

TO: CAMBRIDGE CITY COUNCIL

March 11, 1976

FROM: BOARD OF ASSESSORS

In response to your request of March 1, 1976 (Council Order-David Clem) for input to policies concerning tax exempt properties, please be advised of the opinion of this Board.

The property tax is second only to the federal income tax and social securities levies and now accounts for approximately 56% of the revenues necessary to administrate local communities. This over reliance on the property tax has created a hardship for all property owners. Thus, the whole subject of the property tax is in great debate. The property tax for too-long has been a whipping boy for critics of the revenue system. Instead of creating budgets on the ability to pay, many local governments have seen fit to raise tax rates to absorb revenue needs. A limitation of the real property tax as indicated by the "Master Tax Plan" is very much in need. This would curtail in part the government spending that is indeed a part of our inflationary budgets and tax rates, changing economic values, lack of economic development, erosion of the tax base or any combination thereof.

One of the culprits has obviously been tax exempt property. How do we rectify this problem? The idea of rescinding all tax exemptions, like the notion of abolishing the property tax system of which they are a part, appears to be theoretically appealing rather than constitutionally and politically feasible. Complete abolition is not possible for a multitude of political and social reasons.

This Board has endeavored long and hard to relieve the exempt property situation in Cambridge. Since 1928 the City has been the recipient of "In--Lieu--of Tax Payments" from Harvard, Radcliffe, and M.I.T. This was based upon a 20 year agreement in which the community would receive voluntary payments from any land acquisitions on or after 1928 for a 20 year period based upon the current land assessment multiplied by the going tax rate. This remuneration was for land only and did not include the physical improvements. This was a 20 year agreement that was renewed in 1948. Upon the expiration of this agreement, many of the Harvard properties were dropping from the voluntary payment rolls and the City's economic condition required a different approach.

Therefore, we developed a new formula that increased voluntary payments from approximately \$300,000.00 in 1970 to approximately \$1,000,000.00 in 1976. All tax exempt properties were asked to make voluntary payments and many have responded. A complete synopsis of this program is attached.

What are our recommendations for the future?

1. A continuation of our present program involving a greater participation of tax exempt properties. This program will bring public attention to the plight of the Academic urban areas. We have endorsed this policy thru the International, State and County Assessors organizations in order to publicize this matter. A massive request for voluntary payments by all Assessors offices of exempt properties would generate a national concern. Our program, to our knowledge, is the most successful in the country and has been a model for many other municipalities.

Also, with the compilation of data for the implementation of equalization, we will be able to have a more comprehensive and accurate exemption information to be regularly reviewed and published. The public has to be apprised of the magnitude of the problem.

2. Federal Legislation--In 1975 this Board proposed and devised new innovative legislation based upon federal reimbursement thru Federal Revenue Sharing for those communities with a preponderous of tax exempt property. A copy of a letter of explanation to House Majority Leader Thomas P. O'Neill Jr., is enclosed to assist you in this regard.

We have been to Washington, D.C. and appeared before various taxation organizations to implement this legislation. Additional time and personnel are necessary to bring this to fruition. A return of up to \$20,000,000. is possible under this legislation. This could be the most significant change in exempt property in history. The response has been receptive but a major lobbying effort is necessary for success.

3. State Legislation--As we seek property reform, there should be a clarification of all State exemption provisions including statutory exemption for widows, veterans, elderly, etc. The re-institution of the old lien law would aid in removing those persons not in need of tax relief.

Presently, property owners complete applications for statutory exemptions and attest to income and estate by signing under the penalties of perjury. There is no investigatory staff available to pursue the violators. The truth comes out only when estates are probated. Too often, estates are enlarged and perpetuated by falsification on statutory exemptions. This benefits the heirs at the direct expense to the local taxpayer. If a lien were placed on the property, then we would accomplish things:

1. Provide help for the elderly and indigent to remain in their homes while they live.
2. Provide for reimbursement to the community upon sale of the property or death of the owner.
3. Eliminate the violators from filing initially.

This would protect the homeowner and the community. Why should we subsidize heirs who in most cases do not reside in the community?

In fiscal year 1975, we approved 1571 applications for statutory exemptions that amounted to \$812,613.81.

Also, legislation should be redrafted to insure that tax exempt properties specifically provide for the public need. The loopholes and ambiguities must be removed. It becomes frustrating when the Courts allow tax exemptions for almost any seeming worthwhile social cause even though it may be a duplication of an already existing public entity. It might be interesting to note that some recent applicants for tax exempt properties.

1. The American Association of Variable Star Observers--5 Sparks Street
2. Park Street Church--Seeking Parsonage exemption in Cambridge residential property even though Church is located in Boston--1626 Mass. Avenue
3. M.I.N.D. Inc.--Multidisciplinary Institute for Neuropsychological Development, Inc.--48 Garden Street
4. Foundation for Medical Research -49 Amherst Street
5. Harvard Community Health Plan--1603-1611 Cambridge Street
6. Cambridge Montessori School--161 Garden Street
7. Smithsonian Institute -Leases facilities from President & Fellows of Harvard College
8. Signet Associates--46-48 Dunster Street

These exemptions are costing the taxpayer dearly. However, legislation takes time and lobbyists will delay and attempt to change laws affecting their clients. The problem for legislative change in the Commonwealth lies in the fact that the majority of communities do not have the problem. Therefore, it takes a concerted effort on the part of a few to bring about change. Perhaps there should be a redirection of some planning and development funds to accommodate this critical need.

4. Moratorium--It is our opinion that there should be a moratorium on the expansion of current tax exempt properties and a restriction against new tax exempt properties. The legality of this intent has to be determined and discussed.

It should be mentioned here that the laws are quite clear on tax exemption. The legal basis for exemption is outlined in a pamphlet "Institutional Property Tax Exemptions in Massachusetts" by the International Association of Assessing Officers. This report is attached for your perusal. The City Solicitor and other legal personnel will have to determine the legality of restricting new exempt properties.

However, until this matter has been legally decided, it is our opinion that all further requests for the exemption of real property should be administered as follows:

1. Organizations make application for exemption thru the Assessors Office.
2. Request by Assessors for following information:
  - a. Articles of Organization
  - b. By Laws
  - c. Financial Returns
  - d. Income Tax Returns
  - e. Certificate of Federal Income Tax Exemption
  - f. Itemized list of disbursements and expenditures
  - g. Statement as to the use of each part of the property
  - h. Full explanation of the membership, stockholders, and operation of the Corporation.

3. A public hearing by the City Council, Committee of City Council, or Special Committee to discuss exemption and make recommendation.
4. Decision by City Solicitor.

This will acquaint the public and private sectors of the community with the problem at hand and perhaps generate our apathetic public to get involved.

Very truly yours

Board of Assessors

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Thomas F. Gibson

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Charles R. Lavery Jr., CAE,CMA

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Rudolph R. Russo, CAE,CMA

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# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

## OFFICE OF THE ASSESSORS

Thomas F. Gibson  
Charles R. Laverty, Jr., CAE, CMA.  
Rudolph R. Russo, CAE, CMA

September 30, 1975

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader  
2231 Rayburn Building  
Washington, D.C. 20515

Dear Tip:

Mr. Russo and I would like to thank you for the time afforded us concerning our proposed legislation for tax exempt property.

Mr. Leo Diehl and your staff were most helpful in discussing the program and have made recommendations for subsequent meetings.

As one third of all properties in the country are receiving some form of exemption from the property tax (The Free List by Alfred Balk - 1971) it is obvious that legislation should be adopted to relieve the eroding tax base of those communities that have excess tax exemption.

Cambridge, with 52% of its property being tax exempt, has been in the forefront in developing a "In-Lieu-of-Tax Payment" program that is considered to be one of the most successful in the country. A copy of this program was left with your staff. And yet, although this program has been successful, it is not enough.

Tax exempt properties continue to expand and people from all over the country continue to enjoy these facilities at the local taxpayer's expense.

Therefore, it is our proposal that the United States Government reimburse the cities and towns through Federal Revenue Sharing the amount of real estate taxes lost by tax exempt properties in the amount proportionate to the land assessments only times the current tax rate for each community. This reimbursement for land use only would be for land occupied by all tax exempt properties including the federal, state, and

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader

county governments, but excluding municipal ownership. This amount would be based upon the tax exempt land in the year preceding the current taxable period and would be the responsibility of the local community to provide these figures to the office in charge of Federal Revenue Sharing, Washington, D.C.

It is our opinion that the vehicle for federal reimbursement lies in the Federal Revenue Sharing program. A restructuring of this formula will allow additional revenue to those communities providing services for the entire populace, have little effect on the distribution of communities with little or no tax exempt properties (because of national allotments) and will not require another bureaucratic agency to oversee the program.

The presentation needs refinement but the idea and intent seem to be the answer to the expansion of tax exempt institutions as approved by the Internal Revenue Service, the courts, and government at all levels.

In the assessment profession, we are seeking equality in assessment practices to assure fair and equal treatment for all. It only seems logical that the communities with a preponderance of tax exempt properties for the use of all should be treated similarly. Communities with access to the tax exempt facilities of other communities will have to share some of the costs or some of the problems. A realignment of the Federal Revenue Sharing program will solve the situation to the satisfaction of all.

Currently, there is 34,000 square feet of land owned by tax exempt properties (not including city owned land - 46,000,000 square feet). Based on current assessments, the valuation of this land is approximately \$11,900,000.00. This could create a reimbursement of approximately 22 million dollars.

Based on your suggestion, we have discussed this plan with the Association of Massachusetts Assessors, Middlesex County Assessors Association, Northeast Regional Assessors Association, International Association of Assessing Officers, Cambridge Chamber of Commerce, personnel and members of the State Tax Commission, Cambridge City Manager, Lt. Governor O'Neill and the Lincoln Institute of Land Policy of Cambridge. We are planning a meeting of these groups to refine this presentation and then we will discuss it further with the public and private sectors for further backing.

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader

We will keep you abreast of our program and look forward to discussing this matter further with you in the near future in order that we can present implementation of this program before the House Ways and Means Committee.

Very truly yours,

BOARD OF ASSESSORS

Charles R. Laverty, Jr., CAE, CMA  
Chairman

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IAAO REPRINT

**INSTITUTIONAL  
PROPERTY TAX EXEMPTIONS  
IN MASSACHUSETTS**

*by Edward Dlott*

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# INSTITUTIONAL PROPERTY TAX EXEMPTIONS IN MASSACHUSETTS

by Edward Dlott

The Massachusetts Constitution grants to the legislature blanket authority to levy property taxes if they are "reasonable and proportional." Under this authority the legislature has provided that all property shall be taxed unless specifically exempted. Over the years the legislature has exempted various classes of property for three main reasons:

- 1) Because of the circumstances of individual owners (e.g., old age, poverty, war-incurred disability);
- 2) The property is being taxed in another more efficient or fair manner (e.g., automobiles, merchandise, machinery, intangible personal property);
- 3) The property is publicly owned (e.g., public buildings, parks, schools) or is privately owned but is used for purposes which serve the public interest (e.g., colleges, hospitals, churches).

A recent study by the Massachusetts Taxpayers Foundation focuses on the third category—property directly serving the public. In recent years, many exemptions of this institutional type have become particularly controversial in Massachusetts and the City of Boston because of the large concentration of medical and educational institutions there, and because of the state's excessive reliance on the property tax as a source of local revenue.

In 1970 the property tax (including the motor vehicle excise) accounted for 81 percent of total local expenditures and 71 percent of total local revenues. As the costs of local government have increased rapidly in recent years, the property tax has carried an excessively heavy burden, exceeding the growth in property values. Consequently, the size of the tax base and the extent of noncontributing exempt property have become crucial considerations in attempts to hold down spiraling tax rates.



*Mr. Dlott is a Research Associate for the Massachusetts Taxpayers Foundation. He holds a B.A. degree in government from Tufts University and a M.A. degree in political science from Northeastern University. Mr. Dlott has also completed additional graduate work in public and business administration at the University of Pennsylvania and Boston University. He is a member of the Governmental Research Association and of the Municipal Finance Officers Association.*

## Legal Basis

The Massachusetts Constitution, unlike the constitutions of most other states, makes no mention of property tax exemptions. However, the courts have held that like the power to tax, the power to exempt from taxation is an essential attribute of state sovereignty, and that the legislature does have the power to grant reasonable tax exemptions.

The Massachusetts exemption laws are a carry-over from colonial practices. There have been few major changes in these laws, even though exemptions have been an issue for many years.

Authority for property tax exemptions in Massachusetts is found in the General Laws, special acts, and judicial decisions.

The exemption statute (G.L. Chap. 59, Sec. 5) first deals with publicly owned exempt property. Clause one exempts from taxation property owned by the federal government; it thus affirms the prohibition of this kind of taxation by the U.S. Constitution as interpreted by the U.S. Supreme Court.

Clause two exempts property owned by the state. Municipal, county and district property is also exempt from taxation, but by court interpretation rather than by statute. In lieu of taxes the law also provides for payments by the state to cities and towns in which certain types of state-owned exempt property are located, such as a university or a forest. It also provides for payments in lieu of taxes by one municipality to another for exempt property it owns in the other when the property is used for certain specified purposes, such as a public airport or water supply.

The statutes which created the various public authorities also granted exemption on their property. In most cases the exemption extends to property leased for private commercial purposes. The statutes which established housing authorities and urban redevelopment corporations contain provisions which exempt their property and also provide for payments in lieu of taxes to the cities and towns in which this property is located.

Most private institutional exemptions are granted under clause three of the exemption statute, which exempts personal property of a charitable corporation or trust, and the real estate of a charitable corporation or trust, if occupied by it or by another charitable corporation for charitable purposes. It defines a charitable organization as "a literary, benevolent, charitable or scientific institution or temperance society incorporated in the Commonwealth, or a trust established for such purposes."

The Massachusetts Supreme Judicial Court has held that, to come within the terms of this clause, an organization or institution must be a public charity. It must prove that the dominant purposes of its activities are to benefit the public at large or an indefinite number of persons. Each organization exempt under this clause must file a form annually with the board of assessors in each city or town in which it owns exempt property, giving pertinent financial and other data. It must also file a

financial statement with the Division of Public Charities in the Attorney General's office.

The Court has had to deal extensively with the exemptions granted to educational institutions under the "literary" and "scientific" provisions of clause three. To qualify, the institution must be a public charity and must use its property for educational purposes. However, the Court has liberally construed "educational purposes" to include such uses as faculty residences.

Clause 11 of the statute exempts houses of religious worship and up to \$20,000 in valuation of a parsonage.

Under clauses 12 and 13, all land used for cemetery purposes is exempt, even if owned by a profit-making corporation. Buildings used exclusively for cemetery purposes are exempt only if owned by a religious nonprofit corporation. Personal property used for cemetery purposes is exempt if owned by any nonprofit organization.

