

House Bill 2408: Telecomm Property Tax Fact Sheet

Background

Laws providing for the taxation of telecommunications were enacted in the 1920s. Deregulation and new technologies have transformed the industry into a technologically advanced, multi-billion-dollar enterprise.

Most Impacted Communities

Billerica	- 52.7 M
Boston	- 361.4 M
Cambridge	- 25.9 M
Framingham	- 39 M
Newton	- 21.2 M
Southborough	- 31.6 M
Springfield	- 137.2 M
Taunton	- 52.4 M
Walpole	- 29.3 M
Waltham	- 30 M
Westboro	- 67.6 M
Woburn	- 41.7 M
Worcester	- 22.7 M

Result

A disconnect between dated statutes and an evolving industry has resulted in significant reductions in assessments for cities and towns.

Decline in Telecommunications Assessments & Taxes (2004 – 2005)

- ! \$1.31 billion, or 37%, decline in telecommunications assessments
- ! \$31 million reduction in taxes paid companies

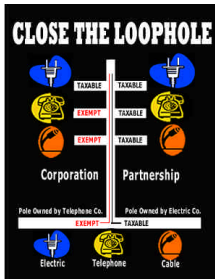
Verizon

- ! 60% of Verizon's property is exempt
- ! \$2.5 billion removed from municipal tax bases

Telecommunications exemptions results in higher residential and business property taxes. In Boston, telecommunications exemptions raised business tax rate by 2% and the average single family tax bill by \$185.

Legislation

- Closes the loophole that exempts telephone poles and wires over public property
- Removes the exemption for machinery (mainly switching equipment) of telephone companies
- Results in an estimated \$140 million in new revenue for cities and towns
- Hearing before Legislature's Revenue Committee on Tuesday, June 21.



Telecommunications Property Tax Legislation: A New Tax, or Closing a Loophole?

The Merriam-Webster Dictionary provides the following definition for the term "loophole":

a means of escape; especially : an ambiguity or omission in the text through which the intent of a statute, contract, or obligation may be evaded.

- Section 2 of Chapter 59 states that "All property, real and personal, situated within the commonwealth, and all personal property of the inhabitants of the commonwealth wherever situated, unless expressly exempt, shall be subject to taxation..."
- Clause 16 Section 5 of Chapter 59 states that various personal property owned by telecommunications companies is exempt with the **exception** of the following: "real estate, poles, underground conduits, wires and pipes..."
- Section 39 of Chapter 59 direct the Department of Revenue in valuation of telecommunications property to include "machinery, poles, wires and underground conduits, wires and pipes" **nine** separate times.

Given these explicit provisions, the overwhelming intent of the property tax statutes is for poles and wires located on public property to be taxed. Then how did the property become exempt? **When they escaped through a loophole....**

Section 18 of Chapter 59 tells assessors to whom to assess the tax. This language omits poles and wires from the first portion of the sentence dealing with public ways. A second portion that references poles and wires is limited to private ways. Why the omission of public ways? No one will likely ever know, since the language dates back to the early 1900s. It can be argued, however, that poles and wires on public property did not need to be included because it's obvious that the tax must be assessed to the owner of the poles and wires (the company) and not the owner of the land (the government). Nevertheless, despite the clear direction of Sections 2, 5 and 39, a Supreme Judicial Court decision in 1947 essentially said that since the statute does not say to whom the tax for poles and wires on public land should be assessed, they cannot be taxed.

Regardless of whether one believes that this is an unfortunate decision by the court or the result of a poorly worded statute, one fact remains clear: Poles and wires on public land escape property taxation through a loophole. Cities and towns throughout the Commonwealth ask that the Legislature close this loophole.