



TOWN OF KITTERY

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Kittery Town Council Special Meeting Requested by Chairperson Spiller February 12, 2024 | 5:30 PM | Council Chambers

1. Call to Order
2. Roll Call
3. EXECUTIVE SESSION
 - a. (020124-01) The Kittery Town Council moves to go into Executive Session in accordance with 36 M.R.S. § 841(2)(C) with the Town Manager and Town Clerk, to discuss a property tax poverty abatement application.
4. ADJOURNMENT

Posted: February 8, 2024



MAINE REVENUE SERVICES PROPERTY TAX DIVISION BULLETIN NO. 10

PROPERTY TAX ABATEMENT AND APPEALS PROCEDURES

REFERENCE: 36 M.R.S. Chapter 105, Subchapter 8
December 15, 2022; replaces March 26, 2020 revision

1. General

Taxpayers who believe their property is overvalued or who believe there was an error or mistake in their assessment may appeal their assessment by requesting an abatement. The abatement process provides a path for a taxpayer who disagrees with their property tax assessment to present evidence and request a reduction in property tax. This bulletin explains the process and requirements for requesting a property tax abatement and any subsequent appeals.

This bulletin focuses on abatement requests where a taxpayer believes their property is overvalued or believes there was an error or mistake in their assessment. Maine law also allows abatement of property taxes in some circumstances for people who are unable to pay those taxes as a result of hardship or poverty. Hardship or poverty abatements apply only to a person's primary residence, and application for abatement must be filed with the municipality within three years of the commitment date. For additional information on hardship or poverty abatements, contact your municipality.

2. Definitions

- A. Assessor. "Assessor" means a sworn municipal assessing authority, whether an individual assessor, a board of assessors, or a chief assessor of a primary assessing area. With respect to the unorganized territory, "assessor" means the State Tax Assessor.
- B. Commitment date. "Commitment date" means the date that the list of taxpayers and the amounts of property tax due for a municipality is officially turned over to the municipal tax collector for collecting that year's property taxes. For property located in the unorganized territory, "commitment date" means the date taxes are certified by the State Tax Assessor pursuant to 36 M.R.S. § 341.
- C. Just value. "Just value" means market value, i.e. the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller for a property, each acting without compulsion in an arm's-length transaction.
- D. Municipal assessed value. "Municipal assessed value" means the property value established by the assessor for purposes of local property taxation. Municipal assessed value may be equal to, higher than, or lower than market value.

- E. Municipality. “Municipality” means any city, town, plantation, or that portion of a county in the unorganized territory.
- F. Municipal officers. “Municipal officers,” as defined in 36 M.R.S. § 501(4), means the mayor, councilors and alderman of cities, members of the select board of towns, and the assessors of plantations. For property located in the unorganized territory, municipal officers means the State Tax Assessor.

3. Valuation Appeals

The assessor’s job is to fairly value the property in the municipality. Fair values are essential for distributing the tax burden equitably among all municipal taxpayers. Total taxable property value in a municipality and that municipality’s budget are used to determine the local tax rate. Your property value is multiplied by the local tax rate to determine your share of the municipal, school district, and county budget that must be raised through the property tax. If a property is overvalued, an unfair tax burden is placed on the owner of the property; if a property is undervalued, an unfair tax burden is placed on all other taxpayers in the municipality.