In subsequent clauses, veterans' organizations receive exemptions on property they own and occupy even if used for social or other non-charitable purposes. Agricultural and horticultural societies receive exemptions only on that portion of their property used for society purposes. Fraternal societies receive exemptions only on their personal property.

## Questionnaire Results

As part of the study, questionnaires were sent, with the co-operation of the Association of Massachusetts Assessors, to the boards of assessors in each of the 351 cities and towns in the state. The 161 questionnaires returned were representative, accounting for over two-thirds of the state's population and three-fourths of the state's exempt property valuation.

Some general comments indicated that there is "too much exempt property" or that exempt property has reached "staggering proportions." In addition to many similar statements, the assessors cited some specific abuses. These included the exemption on property which educational institutions leased for faculty housing; exemptions for social and fraternal organizations not organized for charity; and exemptions for charitable clubs and veterans' organizations with liquor licenses.

An illustrative listing was made, based on the questionnaires, of payments in lieu of taxes given by private exempt institutions to the cities and towns in which they have property. The most significant were the yearly payments by Harvard, Radcliffe and the Massachusetts Institute of Technology to the City of Cambridge. After acquiring any additional land, these institutions make payments to the city for 20 years, based on the valuation of the land at the time of acquisition. In 1969 Harvard paid \$125,000, Radcliffe \$9,000, and MIT \$248,000.

As a rule the amounts of the other payments listed were not substantial, in fiscal terms, for the receiving cities and towns, and represented only small fractions of what the taxes would be if the institutions' property

were fully taxable. Conspicuously absent from the list were payments by the larger urban colleges, universities and hospitals.

## Exempt Property Valuation Procedures

For lack of better data the study makes extensive use of official exempt property valuation figures reported yearly by local assessors to the Department of Corporations and Taxation. However, as the assessors themselves admit on the questionnaires, the figures are unreliable and often are not indicative of the fair cash value of the exempt property. Since exempt property does not yield any tax revenue, the assessors gain little by devoting time and effort to accurate valuation, other than compliance with the legal requirements. An additional difficulty arises because the generally accepted methods of valuing property (comparative sales, replacement cost minus depreciation, and capitalization of income) are often inappropriate for valuing many kinds of exempt property.

Several cities and towns indicated reliance on the financial data forms filed by private exempt institutions as a source of exempt property valuation. Use of these forms involves little time and effort. The valuations they list will ordinarily reflect the book value of the property as determined by the institutions themselves.

Many cities and towns indicated use of original cost figures for valuing exempt property, especially for publicly owned exempt property where original cost figures were readily available. Because land and building values tend to increase with time, use of book value or original cost figures will tend to undervalue the property.

Few cities and towns indicated primary reliance on reproduction cost minus depreciation for valuing exempt property. Several indicated use of the comparative sales data approach when the appropriate data was available, but data was often unavailable. Other methods listed included use of building permit figures, insurance company appraisals, and valuation by professional appraisers.

There was a wide range of responses to a question about revaluation of exempt property. Some cities and towns which indicated occasional revaluations of exempt property admitted that they had not had such a revaluation since the 1950's. Some said that exempt property valuations were never changed after the initial valuation. One indicated the use of original cost figures which were up to fifty years old.

The questionnaire also asked the assessors for estimates of the ratio of exempt property valuations—both land and buildings—to the fair cash value of the exempt property. The reported ratios ranged from 10 to 100 percent. Different ratios for land and buildings for a city or town distort an analysis of the distribution of the various categories of exempt property, to the extent that some categories, especially in the public sector, are more land intensive than others.

The failure of valuation figures to reflect fair cash value is not con-

fined to exempt property but extends to taxable property as well. Although by law all property must be assessed at its fair cash value, State Tax Commission figures for equalized valuations indicate that for 1970 only three cities and 45 towns (out of 351) assessed property at full cash value. Twenty-four cities and 114 towns had assessment ratios of less than 50 percent. Substantially different exempt and taxable property assessment ratios for a city or town seriously distort a comparison of its taxable with its exempt property valuation.

## Distribution of Exempt Property in Massachusetts

In 1968, the latest year for which figures are available, Massachusetts had a total reported exempt real and personal property valuation of \$6.2 billion—25.8 percent of the state's total valuation. Since 1950 the exempt total has nearly tripled. The percentage exempt of total valuation, however, has risen only a modest three percent, reflecting the nearly parallel increases in taxable valuation.

Exempt property valuation totals are unreliable because of the inadequate valuation procedures discussed earlier. They are also incomplete because some assessors fail to submit the required exempt property data to the Department of Corporations and Taxation. Despite the limitations of the valuation data, it is useful in depicting the relationships among the categories of exempt property.

Table 1 gives the percentage distribution, by category, of the state's exempt property total. The predominance of publicly owned exempt property is striking. Although down from a high of 69 percent of the

**TABLE 1: Distribution of Exempt Property Valuations in Massachusetts by Category, 1950-1968**

	1950	1960	1968
Property of the United States	12.7%	7.9%	5.2%
Property of the Commonwealth	9.6	11.9	13.1
City or town property	43.7	39.3	39.5
Housing authorities	1.4	6.5	5.3
County or district property	1.7	2.0	2.3
Total Public	(69.0%)	(67.5%)	(65.4%)
Literary and scientific institutions	14.6	15.7	18.0
Charitable and benevolent institutions and temperance societies	7.4	9.0	9.5
Houses of religious worship <sup>a</sup>	8.2	7.0	6.5
Other private	.8	.7	.6
Total Private <sup>b</sup>	(30.5)	(32.5)	(34.6)
TOTAL	100.0%	100.0%	100.0%

<sup>a</sup> Includes parsonages and personal property of religious organizations.

<sup>b</sup> Details may not add to totals due to rounding.

Source: Department of Corporations and Taxation.

total in 1950, the public percentage of the exempt total has remained fairly constant at 65 percent since 1965. This reflects the extensive amount of city and town-owned property; in 1968 such property comprised 40 percent of all exempt property in the state.

In the private classification, property of literary and scientific institutions has been the most significant and fastest growing category, reaching 18 percent of the total by 1968. This is because of the expansion of the state's many private colleges and schools. The "religious" category accounts for a small and decreasing percentage of the total.

Despite the distortions and incompleteness of the data, the predominance of publicly owned exempt property is obviously well established and is likely to continue. As the degree and scope of governmental services increase, property owned by government will increase both in area and valuation.

## Distribution of Exempt Property in Boston

In Boston the exempt property issue has assumed major political importance and has attracted widespread public attention. Much of the talk has centered on Boston's many colleges and schools and their alleged responsibility for eroding the tax base.

In 1970 Boston had 12,795 acres of exempt land (excluding streets and sidewalks). The city's total exempt real and personal property valuation was \$1.9 billion—53.7 percent of its total valuation. Exempt valuation and the percentage exempt of total valuation have increased yearly, whereas taxable valuation has shown little substantial growth.

Estimates of the ratio of assessed to fair cash value for some types of taxable property in the city go as low as 31 percent.<sup>1</sup> This underassessment of taxable property partly explains why there has been little growth in the city's total taxable valuation. More realistic figures for the value of taxable property in the city would produce a higher total taxable valuation and a far smaller percentage exempt of total valuation.

Table 2 shows the distribution of the total exempt valuation and land area in Boston by category. City-owned property predominates in valuation; state-owned property predominates in area. The table brings out the dominance of the "public" categories which account for 79.6 percent of Boston's total exempt area and 66.4 percent of its total exempt valuation. While the "public" percentage of total valuation has been decreasing slightly, the "public" percentage of total exempt area has been increasing, illustrating the greater increases in land holdings of public agencies as compared to private institutions.

The valuation and area percentages for each category in the table

<sup>1</sup>Oliver Oldman and Henry Aaron, "Assessment-Sales Ratios Under the Boston Property Tax," *National Tax Journal* (March, 1965), p. 36; Oldman's updated figures are also used.

**TABLE 2: Distribution of Exempt Property  
Areas and Valuations  
in Boston, 1960-1970**

	Land Area		Valuations <sup>a</sup>	
	1960	1970	1960	1970
Property of the United States	6.4%	4.0%	12.8%	5.5%
Property of the Commonwealth	36.4	42.3	20.3	20.9
City property	34.5	33.3	25.8	34.2
Housing authorities <sup>b</sup>	—	—	10.2	5.8
Total Public	(77.3%)	(79.6%)	(59.1%)	(66.4%)
Literary and scientific institutions	6.5%	6.1%	13.4%	16.9%
Charitable and benevolent institutions and temperance societies	4.1	3.9	12.5	13.0
Houses of religious worship	3.0	2.7	4.2	3.3
Cemeteries <sup>c</sup>	7.5	6.1	—	—
Other private	1.6	1.4	0.8	0.4
Total Private <sup>d</sup>	(22.7%)	(20.4%)	(30.9%)	(33.6%)
TOTAL	100.0%	100.0%	100.0%	100.0%

<sup>a</sup> Real and personal.

<sup>b</sup> Area figures contained in "city property" category.

<sup>c</sup> Valuation figures contained in "other private" category.

<sup>d</sup> Details may not add to totals due to rounding.

Source: Department of Corporations and Taxation, and the Boston Assessing Department.

often show little correspondence. For example, property of literary and scientific institutions and of charitable and benevolent institutions, which accounts for 16.9 and 13.0 percent, respectively, of the city's total exempt valuation, accounts for only 6.1 and 3.9 percent of its total area. This illustrates the low intensity of land use on city- and State-owned land as compared to the highly intensive land use by private institutions. Also, the private exempt area percentages have not been substantially increasing as have their valuations. This suggests that much of the expansion of these institutions results from development of land which they already own rather than from the acquisition of new land. Consequently, the increase in exempt valuations of private institutions has been mainly from buildings and other improvements on previously exempt land. The growth of private exempt institutions through intensified land use has not been at the expense of potential tax-producing land and has resulted in relatively little erosion of the tax base.

The distribution of exempt and taxable property, by ward, shows no discernible relationship between large exempt property valuations and areas, and low levels of taxable valuations. From 1960 to 1970 many wards had consistent and substantial increases in exempt valuation, but also several corresponding years of substantial increases in taxable valuation. In the wards which showed large losses in taxable valuation during the period, exempt valuations and areas increased only negligibly,

or actually decreased, a fact which must dispel the popular notion that large and increasing amounts of exempt valuation or area are necessarily evidence of erosion of the tax base.

## Criteria for Private Institutional Exemptions

In 1968 there were approximately 2,200 private organizations and institutions in the state whose property was exempt from taxation. Most of these exemptions were granted under clause three of the exemption statute, which stipulates that an organization or institution must be either a charitable corporation or charitable trust.

The Massachusetts Supreme Judicial Court has consistently held that an organization or institution must be a public charity to come within the terms of the exemption statute, and that the terms "literary," "scientific," and "benevolent" in clause three refer only to corporations which are public charities. To receive an exemption on its real estate, an organization must not only demonstrate that it is charitable according to its charter or bylaws, but must also prove that it is so in actual operation and is using its property for charitable purposes. Although there are various definitions of the term "charitable" or "public charity," most authorities agree that the essential element of a charity is that it benefits the public at large or an indefinite number of persons.

Examination of the charters of various organizations which receive exemptions indicates that some do not meet the above criteria. Some organizations receiving exemptions are social or fraternal, and their exemption as charitable organizations is difficult to justify. Such social and fraternal groups benefit their own members rather than an indefinite number of persons, and the fact that some list on their charters the right to purchase and sell food and alcoholic beverages is further evidence of the noncharitable nature of the organization and use of property. The Court and the Appellate Tax Board have made it clear that social organizations whose purposes and activities benefit their own members should not be exempt.

Some organizations in the state are receiving exemptions despite the fact that a memorandum from the Department of Corporations and Taxation to each board of assessors specifically stipulates that the organizations listed should not be exempt. Few of the social or fraternal organizations claiming exemption as charitable organizations file financial data forms with the Division of Public Charities in the Attorney General's office as required of all public charities. Also, many such organizations have not been investigated by the Department of Public Welfare which, under the law, has the responsibility of investigating charitable organizations whose personal property would be exempt from taxation.

In this area the exemption process in Massachusetts results in a lack of consistency and standardization across the state, the inevitable result of having 351 boards of assessors responsible for determining exemption

policy. The assessors have the difficult responsibility of interpreting the exemption laws, a responsibility which requires making both legal and factual judgments. Since decision-making is at the local level, pressure is undoubtedly put on the assessor by local organizations which seek exemption.

The situation is compounded by the failure of the State Tax Commission to take a more active role in resolving some of the problems created by the fragmentation of the exemption process. Under the law, and according to court interpretation, the power of the Commissioner is only an advisory one. He cannot order that exemptions be granted or denied, and the instructions of the Commissioner to local assessors on this subject are not mandatory. Nevertheless, the Tax Commission could still take a more active role. It could attempt to bring more consistency to the exemption process through more active and frequent scrutiny of the exemptions granted, and through more frequent and more definitive instructions to local assessors on which the assessors could base their actions.

## Exempt Property and Local Tax Rates

With local property taxes rising, there has been a tendency to regard tax exempt real estate as a cause of high tax rates. If there is a significant relationship, there should be a generally higher level of property taxes in cities and towns with high percentages of their total property valuation or area exempt. However, this has not been the case. When exempt area and valuation percentages are compared to the full value tax rates (the rate at which property would be taxed if assessed at fair cash value) for cities and towns responding to the Foundation questionnaire, it is apparent that there is no close relationship between a high percentage exempt of total valuation or area and a high full value tax rate. For each level of exempt percentage there is, as Tables 3 and 4 indicate, a wide variation in the range of full value tax rates. Summarizing the data, a large percentage exempt of total valuation or area is not, *per se*, a liability in terms of the tax rate. Even allowing for the varying exempt and taxable property assessment ratios does not alter this conclusion.

One obvious factor explaining the lack of relationship between exempt property and tax rates is the tax levy, the amount of money which each city or town is required to raise by the property tax. Levels of spending for different services vary among the cities and towns, and this is reflected in their tax rates. The size of the tax levy depends on such factors as state-imposed charges and assessments, population, density, geographic characteristics, and willingness to spend for certain services—most of which tend to occur independently of exempt property considerations.

