

Tax Abatement Notes

Requests to the Tax Abatement Board (TAB) should be made in writing and say why the request is being made.

New changes in the law allow towns to abate only the interest and penalty, and now, in the list of reasons for abatement, mistakes can be made by people in addition to the Listers.

The majority of the Board makes up a quorum.

If the listers testify they can't vote.

People making requests based on inability to pay should provide income and expense information. The town cannot require this but can encourage it and provide a form for requester to fill out.

Income and expense information is private to be discussed in deliberative session not in public. All private info is collected at the end of meeting.

The TAB, because it's a quasi-judicial board, goes into deliberative session as opposed to executive session. Voting can happen in deliberative session and the decision is made in deliberative session.

The decision of the TAB is communicated in writing and it doesn't contain vote totals.

The decision can be included with the minutes and the results of the deliberative session can be included in the minutes with a statement like: "The Board came out of deliberative session and made the following decision..."

Minutes within 5 days

Written decision within 15 days.

The decision states the reason, minutes don't.

Rules of Procedure
Town of Windham Board of Abatement

- A. **Purpose.** The Board of Abatement of the Town of Windham is authorized under 24 V.S.A. §§ 1533-1537 to conduct hearings on requests for abatement of real and personal property taxes. The purpose of these rules is to establish uniform procedures for conducting abatement hearings and to ensure compliance with 24 V.S.A. §§1533-1537 and Vermont's Open Meeting Law.
- B. **Application.** These rules of procedure will apply to all abatement hearings conducted by the Town of Windham Board of Abatement. A copy of these rules will be provided to each taxpayer requesting abatement.
- C. **Procedure.** A majority of the members of the Board of Abatement must be present in order to hold a hearing. In the alternative, a hearing may be held if the town treasurer, a majority of the listers, and a majority of the selectpersons are present. A concurrence of a majority of those present at the hearing is required to grant an abatement.
1. The chair of the Board will preside over each abatement hearing. The chair will rule on all questions of order and procedure. The chair may make motions and may vote on all questions before the Board. If the chair is absent, a chair *pro tem*, elected by the Board, will preside.
 2. Each taxpayer requesting abatement will be afforded a 20 minute hearing. If a taxpayer does not appear, the Board's decision will be based upon any information submitted by the taxpayer with his/her abatement hearing request form.
 3. The chair may exclude any irrelevant, unreliable or unnecessarily repetitive evidence. Relevant evidence is any verbal testimony or document that tends to prove or disprove the appropriateness of abatement. Reliable evidence is any relevant evidence commonly relied upon by reasonably prudent people in the conduct of their affairs.
 4. The chair will conduct abatement hearings in the following sequence:
 - a. Open the hearing, stating the name of the taxpayer, property location and parcel ID number.
 - b. Ask the taxpayer and witnesses to take the following oath: *Under the pains and penalties of perjury, do you solemnly swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth?*
 - c. Request Board members to disclose any conflict of interest and/or *ex parte* communication.
 - d. Ask the taxpayer if he has received a copy of the Board's rules of procedure and whether he has any questions about how the hearing will proceed.
 - e. Ask the taxpayer to identify the statutory abatement category that the abatement request is being made under. These categories are set out at 24 V.S.A. § 1535(a)(1)-(9).
 - f. Allow the taxpayer to present verbal and documentary evidence supporting the abatement request to the Board.
 - g. Invite questions from the Board.
 - h. Close the hearing and explain that the Board will enter deliberative session and will issue a written decision within 30 days.
- D. **Amendment.** These rules may be amended by ~~two-thirds~~ majority vote of the Board of Abatement.

Adopted by the Town of Windham Board of Abatement at its organizational meeting held 7.6, 2015.

Chair, Board of Abatement

Complete the "Abatement Hearing Request" & submit
to the Windham Town Clerk.

A hearing will be scheduled with the Board of Abatement
and you will be notified of the date & time.

ABATEMENT

The Law

Abatement of Taxes. 24 V.S.A. §§ 1533 - 1536:

§ 1533. Town board for the abatement of taxes

The board of civil authority, with the listers and the town treasurer, shall constitute a board for the abatement of town, town school district taxes, and current use taxes. The act of a majority of a quorum at a meeting shall be treated as the act of the board. The above requirement in respect to a quorum need not be met if the town treasurer, a majority of the listers and a majority of the selectmen are present at the meeting. (Amended 1999, No. 49, § 82, eff. June 2, 1999.)

§ 1534. Meetings; how notified

Meetings of such board shall be notified like meetings of the board of civil authority, except that at least one of the listers shall have personal notice of such meetings.

§ 1535. Abatement

(a) The board may abate in whole or part taxes, interest, or collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

- (1) taxes of persons who have died insolvent;
- (2) taxes of persons who have removed from the state;
- (3) taxes of persons who are unable to pay their taxes, interest, and collection fees;
- (4) taxes in which there is manifest error or a mistake of the listers;
- (5) taxes upon real or personal property lost or destroyed during the tax year;

(6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed.

(7), (8) [Repealed.]