- A. Determination of value. An assessor uses many tools to determine the value of each property in a municipality, but there are three general valuation methods that all assessors employ. These methods are the market approach, the cost approach, and the income approach. The market approach values a property by using recent local sales of similar or “comparable” properties. The cost approach calculates the cost to replace a particular property, then adjusts the cost for age, wear, and other factors to find the value of that property. The income approach estimates value based on the potential income of a property. The income approach is normally limited to income-producing property, but the other two approaches apply to all types of property.
- B. Revaluation. Occasionally, municipalities perform full property revaluations, which analyze the value of all property in a municipality in depth and update their values to accurately reflect the current just value of all of them. These revaluations sometimes result in substantial increases in value for individual properties. This change can translate to the tax on some properties increasing, some decreasing, and some remaining roughly the same. An increase in your property value does not necessarily mean there will be an increase in your property tax.
- C. Overvaluation. Overvaluation may occur for any number of reasons. If your property is overvalued, this may be the result of an unintended error during the valuation process. For example, perhaps your house was reported as being built in 1994, when it was actually built in 1949, or your deed says you own 12 acres of land when you only own 1.2 acres. These errors can usually be detected easily by checking your property record card, which contains details of your property that are used for property tax purposes. If you think the assessed value of your property is too high, ask your assessor for a copy of your property record card and check it for errors.

Some overvaluations, however, may require more research than just checking your property record card. If land values in your neighborhood are grouped with the land values of a nearby, more desirable neighborhood, but sales of similar properties in both neighborhoods show that

land in your neighborhood is not as valuable as the land in the other neighborhood, your property may be overvalued.

- D. Certified Ratio. Municipalities are not required to assess all property at 100% of just value. Many municipalities assess property at some percent of just value, referred to as the municipality's certified ratio. For example, if the just value of your property is \$250,000, but your assessed value is \$275,000, that does not necessarily mean that your property is overvalued for tax purposes. If your municipality assesses all property at 110% of just value, meaning the certified ratio is 110%, then your property is valued correctly.

$$\$250,000 \text{ just value} \times 110\% \text{ certified ratio} = \$275,000 \text{ assessed value}$$

If, however, your property is assessed at 110% and all other property in the municipality is assessed at 90%, then your property may be overvalued.

- E. Burden of Proof. The burden of proof is on you, the taxpayer, to show that your property is overvalued or that there was an error or mistake in your assessment. To provide this evidence, you may have to do some research. The assessor's office has data on recent sales in the municipality that you can request. You may even be able to access this data online. In any event, simply disagreeing with the assessed value will not result in a property tax abatement; you must prove your case, either by pointing out an error or by showing the correct just value based on recent local sales of properties similar to yours.

4. Other Appeals

In addition to valuation disputes, the abatement process is also the means by which a taxpayer may appeal certain other decisions related to their property tax assessment. For example, if you apply for the Homestead Exemption in your municipality and your application is denied, you may appeal that denial by filing an abatement application as described in this bulletin. Application denials for the following programs may be appealed using the abatement process:

- Homestead Exemption
- Veteran Exemption
- Blind Exemption
- Business Equipment Tax Exemption
- Working Waterfront Program
- Renewable Energy Equipment Exemption
- Open Space Tax Law Program
- Tree Growth Tax Law Program
- Farmland Tax Law Program

5. The Abatement Process

Once you feel that you have adequate facts to prove that your property is overvalued or that there was an error or mistake in your assessment, you must submit a written abatement request to your assessor. Your municipality may have a specific form that you must fill out, but all abatement requests must include the amount of the abatement requested and the reason for requesting the abatement. Once you submit an abatement request, the assessor will review it and decide whether your request is justified. If the assessor agrees with you, they will lower your property value and adjust your tax bill. Generally,

the assessor is only allowed by law to adjust your current year's tax bill. In some limited cases, past taxes may be adjusted. See Section 7 below for more information.

The following requirements apply to abatement requests.