Even the size of the tax base is often independent of exempt property area or valuation. Given any amount of exempt property, the key to its tax rate effect is the use made of the area which is taxable. Consequently

**TABLE 3: Distribution of Full Value Tax Rates in Reporting Towns by Percent of Property Valuations Exempt, 1969 and 1970**

Percent of Property Value Exempt	1969					
	Under \$20	\$20-29	Full Value Tax Rate \$30-39	\$40-49	\$50-59	\$60 and over
Under 10%	2	1	3	2	2	0
10-19	2	2	4	6	2	0
20-29	0	1	2	3	1	0
30-39	0	0	0	1	0	0
40-49	0	1	0	0	0	0
50 and over	0	0	0	2	0	0
	1970					
Under 10%	4	4	11	4	1	0
10-19	0	1	18	20	6	1
20-29	1	2	8	9	1	0
30-39	0	0	3	5	0	0
40-49	0	0	2	2	1	0
50 and over	0	1	3	0	0	0

**TABLE 4: Distribution of Full Value Tax Rates in Reporting Towns by Percent of Property Areas Exempt, 1969 and 1970**

Percent of Property Area Exempt	1969					
	Under \$20	\$20-29	Full Value Tax Rate \$30-39	\$40-49	\$50-59	\$60 and over
Under 10%	2	4	4	3	2	0
10-19	0	1	1	7	2	0
20-29	0	0	1	3	0	0
30-39	0	0	1	2	1	0
40-49	1	0	0	0	0	0
50 and over	1	0	1	0	0	0
	1970					
Under 10%	3	6	26	19	7	0
10-19	1	2	7	15	0	1
20-29	0	0	7	2	1	0
30-39	0	0	3	1	0	0
40-49	1	0	1	0	0	0
50 and over	0	0	1	0	0	0

the tax rate in most communities will largely reflect their past and future choices as to the character and intensity of land use, irrespective of the extent of exempt property.

Two hypotheses also explain why exempt property does not necessarily contribute to higher tax rates. The first is that an exempt institution, even where it occupies potential tax-producing land, may be an asset rather than a liability because of its salutary economic effects on the surrounding area. Construction of housing and business facilities to service the staff and clientele of an exempt institution can mean an increase in taxable valuations. Also, the multiplier effects of increased em-

ployment and income generated by an institution can further intensify the expansion of tax-revenue producing facilities.

The second hypothesis is that exempt institutional use of land could mean a lower demand for municipal services than would a high cost taxable use. Since different types of land use create demands for different types and levels of municipal services, the land use of a particular area is directly related to the cost of servicing it. From a net cost point of view, the optimal use for some property may be for exempt purposes.

These hypotheses suggest that the extent to which exempt property is an asset or a liability is unanswerable in general terms and depends on the unique characteristics of each location or institution.

Future studies will examine these hypotheses more closely, concentrating on the costs and benefits of exempt institutions to the state and the cities and towns. Also projected for further study is a refined analysis of the capacity of various types of exempt institutions to absorb potential service charges and the potential incidence of such charges.



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OFFICE OF THE ASSESSORS

Thomas F. Gibson  
Charles R. Lavery, Jr., CAE, CMA.  
Rudolph R. Russo, CAE, CMA

TAX EXEMPT PROPERTY

AND A

PROGRESSIVE IN-LIEU

PAYMENTS PROGRAM

BY: CHARLES R. LAVERTY, JR., C.A.E., C.M.A.

RUDOLPH R. RUSSO, C.A.E., C.M.A.

PRINCIPAL ASSESSORS

CAMBRIDGE CITY HALL

CAMBRIDGE, MASSACHUSETTS 02139



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## OFFICE OF THE ASSESSORS

Thomas F. Gibson  
Charles R. Laverty, Jr., CAE, CMA.  
Rudolph R. Russo, CAE, CMA

## TAX EXEMPT PROPERTY AND A PROGRESSIVE IN-LIEU PAYMENTS PROGRAM

J. B. Colbert, the Comptroller General of Louis XIV in the 1600's once said that "the art of taxation consists of plucking as many feathers from the goose as possible with the least amount of hissing".

Due to the rising government costs, the golden goose (the tax-paying public) that lays the golden eggs (the tax dollar) is already hissing loud and clear!

And yet, Thomas Caryll once proclaimed that "in the long run every government is the exact symbol of its people with their wisdom and un-wisdom."

In other words the public guides their own destiny and we blame everyone but ourselves.

Why are taxes high? As Assessors, we are aware of the reasons all too well. How can we alleviate the situation?

1. Acquaint the public with the truth about the origin of their tax.
2. Strive for more professionalism within the assessors --- improve budget and staff --- better administration.

- 3. Promote less government spending as a deterrent to increased tax rates.
- 4. Seek new sources of revenue.

And how do we increase revenues or find new sources?

- 1. Enlarge the tax base thru building and renovation.
- 2. Revaluation if necessary.
- 3. Derive revenue from property not currently paying taxes i.e. Tax Exempt Properties.

Can we get revenue from tax exempt properties? Are we getting all that we should? You can if you try! We would recommend securing the book "The Free List from the Russell Sage Foundation by Alfred Balk (available thru IAAO).

It examines the "unexamined sieve". It deals with the one third that are not paying full taxation. It is an interesting study of the beginning and expansion of tax exempt properties.

The rhetoric on the subject, and there has been a great deal, ranges from the silly and ridiculous to the serious and dramatic; as examples:

- 1. A newspaper item, datelined Finchhampstead, England, 1972 read: "Stuart Young was incensed by the failure of official exterminators to eradicate a rare "fly" species with the homing instinct of a salmon that invaded his home every year, so that he sought and was given a reduction of \$164.00 in his annual property tax."
- 2. A religious organization not particularly connected with a specific church, submitted an application for an abatement of real estate taxes in the City of Cambridge, Massachusetts, described their reason for applying as follows: "building used soley for the purpose of housing religious items, and saints."

In a very serious vein, a prominent law firm from Chicago corresponding with a major real estate office in the Boston-Cambridge area, stated: "Pru (meaning the Prudential Insurance Company) is alarmed at the possibility of very high real estate taxes because so much of the area is occupied by tax free entities." So that tax property not only constricts the total tax revenue, but prevents the possibility of new development, especially in the urban areas where it is so badly needed.

First, you must examine your own community to find the actual problem with tax exemption.

The City of Cambridge, with a population of approximately 100,000; sometimes referred to as the "University City" has a "lions share" of the tax exempt problem. The total area of Cambridge amounts to only 6.25 square miles and relatively all developed. The City is currently one half exempt.

In attempt to illustrate the "Dilemma" we cite the following statistics:

1973

Taxable Real Property.....	\$280,000,000
Tax Exempt Property.....	<u>260,000,000</u>
Total.....	\$540,000,000

This indicates a percentage of 48% for tax exempt property.

And this picture can and should be painted a lot worse.....because it is a natural action to sort of ignore the tax exempt structures insofar as reassessing is concerned.....this is not to say that if our largest tax exempt institution, Harvard, builds a new building, we don't assess it.....we simply do not spend the time placing an educated value on the parcel, knowing full well that we're not going to receive any real tax

dollars from it.....so that a conservative amount to add to the tax exempt rolls would be approximately 8%, hence a city with approximately 52% of its total real property valuation EXEMPT. We think that this is incredible and we have done something about it. (See chart at end of article).

It seems that assessors, taxpayers, elected officials and the general public, generally disregard the religious, municipal, county, state and federal tax exempt property and focus attention on the educational facilities. This is a natural and nationwide action inasmuch as the educational institutions are assembling parcels and expanding in most areas of the country at a very rapid pace.

In our state, educational facilities become exempt under the third clause of Section Five of Chapter 59 of the General Laws which exempts; literary, benevolent, charitable and scientific organizations within which category our schools fall. The only exception to this rule applies to Harvard University which is specifically exempt in the Constitution of the Commonwealth of Massachusetts.

To give you some idea of the magnitude of the tax exempt status of the two major schools in our city as it relates to the valuation base, both world renowned, M.I.T. and Harvard (including Radcliffe) the 1973 rolls show valuations of:

Harvard University .....	\$104,000,000
M.I.T.....	<u>46,000,000</u>
Total.....	\$150,000,000

So that of the total tax base:Harvard represents(tax exempt) 19.3%

M.I.T. represents 8.5%

For a total of..... 27.8%

for the two major schools in our City.

In spite of these staggering statistics, it is vitally necessary to understand that without these schools, these giants, if you will, there may not be a Cambridge as we know it.....especially in view of the exodus from the urban area to the suburbs of the major manufacturing and other industrial firms.

Our University element gives our Police, Fire and Public Works Departments and more recently the Election Commission and many more departments many headaches, but we must not lose sight of the fact that M.I.T. employs the largest number of people (approximately 15,000) and Harvard ranks second in this area. Their presence has created an unusual, active real estate market especially in the Harvard Square area where we feel values are second only to Times Square, N. Y. Their existence has also been responsible for much development in the past several years.

These schools are also ranked highly in terms of total valuation of taxable property.

However, it seems unfair considering the situation in Cambridge, whereby, students enter the city from all over the country and the world for that matter, that the citizens of one city should subsidize, in effect, the education of these students. It would seem that the burden should be shouldered not by the State alone but by the Federal Government. Perhaps this assistance could be extended in the form of a greater amount of revenue sharing for those communities having large enrollments of nationally prominent schools, such as Cambridge has.

Also, however, tax exempt institutions must be made aware of their responsibility to the community. "In-Lieu of Tax" payments appear to be part of the answer. This has been recognized for some time in our

city. In 1928 there already was a concern on the part of city and university officials that our small city was already over burdened by tax exempt properties. Therefore, the City, Harvard, Massachusetts Institute of Technology and Radcliffe entered into an agreement to pay "In Lieu of Taxes" on all acquired property after 1928 regardless of use, on the assessed value of the land only at the time of acquisition at the going tax rate for twenty years.

This agreement was renewed in 1949 for twenty years and was up for renewal in 1968. It was renewed on an annual basis since.

One of the inequities of the past agreement was the provision that allowed the property to drop completely off the "In Lieu of Tax" rolls after 20 years. (example-----a property purchased by the institutions in 1950 would be removed from payments in 1970). The following are 1971 results of the 1928 agreement for "In Lieu of Tax" payments (excluding Married Student Dorms).

1971 "IN LIEU OF TAX" PAYMENTS"

Harvard .....	\$ 90,932.32
Radcliffe.....	\$ 13,014.92
M.I.T.....	\$229,000.00

Since 1968, the original agreements had been carried out on a year to year basis in a friendly manner and for two years new methods and/or formulas were rendered by both parties (Harvard and M.I.T. and the City). After lengthy, frequent and sometimes exhausting meetings, the Board of Assessors in the City of Cambridge designed a plan or formula, which we considered to be as fair and equitable to all tax

exempt groups (not only Harvard and M.I.T.) as could be devised.

Due to high municipal costs, and the fact that we were renegotiating the "In Lieu of Tax" payments agreements, we felt a re-examination of the entire area was called for. We also felt that this should be initiated at the local level.

Let us examine the facts.

1. It should be mentioned here that the tax exempt properties of the city are exempt due to the laws of the land (Federal and State).
2. Three of the universities in this city felt the Government was overburdened by tax exemptions in 1928 and realize the magnitude of the present situation. We have had cordial administrative experience in the past and present and they have indicated a desire to be more helpful in the future.
3. Nationwide, the focus is on the rising taxation of real estate and the causes for it. And of course, we find that tax exempt property is somewhat responsible for this dilemma. Here in Cambridge, where tax-exempt property is approximately fifty percent of all property, the problem becomes more evident. There is a growing awareness on the part of members in the taxation field concerning a change in the laws regarding tax-exempt institutions. It is our opinion that in the near future(5-10 years) we will see taxation of some kind placed on tax-exempt properties at least in part. Therefore, we do not desire to affect any agreements for a long period of years as has been done in the past.

4. We feel that perhaps this is the time to request an "In Lieu of Tax" payment from all tax exempt groups. Hence, we felt it vitally necessary to develop some plan, method or formula that, because of its basic concept, would be fair and equitable to all.

How do we arrive at a formula that is equitable for all tax exempt properties? We have examined several different methods. (Percentage of land formula, percentage of building formula, head tax, percentage of municipal services, to mention a few). We finally concluded a payment should be based on square footage.

We have related the costs of municipal services to square footage. This city comprises 6.25 square miles. This amounts to 4000 acres or 174,240,000 square feet. The land is divided into these categories as follows:

Taxable Land	(54%)	approximately 94,000,000 square feet
Tax Exempt Land	(46%)	approximately 80,000,000 square feet
1. Privately owned tax exempt approx.		34,000,000
2. City owned tax exempt approx.		46,000,000

This land is currently producing approximately \$9,000,000.00 in revenue to the city or 5.2¢ per square foot.

The 1971 figures indicate that approximately 34,000,000 square feet are now being used by tax exempt properties. If these were assessed .052 cents per square feet the city would realize approximately \$1,768,000.00 in revenue.

This would amount to an increase of approximately \$1,400,000.00 in revenue. Bearing in mind once again that these properties are completely tax exempt under the law, it is impossible to send them tax bills in any form.

These charges to exempt properties would represent a very minor increase in tuition or dues. As we are providing valuable land on a tax-free basis and excellent municipal services, these institutions should be willing to pay at least a part of the cost.

Tax exempt properties are using all the municipal services in the city in one form or another.

Considering that only a handful of Cantabridgians are attending the universities and private schools it seems little to ask that the students share but a small part of the cost.

We received approximately \$300,000.00 (including Married Student Dorms) in "In Lieu of Tax" payments in 1971 under the previous formula, approximately \$600,000.00 in 1972 under the present formula and anticipate \$1,000,000.00 in 1973. (See chart at end of article).

We held seminars explaining the program, then sent out the following request:

Dear Tax Exempt Property Owner:

Tax exempt properties take up approximately fifty percent of the land area and represent approximately 50% of assessed value in the city. Therefore, one half of the land in the city is responsible for financing and maintaining our needed municipal services. These services are considered essential for your protection and use.

As a property owner in the City of Cambridge you are receiving many tax supported property services without charge.

In 1971, taxable and tax-exempt land produced approximately \$9,000,000.

By dividing this amount by the total land area (174,000,000 square

feet) we arrive at a per foot unit of 5.2¢. We are suggesting that this unit is used in computing an amount of "In Lieu of Tax" payment to the City based on the amount of land used.

Owners of some tax exempt properties, recognizing the benefits of municipal services, are making voluntary financial contributions on this basis to the City's general fund.

Based on your ownership of 305,150 square feet, your contribution for services would amount of \$15,867.80. A voluntary payment to the City of Cambridge in this amount will demonstrate civic responsibility and will be greatly appreciated by the tax paying public.

Board of Assessors

Thomas F. Gibson

Charles R. Laverty, Jr., C.A.E., C.M.A.

Rudolph R. Russo C.A.E., C.M.A.

As assessors, we have been talking about this mammoth problem and its possible solution or solutions for several years now, generally on an informal basis.

However, due to our successful program, we have been asked to speak out on this issue.

