

Commonly Asked Questions Regarding Abatements and Abatement Appeals

Q. What is the best way to review my assessment?

A. Request a copy of your tax assessment record card from your municipality's Assessing Department. Review the card and discuss any questions or errors with the Assessor.

Q. What do I do if I disagree with my assessment?

A. You may file for an abatement with your municipality. Abatement applications will be accepted after the final tax bill of the year has been sent with an application deadline of March 1st.

Q. Who can file for an abatement with the municipality?

A. Any person or entity "aggrieved" by reason of paying the tax. Generally, this is the property owner but can be others. Your right to apply and appeal for an abatement is not lost because you sold or bought during the applicable tax year. However, you must be an aggrieved party and meet all timely filing requirements.

Q. How do I apply to my municipality for an abatement?

A. You must apply in writing to the municipality (RSA 76:16), by March 1st (in most cases). An abatement application can be obtained from the municipality or from the NH Board of Tax and Land Appeals (BTLA). www.nh.gov/btla

Q. What if I disagree with the municipality's decision on my abatement application or if the municipality fails to act on my application?

A. You can either discontinue your abatement request or, by **September 1st** (in most cases), you can appeal the municipality's action or inaction to the **Board of Tax and Land Appeals** (RSA 76:16-a or to the **Superior Court** (RSA 76:17) in the county where the property is located.

Q. Can I appeal to both the Superior Court and the Board of Tax and Land Appeals?

A. No. If you file with the court, you **cannot** file with the BTLA. If you file with the BTLA, you **cannot** file with the court.

Q. Must I pay my taxes while my appeal is pending?

A. Yes. Filing with your municipality and appealing to the BTLA or the Superior Court does not relieve the taxpayer's obligation to pay the taxes owed. The municipality has the right to charge you interest on unpaid taxes (even if an abatement is granted), to place a lien on your property, and take other collection steps while your application and appeal are pending. If an abatement is ordered by the BTLA and taxes have been paid, the abated taxes will be refunded to you with 6% interest.

Q. Must I wait to hear from the municipality before I appeal to the BTLA?

A. Not necessarily. If **July 1st** has not yet passed, you must wait. If **July 1st** has passed, then you may appeal to the BTLA whether or not you have heard from the municipality. However, you must appeal to

the BTLA no later than **September 1st** (in most cases). The municipality's failure to act on your abatement application does **not** extend this deadline. So, you should file with the BTLA by **September 1st** whether or not you have heard from the municipality.

Q. How do I appeal to the Superior Court?

A. You should contact the Superior Court directly for this information or consult an attorney.

Q. How do I appeal to the Board of Tax and Land Appeals?

A. You must apply in writing by the statutory deadline – **September 1st** (in most cases). An appeal form can be obtained from the municipality, the BTLA's website or you may call and one can be mailed to you. Your appeal must state what property you are appealing and the reasons for your appeal. You can only appeal with the BTLA if you have timely filed an abatement request with the municipality.

Q. What is the fee for filing an appeal with the BTLA?

A. There is a **non-refundable** \$65.00 filing fee for the appeal (checks should be made payable to the "Treasurer, State of New Hampshire"). This fee covers all lots appealed and owned by a taxpayer in a town. However, if more than one parcel is appealed **and** the parcels are owned by different people, then a separate appeal document and \$65.00 fee is required. (Example: John Doe owns one property alone and another with Jane Doe. If both are appealed, two separate forms with a filing fee for each are required.

Q. Can I contact the municipality to discuss my appeal while my appeal is pending with the BTLA?

A. Yes. You can and should contact the municipality even after you have filed your appeal. Before the hearing, you should have already reviewed your assessment-record card with the municipality, and you and the municipality should have discussed possible settlement of the appeal.

Q. Do I need an attorney at the hearing?

A. No. You are not required to have an attorney at the hearing. However, some taxpayers choose to have attorneys represent them at the hearing. Others have tax representatives or family members who appear for them before the BTLA.

Q. What do I do at the hearing, and who has the burden of proof at the hearing?

A. The **taxpayer** has the burden of proof, requiring the taxpayer to prove the assessment resulted in the taxpayer paying an unfair, illegal or disproportionate share of taxes. At the hearing, both the taxpayer and the municipality will make a presentation to the board. The municipality will usually explain the basis of the assessment and why no disproportionality exists. The taxpayer must show why the assessment resulted in him/her paying a disproportionate share of taxes. Taxpayers should: 1) have photographs of the property (exterior and interior, if applicable); 2) have an opinion of what they think the property was worth on **April 1st** of the appealed year; 3) be prepared to explain the opinion of the property's value, **e.g.**, comparable sales, appraisals; and 4) document other issues, **e.g.**, errors on the assessment-record card.

Q. Do I need an appraisal for my appeal?

A. Not necessarily. However, it is certainly helpful and, in some cases, an appraisal is essential. Remember, the taxpayer has the burden of proof at the hearing and appraisals can help carry the burden. If you do not obtain an appraisal, you should still be able to estimate the property's value and to explain the estimate, preferably with sales of similar properties.

Q. I have an appeal pending before the board. Must I continue to apply with the town and appeal to the board for subsequent tax years while I wait for my appeal to be heard?

A. The simple answer is "No." You do not **have** to appeal for subsequent years **unless** any of the following have changed since your original appeal:

- a) the property itself;
- b) the assessment; or
- c) the reasons for the appeal.

This simple answer however requires elaboration. The following will occur on your original (now pending) appeal:

- 1) the board will issue a decision **only** for the appealed year(s);
- 2) if an abatement is granted, the municipality shall abate taxes for the years between the filing of the appeal and the issuance of the decision, **using the ordered assessment with good-faith adjustments;**
- 3) if an abatement is granted, the municipality shall also **use the ordered assessment** for subsequent tax years **with good-faith adjustment;** and
- 4) if a taxpayer thinks the municipality made adjustments to the ordered assessment without having a good-faith reason, the taxpayer may file a motion with the BTLA to determine if the municipality had a good-faith reason to adjust the ordered assessment.

***Note:** The above outline assumes no municipal-wide general revaluation or update has occurred and no changes have occurred in the property, the reasons for the appeal or the assessment other than good-faith adjustments.

As shown in 2) and 3) above, a taxpayer who has not appealed for subsequent tax years is entitled to some relief for subsequent tax years. However, as shown in 4) above, such a taxpayer can only make a limited challenge to the assessment for subsequent years, i.e., they can only challenge whether the municipality had a good-faith reason to adjust the ordered assessment. If the municipality **shows** it had a good-faith reason, the adjusted assessment will stand unless the taxpayer **proves** the municipality did not have a good-faith basis. The taxpayer cannot challenge the magnitude of the adjustments unless the taxpayer shows the changes were so unreasonable that the municipality's adjustments were made without a good-faith basis.

Taxpayers must decide on their own whether to appeal each year or to rely on the provided rights without appealing. If you have any questions regarding subsequent tax year appeals, please address them to the BTLA, in writing.