

ASSESSORS' OFFICE
TOWN OF WINDSOR
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WINDSOR, MAINE 04363

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APPLICATION FOR PROPERTY TAX ABATEMENT

Please be advised that Maine law requires certain taxpayers who are challenging their tax assessment to pay the greater of (a) the amount of taxes paid in the preceding tax year *or* (b) the amount of taxes in the current year that are not in dispute. Please contact the Tax Collector's Office if you need further information on any amounts due the Town.

Filing this abatement request does not suspend, stop, or exclude you from paying your taxes on time prior to the deadline dates. Be advised that interest will accrue on unpaid taxes, even during the Assessor's abatement review period, at the rate established at annual Town Meeting. Please also note that the filing of a tax abatement appeal does not put on hold any applicable tax lien process or the accrual of interest.

If you believe that your assessed property value is incorrect and that the assessors are manifestly wrong, you have the right to appeal to the assessors for relief. Assessors are required to assess most property in accordance with just value, not at just value. Variations in the valuation of properties are likely to be found in most towns; however, it is necessary to consider the average treatment of similar properties. Some properties may be found to be valued on a higher or lower basis but that is not significant if the range of deviation is not excessive.

Abatement procedures are explained in 36 M.R.S.A. starting at Sec. 841 and also in Property Tax Bulletin #10 published by Maine Revenue Services.

Overvaluation is the most common type of request for abatement of property taxes. Abatement is also used to correct an illegality, error or irregularity in the assessment. Abatement is also available to all persons who, by reason of infirmity or poverty, are unable to contribute to the public charges.

When a taxpayer appeals his or her assessment based on overvaluation and requests an abatement, the assessment is not automatically vacated, voided, reduced or "put on hold." It continues in effect as determined by the assessors until there is a final decision to the contrary by the assessors, the municipal officers, local appeal body, or court. The burden is on the taxpayer to prove that he or she is entitled to an abatement. The legal presumption is that the assessment as determined by the assessors is valid until the taxpayer proves that it is manifestly wrong. *City of Biddeford v. Adams*, 1999 ME 49, 727 A.2d 346; *Yusem v. Town of Raymond*, 2001 ME 61, 769 A.2d 834; *Town of Southwest Harbor v. Harwood*, 2000 ME 213, 763 A.2d 115. It is not sufficient for the taxpayer merely to show that the assessors have made an error in judgment. The taxpayer must show that the property was valued at more than its fair market value, not that other similar properties were undervalued. The taxpayer must come forward with credible, affirmative evidence of just value (i.e., evidence of "arm's length" sales). *City of Waterville v. Waterville Homes*, 655 A.2d 365 (Me. 1995); *Southwest Harbor v. Harwood*, 2000 ME 213, 763 A.2d 115. It is the value of the property, compared to the value of other similar property in the town similarly situated, **as shown by actual sales figures or by the opinion of properly qualified experts**, that is relevant on the question of value. The taxpayer must be able to prove indisputably that the value of their property was substantially overestimated. Title 36 M.R.S.A. § 848-A provides that, when an assessment is challenged, "it is a sufficient defense of the assessment that it is accurate within reasonable limits of practicality, except when a proven deviation of 10% or more from the relevant assessment ratio of the municipality or primary assessing area exists." If the taxpayer meets the burden of proof that the assessed valuation is "manifestly wrong," then the assessors "may make such reasonable abatement" as they consider proper.

Maine Revenue Services advises a property owner who believes they are overvalued to first determine if the valuation of their property is equitable in relation to similar property within the town. You can do this by examining the valuation book at the Town Office and comparing the total valuation of your property with the total

valuation of similar properties. If your valuation is within a reasonable relationship to the average treatment of other properties, Maine Revenue Services states in Property Tax Bulletin #10 that the owner has no sound basis for requesting abatement. However, if after reviewing your assessment in this manner you feel entitled to relief you may file a written abatement application with the municipality.

An application for abatement based on overvaluation must be filed by the taxpayer within 185 days of the commitment of the tax. If no abatement action is initiated within the 185-day deadline that value must stand for that tax year. This deadline is critical since it is jurisdictional and may not be waived by the assessors or by an appeal body. Unless the assessors or the municipal officers initiate an abatement, 36 M.R.S.A. § 841 expressly requires that a taxpayer file a written application to request an abatement. Within ten days after the assessors or municipal officers take final action on an application for an abatement, they must give notice of their decision in writing to the person applying for abatement. The applicant has 60 days from the date notice is received to file an appeal. If the assessors fail to give written notice of their decision within 60 days from the date of filing a written application, the application shall be deemed to have been denied and the applicant may appeal, unless the applicant has consented in writing to further delay. In Windsor, an appeal of the assessors' decision must be directed to the Windsor Board of Assessment Review, P.O. Box 179, Windsor, Maine 04363. If the Board of Assessment Review fails to give written notice of its decision within 60 days of the date the application was filed, the application is deemed to be denied unless the applicant agrees in writing to further delay. Either the taxpayer or the assessors may appeal from the decision of the Board of Assessment Review directly to the Superior Court within 30 days in accordance with Rule 80B of the Maine Rules of Civil Procedure.

To start your abatement request a completed Application for Abatement of Property Taxes signed by each owner of record must be filed with the Town of Windsor. In order to facilitate the review process it is recommended that you submit the following additional material in support of your request:

1. A "List" (an inventory of your taxable property) as required by 36 M.R.S.A. Sec. 706. Listed is the taxable property of which you were in possession of on April 1 of the same year of your abatement request. This is your opportunity to review and correct your property record card. If you wish, you may use your current property record card and accept its accuracy. The assessors will review the card and will, in most cases, conduct an on-site inspection of the property.
2. An appraisal report prepared by a licensed or certified appraiser permitted to practice in the State of Maine. The report should provide an estimate of market value as of April 1 of the year under review. A report that additionally addresses tax equity may be to your advantage in a successful appeal. The report should clearly state the purpose of the appraisal, the function of the appraisal, any and all limiting conditions which may have been considered, and certification that the report is not a contingency appraisal.
3. If the property is an income producing property you should also submit Income and Expense data for the preceding two years, rent rolls and vacancy information for the preceding two years, copies of leases for the preceding two years and a current lease.
4. Any other information which you believe may assist in the evaluation of your appeal including environmental impact studies, hazardous waste studies, historic cost of acquisition and improvements, purchase price information, current offerings of similar properties, etc.

All appeals must be prosecuted by either the owner of record of the property as of April 1 of the year under review, or by the owner's legally authorized representative. If the applicant is not the owner of record, the applicant must submit a power of attorney, from the owner, executed under oath, stating that the applicant has the legal authority to represent the owner and that the owner will be bound either by any action taken by the applicant or by the applicant's failure to act.

If you have any questions, please call the assessors' agent at the Town Office.