We began formal presentations so to speak, in the north eastern part of the country early in 1972, in an attempt to make our studies and analyses and subsequent solution (without changing state statutes or making constitutional changes) known to the assessing profession. In talks before the Middlesex County (Massachusetts) Assessors Association, the Association of Massachusetts Assessors Annual State Conference, the Annual State School held at the University of Massachusetts and at the

Association of New Hampshire Assessors Annual State Conference, we found attentive and inquisitive audiences. We were invited to attend the seminar on tax exemption in Washington, D. C. in June of 1973, where we presented "The Cambridge Story". We were asked to serve on the tax exempt committee of the IAAO and in that capacity met in Chicago in September 1973 and held draft policy statements relating to the tax exempt problem which were subsequently presented to the IAAO Executive Board for adoption in Miami at the Annual Conference of IAAO this past November. We have found an acceleration of interest in this area and the concern is nationwide.

In posing the question to Assessors from all over the country, "How much tax exempt property do you have in your city? town? or taxing jurisdiction?" Most Assessors don't know, perhaps because they take the subject very lightly inasmuch as they consider that nothing can be done about it. But if assessors took the time to compute the taxable/tax exempt ratio, many would be quite shocked at the results.

Assessors tend to forget the very obvious, those properties occupied by Municipal Schools, City Parks, Water Works, County and State Buildings and the like, and they especially ignore the Churches and related holdings which may be tax exempt.

How about Churches? Should they pay "In Lieu of Tax" payments? Have some expanded the law to become tax exempt?

Recently in Cambridge, a small group acquired a commercial building and used it as a Meeting Hall. Although they had no ordained Minister, planned no weddings, baptisms, etc., they applied for exemption as a Church. The request was denied by the Board of Assessors. It was appealed to the Appellate Tax Board and the applicants testified

that they took turns quoting from the Bible and this was their means of worship. The Appellate Tax Board ruled in favor of the appeal and the building is now considered to be a tax exempt Church.

In Minneapolis a family put an altar in the basement of their home, incorporated as a Church and claimed tax exemption. It took some time to invalidate the claim.

Some churches have actually acquired large tracts of land for use as a cemetery to receive tax exemption. After many years the one or two bodies buried were exhumed and the land was sold for development at a tremendous financial gain.

For the past 10-20 years, Priests, Nuns, Ministers, Rabbis, have demonstrated about Viet-Nam, Government, Housing, Civil Rights, etc. Reverends, King Berrigan Gropp; Abernathy and thousands of others have participated in demonstrations.

If the Churches are to participate in these areas, would not their position be strengthened if they participated in the cost of government?

Is the voice of the Church being compromised when the Church speaks from the privileged position of exemption?

Perhaps if Churches paid some tax they could speak more forthrightly and society may be more willing to listen.

Quote Baptist Clergyman Bob W. Brown: "if the Churches were taxed, the Churches would be forced to get back to their proper business of religion!"

If the Church were taxed, the Church would either support her institutions and programs or give them up. We would have to re-examine

and re-assess our role in society. We would have to determine priorities. We would be forced out of privilege into ministry. We would either support ourselves or we would abandon our vast empire.

I am a church man. I believe that if the churches were taxed the American churches would enjoy a new vitality. They would be free to be prophetic. They would be stronger and more respected. If the churches were taxed, your tax burden might be lighter. The public treasury might be enlarged. Most important of all, in my view, the churches would attain a new and higher level of integrity!

Up to now, we have attempted to stimulate some ideas that could be helpful to all assessors. We feel that many tax exempt properties would begin to contribute to the public treasury if properly asked.

We think that most will agree that our program is successful. However, it does not stand alone. More than thirty communities in Massachusetts are now receiving some "In-Lieu-Of Tax Payments" from exempt properties.

Minneapolis has requested contributions of exempt properties this past year. Others are also joining the parade to stem the tide of allowing the further expansion of exemption with no contribution to the local treasury. Just imagine the publicity that could be attained if all communities sent out requests for "In-Lieu-Of Tax Payments". This would surely draw attention to the problem.

Well, this is what we have done! It is a positive step in the right direction. It is something that you may try.

What else can we do?

1. Make sure that exempt property values are kept up to date and make known to the public.

2. State exemptions should be clarified and loopholes removed, the Elderly, Veterans, etc.
3. Government payments and reimbursement for exemptions will reduce Legislative tomfoolery.
4. Improve assessing and collecting offices in administering collections.
5. Collect payments for municipal services.
6. Require Government to pay for municipal costs and use their land to greater advantage.
7. Start programs such as ours.

There is little question that eventually tax exempt property as we presently know it will change. With the cost of Government expanding as it is, the burden placed upon the average homeowner and the plagued commercial and industrial sacrificial lamb has reached unreasonable proportions.

Somewhere, somehow, help must be attained for municipalities like Cambridge. Our program, which is not the final answer and/or solution to this colossal travesty on the tax paying public is a start.

IAAO is taking an active interest in this dilemma and the following is a policy statement approved by the Executive Board at the Annual Conference in Miami, Florida.

The International Association of Assessing Officers is concerned over the increasing number of property tax exemptions being granted. The abuse of property tax exemptions only serves to erode the tax base and to shift the tax burden to those taxpayers who, already heavily burdened, can least afford it. Statistics show that approximately one-third of the real estate in the United States is accorded some type of tax exemption,

In the face of continuously rising taxes, it is unfair that the non-exempt taxpayer should absorb the increasing burden of financing public services, which are equally enjoyed by all, including owners of tax exempt property.

Therefore, the IAAO is undertaking a strong public information program to acquaint the public with the problems raised by exemption laws. To publicize this dilemma, the IAAO is requesting that assessing jurisdictions and assessing officers adopt the following recommendations:

1. That the states require annual applications for exemptions on appropriate forms.
2. That each assessment jurisdiction publish a list of available data on exempt properties or show such exempt properties on the assessment roll, including such items as the owner, address, land area, valuation, etc.
3. That existing exemption laws be reviewed, with the goal of reducing the tax burden to the taxpayer.
4. That, where appropriate, each taxing jurisdiction institute a program to orient the exempt community and promote a realistic formula for requesting payments in lieu of taxes.
5. That property owned by any exempt institution, and utilized or possessed for any purpose other than the use for which the exemption has been claimed or granted, be subject to taxation, as is presently the practice in some jurisdictions in the United States.

By: Charles R. Laverty, Jr., C.A.E., C.M.A.

Rudolph R. Russo, C.A.E., C.M.A.

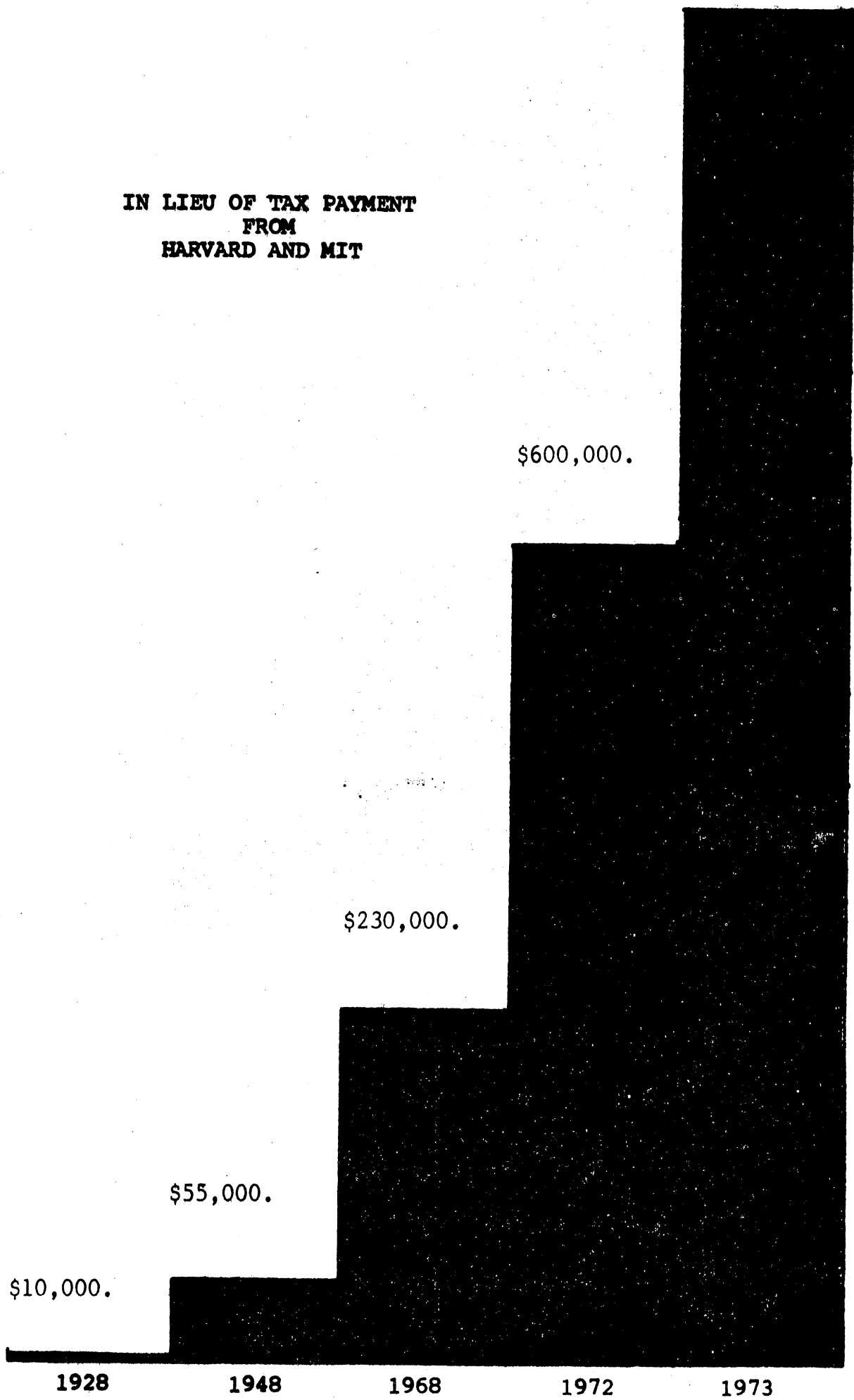
Principal Assessors

City of Cambridge

Cambridge, Massachusetts 02139

\$1,000,000.

IN LIEU OF TAX PAYMENT  
FROM  
HARVARD AND MIT



\$10,000.

\$55,000.

\$230,000.

\$600,000.

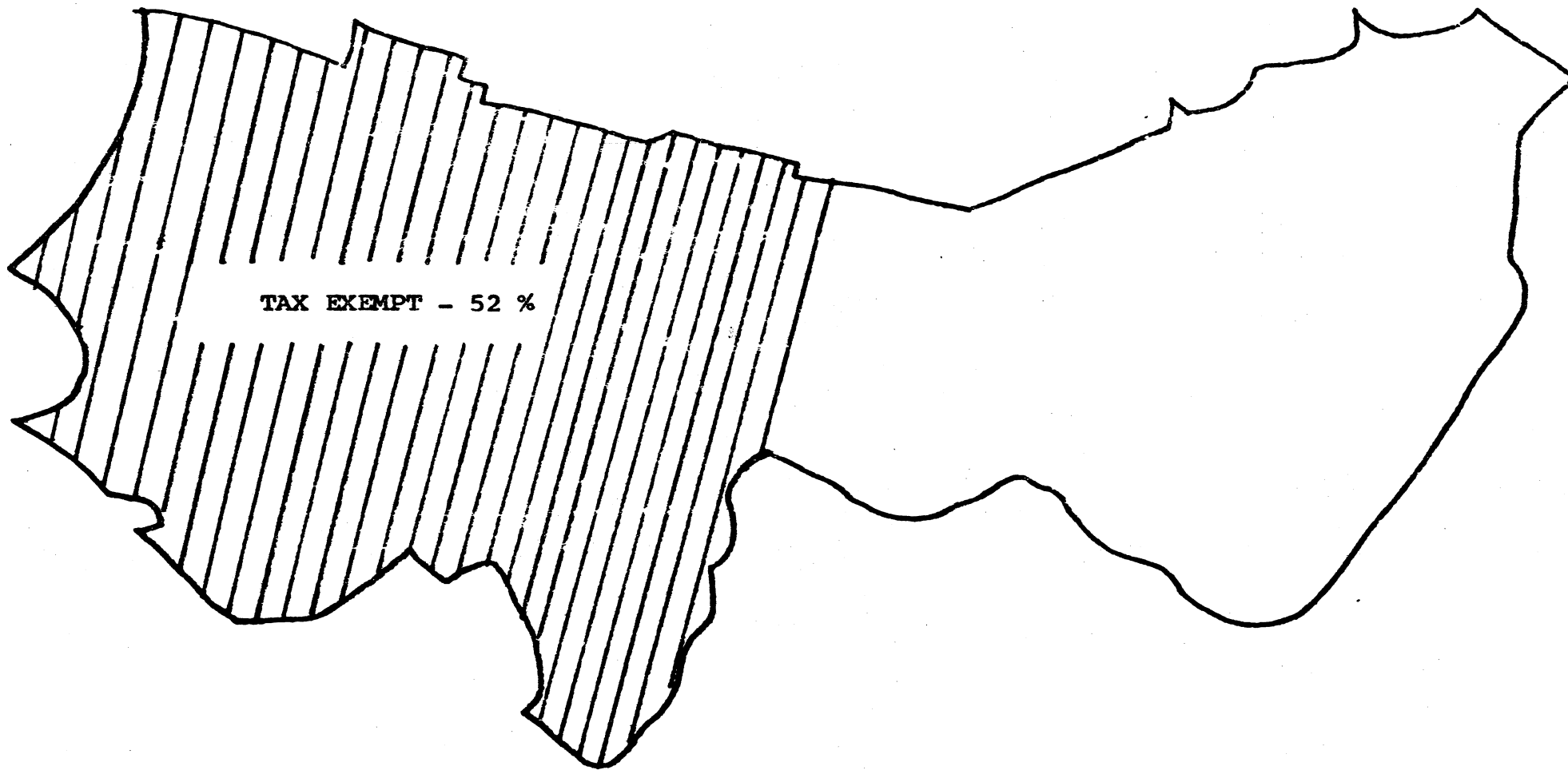
1928

1948

1968

1972

1973



TAX EXEMPT - 52 %

CITY OF CAMBRIDGE, MASSACHUSETTS

6.25 SQUARE MILES



# CITY OF CAMBRIDGE

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## OFFICE OF THE ASSESSORS

Thomas F. Gibson  
Charles R. Laverty, Jr., CAE, CMA.  
Rudolph R. Russo, CAE, CMA

September 30, 1975

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader  
2231 Rayburn Building  
Washington, D.C. 20515

Dear Tip:

Mr. Russo and I would like to thank you for the time afforded us concerning our proposed legislation for tax exempt property.

