



# OFFICE OF THE CLERK/TREASURER

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## GUIDELINES AND PROCEDURES FOR THE BOARD OF ABATEMENT OF TAXES

### DEFINITION OF TAX ABATEMENT

The Office of the Vermont Secretary of State defines tax abatement,

Abatement is a statutory process for relieving taxpayers from the burden of property taxes, penalty and interest when the law authorizes abatement and when the board, in its discretion, agrees that the request is reasonable and proper. It exists to permit the board to prevent any injustice or to help a taxpayer who faces extraordinary circumstances that make it difficult for the taxpayer to meet his or her tax obligations. Abatements are cautiously granted insofar as they reduce the income to the town and require the town to either spend less or increase the taxes on the rest of the taxpayers to make up the difference. A board may abate property taxes 'in whole and in part'. (*Vermont Secretary of State. Booklet named "About Abatement", June 2006.*)

### AUTHORITY

The process for tax abatement made for property in Burlington follows; Burlington City Charter Article 15, section 42. Composition; meetings. Burlington abatement laws are not under 24 Vermont Statutes section 1535.

The mayor, city council and assessors shall constitute a board for the abatement of taxes and also for the abatement of special assessments, or any part thereof, for sewers and street improvements, whenever the same are illegal or in the judgment of the board cannot be collected or are manifestly unjust. Meetings of such board shall be convened in the manner herein prescribed for calling special meetings of the city council; and notice thereof signed by the mayor or chief administrative officer, shall be given to all taxpayers by the publication of such notice for two days in all the daily newspapers printed in said city. The first of which publications shall be not more than ten days, and the last not less than three days prior to the meeting. Whenever any special assessment, or any part thereof, for sewers or street improvements is abated, the chief administrative officer shall make a minute of such abatement on the original assessment on file in his or her office on the margin of the record thereof.

City Charter Section 42 highlights;

- Composition of the Board of Tax Abatement (BTA) include; mayor, city council and assessors.
- BTA can consider abatement of taxes and special assessments.
- BTA determines abatement under the following criteria; seemed **illegal**, judged to be **uncollectable** or are **manifestly unjust**.
- BTA meetings are convened by the city council.
- Notice in all the daily newspapers printed in Burlington for two days, and no less than three days prior to the meeting.
- Meeting minutes and records are to be made and kept by the chief administrative officer.

The City Charter section 42 instructs the BTA to make a determination as to whether the taxes are illegal, uncollectable or manifestly unjust.

Vermont State Statute Title 24 section 1535 is the VT law on the abatement of taxes.

## GUIDANCE:

The BTA has referred to the booklet called “About Abatement” published by the Office of the Vermont Secretary of State.

A taxpayer is not required to attend the Board of Abatement meeting.

The BTA can ask for additional information when deemed necessary.

Taxes from prior years can be abated in whole or in part so long as the granting meets statutory reasons.

All BTA decisions have to meet at least one of the statutory reasons for abatement. The BTA is never required to grant a particular abatement.

There are three primary criteria's the board considers in each decision. They are as follows.

1. **Illegal** – The City can't levy taxes if it does not have the legal authority by statute. A few examples would be a statutorily exempt property was mailed a tax bill in error, or the wrong amount of taxes was calculated than should have been on a taxable property. Another example would be, if a property is not in a special tax district but was thought otherwise a correction and refund should be made on the grounds of it being illegal.
2. **Manifestly unjust** – The most common request, a taxpayer may state that taxes, interest and/or penalties are manifestly unjust due to the following claims; “late payment”, “late homestead declaration”, “unforeseen property damage”, “financial hardship”, “unfair property value assessment” or other reasons. The subcommittee will judge the merits of the claim and make a recommendation to the Board of Tax Abatement. See Typical Tax Abatement Request below to understand how the board has rendered a decision based on the case from the taxpayer.
3. **Uncollectable** – After the City has taken appropriate measures to track down a property owner over several years (3-years) the taxes, penalties and interest can be considered uncollectable and therefore abated. This allows the City to clear the financial books. Uncollectable is most typical of closed businesses or abandoned property.

## TYPICAL TAX ABATEMENT REQUESTS

Below are tax abatement request cases of which the BTA has reviewed, and made a determination. The BTA recognizes that each tax abatement request is unique and may result in a different decision than stated below.

