

REQUESTING A TAX ABATEMENT BEFORE THE BOARD FOR THE ABATEMENT OF TAXES

An abatement differs from a tax appeal in that the subject of the hearing is taxes or charges, not assessment of property. It is a statutory process for relieving taxpayers from the burden of paying property taxes, water charges, sewer charges, interest, and/or collection fees when the law authorizes abatement and when the Board, in its discretion ("the Board *may*, is the way the law puts it") agrees that the request is reasonable and proper. The Board does not have authority to abate taxes for reasons other than those listed in 24 V.S.A. Sec. 1535. Pursuant to 24 V.S.A. Sec. 1535, abatement may be granted for:

- (1) Taxes or charges of persons who have died insolvent;
- (2) Taxes or charges of persons who have moved from the state;
- (3) Taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees;
- (4) Taxes where there is a manifest error or a mistake of the listers;
- (5) Taxes or charges upon real or personal property lost or destroyed during the tax year;
- (6) Taxes of a veteran or his or her family members who file late for an exemption claim under 32 V.S.A. Sec 3802 (11) due to sickness, disability or other good cause; or
- (7) Taxes or charges upon mobile homes moved from town due to a change in use of mobile home park land or a mobile home park closure.

The law also allows for abatement of the penalty associated with a Homestead Declaration.

The Board for the Abatement of Taxes is a different body from the Board of Civil Authority. The Board consists of the Town Treasurer, the Town Clerk, the Selectboard, the Listers, and the Justices of the Peace, totaling 25 members. "Quorum" is the minimum number of members of a board that must be present in order for that board to hold a meeting or take an action. Quorum for the board of abatement is either: (1) the majority of the total number of members on the board (13); or (2) the treasurer, a majority of the listers, and a majority of the Selectboard members. The law allows for decisions to be made by a majority of a quorum of the board members present at a meeting. 24 V.S.A. Sec. 1533.

Title 24 does not provide a specific route of appeal from a decision by the Board of Abatement. If an applicant believes the board of abatement has abused its discretion in denying the request, case law in Vermont suggests that an appeal can be taken through Rule 74 or Rule 75 of the Rules of Civil Procedure. Appeals taken under these rules are not de novo and generally only review the proceedings for abuse of discretion.

In preparing your case before the Board, you should remember that you carry the burden of proving that an abatement is necessary in your case. You will be sworn in at the beginning of the consideration of your case, and you may want to present written evidence or other witnesses to support your case. Good preparation in advance of the Board's meeting will expedite the hearing and help the Board understand the nature of your request for abatement.

A copy of your tax, water or sewer bill is probably essential to your case. If your request for abatement involves personal property tax, you should also arrange with the Listers to get a copy of your inventory form that you submitted in the spring. A review of the Listers' card on your real estate, if that is the subject of your abatement request, may also be of great use to you. Talking to the Listers about your request may also help prepare you for their reaction on the night of the hearing.

The Board for the Abatement of Taxes can only consider requests that fall within the categories of statutory reasons for abatement. The Board's authority should not be confused with that of the Board of Civil authority, in its tax appeal role, where issues of comparability and equity are involved.

To request an abatement hearing before the Board, an applicant must file a written request with the Town Clerk, listing the grounds on which the request is based. A meeting of the Board will be scheduled (Board of Abatement generally meets only once or twice annually) and the applicant will receive a written notice of the date and time of the meeting approximately two to three weeks prior to the hearing date.

There may be other hearings scheduled for the same evening as your appeal. All appeals will be allowed ample time. However, you may have a wait before the Board actually is able to hear your testimony.

You may choose to submit your request in writing to the Board and not appear at the hearing, but keep in mind that the only evidence presented in your favor will be your written testimony with no opportunity to ask or answer questions that may arise.

WHAT TO EXPECT AT THE HEARING

Your hearing will begin with a brief review of the proceeding offered by the Chair. All members of the Board will have previously taken an oath to hear all matters at issue. You also will be sworn in prior to being given the opportunity to present your case.

The Board will make its decision regarding your request that evening at the meeting. A written decision will also follow in the mail within a few days of the abatement hearing.

If you need additional information regarding the abatement process, you may contact the Town Clerk.