

Readopt with amendment Tax 202 – Tax 210, eff 9-8-09 (Document #9538), to read as follows:

PART Tax 202 GENERAL RULES GOVERNING PROPERTY TAX APPEALS, EXEMPTION APPEALS, CURRENT USE APPEALS, LUCT APPEALS, TIMBER TAX APPEALS, EXCAVATION TAX APPEALS, APPEALS OF RESIDENCES LOCATED IN AN INDUSTRIAL OR COMMERCIAL ZONE AND DISCRETIONARY EASEMENT, ~~AND~~ REVITALIZATION, ~~APPEALS~~ **BETTERMENT ASSESSMENT, TOWN LINES AND PERAMBULATION OF BOUNDARIES, QUALIFYING HISTORIC BUILDINGS AND FARM STRUCTURES AND LAND UNDER FARM STRUCTURES' APPEALS**

Statutory Authority: **RSA 51:7**, RSA 71-B:16, I, II; RSA 72-B:13; **RSA 72:34-a**, RSA 75:10-19; RSA 76; RSA 79:8; RSA 79-A; **RSA 79-B**; **RSA 79-C**; **RSA 79-D**; **RSA 79-E**; **RSA 79-F**; **RSA 79-G**; ~~and~~ RSA 81:5; **and RSA 231:32**.

Tax 202.01 Applicability. This part, as well as Tax 101, shall apply to all property tax appeals, exemption appeals, current use appeals, LUCT appeals, timber tax appeals, excavation tax appeals, ~~and~~ appeals of residences located in an industrial or commercial zone, **betterment assessment, town lines and perambulation of boundaries, qualifying historic buildings, betterment assessments, farm structures and land under farm structures' appeals**. The rules in Tax 201 shall also apply to these appeals. In addition, Tax 203 property tax appeals **and appeals of town lines and perambulation of boundaries**, Tax 204 exemption appeals, Tax 205 LUCT appeals, Tax 206 current use appeals, Tax 213 timber tax appeals, Tax 214 excavation tax appeals, Tax 215 discretionary easement, ~~and~~ revitalization, **betterment assessment, qualifying historic buildings and farm structures and land under farm structures' appeals** and Tax 216 appeals of residences located in an industrial or commercial zone shall also apply.

Tax 202.02 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board after complying with all other prerequisites to appealing to the board. Requirements for appeal documents shall be as stated by type of appeal in Tax 203 property tax appeals **and town lines and perambulation of boundaries**, Tax 204 exemption appeals, Tax 205 LUCT appeals, Tax 206 current use appeals, Tax 213 timber tax appeals, Tax 214 excavation tax appeals, Tax 215 discretionary easement, ~~and~~ revitalization, **betterment assessment, qualifying historic buildings and farm structures and land under farm structures' appeals** and Tax 216 appeals of residences located in an industrial or commercial zone.

(b) The taxpayer's appeal document shall state the grounds for the appeal with sufficient specificity to allow the board and the municipality to understand the taxpayer's arguments and to allow the municipality the opportunity to further review and address the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

(c) If an appeal document lacks sufficient specificity, the board, on its own or by municipality motion, shall declare the taxpayer in default. The board shall then order the taxpayer to amend the appeal within 10 days of the clerk's date on such order, providing sufficient specificity. If the taxpayer fails to comply with such order, the board shall dismiss the appeal.

(d) Throughout the appeal, the taxpayer shall be limited to the grounds stated in the appeal document. The board, on its own or by municipality's motion, shall limit the taxpayer's presentation to the issues raised in the appeal.

(e) The filing deadline with the board shall be akin to a statute of limitations. The board shall not have jurisdiction to accept an untimely filed appeal even if the taxpayer was prevented from timely filing because of accident, mistake or misfortune, and even if the municipality has not responded to the taxpayer's abatement application in accordance with RSA 76:16-a, Appeal of Roketenetz, 122 N.H. 869 (1982), and Arlington Sample Book Company v. Board of Taxation, 116 N.H. 575, 576 (1976).

~~Tax 202.03 Inventory Requirements.~~

~~(a) This section shall apply to appeals from municipalities that require an RSA 74 inventory.~~

~~(b) Pursuant to RSA 74:7 a, the board shall dismiss an appeal if the taxpayer failed to file an RSA 74:4 inventory. The filing of or failure to file an inventory shall run with the property. The failure of a taxpayer's predecessor who owned the property when the inventory should have been filed shall bind the current owner even though the current owner did not own the property during the filing period in accordance with Wise Shoe Co. v. Town of Exeter, 119 N.H. 700, 702 (1979).~~

~~(c) In accordance with RSA 74:8, taxpayers shall have an extension to June 1 for filing the inventory when the taxpayer was prevented from filing the inventory due to accident, mistake or misfortune. Any taxpayer claiming an RSA 74:8 extension was or should have been granted shall state with specificity the accident, mistake or misfortune that prevented the taxpayer from timely filing the inventory. Neither the board nor the municipality shall extend the filing deadline beyond June 1.~~

~~(d) Actual assessment of the RSA 74:7 a, I monetary penalty shall not be a prerequisite for a taxpayer to lose the right to appeal. The loss of right to appeal and the assessment of the monetary penalty shall be independent penalties.~~

~~Tax 202.043 Failure to Timely File Inventory, an Abatement Application or Appeal Document.~~

~~(a) Timely filing of the RSA 74 inventory, if required by the municipality, and the abatement application and the appeal document shall be prerequisites for the board having jurisdiction over an appeal.~~

~~(b) Whenever an issue of timely filing of an inventory, abatement application or appeal document arises, the board shall:~~

- ~~(1) Notify the taxpayer of the issue;~~
- ~~(2) Provide the taxpayer with 30 days to file any documents or arguments to show the item was timely filed with a certification that the taxpayer sent the municipality a copy of the taxpayer's filing;~~
- ~~(3) Inform the taxpayer that failure to show the item was timely filed shall result in a dismissal of the appeal;~~
- ~~(4) If the taxpayer files any supporting documents, allow the municipality 10 days to file any additional material for the board's consideration; and~~
- ~~(5) After the deadline for filing documents on the issue has passed, issue an order either dismissing the appeal, preserving the issue for review at a hearing, or accepting the item as timely filed.~~

~~Tax 202.054 Discovery. The discovery procedures shall be as stated in Tax 201.19.~~

~~Tax 202.065 Hearing Attendance.~~

~~(a) The purpose of this section is to ensure:~~

- (1) That parties attend all hearings;
- (2) The efficient use of the board's and the parties' time; and
- (3) The board and the parties have an opportunity to obtain relevant information through presentations and inquiries at hearings.

(b) In this section, "hearing" means the adjudicative proceeding scheduled to receive evidence and arguments upon which the decision on the merits will be based.

(c) **Non-attendance by a taxpayer at a noticed hearing** ~~Unless a party complies with (d) below, all parties shall attend all hearings. Parties who are not present within 30 minutes after of the scheduled hearing time shall result in a default being entered unless the failure be treated as not attending. If a party who has not received leave to not attend the hearing fails to appear is excused as provided in paragraph (d), including failing to be present within 30 minutes of the scheduled hearing time, that party shall be defaulted.~~

(d) **Taxpayers who cannot attend the hearing** Parties shall be excused **only if they file with the board,** ~~from attending a hearing by filing with the board and~~ copying the other party, a written request for leave to not attend the hearing, that includes the following:

- (1) A statement **of the reasons** ~~that~~ the **taxpayer party** is unavailable to attend the hearing; and
- (2) If not previously submitted to the board, a hearing brief presenting the party's arguments and supporting material.

(e) Such notice and brief shall be filed with the board not less than 14 days before the hearing date, which may be extended for good cause.

(f) **If leave is granted for non-attendance,** ~~a party complies with (d) above,~~ the board shall **open the hearing and** decide the appeal **based** on the **evidence presented, including any arguments and evidence presented by the opposing party.** ~~information before it.~~

(g) If granted leave to not attend the hearing by the board, nothing in this section shall alter the burden of proof or constrain the board from reviewing and weighing the evidence.

(h) ~~Parties~~ **If the taxpayer is** granted leave to not attend a hearing shall be deemed to waive:

- (1) The opportunity to support their position other than as presented in writing;
- (2) The right to confront, question and challenge the other party's evidence except as presented in the brief; and
- (3) The opportunity to answer board questions.

(i) If a taxpayer did not file a request for leave to not attend a hearing and fails to attend a hearing or fails to appear for the hearing within 30 minutes of the scheduled hearing time, no hearing shall be held and the taxpayer shall be finally defaulted, and the appeal marked: "taxpayer finally defaulted; no further action" except the municipality shall have 10 days after the clerk's date on the order to file a request for costs under Tax 201.39.

(j) If a municipality or any of its witnesses fails to attend a hearing without having complied with paragraph (d) or fails to appear for the hearing within 30 minutes of the scheduled hearing time, the board

shall start the hearing and decide the appeal based on the hearing and the record. If a municipality arrives before the conclusion of a hearing, the board shall provide them an opportunity to be heard.