- A. In writing. All abatement requests and appeals must be made in writing.
- B. Property valued at \$500,000 or more. For property valued at \$500,000 or more, an appeal of the assessor's decision requires that a taxpayer first make a payment equal to: 1) the taxes not in dispute; or 2) the taxes paid in the prior tax year up to, but not exceeding, the current year's taxes, whichever is greater. This payment must be made by the municipal due date or must follow a payment schedule mutually agreed to by the municipality and the taxpayer.
- C. Burden of proof. As mentioned above, the burden of proof lies with the taxpayer in an abatement request. This means that to receive an abatement, you must show evidence that your property is overvalued or that there was an error or mistake in your assessment. This evidence must prove that the assessed value of your property is wrong. Simply stating that your property is overvalued will not be sufficient to change the assessed value of your property.
- D. Information requests. If the municipal assessor sent a request for information about your property pursuant to 36 M.R.S. § 706-A, you must provide that information or you will not be allowed to appeal any abatement decision by the assessor. If you were unable to respond to the information request when it was sent to you, you can submit the information and an explanation of why you were not able to respond by the deadline with your written appeal. If your explanation is satisfactory, your appeal may be heard.

6. Appeals

- A. Appeal of assessor decision. If the assessor denies your abatement request or does not lower your property value to an amount that you agree with, you have the right to appeal that decision. Appeals of assessor decisions go to the local board of assessment review. If your municipality does not have a board of assessment review, appeals go to the county commissioners. The written decision from the municipal assessor on your abatement request should contain contact information for filing an appeal.
 - (1) Exception for current use property. If your property is enrolled in one of the current use programs, your first appeal goes to the State Board of Property Tax Review. Current use programs are:
 - a. Tree Growth Tax Law program. See 36 M.R.S. §§ 571 – 584-A and Property Tax Bulletin No. 19.
 - b. Farmland Tax Law program. See 36 M.R.S. §§ 1101 – 1121 and Property Tax Bulletin No. 20.

- c. Open Space Tax Law program. See 36 M.R.S. §§ 1101 – 1121 and Property Tax Bulletin No. 21.
 - d. Working Waterfront program. See 36 M.R.S. §§ 1131 – 1140-B.
- (2) Exception for certain nonresidential property. If your municipality does not have a board of assessment review and your property is nonresidential property (such as a manufacturing facility) assessed at \$1 million or more, your first appeal goes to the State Board of Property Tax Review. If your municipality has a board of assessment review, the first appeal for nonresidential property assessed at \$1 million or more goes to the local board of assessment review.

If the first appeal of an assessor’s decision is to the State Board of Property Tax Review, both parties must participate in mediation (unless specifically excused by the Chair of the State Board of Property Tax Review). If mediation does not resolve the issue, the State Board of Property Tax Review will hear the case.

- B. Further appeals. If the local board of assessment review or the county commissioners deny your abatement or do not lower your property value to a satisfactory amount, you may appeal that decision to Superior Court. If you receive an unsatisfactory decision in Superior Court, you may appeal the decision to the Maine Supreme Court.

If a first appeal for nonresidential property valued at \$1 million or more went to the local board of assessment review, the next appeal would go to the State Board of Property Tax Review. When appealing a decision to the State Board of Property Tax Review for nonresidential property valued at \$1 million or more, both parties must participate in mediation unless excused by the Chair of the State Board of Property Tax Review. If mediation does not resolve the issue, the State Board of Property Tax Review will hear the case. If the State Board of Property Tax Review denies your abatement or does not lower your property value to a satisfactory amount, you may appeal to the Superior Court, and then to the Maine Supreme Court.

7. Timeline

- A. Abatement. Generally, a taxpayer must submit an abatement request to the municipal assessor within 185 days from the municipality’s commitment date. The commitment date usually occurs about the time that tax bills are first mailed for the tax year. An assessor has the discretionary authority to abate property taxes within one year of commitment, despite the 185-day deadline for a taxpayer to submit an abatement request.

For an illegal assessment, such as property assessed to the wrong owner, a taxpayer may request an abatement from the municipal officers after one year, but within three years, of the commitment date. (Municipal officers, however, are not authorized to correct an error in valuation, such as a disputed valuation method; as described above, errors in valuation may only be corrected by the assessor.) Taxpayers must submit abatement requests during this extended deadline to the municipal officers rather than to the municipal assessor.