Mr. Leo Diehl and your staff were most helpful in discussing the program and have made recommendations for subsequent meetings.

As one third of all properties in the country are receiving some form of exemption from the property tax (The Free List by Alfred Balk - 1971) it is obvious that legislation should be adopted to relieve the eroding tax base of those communities that have excess tax exemption.

Cambridge, with 52% of its property being tax exempt, has been in the forefront in developing a "In-Lieu-of-Tax Payment" program that is considered to be one of the most successful in the country. A copy of this program was left with your staff. And yet, although this program has been successful, it is not enough.

Tax exempt properties continue to expand and people from all over the country continue to enjoy these facilities at the local taxpayer's expense.

Therefore, it is our proposal that the United States Government reimburse the cities and towns through Federal Revenue Sharing the amount of real estate taxes lost by tax exempt properties in the amount proportionate to the land assessments only times the current tax rate for each community. This reimbursement for land use only would be for land occupied by all tax exempt properties including the federal, state, and

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader

county governments, but excluding municipal ownership. This amount would be based upon the tax exempt land in the year preceding the current taxable period and would be the responsibility of the local community to provide these figures to the office in charge of Federal Revenue Sharing, Washington, D.C.

It is our opinion that the vehicle for federal reimbursement lies in the Federal Revenue Sharing program. A restructuring of this formula will allow additional revenue to those communities providing services for the entire populace, have little effect on the distribution of communities with little or no tax exempt properties (because of national allotments) and will not require another bureaucratic agency to oversee the program.

The presentation needs refinement but the idea and intent seem to be the answer to the expansion of tax exempt institutions as approved by the Internal Revenue Service, the courts, and government at all levels.

In the assessment profession, we are seeking equality in assessment practices to assure fair and equal treatment for all. It only seems logical that the communities with a preponderance of tax exempt properties for the use of all should be treated similarly. Communities with access to the tax exempt facilities of other communities will have to share some of the costs or some of the problems. A realignment of the Federal Revenue Sharing program will solve the situation to the satisfaction of all.

Currently, there is 34,000 square feet of land owned by tax exempt properties (not including city owned land - 46,000,000 square feet). Based on current assessments, the valuation of this land is approximately \$11,900,000.00. This could create a reimbursement of approximately 22 million dollars.

Based on your suggestion, we have discussed this plan with the Association of Massachusetts Assessors, Middlesex County Assessors Association, Northeast Regional Assessors Association, International Association of Assessing Officers, Cambridge Chamber of Commerce, personnel and members of the State Tax Commission, Cambridge City Manager, Lt. Governor O'Neill and the Lincoln Institute of Land Policy of Cambridge. We are planning a meeting of these groups to refine this presentation and then we will discuss it further with the public and private sectors for further backing.

Congressman Thomas P. O'Neill, Jr.  
House Majority Leader

We will keep you abreast of our program and look forward to discussing this matter further with you in the near future in order that we can present implementation of this program before the House Ways and Means Committee.

Very truly yours,

BOARD OF ASSESSORS

Charles R. Laverty, Jr., CAE, CMA  
Chairman

CRLjr;klw

cc: Philip J. Waterman, Pres. A.M.A.  
John J. Connors, Pres. N.R.A.A.  
Bernard Shadwray, Past Pres. I.A.A.O.  
Robert Jones, Pres. Cambridge Chamber of Commerce  
Ruth Kleinfeld, Associate State Tax Comm.  
James L. Sullivan, Cambridge City Manager  
Thomas P. O'Neill, III, Lt. Governor  
Arlo Woolery, Executive Dir., Lincoln Institute

IAAO REPRINT

**INSTITUTIONAL  
PROPERTY TAX EXEMPTIONS  
IN MASSACHUSETTS**

*by Edward Dlott*

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Street, Chicago, Illinois 60637.

# INSTITUTIONAL PROPERTY TAX EXEMPTIONS IN MASSACHUSETTS

by Edward Dlott

The Massachusetts Constitution grants to the legislature blanket authority to levy property taxes if they are "reasonable and proportional." Under this authority the legislature has provided that all property shall be taxed unless specifically exempted. Over the years the legislature has exempted various classes of property for three main reasons:

- 1) Because of the circumstances of individual owners (e.g., old age, poverty, war-incurred disability);
- 2) The property is being taxed in another more efficient or fair manner (e.g., automobiles, merchandise, machinery, intangible personal property);
- 3) The property is publicly owned (e.g., public buildings, parks, schools) or is privately owned but is used for purposes which serve the public interest (e.g., colleges, hospitals, churches).

A recent study by the Massachusetts Taxpayers Foundation focuses on the third category—property directly serving the public. In recent years, many exemptions of this institutional type have become particularly controversial in Massachusetts and the City of Boston because of the large concentration of medical and educational institutions there, and because of the state's excessive reliance on the property tax as a source of local revenue.

In 1970 the property tax (including the motor vehicle excise) accounted for 81 percent of total local expenditures and 71 percent of total local revenues. As the costs of local government have increased rapidly in recent years, the property tax has carried an excessively heavy burden, exceeding the growth in property values. Consequently, the size of the tax base and the extent of noncontributing exempt property have become crucial considerations in attempts to hold down spiraling tax rates.



*Mr. Dlott is a Research Associate for the Massachusetts Taxpayers Foundation. He holds a B.A. degree in government from Tufts University and a M.A. degree in political science from Northeastern University. Mr. Dlott has also completed additional graduate work in public and business administration at the University of Pennsylvania and Boston University. He is a member of the Governmental Research Association and of the Municipal Finance Officers Association.*

## Legal Basis

The Massachusetts Constitution, unlike the constitutions of most other states, makes no mention of property tax exemptions. However, the courts have held that like the power to tax, the power to exempt from taxation is an essential attribute of state sovereignty, and that the legislature does have the power to grant reasonable tax exemptions.

The Massachusetts exemption laws are a carry-over from colonial practices. There have been few major changes in these laws, even though exemptions have been an issue for many years.

Authority for property tax exemptions in Massachusetts is found in the General Laws, special acts, and judicial decisions.

The exemption statute (G.L. Chap. 59, Sec. 5) first deals with publicly owned exempt property. Clause one exempts from taxation property owned by the federal government; it thus affirms the prohibition of this kind of taxation by the U.S. Constitution as interpreted by the U.S. Supreme Court.

Clause two exempts property owned by the state. Municipal, county and district property is also exempt from taxation, but by court interpretation rather than by statute. In lieu of taxes the law also provides for payments by the state to cities and towns in which certain types of state-owned exempt property are located, such as a university or a forest. It also provides for payments in lieu of taxes by one municipality to another for exempt property it owns in the other when the property is used for certain specified purposes, such as a public airport or water supply.

The statutes which created the various public authorities also granted exemption on their property. In most cases the exemption extends to property leased for private commercial purposes. The statutes which established housing authorities and urban redevelopment corporations contain provisions which exempt their property and also provide for payments in lieu of taxes to the cities and towns in which this property is located.

Most private institutional exemptions are granted under clause three of the exemption statute, which exempts personal property of a charitable corporation or trust, and the real estate of a charitable corporation or trust, if occupied by it or by another charitable corporation for charitable purposes. It defines a charitable organization as "a literary, benevolent, charitable or scientific institution or temperance society incorporated in the Commonwealth, or a trust established for such purposes."

The Massachusetts Supreme Judicial Court has held that, to come within the terms of this clause, an organization or institution must be a public charity. It must prove that the dominant purposes of its activities are to benefit the public at large or an indefinite number of persons. Each organization exempt under this clause must file a form annually with the board of assessors in each city or town in which it owns exempt property, giving pertinent financial and other data. It must also file a

financial statement with the Division of Public Charities in the Attorney General's office.

The Court has had to deal extensively with the exemptions granted to educational institutions under the "literary" and "scientific" provisions of clause three. To qualify, the institution must be a public charity and must use its property for educational purposes. However, the Court has liberally construed "educational purposes" to include such uses as faculty residences.

Clause 11 of the statute exempts houses of religious worship and up to \$20,000 in valuation of a parsonage.

Under clauses 12 and 13, all land used for cemetery purposes is exempt, even if owned by a profit-making corporation. Buildings used exclusively for cemetery purposes are exempt only if owned by a religious nonprofit corporation. Personal property used for cemetery purposes is exempt if owned by any nonprofit organization.

In subsequent clauses, veterans' organizations receive exemptions on property they own and occupy even if used for social or other non-charitable purposes. Agricultural and horticultural societies receive exemptions only on that portion of their property used for society purposes. Fraternal societies receive exemptions only on their personal property.

## Questionnaire Results

As part of the study, questionnaires were sent, with the co-operation of the Association of Massachusetts Assessors, to the boards of assessors in each of the 351 cities and towns in the state. The 161 questionnaires returned were representative, accounting for over two-thirds of the state's population and three-fourths of the state's exempt property valuation.

Some general comments indicated that there is "too much exempt property" or that exempt property has reached "staggering proportions." In addition to many similar statements, the assessors cited some specific abuses. These included the exemption on property which educational institutions leased for faculty housing; exemptions for social and fraternal organizations not organized for charity; and exemptions for charitable clubs and veterans' organizations with liquor licenses.

An illustrative listing was made, based on the questionnaires, of payments in lieu of taxes given by private exempt institutions to the cities and towns in which they have property. The most significant were the yearly payments by Harvard, Radcliffe and the Massachusetts Institute of Technology to the City of Cambridge. After acquiring any additional land, these institutions make payments to the city for 20 years, based on the valuation of the land at the time of acquisition. In 1969 Harvard paid \$125,000, Radcliffe \$9,000, and MIT \$248,000.

As a rule the amounts of the other payments listed were not substantial, in fiscal terms, for the receiving cities and towns, and represented only small fractions of what the taxes would be if the institutions' property

were fully taxable. Conspicuously absent from the list were payments by the larger urban colleges, universities and hospitals.

## Exempt Property Valuation Procedures

For lack of better data the study makes extensive use of official exempt property valuation figures reported yearly by local assessors to the Department of Corporations and Taxation. However, as the assessors themselves admit on the questionnaires, the figures are unreliable and often are not indicative of the fair cash value of the exempt property. Since exempt property does not yield any tax revenue, the assessors gain little by devoting time and effort to accurate valuation, other than compliance with the legal requirements. An additional difficulty arises because the generally accepted methods of valuing property (comparative sales, replacement cost minus depreciation, and capitalization of income) are often inappropriate for valuing many kinds of exempt property.

Several cities and towns indicated reliance on the financial data forms filed by private exempt institutions as a source of exempt property valuation. Use of these forms involves little time and effort. The valuations they list will ordinarily reflect the book value of the property as determined by the institutions themselves.

Many cities and towns indicated use of original cost figures for valuing exempt property, especially for publicly owned exempt property where original cost figures were readily available. Because land and building values tend to increase with time, use of book value or original cost figures will tend to undervalue the property.

Few cities and towns indicated primary reliance on reproduction cost minus depreciation for valuing exempt property. Several indicated use of the comparative sales data approach when the appropriate data was available, but data was often unavailable. Other methods listed included use of building permit figures, insurance company appraisals, and valuation by professional appraisers.

There was a wide range of responses to a question about revaluation of exempt property. Some cities and towns which indicated occasional revaluations of exempt property admitted that they had not had such a revaluation since the 1950's. Some said that exempt property valuations were never changed after the initial valuation. One indicated the use of original cost figures which were up to fifty years old.

The questionnaire also asked the assessors for estimates of the ratio of exempt property valuations—both land and buildings—to the fair cash value of the exempt property. The reported ratios ranged from 10 to 100 percent. Different ratios for land and buildings for a city or town distort an analysis of the distribution of the various categories of exempt property, to the extent that some categories, especially in the public sector, are more land intensive than others.

The failure of valuation figures to reflect fair cash value is not con-

fined to exempt property but extends to taxable property as well. Although by law all property must be assessed at its fair cash value, State Tax Commission figures for equalized valuations indicate that for 1970 only three cities and 45 towns (out of 351) assessed property at full cash value. Twenty-four cities and 114 towns had assessment ratios of less than 50 percent. Substantially different exempt and taxable property assessment ratios for a city or town seriously distort a comparison of its taxable with its exempt property valuation.

## Distribution of Exempt Property in Massachusetts

In 1968, the latest year for which figures are available, Massachusetts had a total reported exempt real and personal property valuation of \$6.2 billion—25.8 percent of the state's total valuation. Since 1950 the exempt total has nearly tripled. The percentage exempt of total valuation, however, has risen only a modest three percent, reflecting the nearly parallel increases in taxable valuation.

Exempt property valuation totals are unreliable because of the inadequate valuation procedures discussed earlier. They are also incomplete because some assessors fail to submit the required exempt property data to the Department of Corporations and Taxation. Despite the limitations of the valuation data, it is useful in depicting the relationships among the categories of exempt property.

Table 1 gives the percentage distribution, by category, of the state's exempt property total. The predominance of publicly owned exempt property is striking. Although down from a high of 69 percent of the

**TABLE 1: Distribution of Exempt Property Valuations in Massachusetts by Category, 1950-1968**

	1950	1960	1968
Property of the United States	12.7%	7.9%	5.2%
Property of the Commonwealth	9.6	11.9	13.1
City or town property	43.7	39.3	39.5
Housing authorities	1.4	6.5	5.3
County or district property	1.7	2.0	2.3
Total Public	(69.0%)	(67.5%)	(65.4%)
Literary and scientific institutions	14.6	15.7	18.0
Charitable and benevolent institutions and temperance societies	7.4	9.0	9.5
Houses of religious worship <sup>a</sup>	8.2	7.0	6.5
Other private	.8	.7	.6
Total Private <sup>b</sup>	(30.5)	(32.5)	(34.6)
TOTAL	100.0%	100.0%	100.0%

<sup>a</sup> Includes parsonages and personal property of religious organizations.

<sup>b</sup> Details may not add to totals due to rounding.

Source: Department of Corporations and Taxation.

total in 1950, the public percentage of the exempt total has remained fairly constant at 65 percent since 1965. This reflects the extensive amount of city and town-owned property; in 1968 such property comprised 40 percent of all exempt property in the state.

In the private classification, property of literary and scientific institutions has been the most significant and fastest growing category, reaching 18 percent of the total by 1968. This is because of the expansion of the state's many private colleges and schools. The "religious" category accounts for a small and decreasing percentage of the total.

Despite the distortions and incompleteness of the data, the predominance of publicly owned exempt property is obviously well established and is likely to continue. As the degree and scope of governmental services increase, property owned by government will increase both in area and valuation.