Tax 202.076 Refund of Taxes.

(a) If taxes have been paid and an abatement ordered, the municipality shall, within 2 months of the clerk's date on the order, refund the abated taxes, by cash or check, plus interest at the rate set pursuant to RSA 76:17-a, from the date the taxes were paid to the date the refund is paid.

(b) When an abatement is granted and taxes have been paid, the abatement shall either be refunded or credited to the taxpayer pursuant to RSA 76:17-d.

Tax 202.087 Interest on Taxes Due or Owed.

(a) Interest, under RSA 76:13 and/or RSA 80:32 and RSA 80:69, on overdue taxes shall be based on the ordered assessment. If the board grants an abatement and taxes have not been paid, the RSA 76:13, the RSA 80:32, and the RSA 80:69 interest(s) shall only be due on the ordered assessment in accordance with Western Union Telegraph Co. v. State, 64 N.H. 265, 270 (1887).

(b) If the board grants an abatement, and the taxpayer has paid the tax and/or any interest, the abatement shall include the RSA 76:13 interest previously paid by the taxpayer on both the excess taxes and interest from the date paid to the refund date.

(c) If the board grants an abatement and interest has been paid under RSA 76:13, RSA 80:32 or RSA 80:69, the interest on the overassessment shall also be abated.

Tax 202.098 Appeal.

(a) The appeal of the board's decision shall be pursuant to RSA 541:6.

(b) Filing a rehearing motion pursuant to RSA 541:3 shall be a prerequisite for appealing a board decision in accordance with Tax 201.37.

PART Tax 203 SPECIFIC RULES GOVERNING PROPERTY TAX APPEALS

Tax 203.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to property tax appeals.

Tax 203.02 Abatement Application Filed with the Municipality.

(a) The board shall hear appeals from municipal decisions on abatement applications in accordance with RSA 76:16-a and Appeal of Town of Sunapee, 126 N.H. 214, 216 (1985). Therefore, before appealing to the board, the taxpayer shall have filed a timely abatement application with the municipality.

(b) The taxpayer shall file the RSA 76:16 abatement application prescribed by the board or a written document that includes all of the following:

- (1) The taxpayer's name, address and daytime telephone number;
- (2) The property or properties for which an abatement is sought, identified by street address and tax map and lot number;
- (3) A complete and specific statement of the grounds supporting the application along with the comparables relied upon by the taxpayer; and

(4) The taxpayer's signature on the abatement application certifying that the taxpayer has a good faith basis and the facts contained are true.

(c) The abatement application shall state the grounds for the abatement request with sufficient specificity to allow the municipality to understand the taxpayer's arguments and to allow the municipality the opportunity to review and address the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

(d) The taxpayer shall sign the abatement application. An attorney or agent shall not sign the abatement application for the taxpayer. An attorney or agent may, however, sign the abatement application along with the taxpayer to indicate the attorney's or agent's representation. The lack of the taxpayer's signature and certification shall preclude an RSA 76:16-a appeal to the board unless it was due to reasonable cause and not willful neglect. **Appeal of Wilson, 161 NH 659 (2011)**.

(e) The municipality shall, within the statutory period, review all abatement applications and provide the taxpayer with a written decision. A municipality's failure to adequately review an abatement application shall be a factor the board will review in deciding whether to award costs.

(f) The municipality's failure to respond to the taxpayer within the statutory time period shall not extend the deadlines for appealing to the board in accordance with RSA 76:16-a, **Appeal of Roketenetz, 122 N.H. 869 (1982)** and **Arlington American Sample Book Co. v. Board of Taxation, 116 N.H. 575, 576 (1976)**.

#### Tax 203.03 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board after the municipality's decision or lack of decision in accordance with RSA 76:16-a.

(b) Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) If the ~~appellant~~ **taxpayer** is not the owner, a statement of the ~~appellant's~~ **taxpayer's** basis/standing for appealing in accordance with RSA 76:16-a;
- (3) The property or properties being appealed, identified by street address and tax map and lot number;
- (4) The assessment on the property or properties, and if available, the assessment broken down by land and building;
- (5) A list of any other property owned by the ~~appellant~~ **taxpayer** within the municipality;
- (6) A complete and specific statement of the grounds supporting the appeal, with the comparables relied on by the ~~appellant~~ **taxpayer**, pursuant to (d) and (e) below; and
- (7) The proper filing fee under Tax 501.

(c) Pursuant to RSA 76:16-a, the board shall only hear an appeal regarding those properties for which an abatement application was filed with the municipality in accordance with **Appeal of Town of Sunapee, 126 N.H. 214, 216 (1985)**. A taxpayer may appeal more than one property in one appeal document, provided all properties have common ownership, that is, complete unity of ownership such as

where a husband and wife own 2 properties jointly but not where the husband and wife own one property jointly and another individually.

(d) The taxpayer's appeal document shall state the grounds for the appeal with sufficient specificity to allow the board and the municipality to understand the taxpayer's arguments and to allow the municipality the opportunity to further review and address the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

(e) To comply with (d), the taxpayer shall present material on the following, as applicable:

- (1) Physical data such as incorrect description or measurement of property;
- (2) Market data relative to the property's value on the April 1 assessment date, supported by comparable sales or a professional opinion of value; and/or
- (3) Assessment data by a showing that the property's assessment, when compared to its market value, exceeds the general level of assessment in the municipality.

(f) If a taxpayer fails to comply with Tax 203.03(b), the board, on its own or by municipality motion, shall declare the taxpayer in default and order it cured within 10 days of the clerk's date. If the taxpayer fails to comply with the default order, the board shall dismiss the appeal.

(g) Throughout the appeal, the issues raised by the taxpayer in the abatement application and appeal document may differ, but the grounds stated in the appeal document shall control the issues before the board.

#### Tax 203.04 Filing Deadlines in Property Tax Appeals.

(a) The filing deadlines for property tax appeals shall be as stated in RSA 76:16 and RSA 76:16-a.

(b) An abatement application filed with a municipality or an appeal document filed with the board shall be untimely if it is filed:

- (1) After the statutory deadlines; or
- (2) On or before the notice of tax date.

(c) The board shall not extend statutory timelines except as stated in (d) below, and the board shall dismiss appeals when the abatement application was not timely filed with the municipality. In accordance with Appeal of Gillin, 132 N.H. 311, 313 (1989) and Daniel v. B & J Realty, 134 N.H. 174, 176 (1991), taxpayers must timely file an abatement application as a jurisdictional prerequisite for the board to hear the appeal.

(d) If a taxpayer's abatement application was untimely filed, the board shall treat the abatement application as timely filed only if the taxpayer demonstrates all of the following:

- (1) The municipality supplied the taxpayer with the incorrect filing deadline;
- (2) The taxpayer was unaware of the correct filing deadline;
- (3) The municipality should have known the taxpayer would rely on the municipality's information; and
- (4) The taxpayer detrimentally relied on the municipality's information such as missing the deadline for filing the abatement application with the municipality in accordance with City of Concord v. Tompkins, 124 N.H. 463, 467-68 (1984).

Tax 203.05 Pending Appeals, Effect of Ordered Assessment and Appeals for Subsequent Years.

(a) The purpose of this section is to detail the effect that the board's abatement decisions have on other tax years.

~~(b) This section shall not relieve a taxpayer from filing the annual RSA 74 inventory if required by the municipality. If a taxpayer fails to timely file a completed inventory for a subsequent tax year, the taxpayer shall not be entitled to an abatement based on an ordered assessment for the subsequent tax year for which the inventory was not filed.~~

(e**b**) The following definitions shall apply only to this section:

(1) "Decision" means either a written decision by the board or a settlement agreement signed and filed in accordance with Tax 201.23, but does not include a withdrawal, even if based on a settlement agreement, unless the agreement is filed with the board with the withdrawal;

(2) "General reassessment" means the process undertaken by a municipality to reassess all property in the municipality, and which:

a. Includes:

1. Collecting anew or verifying existing physical data through reinspection and remeasurement;
2. Analyzing market data; and
3. Appraising all property at the same percentage of market value; and

b. Does not include annual or periodic adjustments to assessments that are the result of a simple factoring or multiplication of existing assessments without an accompanying market analysis.

(3) "Good faith reason or adjustment" means a change made to an ordered assessment due to:

- a. Omission or error on the assessment-record card;
- b. Physical change to the property;
- c. Adjustments to property strata after analysis of sales and assessment data;
- d. Change in highest and best use; or
- e. Other changes affecting value pursuant to RSA 75:8, II;

(4) "Original appeal" means the initial property tax appeal filed with the board by a taxpayer or the taxpayer's successor, seeking an abatement due to overassessment, where the appealed assessment has not been appealed before or where the appeal is based on reasons not stated in an earlier appeal;

(5) "Original tax year" means the tax year for which an original appeal was filed;

(6) "Subsequent appeal" means any property tax appeal with the board by the taxpayer or the taxpayer's successor that filed an original appeal, seeking an abatement for overassessment on the same property ~~and for the same reasons as in an original appeal~~ but for a subsequent tax year; and

(7) "Subsequent tax year(s)" means the tax year(s) after the original tax year until there is a general reassessment and includes tax years while the appeal is pending and tax years after the decision is issued.