Once an abatement request is received, the assessor or municipal officers must notify the taxpayer of the abatement decision within 60 days. If the assessor or municipal officers do not respond to a properly submitted abatement request within 60 days of receiving that request, the request is deemed denied.

- B. First appeal. To appeal the assessor's or municipal officer's decision, a taxpayer must file a written appeal within 60 days of the issuance of the notice from the assessor or within 60 days of the deemed denial. The local board of assessment review or county commissioners must provide written notice of the decision on an appeal within 60 days of receiving the appeal. If the taxpayer agrees, the local board of assessment review or the county commissioners may extend the deadline. If the local board of assessment review or the county commissioners do not provide written notice of the decision, the appeal is deemed denied after 60 days from the date the appeal is received. The State Board of Property Tax Review is not subject to a decision issuance deadline and may take longer than 60 days to issue a decision.
- C. Further appeals. An appeal of a decision by the local board of assessment review or the county commissioners to Superior Court must be made within 30 days of the decision or deemed denial by the local board of assessment review or the county commissioners. An appeal of a decision by the local board of assessment review to the State Board of Property Tax Review must be made within 60 days of the date of the decision or deemed denial from the local board of assessment review.

Appeals from the State Board of Property Tax Review to Superior Court must be made within 30 days of the decision by the State Board of Property Tax Review.

NOTE: This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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Title 36: TAXATION
Part 2: PROPERTY TAXES
Chapter 105: CITIES AND TOWNS
Subchapter 8: ABATEMENT

§841. Abatement procedures

1. Error or mistake. The assessors, either upon written application filed within 185 days from commitment stating the grounds for an abatement or on their own initiative within one year from commitment, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment if the taxpayer has complied with [section 706-A \(../36/title36sec706-A.html\)](#).

The municipal officers, either upon written application filed after one year but within 3 years from commitment stating the grounds for an abatement or on their own initiative within that time period, may make such reasonable abatement as they consider proper to correct any illegality, error or irregularity in assessment if the taxpayer has complied with [section 706-A \(../36/title36sec706-A.html\)](#). The municipal officers may not grant an abatement to correct an error in the valuation of property.

[PL 2017, c. 367, §7 (AMD).]

2. Hardship or poverty. The municipal officers, or the State Tax Assessor for the unorganized territory, within 3 years from commitment, may, on their own knowledge or on written application, make such abatements as they believe reasonable on the real and personal taxes on the primary residence of any person who, by reason of hardship or poverty, is in their judgment unable to contribute to the public charges. The municipal officers, or the State Tax Assessor for the unorganized territory, may extend the 3-year period within which they may make abatements under this subsection.

As used in this subsection, "primary residence" means the home, appurtenant structures necessary to support the home and acreage sufficient to satisfy the minimum lot size as required by the municipality's land use or building permit ordinance or regulations or, in the absence of any municipal minimum lot size requirement, as required by [Title 12, section 4807-A \(../12/title12sec4807-A.html\)](#).

Municipal officers or the State Tax Assessor for the unorganized territory shall:

A. Provide that any person indicating an inability to pay all or part of taxes that have been assessed because of hardship or poverty be informed of the right to make application under this subsection; [PL 2013, c. 424, Pt. A, §24 (RPR).]

B. Assist individuals in making application for abatement; [PL 2013, c. 424, Pt. A, §24 (RPR).]

C. Make available application forms for requesting an abatement based on hardship or poverty and provide that those forms contain notice that a written decision will be made within 30 days of the date of application;

[PL 2013, c. 424, Pt. A, §24 (RPR).]

D. Provide that persons are given the opportunity to apply for an abatement during normal business hours;

[PL 2013, c. 424, Pt. A, §24 (RPR).]

E. Provide that all applications, information submitted in support of the application, files and communications relating to an application for abatement and the determination on the application for abatement are confidential. Hearings and proceedings held pursuant to this subsection must be in executive session; [PL 2013, c. 424, Pt. A, §24 (RPR).]

