

Poverty Abatement Policy

9-6-2022

Town of Bar Harbor

Maine law (Title 36 MRSA §841.2) permits the Town Council “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.” Unfortunately, the law provides no clear-cut criteria for the Council to determine whether a person is in a poverty situation and “unable to contribute to the public chares.” This then is the reason for the adoption of this policy.

Proceedings

Proceedings and records surrounding the consideration of a poverty tax abatement are confidential. The proceedings must be held in executive session, unless the applicant requests a public hearing in writing. Even the vote to approve or deny the application is held in executive session. The following motion will be used when going into executive session:

I move that the Town Council go into executive session pursuant to the provisions of Title 36, §841(2) MRSA, to consider a request for an abatement of taxes for reasons of poverty.

Applicants seeking a poverty tax abatement have the burden of proof that they are eligible for an abatement. They must provide information requested by the Town Council to support their claim of poverty, by filling out the application available from the Welfare Director (Town Clerk).

The Town Council, when faced with a request for an abatement has two basic options. They can deny the abatement, if it is clear that the applicant is not poor or failed to produce necessary documentation; or grant the abatement in whole or in part depending on the depth of the applicant’s financial distress.

Poverty: What Is It? As a starting point, the Town will conduct a General Assistance (GA) eligibility analysis. 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 be eligible for an abatement depending on how much money they have to pay their taxes after they’ve paid for other necessities.

Application Process

People wishing to have their taxes abated due to poverty may apply to the Welfare Director in writing. Information in the application is confidential and any hearings and proceedings connected with a request for poverty abatement will be held in executive session as permitted by 36 MRSA §841(2)E.

Determining Eligibility

Applicants seeking a poverty abatement have the burden of proving that they are eligible for the abatement; it is not the Town Council's responsibility to prove that the applicants are not entitled to the abatement. The applicant must provide whatever information the Town Council thinks is necessary for them to make an informed decision.

As stated above, the Town Council will determine the applicants' financial condition within the context of a General Assistance eligibility determination. If they are eligible for General Assistance they will be given a poverty abatement for general assistance to pay the taxes. If they are not eligible for GA, the Town Council will then proceed to review the applicant's income and expenses. Factors the Council will take into consideration during either of these 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 to alleviate their financial distress such as relatives, refinancing, and public assistance, including General Assistance.

Options for Action

The Town Council may:

- A. **Deny the Abatement** -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 Town Clerk shall send a written notice within ten (10) days after they take final action.
- B. **Approve the Abatement** - Council may grant the application in whole or in part. If the applicants clearly have little or no likelihood of any prospects which would enable them to pay the taxes. 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.
- C. **Lien/Interest** - Council may record a lien/interest in the property, deferring payment of said tax.

If the Town Council approves an abatement the Town Clerk shall certify it in writing to the Tax Collector. The fact of the abatement shall be noted and kept in suitable book form that is not open to the general public (36 MRSA §841.5).

The following motion shall be used in approving an application:

I move that the abatement request be granted and further that the Town Council certify to the Tax Collector, that an abatement has been granted pursuant to 36 MRSA §841.2 for \$_____, 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 a writing signed by the Town Clerk.

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).

Credits

This policy is modeled after articles in the Maine Municipal Association (MMA) magazine from 1991 and 2012, and updated guidance from MMA in 2021.

LEGISLATIVE HISTORY

19-Jan-88 Adopted by Town Council
16-Aug 05 Draft Revisions
06-Sep 05 Adopted by Town Council
09-Sept 22 Amended to include lien/interest option