(~~dc~~) For an original appeal, the board shall only consider and issue a decision on the property and the assessment for the original tax year. The board shall not consider or issue a decision on subsequent tax years unless a subsequent appeal was filed and consolidated with the original appeal.

(~~ed~~) For a subsequent appeal, the board shall:

(1) If a decision has not been issued on the original appeal, consider and issue a decision on the property and the assessments for the original tax year and the subsequent tax years from which the subsequent ~~tax~~ appeal was taken, but the board shall not issue a decision on any other tax year; **and**

(2) If a decision has been issued on the original appeal, consider the property and the assessment for the subsequent tax year from which the subsequent appeal was taken; ~~and~~

~~(3) If requested by the taxpayer, also consider the assessments on the appealed properties for the intervening years, including reviewing if a good faith reason existed for any change in the ordered assessment.~~

(~~fe~~) When the board grants an abatement due to overassessment, the municipality shall use the ordered assessment for subsequent tax years and the board shall retain jurisdiction in accordance with RSA 76:17-c.

(~~gf~~) The municipality ~~may~~ shall adjust the ordered assessment for the subsequent tax years if there is a good faith reason for such adjustment in accordance with RSA 75:8 and RSA 76:17-c.

(~~hg~~) When the board issues a decision granting an abatement on the original appeal, the municipality shall, within 2 months of the clerk's date on the initial decision or the decision on any rehearing motion, issue an abatement based on the ordered assessment for the original appeal and abatements based on the ordered assessment with any good faith adjustment for any subsequent tax year(s) for which the "notice of tax" has been given in accordance with RSA 76:16 and RSA 76:17-c.

(~~ih~~) To receive the benefits of RSA 76:17-c and (f) and (h) above, the taxpayer shall not be required to file an abatement application with the municipality for subsequent years unless the taxpayer intends to file a subsequent appeal.

(~~ji~~) If the municipality fails to comply with (f) or (h) above, the taxpayer may file a motion to enforce compliance. A motion asserting noncompliance with paragraph (f) shall be filed within the timelines set for appeals under RSA 76:16-a. A motion asserting noncompliance with paragraph (h) shall be filed no earlier than 2 months and a day after the clerk's date on the decision and no later than 4 months after the clerk's date on the decision.

(~~kj~~) At the hearing on the motion, the board shall only hear evidence on whether the municipality had a good faith reason for not using the ordered assessment. The board shall not receive any other evidence or arguments. The municipality shall have the burden to make a showing that a good faith reason existed for not using the ordered abatement. If such a showing is made, the burden shall shift to the taxpayer to prove no good faith reason existed.

(~~lk~~) Whenever an enforcement motion is filed, the municipality shall respond within 30 days.

(~~mi~~) If a taxpayer elects to file an appeal for a subsequent tax year, the taxpayer shall comply with RSA 76:16 and RSA 76:16-a.

(~~am~~) An appeal for a subsequent year shall be required when the original appeal or subsequent appeal will not protect the taxpayer's rights, which includes, but is not limited to, the following:

- (1) The taxpayer wants to raise issues or arguments not stated in the original appeal;
- (2) The taxpayer wants to appeal other property not appealed in the original appeal; and
- (3) The assessment appealed in the original appeal has changed significantly due to a good faith reason or adjustment.

Tax 203.06 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following:

- (1) The date the taxpayer filed the abatement application;
- (2) ~~Whether the municipality requires an inventory and if so, the date the inventory was filed;~~
- (~~3~~2) A list of all properties in the municipality owned by the taxpayer, the assessments thereon with a breakdown between land and building, if used, denoting the properties for which an abatement application was filed; and
- (43) Complete copies of the assessment-record cards for all properties listed in (~~3~~2) for the year(s) under appeal.

(b) The municipality shall file the completed checklist within 30 days of the board's date on the checklist, copying the taxpayer ~~with the completed checklist~~. If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 203.07 Mediation.

(a) After determination that the taxpayer has complied with all timely filing requirements, the board shall issue an order to encourage informal discussions, pursuant to RSA 541-A:31, V and RSA 541-A:38, requiring the parties to meet in order to either settle or narrow the disputed issues.

(b) The order shall:

- (1) Establish a 120 day deadline from the date of the order for the parties to meet and file with the board the report of settlement meeting prescribed in the order; and
- (2) State that no hearing on the merits of the appeal will be scheduled until the parties have met and filed with the board the report of the settlement meeting.

(c) The report of the settlement meeting shall contain:

- (1) The appeal name and docket number(s);
- (2) The date the parties met subsequent to the appeal filing date;
- (3) The parties in attendance at the settlement meeting;

- (4) A statement that the appeal was either completely or partially settled, withdrawn by the taxpayer or that no settlement had been reached and a hearing is necessary;
  - (5) Signature(s) of the parties participating in the settlement meeting; and
  - (6) A statement that upon the parties' signature and filing with the board the report of settlement meeting, the contents of the report shall become an order of the board.
- (d) Upon receipt of the Tax 203.07(a) order, the parties shall:
- (1) Arrange to meet to discuss the appeal at a mutually convenient time, or discuss the appeal telephonically or some other electronic means; the initial contact may be made by either party;
  - (2) Ensure those involved in the settlement discussions either have the authority to settle or can readily obtain such authority so as not to delay the filing with the board of the report of settlement meeting; and
  - (3) Sign the report of settlement meeting and file it with the board within the deadline stated in the order.
- (e) Motions for extension of the deadline to file with the board the report of settlement meeting **or a request for modifications of the requirements of this rule** shall:
- (1) Be filed at least 30 days prior to the deadline stated in the order;
  - (2) Only be granted in extraordinary circumstances including:
    - a. Illness or injury prevents a party from preparing for and attending a settlement meeting within the deadline stated in the order;
    - b. Material evidence, including any appraisal being prepared by the taxpayer, will be unavailable for the settlement meeting despite the party's due diligence to obtain the evidence in time for discussion during the settlement meeting; or
    - c. Such other reasons that warrant an extension to serve justice and efficiency; and
  - (3) Comply with the requirements of seeking concurrence in Tax 201.18(b).
- (f) If the parties do not file with the board the report of settlement meeting within the 120 day deadline established in the order or any extension granted under Tax 203.07(~~de~~), the parties shall be placed in default pursuant to Tax 201.04.
- (g) If the taxpayer's grounds for the appeal, in accordance with Tax 203.03(b) and (g), reference an appraisal as the existing or potential basis for disproportionality, the appraisal shall be made available to the local assessing officials or their representatives during the settlement meeting. If no appraisal is submitted by the taxpayer during the mediation process and before the report is filed, no appraisal shall be entered as evidence by the taxpayer at a subsequent hearing on the merits of the appeal.
- (h) During the mediation process, municipalities shall provide the taxpayer:
- (1) the bases for the assessment, including all market data analysis and all other documentation used in establishing the assessment initially and in responding to the abatement application; and**
  - (2) an explanation of any codes and abbreviations used on the assessment-record card.**

(i) Upon filing the report of the settlement meeting with the board, the report shall become a board order; if the report indicates:

- (1) The appeal is either withdrawn or settled, the board shall mark the file accordingly; and
- (2) No settlement or only a partial settlement occurred, the board shall proceed with scheduling a hearing.

Tax 203.08 Grouping Appeals for Hearing.

(a) The purpose of this section is to enable the board to efficiently and effectively hear appeals that involve common types of properties and common issues of fact or law. The board shall consolidate appeals for hearing based on property type, value, location or such other similarities.

(b) The clerk shall contact the municipality to discuss the hearing procedure to be followed and to set deadlines for the municipality to submit its proposed grouping. Only procedural matters shall be discussed. Specific appeals shall not be discussed.

(c) Following the discussion, the board shall issue an order regarding the grouping of appeals. The order shall require the municipality to submit the names of appeals that can be heard at the same hearing.

(d) Grouping appeals shall not affect the burden of proof, which shall remain on the taxpayer.

Tax 203.09 Burden of Proof.

(a) In property tax appeals, the taxpayer shall have the burden of proving the assessment was disproportionate or illegal, resulting in the taxpayer paying a disproportionate share of taxes in accordance with Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

(b) In property tax appeals, the board shall consider all of the property within a municipality owned by a taxpayer to determine if the aggregate assessment on all the properties is disproportionate to assessments generally prevailing in the municipality in accordance with Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).

Tax 203.10 Assessment-Record Cards and Assessment Manuals.

