.3	\$1,377.3	\$1,429.6

Source: DLS Databank

Review of Multiple Tax Rates across Massachusetts

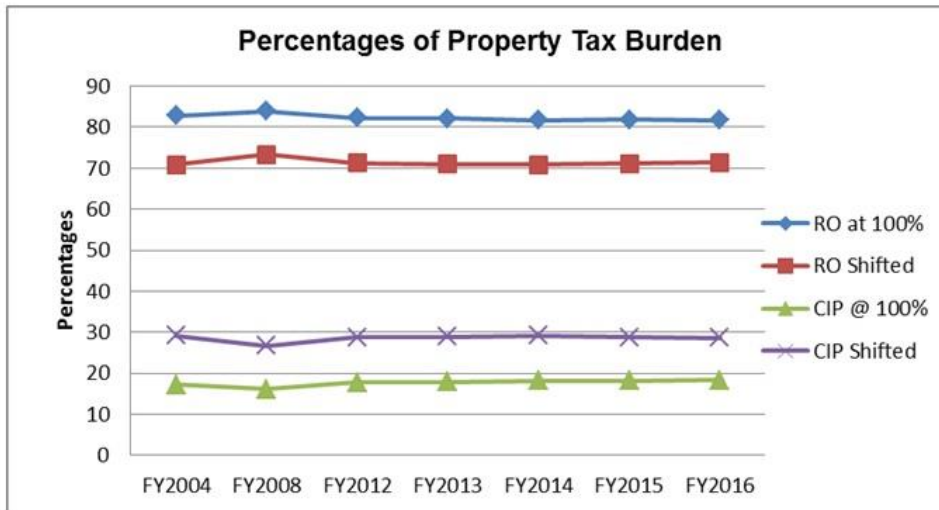
Table 5 shows how much on a percentage basis the property tax burden for RO and CIP has changed for selected fiscal years and then since FY2012. The Table shows that on a non-shifted basis, the RO vs CIP is about 80%/20% for these fiscal years. On a shifted basis, the percentages are about 70%/30% for these fiscal years. Generally, this reveals a percentage shift of about 150% (20% CIP x 150% shift = 30% CIP).

Table 5

Percentages of Property Tax Burden							
On a Non-Shifted Basis							
	FY2004	FY2008	FY2012	FY2013	FY2014	FY2015	FY2016
RO	82.84	83.89	82.28	82.08	81.78	81.88	81.73
CIP	17.16	16.11	17.72	17.92	18.22	18.12	18.27
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00
On a Shifted Basis							
	FY2004	FY2008	FY2012	FY2013	FY2014	FY2015	FY2016
RO	70.88	73.31	71.23	71.04	70.89	71.17	71.35
CIP	29.12	26.69	28.77	28.96	29.11	28.83	28.65
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Source: DLS Databank

Graph 1 shows the information from Table 5 in a different light. What may be seen more clearly in the Graph is the CIP having been shifted less from FY2004 to FY2008, in part reflective of Chapter 3 of 2004 explained in the footnote at the end of this article.



Source: DLS Databank

Advice for Practitioners

The information shown in Table 1 for your city or town is available in Gateway by entering your community's information in the forms noted prior to the Table. It's the

Review of Multiple Tax Rates across Massachusetts

easiest way to understand how the residential factor works, the CIP shift, and the legal limits in the calculation.

*[Chapter 3 of 2004](#) temporarily expanded the maximum CIP shift on an annual declining basis from FY2004 (200%), FY2005 (197%), FY2006 (190%), FY2007 (183%). Lower residential factor percentages were also in place. FY2008 returned to a 175% maximum.