## Distribution of Exempt Property in Boston

In Boston the exempt property issue has assumed major political importance and has attracted widespread public attention. Much of the talk has centered on Boston's many colleges and schools and their alleged responsibility for eroding the tax base.

In 1970 Boston had 12,795 acres of exempt land (excluding streets and sidewalks). The city's total exempt real and personal property valuation was \$1.9 billion—53.7 percent of its total valuation. Exempt valuation and the percentage exempt of total valuation have increased yearly, whereas taxable valuation has shown little substantial growth.

Estimates of the ratio of assessed to fair cash value for some types of taxable property in the city go as low as 31 percent.<sup>1</sup> This underassessment of taxable property partly explains why there has been little growth in the city's total taxable valuation. More realistic figures for the value of taxable property in the city would produce a higher total taxable valuation and a far smaller percentage exempt of total valuation.

Table 2 shows the distribution of the total exempt valuation and land area in Boston by category. City-owned property predominates in valuation; state-owned property predominates in area. The table brings out the dominance of the "public" categories which account for 79.6 percent of Boston's total exempt area and 66.4 percent of its total exempt valuation. While the "public" percentage of total valuation has been decreasing slightly, the "public" percentage of total exempt area has been increasing, illustrating the greater increases in land holdings of public agencies as compared to private institutions.

The valuation and area percentages for each category in the table

<sup>1</sup>Oliver Oldman and Henry Aaron, "Assessment-Sales Ratios Under the Boston Property Tax," *National Tax Journal* (March, 1965), p. 36; Oldman's updated figures are also used.

**TABLE 2: Distribution of Exempt Property  
Areas and Valuations  
in Boston, 1960-1970**

	Land Area		Valuations <sup>a</sup>	
	1960	1970	1960	1970
Property of the United States	6.4%	4.0%	12.8%	5.5%
Property of the Commonwealth	36.4	42.3	20.3	20.9
City property	34.5	33.3	25.8	34.2
Housing authorities <sup>b</sup>	—	—	10.2	5.8
Total Public	(77.3%)	(79.6%)	(69.1%)	(66.4%)
Literary and scientific institutions	6.5%	6.1%	13.4%	16.9%
Charitable and benevolent institutions and temperance societies	4.1	3.9	12.5	13.0
Houses of religious worship	3.0	2.7	4.2	3.3
Cemeteries <sup>c</sup>	7.5	6.1	—	—
Other private	1.6	1.4	0.8	0.4
Total Private <sup>d</sup>	(22.7%)	(20.4%)	(30.9%)	(33.6%)
TOTAL	100.0%	100.0%	100.0%	100.0%

<sup>a</sup> Real and personal.

<sup>b</sup> Area figures contained in "city property" category.

<sup>c</sup> Valuation figures contained in "other private" category.

<sup>d</sup> Details may not add to totals due to rounding.

Source: Department of Corporations and Taxation, and the Boston Assessing Department.

often show little correspondence. For example, property of literary and scientific institutions and of charitable and benevolent institutions, which accounts for 16.9 and 13.0 percent, respectively, of the city's total exempt valuation, accounts for only 6.1 and 3.9 percent of its total area. This illustrates the low intensity of land use on city- and State-owned land as compared to the highly intensive land use by private institutions. Also, the private exempt area percentages have not been substantially increasing as have their valuations. This suggests that much of the expansion of these institutions results from development of land which they already own rather than from the acquisition of new land. Consequently, the increase in exempt valuations of private institutions has been mainly from buildings and other improvements on previously exempt land. The growth of private exempt institutions through intensified land use has not been at the expense of potential tax-producing land and has resulted in relatively little erosion of the tax base.

The distribution of exempt and taxable property, by ward, shows no discernible relationship between large exempt property valuations and areas, and low levels of taxable valuations. From 1960 to 1970 many wards had consistent and substantial increases in exempt valuation, but also several corresponding years of substantial increases in taxable valuation. In the wards which showed large losses in taxable valuation during the period, exempt valuations and areas increased only negligibly,

or actually decreased, a fact which must dispel the popular notion that large and increasing amounts of exempt valuation or area are necessarily evidence of erosion of the tax base.

## Criteria for Private Institutional Exemptions

In 1968 there were approximately 2,200 private organizations and institutions in the state whose property was exempt from taxation. Most of these exemptions were granted under clause three of the exemption statute, which stipulates that an organization or institution must be either a charitable corporation or charitable trust.

The Massachusetts Supreme Judicial Court has consistently held that an organization or institution must be a public charity to come within the terms of the exemption statute, and that the terms "literary," "scientific," and "benevolent" in clause three refer only to corporations which are public charities. To receive an exemption on its real estate, an organization must not only demonstrate that it is charitable according to its charter or bylaws, but must also prove that it is so in actual operation and is using its property for charitable purposes. Although there are various definitions of the term "charitable" or "public charity," most authorities agree that the essential element of a charity is that it benefits the public at large or an indefinite number of persons.

Examination of the charters of various organizations which receive exemptions indicates that some do not meet the above criteria. Some organizations receiving exemptions are social or fraternal, and their exemption as charitable organizations is difficult to justify. Such social and fraternal groups benefit their own members rather than an indefinite number of persons, and the fact that some list on their charters the right to purchase and sell food and alcoholic beverages is further evidence of the noncharitable nature of the organization and use of property. The Court and the Appellate Tax Board have made it clear that social organizations whose purposes and activities benefit their own members should not be exempt.

Some organizations in the state are receiving exemptions despite the fact that a memorandum from the Department of Corporations and Taxation to each board of assessors specifically stipulates that the organizations listed should not be exempt. Few of the social or fraternal organizations claiming exemption as charitable organizations file financial data forms with the Division of Public Charities in the Attorney General's office as required of all public charities. Also, many such organizations have not been investigated by the Department of Public Welfare which, under the law, has the responsibility of investigating charitable organizations whose personal property would be exempt from taxation.

In this area the exemption process in Massachusetts results in a lack of consistency and standardization across the state, the inevitable result of having 351 boards of assessors responsible for determining exemption

policy. The assessors have the difficult responsibility of interpreting the exemption laws, a responsibility which requires making both legal and factual judgments. Since decision-making is at the local level, pressure is undoubtedly put on the assessor by local organizations which seek exemption.

The situation is compounded by the failure of the State Tax Commission to take a more active role in resolving some of the problems created by the fragmentation of the exemption process. Under the law, and according to court interpretation, the power of the Commissioner is only an advisory one. He cannot order that exemptions be granted or denied, and the instructions of the Commissioner to local assessors on this subject are not mandatory. Nevertheless, the Tax Commission could still take a more active role. It could attempt to bring more consistency to the exemption process through more active and frequent scrutiny of the exemptions granted, and through more frequent and more definitive instructions to local assessors on which the assessors could base their actions.

### Exempt Property and Local Tax Rates

With local property taxes rising, there has been a tendency to regard tax exempt real estate as a cause of high tax rates. If there is a significant relationship, there should be a generally higher level of property taxes in cities and towns with high percentages of their total property valuation or area exempt. However, this has not been the case. When exempt area and valuation percentages are compared to the full value tax rates (the rate at which property would be taxed if assessed at fair cash value) for cities and towns responding to the Foundation questionnaire, it is apparent that there is no close relationship between a high percentage exempt of total valuation or area and a high full value tax rate. For each level of exempt percentage there is, as Tables 3 and 4 indicate, a wide variation in the range of full value tax rates. Summarizing the data, a large percentage exempt of total valuation or area is not, *per se*, a liability in terms of the tax rate. Even allowing for the varying exempt and taxable property assessment ratios does not alter this conclusion.

One obvious factor explaining the lack of relationship between exempt property and tax rates is the tax levy, the amount of money which each city or town is required to raise by the property tax. Levels of spending for different services vary among the cities and towns, and this is reflected in their tax rates. The size of the tax levy depends on such factors as state-imposed charges and assessments, population, density, geographic characteristics, and willingness to spend for certain services—most of which tend to occur independently of exempt property considerations.

Even the size of the tax base is often independent of exempt property area or valuation. Given any amount of exempt property, the key to its tax rate effect is the use made of the area which is taxable. Consequently

**TABLE 3: Distribution of Full Value Tax Rates in Reporting Towns by Percent of Property Valuations Exempt, 1969 and 1970**

Percent of Property Value Exempt	1969					
	Under \$20	\$20-29	Full Value Tax Rate \$30-39	\$40-49	\$50-59	\$60 and over
Under 10%	2	1	3	2	2	0
10-19	2	2	4	6	2	0
20-29	0	1	2	3	1	0
30-39	0	0	0	1	0	0
40-49	0	1	0	0	0	0
50 and over	0	0	0	2	0	0
	1970					
Under 10%	4	4	11	4	1	0
10-19	0	1	18	20	6	1
20-29	1	2	8	9	1	0
30-39	0	0	3	5	0	0
40-49	0	0	2	2	1	0
50 and over	0	1	3	0	0	0

**TABLE 4: Distribution of Full Value Tax Rates in Reporting Towns by Percent of Property Areas Exempt, 1969 and 1970**

Percent of Property Area Exempt	1969					
	Under \$20	\$20-29	Full Value Tax Rate \$30-39	\$40-49	\$50-59	\$60 and over
Under 10%	2	4	4	3	2	0
10-19	0	1	1	7	2	0
20-29	0	0	1	3	0	0
30-39	0	0	1	2	1	0
40-49	1	0	0	0	0	0
50 and over	1	0	1	0	0	0
	1970					
Under 10%	3	6	26	19	7	0
10-19	1	2	7	15	0	1
20-29	0	0	7	2	1	0
30-39	0	0	3	1	0	0
40-49	1	0	1	0	0	0
50 and over	0	0	1	0	0	0

the tax rate in most communities will largely reflect their past and future choices as to the character and intensity of land use, irrespective of the extent of exempt property.

Two hypotheses also explain why exempt property does not necessarily contribute to higher tax rates. The first is that an exempt institution, even where it occupies potential tax-producing land, may be an asset rather than a liability because of its salutary economic effects on the surrounding area. Construction of housing and business facilities to service the staff and clientele of an exempt institution can mean an increase in taxable valuations. Also, the multiplier effects of increased em-

ployment and income generated by an institution can further intensify the expansion of tax-revenue producing facilities.

The second hypothesis is that exempt institutional use of land could mean a lower demand for municipal services than would a high cost taxable use. Since different types of land use create demands for different types and levels of municipal services, the land use of a particular area is directly related to the cost of servicing it. From a net cost point of view, the optimal use for some property may be for exempt purposes.

These hypotheses suggest that the extent to which exempt property is an asset or a liability is unanswerable in general terms and depends on the unique characteristics of each location or institution.

Future studies will examine these hypotheses more closely, concentrating on the costs and benefits of exempt institutions to the state and the cities and towns. Also projected for further study is a refined analysis of the capacity of various types of exempt institutions to absorb potential service charges and the potential incidence of such charges.



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CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

## OFFICE OF THE ASSESSORS

Thomas F. Gibson  
Charles R. Lavery, Jr., CAE, CMA.  
Rudolph R. Russo, CAE, CMA

TAX EXEMPT PROPERTY

AND A

PROGRESSIVE IN-LIEU

PAYMENTS PROGRAM

BY: CHARLES R. LAVERTY, JR., C.A.E., C.M.A.

RUDOLPH R. RUSSO, C.A.E., C.M.A.

PRINCIPAL ASSESSORS

CAMBRIDGE CITY HALL

CAMBRIDGE, MASSACHUSETTS 02139



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## TAX EXEMPT PROPERTY AND A PROGRESSIVE IN-LIEU PAYMENTS PROGRAM

J. B. Colbert, the Comptroller General of Louis XIV in the 1600's once said that "the art of taxation consists of plucking as many feathers from the goose as possible with the least amount of hissing".

Due to the rising government costs, the golden goose (the tax-paying public) that lays the golden eggs (the tax dollar) is already hissing loud and clear!

And yet, Thomas Caryll once proclaimed that "in the long run every government is the exact symbol of its people with their wisdom and un-wisdom."

In other words the public guides their own destiny and we blame everyone but ourselves.

Why are taxes high? As Assessors, we are aware of the reasons all too well. How can we alleviate the situation?

1. Acquaint the public with the truth about the origin of their tax.
2. Strive for more professionalism within the assessors --- improve budget and staff --- better administration.

3. Promote less government spending as a deterrent to increased tax rates.
4. Seek new sources of revenue.

And how do we increase revenues or find new sources?

1. Enlarge the tax base thru building and renovation.
2. Revaluation if necessary.
3. Derive revenue from property not currently paying taxes  
i.e. Tax Exempt Properties.

Can we get revenue from tax exempt properties? Are we getting all that we should? You can if you try! We would recommend securing the book "The Free List from the Russell Sage Foundation by Alfred Balk (available thru IAAO).

It examines the "unexamined sieve". It deals with the one third that are not paying full taxation. It is an interesting study of the beginning and expansion of tax exempt properties.

The rhetoric on the subject, and there has been a great deal, ranges from the silly and ridiculous to the serious and dramatic; as examples:

1. A newspaper item, datelined Finchhampstead, England, 1972 read: "Stuart Young was incensed by the failure of official exterminators to eradicate a rate "fly" species with the homing instinct of a salmon that invaded his home every year, so that he sought and was given a reduction of \$164.00 in his annual property tax."
2. A religious organization not particularly connected with a specific church, submitted an application for an abatement of real estate taxes in the City of Cambridge, Massachusetts, described their reason for applying as follows: "building used soley for the purpose of housing religious items, and saints."

In a very serious vein, a prominent law firm from Chicago corresponding with a major real estate office in the Boston-Cambridge area, stated: "Pru (meaning the Prudential Insurance Company) is alarmed at the possibility of very high real estate taxes because so much of the area is occupied by tax free entities." So that tax property not only constricts the total tax revenue, but prevents the possibility of new development, especially in the urban areas where it is so badly needed.

First, you must examine your own community to find the actual problem with tax exemption.

The City of Cambridge, with a population of approximately 100,000; sometimes referred to as the "University City" has a "lions share" of the tax exempt problem. The total area of Cambridge amounts to only 6.25 square miles and relatively all developed. The City is currently one half exempt.

In attempt to illustrate the "Dilemma" we cite the following statistics:

1973

Taxable Real Property.....	\$280,000,000
Tax Exempt Property.....	<u>260,000,000</u>
Total.....	\$540,000,000

This indicates a percentage of 48% for tax exempt property.

And this picture can and should be painted a lot worse.....because it is a natural action to sort of ignore the tax exempt structures insofar as reassessing is concerned.....this is not to say that if our largest tax exempt institution, Harvard, builds a new building, we don't assess it.....we simply do not spend the time placing an educated value on the parcel, knowing full well that we're not going to receive any real tax

dollars from it.....so that a conservative amount to add to the tax exempt rolls would be approximately 8%, hence a city with approximately 52% of its total real property valuation EXEMPT. We think that this is incredible and we have done something about it. (See chart at end of article).