(a) In property tax appeals, the assessment-record cards used by the municipality shall be understandable by the board and the taxpayer. If codes or abbreviations are used on the cards, the municipality shall, at or before the hearing, provide the board and the taxpayer with an explanation of the codes and abbreviations.

(b) Upon the board's request, a municipality shall supply to the board a copy of the assessment manual or municipal market data survey to assist the board in understanding the methodology used by the municipality and to enable the board to use the manual if the board concludes an assessment needs to be adjusted using the manual.

PART Tax 204 **SPECIFIC RULES GOVERNING EXEMPTION, CREDIT OR DEFERRAL APPEALS**

Tax 204.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to all exemption, **credit or deferral** appeals.

Tax 204.02 Prerequisites.

(a) Filing a timely application for exemption, ~~or credit~~ **or deferral** shall be a jurisdictional prerequisite for the board to hear an ~~exemption~~ appeal.

(b) To qualify for an exemption, ~~or credit~~ **or deferral**, the taxpayer shall, as of April 1 for the appealed tax year, own the property and be in compliance with all statutory requirements in accordance with RSA 72, RSA 74:1 and RSA 74:2.

Tax 204.03 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board.

(b) Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) The property or properties for which the assessment is being appealed, identified by street address and tax map and lot number;
- (3) The assessment on the property or properties, broken down by land and building if provided by ~~the~~ **the** municipality;
- (4) A complete and specific statement of the grounds supporting the appeal. **Conclusory statements without supporting arguments or data shall be insufficient;**
- (5) A copy of the exemption application filed with the municipality and ~~a statement of the municipality's action on~~ **the municipality's response to** the application **as well as a copy of the tax bill;** and
- (6) The proper filing fee under Tax 501.

Tax 204.04 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following:

- (1) The date the taxpayer filed the application for exemption or credit and the reasons for the municipality's denial of the application; and
- (2) Complete copies of the assessment-record cards for all properties under appeal.

(b) The municipality shall file the completed checklist within 30 days of the board's date on the checklist, copying the taxpayer with the completed checklist. If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 204.05 Burden of Proof. The taxpayer shall have the burden to prove it was entitled to the statutory exemption, **credit or deferral** ~~or tax credit~~ for the year under appeal.

PART Tax 205 SPECIFIC RULES GOVERNING LAND USE CHANGE TAX APPEALS

Tax 205.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to LUCT appeals.

Tax 205.02 Abatement Application Filed with the Municipality.

(a) The board shall hear appeals from municipal decisions on abatement applications in accordance with RSA 79-A:10. Therefore, before appealing to the board, the taxpayer shall have filed a timely abatement application with the municipality. For LUCT appeals, the notice of tax date shall be the date the municipality sends the taxpayer the land use change tax bill.

(b) The taxpayer shall file a written abatement application that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) The property or properties for which an abatement is sought, identified by street address and tax map and lot number; and
- (3) A complete and specific statement of the grounds supporting the application with the comparables relied upon by the taxpayer.

(c) The abatement application shall state the grounds for the abatement request with sufficient specificity to allow the municipality to understand the taxpayer's arguments and to allow the municipality the opportunity to review and address the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

(d) The municipality shall, within the statutory period, review all abatement applications and provide the taxpayer with a written decision. A municipality's failure to adequately review an abatement application shall be a factor the board will review in deciding whether to award costs.

(e) The municipality's failure to respond to the taxpayer within the statutory time period shall not extend the deadlines for appealing to the board in accordance with RSA 79-A:10. See also Appeal of Roketenetz, 122 N.H. 869 (1982) and Arlington American Sample Book Co. v. Board of Taxation, 116 N.H. 575, 576 (1976).

Tax 205.03 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board after the municipality's decision or lack of decision in accordance with RSA 79-A:10.

(b) Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) The property or properties for which the assessment is being appealed, identified by street address and tax map and lot number;
- (3) The amount of the land use change tax, the date of the billing and the change in use date;
- (4) A complete and specific statement of the grounds supporting the appeal, with the comparables relied on by **the** taxpayer; and
- (5) The proper filing fee under Tax 501.

(c) The issues raised by the taxpayer in the abatement application and the appeal document may differ, but the grounds stated in the appeal document shall control the issues before the board.

Tax 205.04 Filing Deadlines in LUCT Appeals.

(a) The filing deadlines for LUCT appeals shall be as stated in RSA 79-A:10.

(b) Tax 203.04 shall apply to LUCT appeals with the notice of tax date defined in Tax 102.365.

Tax 205.05 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the Board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following:

- (1) The date the taxpayer filed the abatement application;
- (2) Complete copies of the assessment-record cards for all appealed properties for the year under appeal;
- (3) Copy of all current use applications and maps; and
- (4) Copy of the land use change tax bill and lien release.

(b) The municipality shall file the completed checklist within 30 days of the board's date on the checklist, copying the taxpayer ~~with the completed checklist~~. If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 205.06 Burden of Proof. In LUCT appeals, the taxpayer shall have the burden to prove the municipality erred in assessing the tax or in assessing the tax amount. Such challenges may include challenges to the change in use date used by the municipality and/or the property's full value as determined by the municipality.

#### PART Tax 206 SPECIFIC RULES GOVERNING CURRENT USE AND CONSERVATION RESTRICTION ASSESSMENT APPEALS

Tax 206.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to current use and conservation restriction assessment appeals under RSA 79-A and RSA 79-B.

Tax 206.02 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board in accordance with RSA 79-A:9 and RSA 79-B:5.

(b) Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) The property or properties for which the assessment is being appealed, identified by street address and tax map and lot number;
- (3) A complete and specific statement of the grounds supporting the appeal;
- (4) A copy of the current use or conservation restriction assessment application filed with the municipality and a statement of the municipality's action on the application; and
- (5) The proper filing fee under Tax 501.

Tax 206.03 Filing Deadlines. The filing deadlines for current use and conservation restriction assessment appeals shall be as stated in RSA 79-A:9 and RSA 79-B:5.

Tax 206.04 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following :

- (1) A complete copy of the current use or conservation restriction assessment application with any maps or surveys filed with the application;
- (2) The date the taxpayer filed the current use or conservation restriction assessment application and the municipality's decision thereon; **and**
- (3) ~~Whether the municipality requires an inventory and if so, the date the inventory was filed; and~~
- ~~(4) Complete copies of the assessment-record cards for all appealed properties under appeal.~~

(b) The municipality shall file the completed checklist within 30 days of the board's date on the checklist, copying the taxpayer ~~with the completed checklist~~. If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 206.05 Burden of Proof. In current use and conservation restriction assessment appeals, the taxpayer shall have the burden to prove the municipality erred in denying, in whole or part, the taxpayer's current use or conservation restriction assessment application, ~~including the denial of the category applied for~~.

## PART Tax 207 SPECIFIC RULES GOVERNING THE REGULATION OF TAX REPRESENTATIVES

### Tax 207.01 Applicability and Purpose.

(a) This part, as well as Tax 101 and Tax 201, shall apply to the rules governing the regulation of tax representatives.

(b) The purpose of this part is to ensure these individuals act appropriately and adequately in representing taxpayers before the board and before municipalities pursuant to RSA 71-B:7-a. Tax 207 shall govern the conduct of tax representatives and the actions to be taken upon board review or when a complaint alleges a tax representative has failed to act appropriately and adequately in representing taxpayers.

### Tax 207.02 Definitions.

(a) The following definitions shall apply to this part:

- (1) "Board review" means the action initiated by a written summary of the board's concern of a tax representative's actions based on the board's observations of a tax representative's conduct and no complaint has been filed. The written summary shall include the specific reasons the board has concerning a tax representative's noncompliance with RSA 71-B:7-a or Tax 207.03;
- (2) "Commonly represent" means, within a calendar year, representation of four or more taxpayers in RSA 76:16, RSA 76:16-a, RSA 83-F appeals;
- (3) "Complainant" means an individual or entity, except the board, who files a complaint;
- (4) "Complaint" means a written statement from any identified source, except the board, that alleges a tax representative has not complied with RSA 71-B:7-a or Tax 207.03; and

(5) "Tax representative" means a non-attorney who, with or without compensation, commonly represents taxpayers in RSA 76:16, RSA 76:16-a, and RSA 83-F appeals before municipalities and the board.

Tax 207.03 Standards of Conduct.

(a) Tax representatives shall:

- (1) Possess a working knowledge of the statutes, rules and case law relating to property taxation and abatement;
- (2) Possess a working knowledge of valuation principles and methods or employ individuals with such knowledge;
- (3) Act honestly in carrying out the role of tax representative, including dealings with the represented taxpayers and all state and local officials;
- (4) Comply with all statutes, rules, case law and board orders when representing taxpayers;
- (5) File only abatement requests to municipalities or appeals to the board that have a supportable and good faith basis that the taxpayer is entitled to an abatement; and
- (6) Take sufficient steps to adequately represent taxpayers such as performing a value analysis based on market data and being prepared for filing all documents and appearing at all hearings.

