

Poverty Tax Abatement Policy

Town of Baldwin Maine

Background: Any person who owns or rents property in the Town of Baldwin receives mutual support from the other townspeople in the form of goods and or services from the town. As a minimum, these are roads, schools, fire protection, and emergency medical support. These town-provided goods and services are at least partially funded through property taxes and each resident has a duty to the community, legally and morally, to pay their assessed property taxes and not be a burden upon the other residents of town. However, it is recognized that some persons who by reasons of infirmity or poverty are unable to contribute to this mutual support and unable to pay their property taxes.

Maine law (Title 36 MRSA §841.2) permits municipal officials "on their own knowledge or on written application (to) make such tax abatements as they believe reasonable in the real and personal taxes on all persons who, by reason of infirmity or poverty, are in their judgment unable to contribute to the public charges." However, the law provides no clear cut criteria for municipal officials to determine whether a person is in a poverty situation and "unable to contribute to the public charges." Therefore, this policy is to set out a process to guide the Baldwin Board of Selectmen when reviewing poverty tax abatement applications.

There are two programs available to an applicant: General Assistance help with paying property taxes and a Poverty Tax Abatement.

1. General Assistance help with payment of property taxes is adjudicated by the General Assistance administrator. The policies and guidelines for this program are spelled out in the MMA Model General Assistance Manual, which has been adopted by the Board of Selectmen. If the applicant chooses to seek property tax assistance through General Assistance, or if the applicant is denied a poverty tax abatement, the administrator may consider using General Assistance to meet this need only if:

- a) The property tax in question is for the applicant's place of residence;
- b) There is a tax lien on the property which is due to mature within 60 days of the date of application;
- c) As a matter of municipal policy or practice, or on the basis of information obtained from the applicant's mortgagee, if any, it is reasonably certain that a tax lien foreclosure will result in subsequent eviction from the residential property; and
- d) The applicant, with sufficient notice, applies for property tax relief through the Maine Property Tax Fairness Credit program, when available."

2. Poverty Tax abatements are adjudicated by the Board of Selectmen. This policy aims to establish and spell out the guidelines for the Selectmen.

In order to responsibly carry out their duties under the law, the Board of Selectmen must assess the financial status of all persons who may be eligible for or request tax abatement due to hardship or poverty. The method of assessing a person's ability to contribute to the public charges needs to be standard and comprehensive so that each applicant is handled fairly and the town's mutual interest in collecting those taxes that are due are protected. An individual's financial status is not obvious and therefore, applicants seeking a poverty tax abatement have the burden of proof that they are eligible for or in need of an abatement. It is the judgment of the Board of Selectmen that reliable proof can only be substantiated by review of an applicant's detailed financial information obtained from a General Assistance type eligibility analysis. This analysis is recognized statewide as a fair and reliable measure of financial need. It also provides a measure by which the two tax assistance programs are brought into alignment and synchronized. Please note that an individual is required to provide the information in the GA analysis if they are seeking a poverty tax abatement. The individual is not required to accept GA payments if found eligible in the course of the tax abatement application process.

Policy: In the event that an individual requests assistance with his or her property taxes from either the Tax Collector, the Treasurer, or the Board of Selectmen, the individual will be provided a copy of this policy and referred to the GA administrator. The administrator will inform the applicant that there are two procedures at the local level to request that relief: the poverty abatement process (36 M.S.R.A. § 841(2)) and General Assistance.

1. In both cases, as a first step, the applicant will be required to set up an appointment with the GA administrator and complete a property tax abatement request financial statement and an application for GA. This is useful because people who are eligible for GA, in fact, have less income than they need to pay for basic necessities. **If there are no mitigating factors, people who meet the GA eligibility standard will be eligible for a poverty tax abatement.** People who are not eligible for GA, however, may still be eligible for a property tax abatement depending on how much money they have to pay their taxes after they've paid for other necessities.
2. The Tax Collector is requested to inform the Board of Selectmen in writing when a lien is about to be placed on a property. The reason for this request is that non-payment of property taxes could be an early indicator of financial need and this would allow the Board of Selectmen to begin the process of adjudicating the need for a tax abatement before an individual's financial need gets compounded with additional interest and fees.

Confidentiality:

Information in an application is confidential and any hearings and proceedings connected with a request for a poverty tax abatement will be held in executive session as permitted by 36 MRSA §841(2)E, unless the applicant requests a public hearing in writing. Proceedings and records surrounding the request and consideration of a poverty tax abatement shall be confidential.

The following motion will be used when going into executive session:

"I move that we go into executive session pursuant to 1 MRSA, section 405, subsection 6(F)." Maine's right to know law provide that executive sessions are strictly for deliberations and no formal decisions or actions taken behind closed doors. Formal action must be taken after returning to public session. An applicant shall only be identified by case number in the formal decision. It will take the form of

"I move to (grant/deny/partially grant) the request made in case # ____ for an abatement and further that this Board certify to the Tax Collector, that an abatement has been granted pursuant to 36 MRSA §841.2 in the sum of \$____ for tax year ____ including fees and interest, with respect to the real estate taxes committed to the Tax Collector for collection on _____ and this certification is to be given to the Tax Collector in writing signed by the Board of Selectmen."

Determining Eligibility

The Board of Selectmen, when faced with a request for an abatement has two options:

1. Deny the Abatement, if it is clear that the applicant is not poor or failed to produce necessary documentation. The application will be denied if the applicant does not meet the burden of proof that he is "unable to contribute to the public charges". If the application is denied, the Board of Selectmen shall send a written notice within ten (10) days after they take final action.

2. Approve the Abatement. The Board of Selectmen can grant the abatement in whole or in part depending on the depth of the applicant's financial distress. If the applicant is clearly poor and has little or no prospects which would enable them to pay the taxes, a full abatement would be appropriate. A partial abatement is appropriate in those cases where the applicant can pay part of the taxes or will be able to pay a portion of the taxes prior to the tax lien expiring. If a full abatement is granted, the fees and interest that would accrue as the result of a lien are also abated.

Note that abatement is only available for taxes not already foreclosed on. Once the property is foreclosed, the foreclosure discharges the lien and satisfies the tax obligation for that year.

If the Board approves an abatement, the Board of Selectmen shall certify it in writing to the Tax Collector. The fact of the abatement shall be noted and kept in a confidential book form that is not open to the general public (36 MRSA §841.5).

Applicants seeking a poverty abatement have the burden of proving that they are eligible for the abatement; it is not the Board of Selectmen's responsibility to prove that the applicants are not entitled to the abatement. The applicant must provide whatever information the Board of Selectmen thinks is necessary for it to make an informed decision. As stated above, the Board of Selectmen will determine the applicants' financial condition within the context of a General Assistance type eligibility determination.

Factors the Board will take into consideration during the analyses include: the applicant's

income (both current and projected); assets such as an excessively expensive vehicle, extra cars, recreational vehicles, boats, real estate, etc.; actual expenses which may not be reasonable or necessary and which may be reduced or eliminated; and other sources of income or methods available to the applicant to alleviate their financial distress such as relatives, refinancing, homestead exemption, abatements available to widows or children of veterans, veterans, the legally blind, and the Property Tax Fairness Tax Credits. Failure to of the homeowner to provide requested financial data could lead to foreclosure and sale of the property for recovery of taxes.

Appeal

Applicants who have had their request for a poverty abatement denied, or whose requests have not been acted upon within thirty (30) days, have the right to appeal the denial within sixty (60) days to the Board of Assessment Review (36 MRSA §843, 844).

Baldwin Board of Selectmen

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