MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PROPERTY TAX BULLETIN NO. 10

PROPERTY TAX ABATEMENT AND APPEALS PROCEDURES

REFERENCE: 36 M.R.S. §§ 583, 706-A, 841-849, and 1118
March 26, 2020; replaces Feb 13, 2018 revision

1. General

When a property is overvalued for purposes of assessing local property tax, or if the assessment of a tax is illegal or erroneous, a property owner may request an abatement of property tax, in writing. Abatement is the process by which valuation that is found to be excessive or an assessment found to be void because of an error, or illegal may be corrected. To qualify for an abatement, a property owner must show: 1) that the property is overvalued in comparison to other, similar properties in the same municipality; or 2) that the assessment is illegal or void. The assessor's determination of value is presumed to be correct, so the burden of proving an abatement is warranted is on the property owner. While abatements may be made by an assessor or by municipal officers on their own initiative, this bulletin is concerned with abatements requested by the property owner or taxpayer.

Article IX, section 8 of the Maine Constitution provides that "All taxes upon real and personal estate . . . shall be apportioned and assessed equally according to the just value thereof." 36 M.R.S. § 701-A states that "In the assessment of property, assessors in determining just value are to define this term in a manner that recognizes only that value arising from presently possible land use alternatives to which the particular parcel of land being valued may be put." The term "just value" has been interpreted by the Law Court to mean market value. Article IX, section 8 also provides an exception to the requirement to assess property according to the just value in the case of classified farm, open space, forest lands, and working waterfront, which may be valued on the basis of their current use. While assessors are required to assess most property on the basis of just value, the constitutional requirement is not that property be assessed at just value, but rather that it be assessed in accordance with just value. For example, if your property is valued at 110% of market value and all other property in the municipality is also valued at 110%, your property is not overvalued when compared to other properties. If, however, your property is valued at 100% of market value and all other property is valued at 85% of market value, your property is overvalued.

Each municipality has a ratio – or percentage of just value – at which all property in the municipality is generally valued. This ratio – called the declared ratio – is the assessed value as a percentage of market value. The declared ratio for a municipality is calculated by dividing the total local assessed value by the total market value of property in a municipality. The total market value is determined through analysis of recent selling prices of property in the municipality. In determining whether an assessed value is reasonable, a property owner must consider the effect of the municipality's declared ratio. The declared ratio reported by a local assessor may differ from the assessment ratio contained in various studies produced by Maine Revenue Services (36 M.R.S. § 848-A).

Overvaluation must be the result of comparing properties within a municipality. A difference between your tax bill and another bill on a similar property in a different municipality does not indicate a wrongful assessment. A high property tax on your property, compared to the tax on similar property in another municipality, may be due to a smaller tax base or a higher level of services in your municipality. The fact that a property tax is high, by itself, is not grounds for abatement.

An assessor may increase the assessed value of a property from one year to the next, if the assessor finds that the previous valuation had been less than it should have been. This valuation increase may occur even if no influence affecting the property's worth has changed. Assessors must adjust the assessed value for any property whenever the value is found to be inequitable. However, assessed values must be changed before property taxes for that tax year have been committed. A valuation increase from one year to the next is not, by itself, grounds for an abatement of tax. Note that an assessor is not required to give notice of periodic valuation changes to taxpayers.

Property tax assessed to a person who is not the owner, or the person in possession, of that property is an example of an illegal assessment. An inadequate description of property being taxed is not, by itself, reason for an abatement of tax.

Before requesting an abatement of tax, the property owner must determine that the property in question has been significantly overvalued, compared to other property in the same municipality or that the assessment itself is illegal or void. A property owner may ask the assessor to see the valuation book to check assessed value of all property in the municipality or to check that the correct property is assessed to the rightful owner. The valuation book is a public record and is available for inspection at reasonable times and under reasonable safeguards. Some municipalities provide their valuation information online. Discussion with the assessor may also help determine if property is overvalued or illegally assessed. A property owner must show overvaluation compared to other, similar properties on average. A discrepancy with one or two other properties is not enough to show overvaluation. After reviewing the information described in this paragraph, if the property owner still feels his or her property is overvalued compared to other, similar properties, or the tax has been illegally assessed, the property owner should proceed as follows.