Tax 207.04 Complaints.

(a) A complainant shall include the following information in the complaint:

- (1) The complainant's name, address and phone number;
- (2) The complainant's source of knowledge about the tax representative;
- (3) Whether the complainant is filing as an individual or on behalf of an entity; and
- (4) The specific reasons why a tax representative has not complied with RSA 71-B:7-a or Tax 207.03.

(b) If the board concludes during the preliminary review or after the disciplinary hearing that a complaint was filed without a good faith basis, the complainant shall be subject to an order of costs under RSA 71-B:9 and Tax 201.39.

Tax 207.05 Basis for Complaints, Board Review and Sanctions.

(a) Complaints, board review and board sanctions shall be based on the following:

- (1) Failure to comply with Tax 207.03 standards of conduct;
- (2) Commission of an act or omission involving dishonesty, fraud or misrepresentation that is substantially related to the qualifications and duties of a tax representative; and/or
- (3) Conviction, including the conviction based on a plea of guilty or nolo contendere, of a crime that is substantially related to the qualifications and duties of a tax representative or has been convicted of a felony that has not been annulled.

Tax 207.06 Sanctions.

(a) If the board finds a tax representative failed to comply with RSA 71-B:7-a and/or Tax 207.03, the board shall consistently impose one or more of the following sanctions, which are listed in order of severity:

- (1) Require the tax representative to participate in remedial action, such as completing a course in a selected area of valuation, taxation, ethics or administrative procedures;
- (2) Written censure to be posted at the board;
- (3) Suspension for a specified time period not to exceed one year; and
- (4) Revocation of the right to act as a tax representative before municipalities or the board.

(b) At the time the board suspends or revokes a tax representative's right to represent taxpayers, the board shall determine what appropriate steps are necessary to ensure the represented taxpayers are not adversely affected by the suspension or revocation.

Tax 207.07 Service and Answer.

(a) Upon receipt of a complaint or a board review, the board shall serve a copy of the Tax 207.04 complaint or Tax 207.02(a)(1) written summary of the board's concerns, along with an order of notice, on the tax representative by certified mail, return receipt requested.

(b) The tax representative shall have 20 days from the clerk's date on the order of notice to file a written response to the complaint or written summary of the board's concerns. If within the 20 days the tax representative files a request for additional time, the board shall provide the tax representative with an additional 30 days to file a response.

Tax 207.08 Board Investigation of Complaint.

(a) The board shall conduct any complaint investigation it deems appropriate.

(b) Complaint investigations shall be conducted by the board staff but not by **the** board members.

(c) Upon commencement of a complaint investigation, the board shall inform the tax representative about the nature and purpose of the complaint investigation.

(d) All complaint investigative materials shall be placed in a written report filed with the board and copied to the tax representative.

(e) If the complaint investigative report shall be considered as part of the preliminary review under Tax 207.09, the complaint investigative report shall be filed within 60 days of the complaint filing. The tax representative shall then have 20 days to file a response to the report.

(f) Unless previously supplied, if the complaint investigative report shall be used at a disciplinary hearing, it shall be provided to the tax representative no less than 20 days before the hearing.

Tax 207.09 Preliminary Review.

(a) Upon receipt of the tax representative's response, the lapse of the 20 days if no response is filed by the tax representative and the conclusion of any complaint investigation, the board shall conduct a preliminary review of either the complaint, the response and any investigative material or of the board review.

(b) If the preliminary review concludes that the complaint or the board review is unsubstantiated, frivolous, or does not warrant an adjudicative hearing, the board shall so notify the tax representative and the complainant, and no further action shall be taken.

(c) If the preliminary review determines reasonable cause exists to conclude that the tax representative failed to comply with RSA 71-B:7-a or Tax 207.03, the board shall, within 120 days of filing of the complaint, hold an adjudicative hearing.

Tax 207.10 Quorum. The board quorum for preliminary review and adjudicative hearings shall be ~~three~~ **two** members.

Tax 207.11 Adjudicative Hearing.

(a) Hearing notice for the adjudicative hearing shall be sent to the complainant and the tax representative and shall be posted in two public places.

(b) The adjudicative hearing shall be conducted in the following order:

- (1) Opening statement by the board with a summary of the complaint or board review, the response, and any investigative material;
- (2) A statement by the complainant and any other witness who wishes to testify in support of the complaint;
- (3) A presentation by the tax representative and any witnesses called by the tax representative;
- (4) Questions by **the** board;
- (5) An opportunity for closing comments by the complainant; and
- (6) Closing by **the** tax representative.

(c) All testimony shall be subject to board questions or cross examination by the tax representative.

(d) Complainants may testify in accordance with Tax 207.11(b), but they shall have no other role in the preliminary review or the adjudicative hearing. Specifically, the complainant shall not have the right to conduct cross examination, make objections, ~~make or~~ arguments or file motions and memoranda.

Tax 207.12 Decision and Standard of Proof.

(a) After the adjudicative hearing, the board shall issue a written decision.

(b) If the board finds, by a preponderance of the evidence, that the tax representative's actions do not comply with RSA 71-B:7-a and Tax 207.05, an order of violation and sanction pursuant to Tax 207.06 shall be issued.

Tax 207.13 Settlement. Nothing in this part shall prohibit the board or the tax representative from seeking and obtaining an informal settlement of a disciplinary proceeding. A settlement agreement signed by the tax representative and the board shall have the same effect as a final, non-appealable order.

Tax 207.14 Reinstatement.

(a) When the board revokes a tax representative's right to act as a tax representative, the tax representative may, no earlier than one year after the board order, seek reinstatement.

(b) A request for reinstatement shall state with specificity why the revocation should be lifted.

(c) Upon receipt of a reinstatement request, the board shall conduct any investigation it deems appropriate.

(d) Within 30 days of receipt of a reinstatement request, the board shall review the request and either grant the request without a hearing or schedule a hearing on the request, with the hearing being scheduled no later than 60 days after filing of the request.

(e) A hearing notice for the reinstatement hearing shall be sent to the tax representative and shall be posted in two public places.

(f) At a reinstatement hearing, the tax representative shall have the burden of proof to show, by a preponderance of the evidence, that the reason underlying the revocation no longer exists and that the tax representative is able to properly represent taxpayers.

(g) The reinstatement hearing shall be conducted in the following order:

- (1) Opening statement by the board;
- (2) Presentation by the tax representative as to why reinstatement should occur;
- (3) Opportunity for any public comments;
- (4) Questions by the board; and
- (5) Closing statement by the tax representative.

Tax 207.15 Appeal.

(a) Pursuant to RSA 71-B:12 and RSA ch. 541, the appeal by a tax representative from any board order under this part shall be to the New Hampshire Supreme Court.

(b) The complainant shall have no right to file a rehearing motion or an appeal.

(c) Pursuant to RSA 541-A:30, I, if the board's final action is unfavorable to a tax representative, the ordered sanction shall not commence until the appeal timelines have passed. If an appeal is taken, the board order shall be stayed during the appeal.

**PART Tax 208 RULES GOVERNING PETITIONS FOR ~~MUNICIPAL-WIDE~~ REASSESSMENT AND CURRENT USE RECLASSIFICATION**

Statutory Authority: RSA 71-B:16 and **RSA 79-A:12**

Tax 208.01 Applicability. This part, as well as Tax 101 and Tax 201, shall apply to RSA 71- B:16 orders for reassessment and RSA 79-A:12 orders for reclassification.

Tax 208.02 Written Complaint Against Specific Property.

(a) A written complaint filed under RSA 71-B:16, I or RSA 79-A:12, I shall include:

- (1) The complainant's name, address and daytime telephone number;
- (2) The name and address of the property owner against whose property the complaint is filed;
- (3) The description of the property, including the street address and tax map and lot numbers, that is the subject matter of the complaint;

- (4) A statement specifically describing the basis for the complaint;
- (5) The complainant's signature; and
- (6) The proper filing fee under Tax 501.

(b) Pursuant to RSA 71-B:9, the board shall order the complainant to pay the property owner's costs if the board finds the complaint was frivolously filed or maintained.

Tax 208.03 Steps for Specific Complaints.

(a) If the board receives a complaint made pursuant to RSA 71-B:16, I or RSA 79-A:12, I, the board shall:

- (1) Notify the property owner against whom the complaint was filed;
- (2) Notify the municipality in which the property is located;
- (3) Allow the property owner and the municipality an opportunity to respond in writing to the complaint; and
- (4) Review the complaint and the property owner's and **the** municipality's responses and schedule a hearing.

(b) If the board finds, based on the complaint and the taxpayer's and **the** municipality's response, the complaint lacks a good faith basis, the board shall issue a show cause order, requiring the complainant to show cause why the complaint should not be dismissed or denied without a hearing.

Tax 208.04 Petition for Municipal Wide Reassessment.