It seems that assessors, taxpayers, elected officials and the general public, generally disregard the religious, municipal, county, state and federal tax exempt property and focus attention on the educational facilities. This is a natural and nationwide action inasmuch as the educational institutions are assembling parcels and expanding in most areas of the country at a very rapid pace.

In our state, educational facilities become exempt under the third clause of Section Five of Chapter 59 of the General Laws which exempts; literary, benevolent, charitable and scientific organizations within which category our schools fall. The only exception to this rule applies to Harvard University which is specifically exempt in the Constitution of the Commonwealth of Massachusetts.

To give you some idea of the magnitude of the tax exempt status of the two major schools in our city as it relates to the valuation base, both world renowned, M.I.T. and Harvard (including Radcliffe) the 1973 rolls show valuations of:

Harvard University .....	\$104,000,000
M.I.T.....	<u>46,000,000</u>
Total.....	\$150,000,000

So that of the total tax base:Harvard represents(tax exempt) 19.3%

M.I.T. represents 8.5%

For a total of..... 27.8%

for the two major schools in our City.

In spite of these staggering statistics, it is vitally necessary to understand that without these schools, these giants, if you will, there may not be a Cambridge as we know it.....especially in view of the exodus from the urban area to the suburbs of the major manufacturing and other industrial firms.

Our University element gives our Police, Fire and Public Works Departments and more recently the Election Commission and many more departments many headaches, but we must not lose sight of the fact that M.I.T. employs the largest number of people (approximately 15,000) and Harvard ranks second in this area. Their presence has created an unusual, active real estate market especially in the Harvard Square area where we feel values are second only to Times Square, N. Y. Their existence has also been responsible for much development in the past several years.

These schools are also ranked highly in terms of total valuation of taxable property.

However, it seems unfair considering the situation in Cambridge, whereby, students enter the city from all over the country and the world for that matter, that the citizens of one city should subsidize, in effect, the education of these students. It would seem that the burden should be shouldered not by the State alone but by the Federal Government. Perhaps this assistance could be extended in the form of a greater amount of revenue sharing for those communities having large enrollments of nationally prominent schools, such as Cambridge has.

Also, however, tax exempt institutions must be made aware of their responsibility to the community. "In-Lieu of Tax" payments appear to be part of the answer. This has been recognized for some time in our

city. In 1928 there already was a concern on the part of city and university officials that our small city was already over burdened by tax exempt properties. Therefore, the City, Harvard, Massachusetts Institute of Technology and Radcliffe entered into an agreement to pay "In Lieu of Taxes" on all acquired property after 1928 regardless of use, on the assessed value of the land only at the time of acquisition at the going tax rate for twenty years.

This agreement was renewed in 1949 for twenty years and was up for renewal in 1968. It was renewed on an annual basis since.

One of the inequities of the past agreement was the provision that allowed the property to drop completely off the "In Lieu of Tax" rolls after 20 years. (example-----a property purchased by the institutions in 1950 would be removed from payments in 1970). The following are 1971 results of the 1928 agreement for "In Lieu of Tax" payments (excluding Married Student Dorms).

1971 "IN LIEU OF TAX" PAYMENTS"

Harvard .....	\$ 90,932.32
Radcliffe.....	\$ 13,014.92
M.I.T.....	\$229,000.00

Since 1968, the original agreements had been carried out on a year to year basis in a friendly manner and for two years new methods and/or formulas were rendered by both parties (Harvard and M.I.T. and the City). After lengthy, frequent and sometimes exhausting meetings, the Board of Assessors in the City of Cambridge designed a plan or formula, which we considered to be as fair and equitable to all tax

exempt groups (not only Harvard and M.I.T.) as could be devised.

Due to high municipal costs, and the fact that we were renegotiating the "In Lieu of Tax" payments agreements, we felt a re-examination of the entire area was called for. We also felt that this should be initiated at the local level.

Let us examine the facts.

1. It should be mentioned here that the tax exempt properties of the city are exempt due to the laws of the land (Federal and State).
2. Three of the universities in this city felt the Government was overburdened by tax exemptions in 1928 and realize the magnitude of the present situation. We have had cordial administrative experience in the past and present and they have indicated a desire to be more helpful in the future.
3. Nationwide, the focus is on the rising taxation of real estate and the causes for it. And of course, we find that tax exempt property is somewhat responsible for this dilemma. Here in Cambridge, where tax-exempt property is approximately fifty percent of all property, the problem becomes more evident. There is a growing awareness on the part of members in the taxation field concerning a change in the laws regarding tax-exempt institutions. It is our opinion that in the near future(5-10 years) we will see taxation of some kind placed on tax-exempt properties at least in part. Therefore, we do not desire to affect any agreements for a long period of years as has been done in the past.

4. We feel that perhaps this is the time to request an "In Lieu of Tax" payment from all tax exempt groups. Hence, we felt it vitally necessary to develop some plan, method or formula that, because of its basic concept, would be fair and equitable to all.

How do we arrive at a formula that is equitable for all tax exempt properties? We have examined several different methods. (Percentage of land formula, percentage of building formula, head tax, percentage of municipal services, to mention a few). We finally concluded a payment should be based on square footage.

We have related the costs of municipal services to square footage. This city comprises 6.25 square miles. This amounts to 4000 acres or 174,240,000 square feet. The land is divided into these categories as follows:

Taxable Land	(54%)	approximately 94,000,000 square feet
Tax Exempt Land	(46%)	approximately 80,000,000 square feet
1. Privately owned tax exempt approx.		34,000,000
2. City owned tax exempt approx.		46,000,000

This land is currently producing approximately \$9,000,000.00 in revenue to the city or 5.2¢ per square foot.

The 1971 figures indicate that approximately 34,000,000 square feet are now being used by tax exempt properties. If these were assessed .052 cents per square feet the city would realize approximately \$1,768,000.00 in revenue.

This would amount to an increase of approximately \$1,400,000.00 in revenue. Bearing in mind once again that these properties are completely tax exempt under the law, it is impossible to send them tax bills in any form.

These charges to exempt properties would represent a very minor increase in tuition or dues. As we are providing valuable land on a tax-free basis and excellent municipal services, these institutions should be willing to pay at least a part of the cost.

Tax exempt properties are using all the municipal services in the city in one form or another.

Considering that only a handful of Cantabridgians are attending the universities and private schools it seems little to ask that the students share but a small part of the cost.

We received approximately \$300,000.00 (including Married Student Dorms) in "In Lieu of Tax" payments in 1971 under the previous formula, approximately \$600,000.00 in 1972 under the present formula and anticipate \$1,000,000.00 in 1973. (See chart at end of article).

We held seminars explaining the program, then sent out the following request:

Dear Tax Exempt Property Owner:

Tax exempt properties take up approximately fifty percent of the land area and represent approximately 50% of assessed value in the city. Therefore, one half of the land in the city is responsible for financing and maintaining our needed municipal services. These services are considered essential for your protection and use.

As a property owner in the City of Cambridge you are receiving many tax supported property services without charge.

In 1971, taxable and tax-exempt land produced approximately \$9,000,000.

By dividing this amount by the total land area (174,000,000 square

feet) we arrive at a per foot unit of 5.2¢. We are suggesting that this unit is used in computing an amount of "In Lieu of Tax" payment to the City based on the amount of land used.

Owners of some tax exempt properties, recognizing the benefits of municipal services, are making voluntary financial contributions on this basis to the City's general fund.

Based on your ownership of 305,150 square feet, your contribution for services would amount of \$15,867.80. A voluntary payment to the City of Cambridge in this amount will demonstrate civic responsibility and will be greatly appreciated by the tax paying public.

Board of Assessors

Thomas F. Gibson

Charles R. Lavery, Jr., C.A.E., C.M.A.

Rudolph R. Russo C.A.E., C.M.A.

As assessors, we have been talking about this mammoth problem and its possible solution or solutions for several years now, generally on an informal basis.

However, due to our successful program, we have been asked to speak out on this issue.

We began formal presentations so to speak, in the north eastern part of the country early in 1972, in an attempt to make our studies and analyses and subsequent solution (without changing state statutes or making constitutional changes) known to the assessing profession. In talks before the Middlesex County (Massachusetts) Assessors Association, the Association of Massachusetts Assessors Annual State Conference, the Annual State School held at the University of Massachusetts and at the

Association of New Hampshire Assessors Annual State Conference, we found attentive and inquisitive audiences. We were invited to attend the seminar on tax exemption in Washington, D. C. in June of 1973, where we presented "The Cambridge Story". We were asked to serve on the tax exempt committee of the IAAO and in that capacity met in Chicago in September 1973 and held draft policy statements relating to the tax exempt problem which were subsequently presented to the IAAO Executive Board for adoption in Miami at the Annual Conference of IAAO this past November. We have found an acceleration of interest in this area and the concern is nationwide.

In posing the question to Assessors from all over the country, "How much tax exempt property do you have in your city? town? or taxing jurisdiction?" Most Assessors don't know, perhaps because they take the subject very lightly inasmuch as they consider that nothing can be done about it. But if assessors took the time to compute the taxable/tax exempt ratio, many would be quite shocked at the results.

Assessors tend to forget the very obvious, those properties occupied by Municipal Schools, City Parks, Water Works, County and State Buildings and the like, and they especially ignore the Churches and related holdings which may be tax exempt.

How about Churches? Should they pay "In Lieu of Tax" payments? Have some expanded the law to become tax exempt?

Recently in Cambridge, a small group acquired a commercial building and used it as a Meeting Hall. Although they had no ordained Minister, planned no weddings, baptisms, etc., they applied for exemption as a Church. The request was denied by the Board of Assessors. It was appealed to the Appellate Tax Board and the applicants testified

that they took turns quoting from the Bible and this was their means of worship. The Appellate Tax Board ruled in favor of the appeal and the building is now considered to be a tax exempt Church.

In Minneapolis a family put an altar in the basement of their home, incorporated as a Church and claimed tax exemption. It took some time to invalidate the claim.

Some churches have actually acquired large tracts of land for use as a cemetery to receive tax exemption. After many years the one or two bodies buried were exhumed and the land was sold for development at a tremendous financial gain.

For the past 10-20 years, Priests, Nuns, Ministers, Rabbis, have demonstrated about Viet-Nam, Government, Housing, Civil Rights, etc. Reverends, King Berrigan Gropp; Abernathy and thousands of others have participated in demonstrations.

If the Churches are to participate in these areas, would not their position be strengthened if they participated in the cost of government?

Is the voice of the Church being compromised when the Church speaks from the privileged position of exemption?

Perhaps if Churches paid some tax they could speak more forthrightly and society may be more willing to listen.

Quote Baptist Clergyman Bob W. Brown: "if the Churches were taxed, the Churches would be forced to get back to their proper business of religion!"

If the Church were taxed, the Church would either support her institutions and programs or give them up. We would have to re-examine

and re-assess our role in society. We would have to determine priorities. We would be forced out of privilege into ministry. We would either support ourselves or we would abandon our vast empire.

I am a church man. I believe that if the churches were taxed the American churches would enjoy a new vitality. They would be free to be prophetic. They would be stronger and more respected. If the churches were taxed, your tax burden might be lighter. The public treasury might be enlarged. Most important of all, in my view, the churches would attain a new and higher level of integrity!

Up to now, we have attempted to stimulate some ideas that could be helpful to all assessors. We feel that many tax exempt properties would begin to contribute to the public treasury if properly asked.

We think that most will agree that our program is successful. However, it does not stand alone. More than thirty communities in Massachusetts are now receiving some "In-Lieu-Of Tax Payments" from exempt properties.

Minneapolis has requested contributions of exempt properties this past year. Others are also joining the parade to stem the tide of allowing the further expansion of exemption with no contribution to the local treasury. Just imagine the publicity that could be attained if all communities sent out requests for "In-Lieu-Of Tax Payments". This would surely draw attention to the problem.

Well, this is what we have done! It is a positive step in the right direction. It is something that you may try.

What else can we do?

1. Make sure that exempt property values are kept up to date and make known to the public.

2. State exemptions should be clarified and loopholes removed, the Elderly, Veterans, etc.
3. Government payments and reimbursement for exemptions will reduce Legislative tomfoolery.
4. Improve assessing and collecting offices in administrat-  
ing collections.
5. Collect payments for municipal services.
6. Require Government to pay for municipal costs and use  
their land to greater advantage.
7. Start programs such as ours.

There is little question that eventually tax exempt property as we presently know it will change. With the cost of Government expanding as it is, the burden placed upon the average homeowner and the plagued commercial and industrial sacrificial lamb has reached unreasonable proportions.

Somewhere, somehow, help must be attained for municipalities like Cambridge. Our program, which is not the final answer and/or solution to this colossal travesty on the tax paying public is a start.

IAAO is taking an active interest in this dilemma and the following is a policy statement approved by the Executive Board at the Annual Conference in Miami, Florida.

The International Association of Assessing Officers is concerned over the increasing number of property tax exemptions being granted. The abuse of property tax exemptions only serves to erode the tax base and to shift the tax burden to those taxpayers who, already heavily burdened, can least afford it. Statistics show that approximately one-third of the real estate in the United States is accorded some type of tax exemption.

In the face of continuously rising taxes, it is unfair that the non-exempt taxpayer should absorb the increasing burden of financing public services, which are equally enjoyed by all, including owners of tax exempt property.

Therefore, the IAAO is undertaking a strong public information program to acquaint the public with the problems raised by exemption laws. To publicize this dilemma, the IAAO is requesting that assessing jurisdictions and assessing officers adopt the following recommendations:

1. That the states require annual applications for exemptions on appropriate forms.
2. That each assessment jurisdiction publish a list of available data on exempt properties or show such exempt properties on the assessment roll, including such items as the owner, address, land area, valuation, etc.
3. That existing exemption laws be reviewed, with the goal of reducing the tax burden to the taxpayer.
4. That, where appropriate, each taxing jurisdiction institute a program to orient the exempt community and promote a realistic formula for requesting payments in lieu of taxes.
5. That property owned by any exempt institution, and utilized or possessed for any purpose other than the use for which the exemption has been claimed or granted, be subject to taxation, as is presently the practice in some jurisdictions in the United States.

By: Charles R. Laverty, Jr., C.A.E., C.M.A.

Rudolph R. Russo, C.A.E., C.M.A.