2. Method of Seeking Abatement

Abatement requests must be made with the municipal assessor or board of assessors. For property in the unorganized territory, abatement requests must be made with the State Tax Assessor. Neither the State Tax Assessor nor the Property Tax Division of Maine Revenue Services is authorized to abate taxes assessed in municipalities. Requests for abatement are not made to the local tax collector. Tax collectors have no authority to make abatements.

A. Initial request. Maine tax law provides that property owners who believe that their assessed property valuation is excessive or illegal must seek relief through a written request to the local assessor or board of assessors. This request must be made within 185 days after the date the tax was committed to the tax collector, which is usually shortly before the tax bill is mailed. The request must state the amount of the abatement requested and the reasons for requesting the abatement. Though an abatement request must be made within the first 185 days for a taxpayer pursuing an abatement, the assessor may make an abatement on the assessor's own initiative within one year of commitment. A property owner claiming an illegal or void assessment may also apply for an abatement with the municipal officers after one year but within

three years from the date of commitment. This extended abatement request period does not apply to overvaluation claims. Except for claims that the assessment is illegal, initial requests for abatement must always be addressed to the local assessing authority.

The assessor or municipal officers have 60 days to respond to the property owner's abatement request. The assessor or municipal officials have 10 days to provide the taxpayer written notice of their decision once the final determination is made. If the property owner is not satisfied with the decision, the owner may appeal the decision as outlined in subsection B. If a decision is not made within 60 days, the abatement request is deemed denied and the property owner may then proceed with an appeal.

B. Appeal of decision. If the property owner is dissatisfied with the decision of the local assessor, or the decision of the municipal officials in the case of an abatement for illegality, the owner may appeal – within 60 days – to the municipal board of assessment review (BAR) or to the county commissioners if the municipality has no BAR.

For property valued at $500,000 or more, an appeal of the assessor's decision to the BAR or county commissioners requires that the property owner first make a payment of the greater of an amount equal to the taxes not in dispute or the taxes paid in the prior tax year that do not exceed the current years taxes. This payment must be made by the municipal due date or according to a payment schedule mutually agreed to by the municipality and taxpayer.

The BAR, county commissioners, or SBPTR must respond to an appeal with a decision within 60 days of the property owner's filing of the appeal. If a decision is still unsatisfactory or not made within 60 days, the property owner may then proceed with an appeal to Superior Court within 30 days of an adverse (or deemed denied) decision.

For abatement requests involving nonresidential property valued at $1,000,000 or more (adjusted to market value) the initial appeal of the decision of the assessor goes to the local BAR. Subsequent appeals go to the SBPTR, followed by Superior Court. If a municipality does not have a local BAR, appeals go directly to the county commissioners or the SBPTR. When appealing a decision to the SBPTR for property valued at $1,000,000 or more, both parties must participate in mediation (unless specifically excused by the Chair of the SBPTR). If mediation does not resolve the issue, the SBPTR will hear the case.

Generally, a property owner loses the right to request abatement if he or she had previously failed to file a list of taxable property at the request of the assessor, unless the property owner submits the requested list with the abatement request.

3. Current Use Appeals

Assessments made under the Tree Growth Tax Law, Farm and Open Space Law and working waterfront program are subject to the abatement procedures provided by §§ 841 and 842. However, appeals from the decision of the assessors in such cases are to the State Board of Property Tax Review.

4. Interest

If the amount finally assessed is less than the amount which the taxpayer has already paid, the

municipality shall reimburse an amount equal to the overpayment plus interest at a rate defined in § 506-A.

5. Addresses and Telephone Numbers

Property Tax Division
PO Box 9106
Augusta, ME 04332
prop.tax@maine.gov
207-624-5600
V/TTY: 7-1-1

State Board of Property Tax Review
49 State House Station
Augusta, ME 04333
Prop.Tax.BD@maine.gov
207-287-2864

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.

MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
PO BOX 9106
AUGUSTA, MAINE 04332-9106
TEL: (207) 287-2013
EMAIL: PROP.TAX@MAINE.GOV
WWW.MAINE.GOV/REVENUE/PROPERTYTAX

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MAINE RULES OF COURT

RULE 80B. REVIEW OF GOVERNMENTAL ACTION

(a) Mode of Review. When review by the Superior Court, whether by appeal or otherwise, of any action or failure or refusal to act by a governmental agency, including any department, board, commission, or officer, is provided by statute or is otherwise available by law, proceedings for such review shall, except to the extent inconsistent with the provisions of a statute and except for a review of final agency action or the failure or refusal of an agency to act brought pursuant to 5 M.R.S.A. § 11001 et seq. of the Maine Administrative Procedure Act as provided by Rule 80C, be governed by these Rules of Civil Procedure as modified by this rule. The complaint and summons shall be served upon the agency and all parties in accordance with the provisions of Rule 4, but such service upon the agency shall not by itself make the agency a proper party to the proceedings. The complaint shall include a concise statement of the grounds upon which the plaintiff contends the plaintiff is entitled to relief, and shall demand the relief sought. No responsive pleading need be filed unless required by statute or by order of the court, but in any event any party named as a defendant shall file a written appearance within the time for serving an answer under Rule 12(a). Leave to amend pleadings shall be freely given when necessary to permit a proceeding erroneously commenced under this rule to be carried on as an ordinary civil action.

(b) Time Limits; Stay. The time within which review may be sought shall be as provided by statute, except that if no time limit is specified by statute, the complaint shall be filed within 30 days after notice of any action or refusal to act of which review is sought unless the court enlarges the time in accordance with Rule 6(b), and, in the event of a failure to act, within six months after expiration of the time in which action should reasonably have occurred. Except as otherwise provided by statute, the filing of the complaint does not stay any action of which review is sought, but the court may order a stay upon such terms as it deems proper. The time for the filing of an appeal shall commence upon the date of the public vote or announcement of final decision of the governmental decision-maker of which review is sought, except that, if such governmental action is required by statute, ordinance, or rule to be made or evidenced by a written decision, then the time for the filing of an appeal shall commence when the written decision has been adopted. If such written decision is required by statute, ordinance, or rule to be delivered to any person or persons, then the time for the filing of an appeal shall commence when the written decision is delivered to such person or persons. If such written decision is sent by mail, delivery shall be deemed to have occurred upon the earlier of (i) the date of actual receipt or (ii) three days after the date of mailing.

(c) Trial or Hearing; Judgment. Any trial of the facts where provided by statute or otherwise shall be without jury unless the Constitution of the State of Maine or a statute gives the right to trial by jury. The judgment of the court may affirm, reverse, or modify the decision under review or may remand the case to the governmental agency for further proceedings.

(d) Motion for Trial; Waiver. If the court finds on motion that a party to a review of governmental action is entitled to a trial of the facts, the court shall order a trial to permit the introduction of evidence that does not appear in the record of governmental action and that is not stipulated. Such motion shall be filed within 30 days after the complaint is filed. The failure of a party to file said motion shall constitute a waiver of any right to a trial of the facts. Upon filing of a motion for trial of the facts, the time limits contained in this rule shall cease to run pending the issuance of an appropriate order of court specifying the future course of proceedings with that motion. With the motion the moving party shall also file a detailed statement, in the nature of an offer of proof, of the evidence that the party intends to introduce at trial. That statement shall be sufficient to permit the court to make a proper determination as to whether any 160 trial of the facts as presented in the motion and offer of proof is appropriate under this rule and if so to what extent. After hearing, the court shall issue an appropriate order specifying the future course of proceedings.

(e) Record.

(1) Preparation and Filing Responsibility. Except where otherwise provided by statute or this Rule, (i) it shall be the plaintiff's responsibility to ensure the preparation and filing with the Superior Court of the record of the proceedings of the governmental agency being reviewed, and (ii) the record for review shall be filed at the same time as or prior to the plaintiff's brief. Where a motion is made for a trial of the facts pursuant to subdivision (d) of this Rule, the moving party shall be responsible to ensure the preparation and filing of the record and such record shall be filed with the motion.