(a) A petition/**complaint** filed under RSA 71-B:16, IV shall **meet the requirements of this rule.:**

**(b) A Petitioner/Complainant may either use the document prepared by the board, or they may draft and file their own document that includes all of the following:**

- (1) Be captioned on each page: "To the Board of Tax and Land Appeals - Petition for Municipal Wide Reassessment Pursuant to RSA 71-B:16, IV";
- (2) State on the first page the name of the municipality for which the petition is filed;
- (3) State on the first page the names of not more than 2 lead petitioners;

**(4) State the specific reason(s) for the complaint;**

**(45)** Conspicuously state on the first page and each signature page, "Pursuant to RSA 71-B:16, IV, the undersigned property taxpayers of (insert **the** municipality's name) petition for a municipal wide reassessment. We assert that a basis exists for this petition/**complaint** under the criteria of RSA 71-B:16-a for a municipal wide ~~revaluation~~ **reassessment for the reasons stated in the petition/complaint.** By signing below we also agree to be jointly and severally liable should the board order the petitioners to pay any costs involved with this review should it be determined that the petition was frivolously filed or prosecuted."

**(56)** Include the original signatures, the date signed and the printed name and address for each property taxpayer signing the petition; and

**(67)** Be filed with the appropriate filing fee under Tax 501.

Tax 208.05 Steps for Municipal Wide Reassessment.

(a) Whenever a petition is filed pursuant to RSA 71-B:16, IV or RSA 21-J:3, XXV or whenever the board initiates a proceeding pursuant to RSA 71-B:16, III, the board shall:

- (1) Notify the municipality of the proceeding pursuant to RSA 71-B:16, III or IV;
- (2) For petitions pursuant to RSA 71-B:16, IV, order the municipality to verify the petitioners are taxpayers in the municipality;
- (3) Perform a comparative study of recent sales and assessments and determine various indications of central tendency and coefficient of dispersion or variation of the sale prices to the assessments;
- (4) Based on the results of the assessment to sale study and other information before the board and using the criteria specified by RSA 71-B:16-a, decide whether good cause appears to exist to order a municipal wide reassessment;
- (5) Hold a hearing on whether the municipality should be ordered to perform a municipal wide reassessment at which hearing petitioners, taxpayers and the municipality shall be heard;
- (6) Require the municipality, no less than 10 days prior to the hearing date, to post copies of the show cause order in 2 public places in the municipality or to print the show cause order in a newspaper of general circulation; and
- (7) Issue an order in conformance with RSA 71-B:16-a.

Tax 208.06 Order for Reassessment.

(a) If the board orders a municipal wide reassessment, the board shall:

- (1) Order the municipality to periodically file progress reports with the board of the steps taken to comply with the reassessment order, copying the lead petitioners, and such reports shall be signed by the statutory assessing officials of the municipality;
- (2) Once the reassessment has been completed and there have been sufficient sales not relied upon in setting the assessments, the board shall perform a comparative study of recent sales and assessments and determine various indications of central tendency and coefficient of dispersion or variation of the sale prices to the assessments to determine whether a statistically acceptable reassessment was performed;
- (3) If the board concludes the municipality has complied with the reassessment order and has completed a statistically acceptable reassessment, the board shall issue a final order to such effect; and
- (4) If the board concludes the municipality has not complied with the reassessment order or has not completed a statistically acceptable reassessment, the board shall hold a hearing to determine what further orders to issue or what further steps to take.

Tax 208.07 Petition for Municipal Wide Current Use Reclassification.

(a) A petition filed under RSA 79-A:12, IV shall:

- (1) Be captioned on each page: "To the Board of Tax and Land Appeals -- Petition for Municipal Wide Reclassification of Current Use Assessments Pursuant to RSA 79-A:12, IV";
- (2) State on the first page the name of the municipality for which the petition is filed;
- (3) State on the first page the names of not more than 2 lead petitioners;
- (4) Conspicuously state on the first page and each signature page, "Pursuant to RSA 79-A:12, IV, the undersigned property taxpayers of (insert **the** municipality's name) petition for a municipal wide reclassification of current use assessments. We assert that a basis exists for this petition under the criteria of RSA 79-A:12, IV for a municipal wide reclassification of current use assessments. By signing below we also agree to be jointly and severally liable should the board order the petitioners to pay any costs involved with this review should it be determined that the petition was frivolously filed or prosecuted;"
- (5) Include the original signatures, the date signed and the printed name and address for each property taxpayer signing the petition; and
- (6) Be filed with the appropriate filing fee under Tax 501.

Tax 208.08 Steps for Municipal Wide Current Use Reclassification.

- (a) Whenever a petition is filed pursuant to RSA 79-A:12, IV or whenever the board initiates a proceeding pursuant to RSA 79-A:12, III, the board shall:
  - (1) Notify the municipality of the proceeding pursuant to RSA 79-A:12, III or IV;
  - (2) For petitions pursuant to RSA 79-A:12, IV, order the municipality to verify the petitioners are taxpayers in the municipality;
  - (3) Hold a hearing on whether the municipality should be ordered to perform a municipal wide reclassification at which hearing petitioners, taxpayers and the municipality shall be heard; and
  - (4) Issue an order in conformance with RSA 79-A:12 and RSA 79-A:13.

Tax 208.09 Service.

- (a) Service of notice of the petition for reassessment or reclassification on a town shall be made by mailing the notice to the town clerk and one selectman.
- (b) Service of notice of the petition for reassessment or reclassification on a city shall be made by mailing the notice to the mayor or one alderman and the city clerk, **or upon the city manager and the city clerk** in accordance with RSA 71-B:16, RSA 510:10 and RSA 510:12.
- (c) Service of the notice of the petition for reassessment or reclassification on a property owner shall be made by mailing the notice certified mail to the property owner against whose land a complaint is made under RSA 71-B:16, I or RSA 79-A:12, I.

Tax 208.10 Lead Petitioners.

- (a) In proceedings conducted pursuant to RSA 71-B:16, IV and RSA 79-A:12, IV, **at least 1, but not more than 2** petitioners, shall be designated ~~by the petitioners, or in the absence by the board,~~ as the lead petitioners.

(b) Notices and orders shall only be provided to the lead petitioners who shall be solely responsible for complying with all deadlines and board orders and for providing copies of all notices and orders to the other petitioners.

(c) If the lead petitioners fail to comply with deadlines or board orders, the board shall continue the case and shall order the petitioners to name new lead petitioners.

PART Tax 209 RULES GOVERNING APPEALS OF STATE TAXES, PENALTIES, PROPERTY TAX RELIEF REFUNDS, ~~AND~~ DECERTIFICATIONS AND BUSINESS AUTHORITY FINANCE PILOTS

Tax 209.01 Applicability. This part, as well as Tax 101 and Tax 201, shall apply to all appeals of the DRA decisions under RSA 21-J:9-a, V; RSA 21-J:14-g; RSA 21-J:28-b, IV; **RSA 77-B:22, RSA 78:31-a**, RSA 82:16-a, RSA 83-F:8; **RSA 162-A, RSA 162-I** and RSA 198:5760.

Tax 209.02 Appeal to the Board.

(a) After complying with all statutory prerequisites, an ~~appellant~~ **taxpayer** shall, within the statutory period and in writing, file a written appeal with the board.

(b) ~~The appeal document shall include the following:~~ **Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:**

(1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;

(2) The grounds for the appeal **with sufficient specificity to allow the board and the DRA to understand the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient;** and

(3) The proper filing fee under Tax 501.

~~(c) The appellant's appeal document shall state the grounds for the appeal with sufficient specificity to allow the board and the DRA to understand the appellant's arguments. Conclusory statements without supporting arguments or data shall be insufficient.~~

~~(d) If an appellant files an the appeal document is incorrectly completed or without using the board's appeal document form or if the appellant files an incorrectly completed form, including one that lacks sufficient specificity, the board, on its own or by DRA motion, shall declare the appellant taxpayer's in default. The board shall then order the appellant taxpayer to file a completed appeal document or to amend the appeal document within 10 days of the clerk's date. If the appellant taxpayer fails to comply with such order, the board shall dismiss the appeal.~~

Tax 209.03 Procedures for Processing Appeal.

(a) As used in this section, the term "DRA File" means the record on which the DRA's final decision was based, including a copy of the DRA's final decision.

(b) Upon receipt ~~of an appeal~~, the board shall:

(1) Determine if the appeal **document** was timely **and properly** filed; and

(2) Send a copy of the appeal **document** to the DRA.

(c) ~~If the appeal was timely filed,~~ The DRA shall, within 20 days of the board's request, submit to the board a copy of the DRA file. The DRA shall send a letter to the ~~appellant~~ **taxpayer**, stating the DRA file has been sent to the board. The ~~appellant~~ **taxpayer** may then view the DRA file at the board's offices.

Tax 209.04 Burden of Proof. The ~~appellant~~ **taxpayer** shall have the burden to prove the DRA erred in its decision.