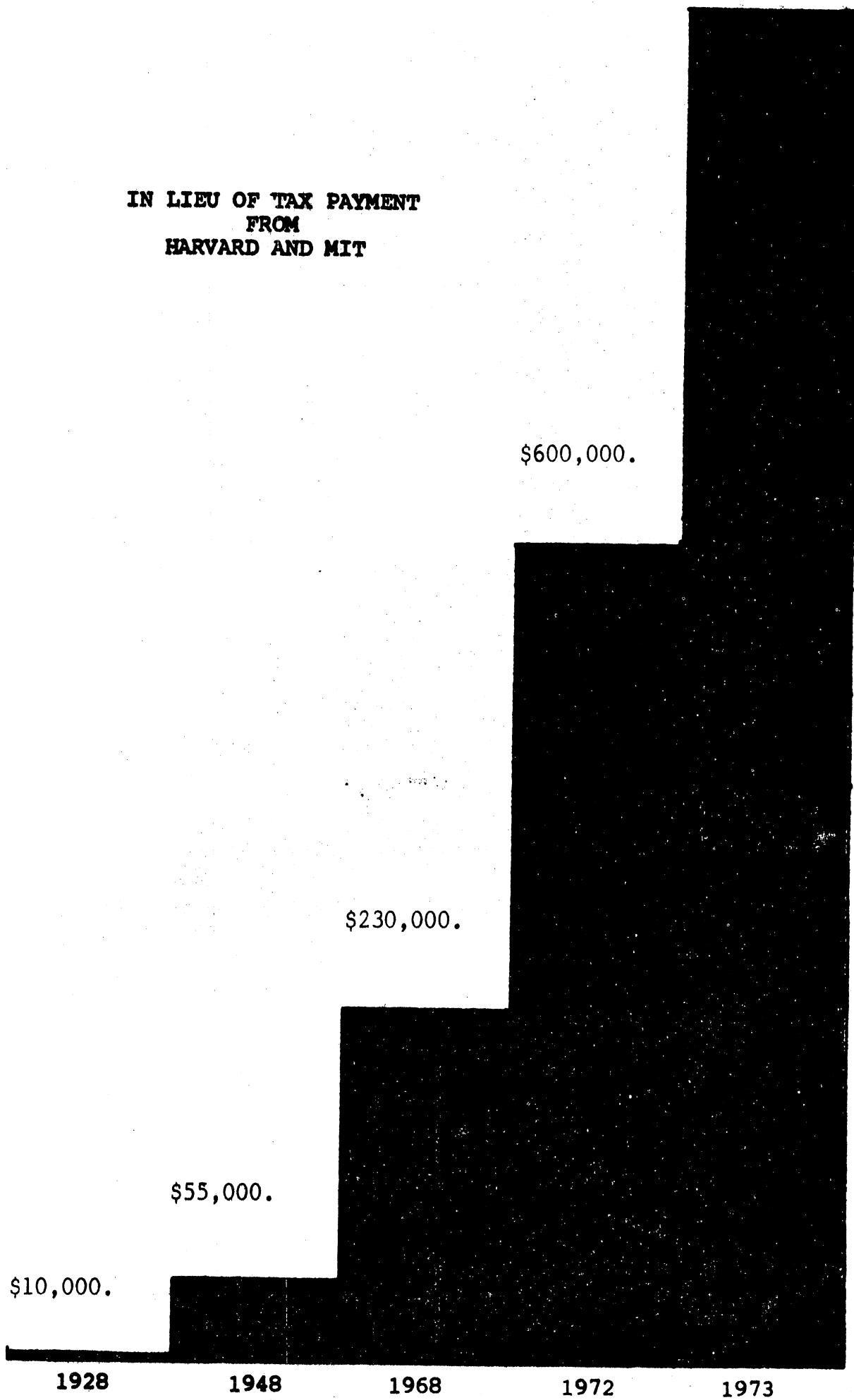
Principal Assessors

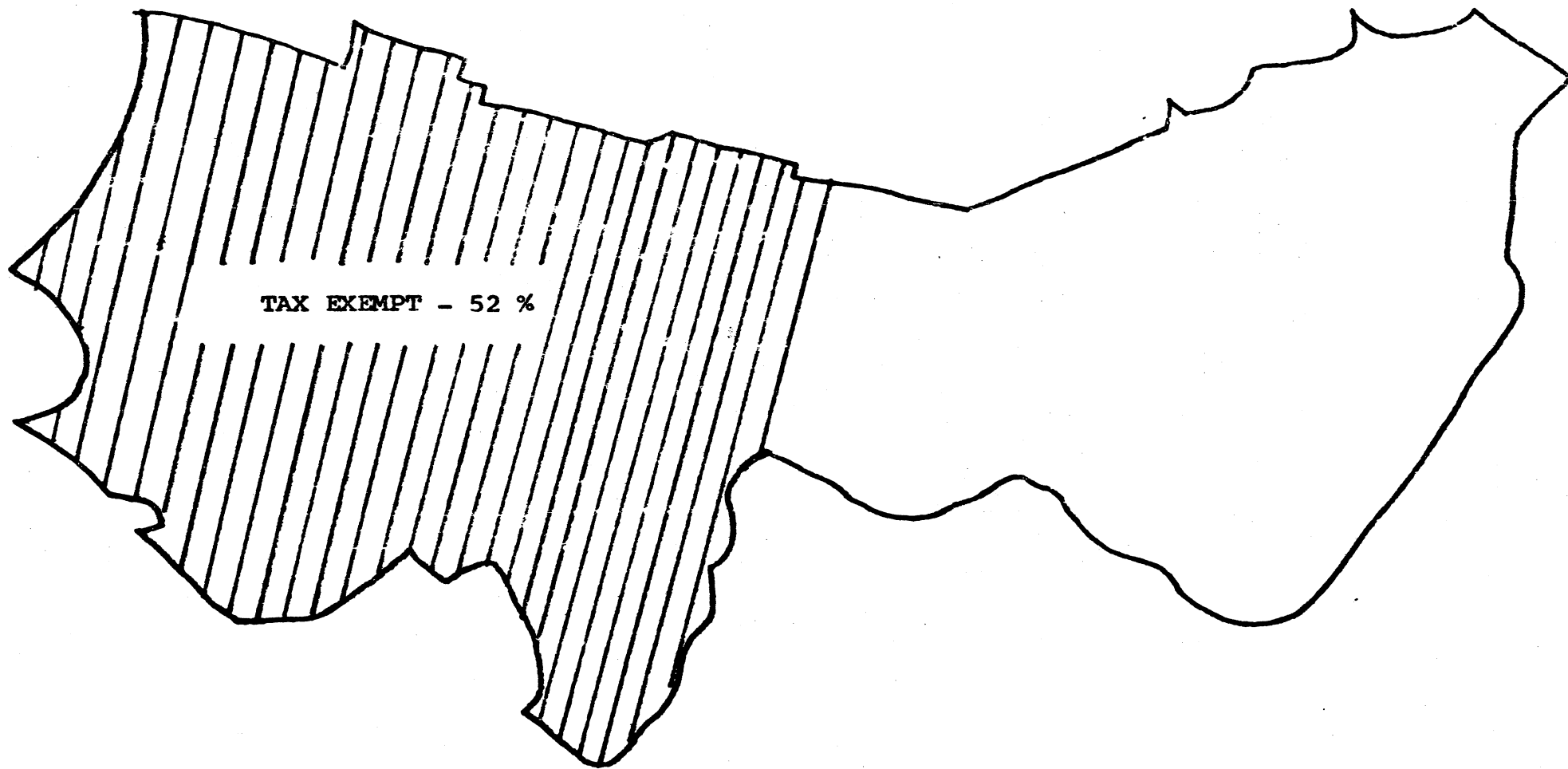
City of Cambridge

Cambridge, Massachusetts 02139

\$1,000,000.

IN LIEU OF TAX PAYMENT  
FROM  
HARVARD AND MIT





TAX EXEMPT - 52 %

CITY OF CAMBRIDGE, MASSACHUSETTS

6.25 SQUARE MILES

Zui

TO: CAMBRIDGE CITY COUNCIL

March 11, 1976

FROM: BOARD OF ASSESSORS

In response to your request of March 1, 1976 (Council Order-David Clem) for input to policies concerning tax exempt properties, please be advised of the opinion of this Board.

The property tax is second only to the federal income tax and social securities levies and now accounts for approximately 56% of the revenues necessary to administrate local communities. This over reliance on the property tax has created a hardship for all property owners. Thus, the whole subject of the property tax is in great debate. The property tax for too-long has been a whipping boy for critics of the revenue system. Instead of creating budgets on the ability to pay, many local governments have seen fit to raise tax rates to absorb revenue needs. A limitation of the real property tax as indicated by the "Master Tax Plan" is very much in need. This would curtail in part the government spending that is indeed a part of our inflationary budgets and tax rates, changing economic values, lack of economic development, erosion of the tax base or any combination thereof.

One of the culprits has obviously been tax exempt property. How do we rectify this problem? The idea of rescinding all tax exemptions, like the notion of abolishing the property tax system of which they are a part, appears to be theoretically appealing rather than constitutionally and politically feasible. Complete abolition is not possible for a multitude of political and social reasons.

This Board has endeavored long and hard to relieve the exempt property situation in Cambridge. Since 1928 the City has been the recipient of "In--Lieu--of Tax Payments" from Harvard, Radcliffe, and M.I.T. This was based upon a 20 year agreement in which the community would receive voluntary payments from any land acquisitions on or after 1928 for a 20 year period based upon the current land assessment multiplied by the going tax rate. This remuneration was for land only and did not include the physical improvements. This was a 20 year agreement that was renewed in 1948. Upon the expiration of this agreement, many of the Harvard properties were dropping from the voluntary payment rolls and the City's economic condition required a different approach.

Therefore, we developed a new formula that increased voluntary payments from approximately \$300,000.00 in 1970 to approximately \$1,000,000.00 in 1976. All tax exempt properties were asked to make voluntary payments and many have responded. A complete synopsis of this program is attached.

What are our recommendations for the future?

1. A continuation of our present program involving a greater participation of tax exempt properties. This program will bring public attention to the plight of the Academic urban areas. We have endorsed this policy thru the International, State and County Assessors organizations in order to publicize this matter. A massive request for voluntary payments by all Assessors offices of exempt properties would generate a national concern. Our program, to our knowledge, is the most successful in the country and has been a model for many other municipalities.

Also, with the compilation of data for the implementation of equalization, we will be able to have a more comprehensive and accurate exemption information to be regularly reviewed and published. The public has to be apprised of the magnitude of the problem.

2. Federal Legislation--In 1975 this Board proposed and devised new innovative legislation based upon federal reimbursement thru Federal Revenue Sharing for those communities with a preponderous of tax exempt property. A copy of a letter of explanation to House Majority Leader Thomas P. O'Neill Jr., is enclosed to assist you in this regard.

We have been to Washington, D.C. and appeared before various taxation organizations to implement this legislation. Additional time and personnel are necessary to bring this to fruition. A return of up to \$20,000,000. is possible under this legislation. This could be the most significant change in exempt property in history. The response has been receptive but a major lobbying effort is necessary for success.

3. State Legislation--As we seek property reform, there should be a clarification of all State exemption provisions including statutory exemption for widows, veterans, elderly, etc. The re-institution of the old lien law would aid in removing those persons not in need of tax relief.

Presently, property owners complete applications for statutory exemptions and attest to income and estate by signing under the penalties of perjury. There is no investigatory staff available to pursue the violators. The truth comes out only when estates are probated. Too often, estates are enlarged and perpetuated by falsification on statutory exemptions. This benefits the heirs at the direct expense to the local taxpayer. If a lien were placed on the property, then we would accomplish things:

1. Provide help for the elderly and indigent to remain in their homes while they live.
2. Provide for reimbursement to the community upon sale of the property or death of the owner.
3. Eliminate the violators from filing initially.

This would protect the homeowner and the community. Why should we subsidize heirs who in most cases do not reside in the community?

In fiscal year 1975, we approved 1571 applications for statutory exemptions that amounted to \$812,613.81.

Also, legislation should be redrafted to insure that tax exempt properties specifically provide for the public need. The loopholes and ambiguities must be removed. It becomes frustrating when the Courts allow tax exemptions for almost any seeming worthwhile social cause even though it may be a duplication of an already existing public entity. It might be interesting to note that some recent applicants for tax exempt properties.

1. The American Association of Variable Star Observers--5 Sparks Street
2. Park Street Church--Seeking Parsonage exemption in Cambridge residential property even though Church is located in Boston--1626 Mass. Avenue
3. M.I.N.D. Inc.--Multidisciplinary Institute for Neuropsychological Development, Inc.--48 Garden Street
4. Foundation for Medical Research -49 Amherst Street
5. Harvard Community Health Plan--1603-1611 Cambridge Street
6. Cambridge Montessori School--161 Garden Street
7. Smithsonian Institute -Leases facilities from President & Fellows of Harvard College
8. Signet Associates--46-48 Dunster Street

These exemptions are costing the taxpayer dearly. However, legislation takes time and lobbyists will delay and attempt to change laws affecting their clients. The problem for legislative change in the Commonwealth lies in the fact that the majority of communities do not have the problem. Therefore, it takes a concerted effort on the part of a few to bring about change. Perhaps there should be a redirection of some planning and development funds to accommodate this critical need.

4. Moratorium--It is our opinion that there should be a moratorium on the expansion of current tax exempt properties and a restriction against new tax exempt properties. The legality of this intent has to be determined and discussed.

It should be mentioned here that the laws are quite clear on tax exemption. The legal basis for exemption is outlined in a pamphlet "Institutional Property Tax Exemptions in Massachusetts" by the International Association of Assessing Officers. This report is attached for your perusal. The City Solicitor and other legal personnel will have to determine the legality of restricting new exempt properties.

However, until this matter has been legally decided, it is our opinion that all further requests for the exemption of real property should be administered as follows:

1. Organizations make application for exemption thru the Assessors Office.
2. Request by Assessors for following information:
  - a. Articles of Organization
  - b. By Laws
  - c. Financial Returns
  - d. Income Tax Returns
  - e. Certificate of Federal Income Tax Exemption
  - f. Itemized list of disbursements and expenditures
  - g. Statement as to the use of each part of the property
  - h. Full explanation of the membership, stockholders, and operation of the Corporation.

3. A public hearing by the City Council, Committee of City Council, or Special Committee to discuss exemption and make recommendation.
4. Decision by City Solicitor.

This will acquaint the public and private sectors of the community with the problem at hand and perhaps generate our apathetic public to get involved.

Very truly yours

Board of Assessors

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Thomas F. Gibson

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Charles R. Laverty Jr., CAE,CMA

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Rudolph R. Russo, CAE,CMA

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8 5-310

Comm. from the Board of Assessors relative to  
tax exempt properties.

In City Council,  
June 14, 1976

6/14/76

C. Klein moved that  
the Report be  
accepted and placed  
on file -  
and on a voice vote  
the motion carried.