

The Small Commercial Exemption

prepared by

**Jay E. Closser
Town Appraiser**

for the

**Town of Concord
Board of Assessors**

on

November 25, 1998

What is the small commercial exemption?

Under General Law Chapter 59 Section 5I, the Board of Selectmen may decide to exempt up to 10 percent of the property valuation of certain Class three commercial parcels. The qualifications are that businesses that occupy the property must have had no more than 10 employees, during the previous calendar year, and have a valuation of less than \$1,000,000. The property must be occupied by the eligible business as of January 1, but does not have to be owned by the eligible business. If a building is occupied by multiple commercial occupants, all occupants must be eligible businesses. If the parcel is both residential and commercial, all occupants of the commercial portion must be eligible businesses. If the business occupies more than one parcel, each one valued under \$1,000,000, each parcel would qualify for the exemption. If the exemption is granted, the reduction in taxable valuation of property is taken before the tax rate is set. The additional tax burden will then be borne by the Commercial (Class 3) and Industrial (Class 4) properties, but not by the personal property (Class 5). This would mean a higher tax rate for the Commercial and Industrial properties.

How would it work in Concord?

According to Board of Assessors' 1998 records the Town of Concord had 329 Class Three (3) parcels. The total value of these commercial parcels was \$175,322,756. For the purposes of the "small business exemption" the commercial properties are stratified by value: Those assessed for less than \$1,000,000 are eligible for the exemption; those assessed greater than or equal to \$1,000,000 are not eligible. Only improved properties are eligible for the exemption, therefore the 21 vacant commercial parcels would not qualify for the exemption. There are 290 Class Three (3) parcels valued less than \$1,000,000. Nearly all of these properties would qualify for the exemption. These would include medical office condominiums, law offices, dentist offices and most retail establishments in the town centers.

The exemption amount may be up to 10% of the value of each of the qualifying parcels. The total value of the 290 qualifying properties is \$73,128,031. If a 10% exemption were granted the Class Three (3) property base would be reduced by \$7,312,803; a 5% exemption would be \$3,656,401. This total exempted amount would have to be deducted from the Commercial and Industrial Class totals in order to determine what the tax rate would be under the exemption.

The current Commercial and Industrial tax rate is \$13.26 per thousand. At 10% the small business exemption would cause the tax rate to increase by about 4%. This means that all Commercial properties assessed greater than \$1,000,000 would see a 4% increase in their taxes. Likewise all commercial vacant land, and industrial properties would face a 4% tax increase. Properties that received the 10% exemption would have a reduction of about 7%. Personal property would be unaffected by the exemption.

The law is new and is currently being used by three communities: Avon, Braintree, and Somerset (see addenda for a discussion of their experiences). The intention of the law is to give a tax reduction to small businesses, like "mom and pop" stores, at the expense of large businesses, like Nuclear Metals.

The question of essential fairness arises because of the broad assumptions made by the legislation. The central premise is that small businesses need help and that big businesses can afford to pick up the tab. The assumption that small businesses are anemic while large businesses are healthy has been contradicted in Concord in recent years as large companies like Digital Equipment have closed up four office buildings because of corporate losses and subsequent downsizing. On the other hand, the medical community, which has been the primary source of commercial growth over the past five years, is in many cases comprised of small businesses that would qualify for the exemption. The issue of essential fairness raises the question of whether the small business exemption makes sense in the current business climate. In Concord, a review of the relative health of the commercial community casts doubt on the notion that large businesses can afford to pay for a tax exemption for small businesses.

Another consideration is that many of the small retail establishments that the law was designed to help are not the owners of the buildings that they occupy. While a building that has several tenants may qualify for the small business exemption if all of the tenant's have fewer than 10 employees and the assessment of the building is less than \$1,000,000, there is no guarantee that the savings will be passed on to the tenants. Only if a tenant's lease covered the issue would the tax savings be reimbursed. In many leases the landlord is responsible for the taxes and would have no incentive to pass any savings on to the tenants.

In conclusion, the small business exemption would provide the tax relief of up to 10% of a Class Three (3) property's assessment for properties valued under \$1,000,000 with fewer than 10 employees. On the other hand Class Three (3) property's assessed greater than \$1,000,000; those with more than 10 employees; commercial vacant land; and all Industrial property would face tax increases of up to 4% if the maximum exemption were granted. Further, many of the small businesses that occupy eligible buildings are tenants with no guarantee that their landlords would pass on the reduced taxes to them. The small business exemption raises the question of essential fairness with the question - should large businesses pick up the tab so that small businesses may be granted a tax reduction? In the recent recession and the current market it seems apparent that the big businesses have suffered as much, and perhaps more, than small businesses.

Small Commercial Exemption

(This information was gathered by Carolyn Dee, Administrative Assistant, from telephone conversations with the Assessing Departments in the respective towns. This information has been presented informally based on notes from the actual conversations.)

Avon - Why did they adopt it? - They decided to adopt it because it was an election year and one of the Selectmen decided it would be a good idea.

Disadvantages - You can only give exemptions to businesses that are on the list provided by the Department of Employment Training (DET). Any business that does not file with the DET. is not on the list. Most of the small businesses in town, i.e. Mom & Pop stores, do not file with the DET. because they do not have any employees, so they are not eligible for the exemption. It does not help the businesses it is supposed to help. If you have a multi-tenant building and one of the businesses in the building is not on the list, the whole building is disqualified. Also they feel that if the owner of the building gets the tax decrease, they are not going to pass on the savings to the tenant of the building, who is the small business owner, who is the one the exemption is designed to help. They feel it is an administrative nightmare, where you will eventually end up with many different tax rates. It sounds good in theory but does not work in application.

Braintree - Why did they adopt it? - Voted in at the tax classification hearing with the Selectmen, much to the surprise of the Board of Assessors. They wanted to try to help the small businesses because they have a lot of large commercial parcels, and they wanted to try to separate the tax rates for the small and large businesses. Wanted to try to give the small business owner a break.

Disadvantages - Out of 535 businesses on the list from D.E.T. only 73 businesses qualified. The self-employed people are not on the list, so they do not qualify. Not helping those it is designed to help. Can't give the exemption to anyone who is not on the list, even if you know they are a small businesses with fewer than 10 employees.

Somerset - Why did they adopt it? - Because they have 2 power plants in town and they felt that the small businesses were getting a higher tax rate because of the two power plants. Most of the revenue from the two power plants comes from the Personal Property. They felt that if they gave an exemption to the small businesses it would separate their tax rates from the tax rates for the two power plants.

Advantages - It will help about 50 small businesses in town, which is about 30% of all businesses.

Disadvantages - Anyone who is self-employed and does not pay unemployment tax is not on the list, so they do not qualify for the exemption. Does not help the little businesses who really need it.

They feel although it has its problems, it is working for their town, because of their unique situation with the two power plants. It should help any town which has large commercial parcels.