## PART Tax 210 RULES GOVERNING EMINENT DOMAIN PROCEEDINGS

Statutory Authority: RSA 498-A

Tax 210.01 Applicability. This part, as well as Tax 101 and Tax 201, shall apply to all eminent domain proceedings and shall be followed to provide a fair and efficient procedure for handling such cases. RSA 498-A states many of the procedures to be followed, and the parties shall follow RSA 498-A. Tax 201.24 and Tax 201.37 do not apply to this part.

Tax 210.02 Declaration of Taking.

(a) To determine who should be named as a condemnee, the condemnor shall perform a title search at the appropriate registry of deeds and shall contact the tax collector in the municipality where the property is situated. The condemnor shall update the initial title search simultaneously with the declaration filed with the board and also simultaneously with the declaration recorded at the registry of deeds.

(b) The title work shall be reviewed by the condemnor's attorney before the declaration is filed with the board to ensure the proper parties are named and their interests properly identified.

(c) If the condemnor's attorney discovers any possible title issues that concern present ownership or present rights of those named as condemnee(s), the condemnor shall notify the board of such issue when the declaration is filed.

(d) The declaration shall include the following:

- (1) All of the information required by RSA 498-A:5;
- (2) The name and address of each condemnee with reference to the registry book and page of the document under which each condemnee's interest arises; and
- (3) A specific description of the property interest, as the condemnor can determine from the title records, held by each condemnee, such as, fee, life estate, lessee, mortgagee and municipal tax lienholder.

(e) If a corporation is named as a condemnee, the condemnor shall specify the individual and his/her title upon whom the declaration shall be served in accordance with RSA 510:13 and RSA 510:14.

Tax 210.03 Amended or Corrective Declaration of Taking.

(a) The declaration shall only be amended or corrected in accordance with RSA 498-A:5, III.

(b) The condemnor or condemnee shall move to amend or correct a declaration, stating the proposed amendment and the reason therefor. If the condemnor files the motion, the proposed amended declaration shall be filed with the motion.

(c) Amended or corrective declarations shall:

- (1) State what has been amended or corrected;

(2) State the book and page the original declaration was recorded in at the registry; and

(3) After board approval, be recorded at the appropriate registry by the condemnor.

(d) The condemnor shall file with the board a letter stating when the amended declaration was recorded, copying the letter to the condemnee. This recording shall satisfy the recording requirement of an amended notice of condemnation pursuant to RSA 498-A:7, II.

Tax 210.04 Preliminary Objections.

(a) Preliminary objections shall be filed in accordance with RSA 498-A:9-a and RSA 498-A:9-b.

(b) The board shall stay any just compensation proceedings while an RSA 498-A:9-b preliminary objection is pending.

Tax 210.05 Damages Deposit.

(a) When paying to the board the damage deposit required by RSA 498-A:11, the condemnor shall file a damage deposit that shall:

(1) Comply with all applicable Tax 201 rules;

(2) State the deposit amount;

(3) Certify the deposit is the condemnor's good faith estimate of the just compensation due **the** condemnee(s) as estimated by a qualified, impartial appraiser in accordance with RSA 498-A:4 and RSA 498-A:11; and

(4) List the name and interest of each condemnee along with the recording information from which the interest arises.

(b) The damage deposit may be included in the declaration.

(c) The board shall place all deposits in a savings account of a local bank, naming as account holders the board and all condemnees. All interest earned on the deposit shall accrue to the condemnees in accordance with 1986 Op. Atty. Gen. 8.

(d) If the board receives a written request to withdraw the deposit signed by all condemnees, the board shall release the deposit payable to all condemnees or payable to certain condemnees if all condemnees consent to such payment.

(e) If the board receives a written request to withdraw the deposit signed by some but not all condemnees, the board shall:

(1) Notify all condemnees of the request;

(2) Provide all condemnees 10 days to object to the request; and

(3) Release the deposit payable to all condemnees if no objection is filed; or

(4) Rule on the request if an objection is filed.

(f) By withdrawing the deposit, the condemnee shall be deemed to have waived all objections and defenses to the action and to the taking of the property except for a claim to greater compensation in accordance with RSA 498-A:11, III.

Tax 210.06 Apportionment of Damages. The board shall ~~not hear any evidence or arguments on~~ **hold an RSA 498-A:25 hearing on the** apportionment of damages, ~~pursuant to RSA 498-A:25, unless if a~~ motion for hearing on apportionment of damages is filed, stating the facts and issues underlying the request.

Tax 210.07 Comparables. Except by board leave, parties shall be limited to no more than 10 comparables per residential property and 20 comparables per nonresidential property. Parties may move for leave, at least 4 weeks prior to the hearing, to use more comparables, and the board shall grant the motion if the moving party has shown the additional comparables are necessary to the party's case and will not be unduly repetitious or burdensome on the board or the other party.

Tax 210.08 Hearings.

(a) Unless the parties agree to a hearing elsewhere, just compensation hearings shall be held in the county where the property is located in accordance with RSA 498-A:16. Once the view has been taken, the board may hold hearings at its Concord hearing room in accordance with RSA 498-A:16.

(b) Absent specific board order, the board shall view all condemned properties after opening the scheduled hearings and before taking evidence other than view evidence. Parties shall be prepared at the hearing for the view. Parties shall have plans prepared and marked for the view, and parties shall have boundary lines marked on the property or someone at the view to indicate the boundary lines. The parties shall ensure the board can obtain access to all land and buildings on the condemned property.

(c) If the condemnee fails to attend a preliminary objection hearing, the board shall deny the preliminary objection.

(d) If either party fails to attend the just compensation hearing, the board shall ~~nonetheless take the view and~~ hear the attending party's evidence and review all documents in the board's file.

(e) Parties planning to have experts, including appraisers, testify at the hearing shall advise the expert to bring their complete file, including all original records and notes, to the hearing.

Tax 210.09 Settlements.

(a) Settlements between the parties shall be encouraged in accordance with RSA 541-A:31, V. Parties shall attempt to settle a matter before it is scheduled for a hearing.

(b) All settlement agreements, except those made on the record or recited in an order, shall:

- (1) Be in writing, describing all material terms; and
- (2) Be signed by all parties or their attorneys, agents or municipal consultants.

(c) If any condemnee reaches a settlement with the condemnor but without the agreement of all other condemnees the board shall:

- (1) Require the condemnor to contact all other condemnees to obtain their written consent to the settlement agreement; and
- (2) Send written notice to all the condemnees who have not signed the settlement agreement about the proposed settlement, and informing them that they shall object within 10 days of the clerk's date or the case will be marked as settled.

(d) If written consent cannot be obtained from all condemnees, the condemnor shall file a motion with the board to close the case without fully executed docket markings.

Tax 210.10 Hearing Record~~Transcripts~~. (a) The board shall cause an accurate record of the hearing to be made in accordance with RSA 498-A:20 and RSA 541-A:31, VII.

~~(b) If the board hires a court reporter to make the record but not a transcript, the parties may obtain a transcript at their cost by contacting the court reporter directly.~~

Tax 210.11 Interest on Excess Award. If the board's just compensation award exceeds the damage deposit, the condemnor shall pay the condemnee interest on the excess award at the statutory rate calculated from the declaration filing date to the payment date in accordance with RSA 524:1-b and RSA 336:1.

Tax 210.12 Burden of Proof. In eminent domain proceedings, the condemnor shall have the burden of proving, by a preponderance of the evidence, that the amount offered will justly compensate the condemnee in accordance with Fortin v. Manchester Housing Authority, 133 N.H. 154, 157 (1990) and State v. Garceau, 118 N.H. 321, 323 (1978).

Tax 210.13 Award of Costs and Appeal.

(a) If neither the condemnor nor the condemnee appeals from the award of the board as provided in RSA 498-A:27, the board shall award costs to the prevailing party in accordance with RSA 498-A:26-a.

(b) A motion for costs shall be filed no earlier than 20 days but no later than 40 days from the date of the board's report in accordance with RSA 498-A:26.

(c) A motion for costs shall itemize costs in accordance with Tax 201.39(c) and shall state whether an RSA 498-A:27 appeal has been taken on the board's damages.

(d) If an appeal is filed in superior court pursuant to RSA 498-A:27, the appealing party shall file a copy of the appeal with the board to enable the board to determine if costs can be awarded pursuant to RSA 498-A:26-a.

Readopt Tax 211, eff 9-8-09 (Document #9538), to read as follows:

#### PART Tax 211 RULES GOVERNING APPEALS OF EQUALIZED VALUATION

Tax 211.01 Applicability. This part, as well as Tax 101 and Tax 201, shall apply to all appeals of the DRA determinations of equalized valuation under RSA 71-B:5, II. Tax 201.19 and Tax 201.37 shall not apply in this part.

Tax 211.02 Appeals to the Board.

(a) A municipality shall, within the statutory period and in writing, file an appeal of its equalized valuation with the board.