F. Provide to any person applying for abatement under this subsection, notice in writing of their decision within 30 days of application; and [PL 2013, c. 424, Pt. A, §24 (RPR).]

G. Provide that any decision made under this subsection include the specific reason or reasons for the decision and inform the applicant of the right to appeal and the procedure for requesting an appeal. [PL 2013, c. 424, Pt. A, §24 (RPR).]

[PL 2017, c. 273, §1 (AMD).]

3. Inability to pay after 2 years. If after 2 years from the date of assessment a collector is satisfied that a tax upon real or personal property committed to him for collection cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy or other inability of the person assessed to pay, he shall notify the municipal officers thereof in writing, under oath, stating the reason why that tax cannot be collected. The municipal officers, after due inquiry, may abate that tax or any part thereof.

[PL 1979, c. 73 (RPR).]

4. Veteran's widow or widower or minor child. Notwithstanding failure to comply with section 706-A ([../36/title36sec706-A.html](#)), the assessors, on written application within one year from the date of commitment, may make such abatement as they think proper in the case of the unremarried widow or widower or the minor child of a veteran, if the widow, widower or child would be entitled to an exemption under section 653, subsection 1, paragraph D ([../36/title36sec653.html](#)), except for the failure of the widow, widower or child to make application and file proof within the time set by section 653, subsection 1, paragraph G ([../36/title36sec653.html](#)), if the veteran died during the 12-month period preceding the April 1st for which the tax was committed.

[PL 2017, c. 367, §8 (AMD).]

5. Certification; record. Whenever an abatement is made, other than by the State Tax Assessor, the abating authority shall certify it in writing to the collector, and that certificate shall discharge the collector from further obligation to collect the tax so abated. When the abatement is made, other than an abatement made under subsection 2 ([../36/title36sec841.html](#)), a record setting forth the name of the party or parties benefited, the amount of the abatement and the reasons for the abatement shall, within 30 days, be made and kept in suitable book form open to the public at reasonable times. A report of the abatement shall be made to the municipality at its annual meeting or to the mayor and aldermen of cities by the first Monday in each March.

[PL 1987, c. 772, §16 (RPR).]

6. Appeals. The decision of a chief assessor of a primary assessing area or the State Tax Assessor shall not be deemed "final agency action" under the Maine Administrative Procedure Act, Title 5, chapter 375 ([../5/title5ch375sec0.html](#)).

[PL 1979, c. 73 (NEW).]

7. Assessors defined. For the purposes of this subchapter the word "assessors" includes assessor, chief assessor of a primary assessing area and State Tax Assessor for the unorganized territory.

[PL 2001, c. 396, §15 (AMD).]

8. Approval of the Governor. The State Tax Assessor may abate taxes under this section only with the approval of the Governor or the Governor's designee.

[PL 1999, c. 521, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 1973, c. 66, §15 (AMD). PL 1975, c. 765, §§14-A (AMD). PL 1977, c. 44, §1 (AMD). PL 1977, c. 479, §15 (AMD). PL 1977, c. 509, §16 (RPR). PL 1977, c. 694, §§688-692 (AMD). PL 1979, c. 73 (RPR). PL 1987, c. 70 (AMD). PL 1987, c. 772, §§15,16 (AMD). PL 1989, c. 508, §10 (AMD). PL 1991, c. 16, §1 (AMD). PL 1991, c. 16, §2 (AFF). PL 1993, c. 133, §1 (AMD). PL 1999, c. 521, §A4 (AMD). PL 2001, c. 396, §15 (AMD). PL 2005, c. 169, §1 (AMD). PL 2005, c. 218, §10 (AMD). PL 2011, c. 552, §1 (AMD). PL 2011, c. 624, §1 (AMD). PL 2013, c. 424, Pt. A, §24 (AMD). PL 2015, c. 300, Pt. A, §9 (AMD). PL 2017, c. 273, §1 (AMD). PL 2017, c. 367, §§7, 8 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

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