Abatement request for...

### ***LATE TAX PAYMENT***

**Case** – In 2013 a taxpayer requested abatement of interest and penalty applied for late payment. The requestor stated that the tax bill was mailed to the wrong address therefore was unaware of the payment due date which resulted in a late payment.

**Finding** – The BTA denied the taxpayer's request because the owner did not make a timely payment, City made several attempts to notify owner. The mailing address used by the City was the address give. A correct address was not provided to the City.

**Case** – In September 2013 a taxpayer requested the abatement of the interest stating that it was manifestly unjust because the tax bill was never received. Owner attested, if I had received the tax bill it would have been paid and that over the past 30 years has never been late on a tax payment.

**Finding** – of the BTA was to deny request for reasons that the tax deadline dates have been the same for many years. City has posted signs and notices prior to due date. Mail sent by the Treasurer's Office was mailed to owner's home.

**Case** – In August 2013 property owner requested the interest applied be abated due to wife and husband being hospitalized at the time tax payment was due.

**Finding** – The BTA denied the request because no evidence was submitted as proof of the hospitalization. The penalty was legal, just and collectable.

**Case** – In August 2014 property owner requested abatement of penalty because they did not receive notice of late payment and assumed the payment was made.

**Finding** – The BTA found that the notice letter was mailed but returned because of an error in the City's address database, therefore owner was not notified to make the payment. BTA found that the City made a data entry error of the owner's address because the owner requested an address change but the address change was not entered correctly. Abatement was granted.

**Case** – on July 2012, property owner requested abatement of interest and penalties for a late payment. Claiming that payment was mailed on time and submitted a check carbon copy and a bank statement.

**Finding** – The BTA denied the request because payment was not received by the due date.

#### ***LATE HOMESTEAD DECLARATION PENALTY***

**Case** – In 2013 a home owner requested an abatement of the penalty due not filing a Homestead Declaration on time because the owner was out of the country at the time and unaware of the filing deadline date.

**Finding** – The request was denied by the BTA on the following grounds; deadlines are in the Vermont Tax Return booklet, State made outreach efforts regarding the process, penalty of 3% is not overly burdensome and this is consistent with past BTA decisions.

#### ***NON-FILED HOMESTEAD DECLARATION***

**Request** – In March 2012 a Homeowner made a request for abatement for the difference in education taxes between non-homestead education taxes and the declared homestead education tax after the final deadline date. Owner stated that the property is their primary residence and that it is unjust to levy the non-homestead tax on a primary residence. The homeowner stated that the Homestead Declaration was not declared because they used a CPA from out-of-state whom was not aware of the requirement to declare a homestead.

**Finding** – The BTA determined that it was the owner's responsibility to review their tax bill. The error was made by the property owner's CPA. The City and VT Tax Department have made several public attempts to notify owners of the laws applicable to the Homestead Declaration program. The BTA recognizes that the City will not be reimbursed for the difference by the State of Vermont Tax Department; and therefore, if an abatement was issued it would become the burden on city taxpayers. The BTA finds the education tax to be legal, and manifestly just.

#### ***PROPERTY DAMAGE DUE TO FLOODING OR FIRE***

**Case** – A property owner requested an abatement of taxes when their business was significantly destroyed due to flooding in 2011. As a result of the flooding the owner was not able to open for

business for a significant amount of time.

**Finding** – The BTA granted an abatement of a portion of the taxes because it was deemed manifestly unjust for reasons that the business was forced to close for season due to flood, loss of business use over 90 days, loss greater than 50% of building value and property located in FEMA disaster zone.

**Case** – in January 2012 a property owner requested an abatement due to the home being damaged which rendered it uninhabitable.

**Finding** – of the BTA was to grant the abatement request which was deemed manifestly unjust to levy taxes on an uninhabitable home due to fire. Amount is based on proration of taxes from the date of fire to the end of the fiscal year.

**Case** – in 2013 a taxpayer requested a tax abatement on the grounds that it was manifestly unjust to pay taxes due to a flood making their primary home uninhabitable.

**Finding** – The BTA granted the request because the owner was forced to evacuate due to flooding, declared disaster by FEMA, loss was 50% on the home value. Home was uninhabitable and will be purchased by the City through FEMA funds.