(9) taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax for the next ensuing tax year, and for succeeding tax years if required to use up the amount of the credit. Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered. Interest on taxes paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest. When a refund has been ordered, the board shall draw an order on the town treasurer for such payment. (Amended 1975, No. 158 (Adj. Sess.), § 1; 1989, No. 149 (Adj. Sess.), § 1, eff. April 24, 1990; 1991, No. 19; 1995, No. 149 (Adj. Sess.), § 1; 1999, No. 49, § 83, eff. June 2, 1999; 1999,

No. 159 (Adj. Sess.), § 24, eff. May 29, 2000; 2001, No. 140 (Adj. Sess.), § 30, eff. June 21, 2002; 2003, No. 76 (Adj. Sess.), § 3, eff. Feb. 17, 2004; 2005, No. 14, §§ 6, 7, eff. May 3, 2005; 2011, No. 155 (Adj. Sess.), § 6.)

§ 1536. Record; discharge

The board for the abatement of taxes shall make a record of taxes, interest and fees so abated which shall be recorded in the office of the town clerk and a certified copy shall be forwarded forthwith to the collector of taxes and the town treasurer. The collector shall mark in the tax bill the taxes, interest and fees abated and the persons against whom they were assessed shall be discharged from their payment. An abatement of a use change tax shall be separately recorded in the land records of the municipality in which the property subject to the abatement is located and shall effect a release of the land use lien on the portion of the property abated. (Amended 1989, No. 149 (Adj. Sess.), § 2, eff. April 24, 1990; 1999, No. 49, § 84, eff. June 2, 1999.)

16 V.S.A. § 514. Abatement

The officers of the district, except the collector, shall be a board for the abatement of district taxes, and it shall have the same power which the board for the abatement of town taxes has in the abatement of such taxes. On request of the collector, the prudential committee shall call a meeting of such board in the month of February in each year, by posting a notice thereof in three public places in such district at least five days before such meeting.

Sample Notice To Taxpayer

The following memo might be included in the notice to those who have requested abatement. The memo gives parties some idea of how to proceed and what to expect when they reach the hearing.

You have requested that the Board of Abatement abate some or all of your property taxes in the Town of _____. The Board will hear your request for abatement at the Town Office at _____ on _____. You may appear either in person or by a representative to give testimony in support of your request. If you are unable to attend feel free to submit written information in support of your request. Whether you are present or not, the board will still consider your abatement request.

Abatement is a statutory process for relieving taxpayers from the burden of property taxes, interest or collection fees when the law authorizes abatement and when the Board, in its discretion, agrees that the request is reasonable and proper. The Board is never required to grant a particular abatement. The board may only grant abatement for reasons that are permitted in 24 V.S.A. § 1535(a).

In preparing your case before the Board, you should remember that you carry the burden of proving that 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 bill is probably essential to your case. If your request for abatement involves the 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.

Remember, the Board of Abatement 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. Nor should you assume that the Board of Abatement has any authority to relieve you of a tax bill simply because you do not like the amount of taxes owed.

Hearing Schedule
Town of Windham Board of Abatement

All abatement hearings will be held at the Town offices, Windham Hill Road, Windham, Vermont.

TAXPAYERS SHOULD APPEAR AND BE READY TO PRESENT THEIR EVIDENCE AT THE DATE AND TIME SET FORTH BELOW. IF YOU FAIL TO APPEAR, YOUR ABATEMENT REQUEST WILL BE DECIDED ON THE BASIS OF THE INFORMATION SUBMITTED IN YOUR ABATEMENT HEARING REQUEST FORM.

Date _____ Time _____

Example only

Abatement Hearing Request
Town of Windham, Vermont

A COPY OF YOUR PROPERTY TAX BILL MUST BE SUBMITTED WITH THIS FORM

Name, Property Owner on Grand List _____
Name, Applicant _____
Relationship of Applicant to Listed Owner (if other than Listed Owner) _____
New Owner, Purchase Date _____
Executor/Administrator of Estate _____ Other _____
Mailing Address _____
Telephone _____ Email _____
Location of Property _____
Parcel ID (SPAN) Number _____
Property Type ☐ Residential ☐ Commercial ☐ Agricultural ☐ Forest Land Assessed Value _____

I am requesting abatement under the following statutory criteria:

- ☐ Taxes of persons who have died insolvent. 24 V.S.A. § 1535(a)(1).
- ☐ Taxes of persons who have removed from the state. 24 V.S.A. § 1535(a)(2).
- ☐ Taxes of persons who are unable to pay their taxes, interest, and collection fees. 24 V.S.A. § 1535(a)(3).
- ☐ Taxes in which there is manifest error or a mistake of the listers. 24 V.S.A. § 1535(a)(4).
- ☐ Taxes upon real or personal property lost or destroyed during the tax year. 24 V.S.A. § 1535(a)(5).
- ☐ Taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237. 24 V.S.A. § 1535(a)(9).
- ☐ The exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed. 24 V.S.A. § 1535(a)(6).

Please provide a brief description of the basis for your abatement request. You may attach a separate sheet:

Signature _____ Date _____

If signed by an agent, attach a copy of written authorization to sign on behalf of the Listed Owner.

Following receipt of your abatement request, the Board of Abatement will notify you of the date, time, and place of your hearing. At the hearing, you will be responsible for supplying evidence to support your abatement request. If you fail to appear at the hearing, the Board's decision will be based solely on the information provided in this form. The Board may choose to abate all or part of the taxes, interest, and penalties due, but is under no obligation to grant any abatement request. You will be notified in writing of the Board's decision.

The filing of this application does not stay the collection of your property tax. To avoid imposition of interest and penalties, the tax should be paid when due. You may appeal the Board's of Abatement's decision to Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.