(2) Record Contents. The parties shall meet in advance of the time for filing the plaintiff's brief or motion for trial of the facts to agree on the record to be filed. Where agreement cannot be reached, any dispute as to the record shall be submitted to the court. The record shall include the application or other documents that initiated the agency proceedings and the decision and findings of fact that are appealed from, and the record may include any other documents or evidence before the governmental agency and a transcript or other record of any hearings. If the agency decision was based on a municipal ordinance, a state or local regulation, or a private and special law, a copy of the relevant section or sections from that ordinance, regulation, or private and special law, shall be included in the record. For appeals from decisions of a municipal agency, a copy of the section or sections of the municipal ordinance that establish the authority of the agency to act on the matter subject to the appeal shall also be included in the record. Copies of sections of the Maine Revised Statutes shall not be included in the record.

In lieu of an actual record, the parties may submit stipulations as to the record; however, the full decision and findings of fact appealed from, and the applicable ordinances, regulations, or private and special laws as detailed above shall be included.

(f) Review Limited to Record. Except where otherwise provided by statute or by order of court pursuant to subdivision (d) hereof, review shall be based upon the record of the proceedings before the governmental agency.

(g) Time for Briefs and Record. Unless otherwise ordered by the court, all parties to a review of governmental action shall file briefs. The plaintiff shall file the plaintiff's brief within 40 days after the date on which the complaint is filed. Any other party shall file that party's brief within 30 days after service of the plaintiff's brief, and the plaintiff may file a reply brief 14 days after last service of the brief of any other party. However, no brief shall be filed less than 6 calendar days before the date set for oral argument. On a showing of good cause the court may increase or decrease the time limits prescribed in this subdivision.

(h) Consequence of Failure to File. If the plaintiff fails to comply with subdivision (e) or (g) of this rule, the court may dismiss the action for want of prosecution. If any other party fails so to comply, that party will not be heard at oral argument except by permission of the court.

(i) Joinder With Independent Action. If a claim for review of governmental action is joined with a claim alleging an independent basis for relief from governmental action, the complaint shall contain a separate count for each claim for relief asserted, setting forth in each count a concise statement of the grounds upon which the plaintiff contends the plaintiff is entitled to relief and a demand for the relief sought. A party in a proceeding governed by this rule asserting such an independent basis for relief shall file a motion no later than 10 days after the filing of the complaint, requesting the court to specify the future course of proceedings, including the timing of briefs and argument and the scope and timing of discovery and other pretrial proceedings including pretrial conferences. Upon the filing of such a motion, the time limits

contained in this rule shall cease to run pending the issuance of an appropriate order of court. After hearing, the court shall issue such order.

(j) Discovery. In a proceeding governed by this rule, discovery shall be allowed as in other civil actions when such discovery is relevant either to the subject matter involved in a trial of the facts to which the discovering party may be entitled or to that involved in an independent claim joined with a claim for review of governmental action as provided in subdivision (i) of this rule. No other discovery shall be allowed in proceedings governed by this rule except upon order of court for good cause shown.

(k) Pretrial Procedure. In the absence of a court order, the pretrial procedure of Rule 16 shall not be applicable to a proceeding governed by this rule.

(l) Scheduling of Oral Argument. Unless the court otherwise directs, all appeals shall be in order for oral argument 20 days after the date on which the responding party's brief is due or is filed, whichever is earlier. The parties may, by agreement, waive hearing and submit the matter for decision on the record and the briefs. The clerk of the Superior Court shall schedule oral argument for the first appropriate date after an appeal is in order for hearing, and shall notify each counsel of record or unrepresented party of the time and place at which oral argument will be heard.

(m) Remand by the Superior Court. If the Superior Court remands the case for further action or proceedings by the governmental agency, the Superior Court's decision is not a final judgment, and all issues raised on the Superior Court's review of the governmental action shall be preserved in a subsequent appeal taken from a final judgment entered on review of such governmental action. The Superior Court does not, however, retain jurisdiction of the case.

(n) Review by the Law Court. Unless by statute or otherwise the decision of the Superior Court is final, review by the Law Court shall be by appeal or report in accordance with the Maine Rules of Appellate Procedure, and no other method of appellate review shall be permitted.

Rule Amended effective July 27, 2018.