### ***LATE FILED DISABLED VETERAN's EXEMPTION***

**Case** – In 2010, a qualified disabled veteran file the Disabled Veterans exemption after the deadline date. The property tax payers requested the taxes be adjusted to reflect the \$40,000 property value exemption.

**Finding** – The BTA gave a partial exemption of 60% of the reduction. This follows the VT statutes Title 32, section 3802. The due date for filing is May 1<sup>st</sup> of each year. The law allows for late filings, with a reduction of the benefit of 20% per month late.

### ***UNFAIR PROPERTY VALUE ASSESSMENT***

**Case** – In August 2010, property owner request a full abatement of taxes, penalties and interest on rental house because hazardous contamination rendered the property to have no value. Claim that the taxes are manifestly unjust due to hardship and unfair assessed property value.

**Finding** – The BTA denied the request but granted a partial abatement because some the long term delinquency was not addressed by the City in a timely manner. The BTA did not abate taxes, penalties and interest because of the appraised value. Appraised value disputes are through the property appeal process and not the jurisdiction of the BTA.

**Case** – in June 2012, a property owner requested a tax abatement do to the appraised value being over assessed as a result of the property based on two bathrooms when the home only had one bathroom. The property owner wanted an abatement from the past 10 years of her ownership.

**Finding** – The BTA deny this request for reason that it is the owner's responsibility to review their property value and property data. Also, the owner did not take the multiple opportunities to request a property value appeal to the Assessor's Office. Bathroom count from prior years can't be verified.

### ***FINANCIAL HARDSHIP***

Each hardship claim is unique and should be weighted based on owner's assets, income current, past and future, job status and anticipated time period of recovery. The BTA will need documents that back up the hardship claim. These include tax filing records, bank statements, list of assets and other financial records. Upon review, the BTA will make a determination whether it is manifestly just to wave interest, penalties and/or taxes.

**Case** – Taxpayer requested an abatement of taxes, penalties and interest in June 2013. Her claim was a financial hardship over the past several years from decisions and circumstances that resulted in the hardship. Several years ago, taxpayer quit her job to take care of her mom with dementia. Later taxpayer was not able to find full time employment and spent all of her retirement savings and incurred debt. Currently, the taxpayer’s household income is \$54,899 which includes a roommate. She has part-time work, owes \$35,000 on house and owns two vehicles.

**Finding** – The BTA denied the request for abatement and is of the opinion that the financial hardship is not significant to render an abatement. The BTA noted that the owner has assets; two vehicles, equity in the house, is working and collects rental income.

**Case** – in August 2013 owner of a mobile home requested an abatement of taxes, penalties and interest due to a financial hardship. Owner is willing to make \$150 payments each month. The owner was unaware that he was able to file for Homestead Declaration for the past 7 years and would be eligible for the State tax adjustment because of low income. Owner stated that income is \$6,090 in social security benefits (after having child support taken out).

**Finding** –The BTA abated the penalties and interest, due to being manifestly unjust. Did not abate the taxes. BTA recognized this as a financial hardship and that the owner was willing to pay taxes and work out a payment plan with City.

### ***BUSINESS PERSONAL PROPERTY (MACHINERY AND EQUIPMENT)***

**Uncollectable** – The City Treasurer’s office may request abatement to the BTA to remove business personal property accounts from the books when the City has made multiple attempts to find and collect from a dissolved business.

**Case** – An equipment leasing company requested an abatement of taxes based on an assessment value which included assets located outside of Burlington.

**Finding** – The BTA granted the tax abatement on the grounds that it was illegal to assess for value of business assets located in a different jurisdiction.

**Case** – In 2010, business requested an abatement of taxes because business moved out of Burlington early in the new fiscal year. Owner claimed that it was manifestly unjust to tax a business not in Burlington for most of the tax year.

**Finding** – The BTA denied the request. The BTA stated that by statute, tax is levied as of April 1<sup>st</sup> for the coming fiscal year.

**Case** – In 2010, business request abatement stating that the business was not located in Burlington.

**Finding** – of the BTA, business was located in near-by municipality not Burlington. It is illegal to tax a business outside the municipality. Abatement was granted.