(b) The municipality shall include the following in its appeal document:

- (1) The municipality's name, contact person, address and daytime telephone number;
- (2) The reasons for disagreeing with the DRA's equalized valuation; and
- (3) The proper filing fee under Tax 501.01.

(c) The municipality's appeal document shall state the reasons for disagreeing with the equalized valuation with sufficient specificity to allow the board and DRA to understand the municipality's arguments. Conclusory statements without supporting arguments or data shall be insufficient.

Tax 211.03 Procedures for Processing Appeal.

(a) Upon receipt of the municipality's appeal, the board shall:

- (1) Determine if the appeal was timely filed; and
- (2) Send a copy of the appeal to the DRA.

(b) If the appeal was timely filed, the board shall hold a telephone conference with the municipality and DRA to determine:

- (1) Discovery timelines and a hearing date;
- (2) What documents used by DRA in calculating the equalized valuation need to be provided to the municipality either prior to or at the hearing;
- (3) Further clarification of the municipality's reasons for appeal if the application lacks adequate specificity; and
- (4) If stipulations to any agreed facts are feasible.

Tax 211.04 Burden of Proof. The municipality shall have the burden to prove the DRA erred in calculating the equalized valuation.

Readopt Tax 212.01 through Tax 212.02, eff 9-24-07 (Document #8987-B), cited and to read as follows:

PART Tax 212 RULES GOVERNING RULE CHANGES

Tax 212.01 Petitions or Board Initiated Rule Changes.

(a) This section shall apply to rule changes initiated by the board or by any person petitioning the board to adopt, amend or repeal the board's rules.

(b) A petition to adopt, amend or repeal a rule shall be submitted to the board's clerk. The clerk shall schedule a board meeting in compliance with RSA 91-A and present the petition to the board.

(c) The board shall:

- (1) Notice the petitioner of the meeting at which the petition will be reviewed;
- (2) Consider the petition; and
- (3) Request further information, if necessary.

(d) Within 30 days of receipt of a request or amended request for rulemaking, the board shall take one of the following actions:

- (1) Initiate the requested rulemaking procedures, in accordance with this part; or
- (2) Deny the request if it is contrary to the purpose of the underlying statute and respond, in writing, stating the reasons for denial.

(e) A petition to adopt, amend or repeal a rule shall:

- (1) Be limited to a single subject; and
- (2) If the petition concerns a rule, cite the rule in question.

Tax 212.02 Public Comment Hearing.

(a) If the board initiates rulemaking proceedings under RSA 541-A, or if rulemaking is initiated pursuant to a petition for rulemaking, the board shall hold at least one public comment hearing pursuant to RSA 541-A:11.

(b) Notice shall be given at least 20 days prior to the public comment hearing pursuant to RSA 541-A:6, I.

(c) The board shall limit the time allowed at hearing for each person's comments when necessary to allow all persons with comments to make them.

(d) The board shall require persons desiring to make comments to so indicate by signing a roster made available for this purpose prior to the commencement of the public hearing.

Readopt Tax 212.03, eff 9-8-09 (Document #9538), to read as follows:

Tax 212.03 Explanation of Proposed Rule.

(a) If requested by an interested person at any time before 30 days after final adoption of a rule, the board shall issue a written explanation of the rule pursuant to RSA 541-A:11, VII.

(b) An explanation issued pursuant to this section shall include:

- (1) A concise statement of the principal reasons for and against the adoption of the rule in its final form; and
- (2) An explanation of why the board overruled any arguments and considerations against the rule.

Readopt with amendment Tax 213 – Tax 216, eff 9-8-09 (Document #9538), to read as follows:

PART Tax 213 RULES GOVERNING APPEALS OF TIMBER TAX

Tax 213.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to all timber tax appeals under RSA 79:8.

Tax 213.02 Abatement Applications Filed with the Municipality. The board shall hear appeals from municipal decisions on timely filed timber tax abatement applications in accordance with RSA 79:8.

Tax 213.03 Appeals to the Board.

(a) After having complied with RSA 79:10 and RSA 79:11, an owner may within the RSA 79:8 statutory period modify the appeal document prepared by the board, or the owner may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) If the ~~appellant~~ **taxpayer** is not the owner, a statement of the ~~appellant's~~ **taxpayer's** basis/standing for appealing;
- (3) The location of the property subject to the timber tax, identified by street address, tax map and lot number, and operation number;
- (4) A copy of the timber tax bill;

- (5) A copy of a map showing harvesting locations and distance;
- (6) A copy of the original and supplemental notice of intent to cut and the report of wood or timber cut; and
- (7) ~~A complete and specific statement of the grounds supporting the appeal.~~ **The grounds for the appeal with sufficient specificity to allow the board and the municipality to understand the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.**

(b) Pursuant to RSA 79:8, there shall be no filing fee when filing an appeal with the board.

(c) ~~If an appellant files an~~ **the appeal document is incorrectly completed or that** lacks sufficient specificity, the board, ~~on its own or by municipality motion,~~ shall declare the ~~appellant taxpayer~~ **taxpayer** in default. The board shall then order the ~~appellant taxpayer to file a completed appeal document or to amend the appeal document~~ **taxpayer to file a completed appeal document or to amend the appeal document**  ~~cure the default~~ within 10 days of the clerk's date. If the ~~appellant taxpayer~~ **taxpayer** fails to comply with such order, the board shall dismiss the appeal.

(d) Throughout the appeal, the issues raised by the ~~appellant taxpayer~~ **taxpayer** in the timber tax abatement application and the appeal document may differ, but the grounds stated in the appeal document shall control the issues before the board.

Tax 213.04 Filing Deadlines in Timber Tax Appeals.

(a) The filing deadlines for timber tax appeals shall be as stated in RSA 79:8.

(b) A timber tax abatement application filed with a municipality or an appeal filed with the board shall be untimely if it is filed:

- (1) After the statutory deadlines; or
- (2) On or before the notice of tax date.

(c) The board shall not extend statutory timelines except as stated in (d) below, and the board shall dismiss the appeal when the timber tax abatement application was not timely filed with the municipality. In accordance with Appeal of Gillin, 132 N.H. 311, 313 (1989) and Daniel v. B & J Realty, 134 N.H. 174, 176 (1991), taxpayer's must timely file an abatement application as a jurisdictional prerequisite for the board to hear the appeal.

(d) If an ~~appellant's taxpayer's~~ **taxpayer's** timber tax abatement application was not timely filed, the board shall treat the timber tax abatement as timely filed only if the ~~appellant taxpayer~~ **taxpayer** demonstrates all of the following:

- (1) The municipality supplied the ~~appellant taxpayer~~ **taxpayer** with the incorrect filing deadline;
- (2) The ~~appellant taxpayer~~ **taxpayer** was unaware of the correct filing deadline;
- (3) The municipality should have known the ~~appellant taxpayer~~ **taxpayer** would rely on the municipality's information; and
- (4) The ~~appellant taxpayer~~ **taxpayer** detrimentally relied on the municipality's information such as missing the deadline for filing the timber tax abatement application with the municipality in accordance with City of Concord v. Tompkins, 124 N.H. 463, 467-68 (1984).

Tax 213.05 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following ~~information~~:

- (1) The date the ~~appellant~~ **taxpayer** filed the timber tax abatement application; ~~and~~
- (2) Whether the ~~appellant~~ **taxpayer** properly filed the original and supplemental notice of intent to cut and the report of all wood and timber cut in accordance with RSA 79:10 and RSA 79:11; ~~and~~
- (3) **Details regarding how the timber tax was calculated and assessed.**

(b) The municipality shall file the completed checklist within 30 days of the ~~checklist~~ **board's** date **on the checklist**, copying the ~~completed checklist to the appellant taxpayer.~~ If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 213.06 Hearings.

(a) Timber tax hearings shall be held at the board's offices at the Governor High J. Gallen State Office Park, 107 Pleasant Street, Johnson Hall, Concord, NH.

(b) The board shall hold prehearing conferences for purposes of preparing for final hearing and exploring settlement pursuant to RSA 541-A:31, V(c) and Tax 201.20.

Tax 213.07 Burden of Proof. In timber tax appeals, the ~~appellant~~ **taxpayer** shall have the burden of proving what the proper stumpage value and resulting tax should have been in accordance with RSA 79:1, III.

PART Tax 214 RULES GOVERNING APPEALS OF EXCAVATION TAX

Tax 214.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to all appeals of excavation taxes under RSA 72-B:13.

Tax 214.02 Abatement Applications Filed with the Municipality. The board shall hear appeals from municipal decisions on abatement applications in accordance with RSA 72-B:13. Therefore, before appealing to the board, the taxpayer shall have timely filed an abatement application with the municipality.

Tax 214.03 Appeals to the Board.

(a) After having complied with RSA 72-B:8 and RSA 72-B:9, an owner may within the statutory period outlined in RSA 72-B:13, modify the appeal document prepared by the board, or the owner may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer** name, address and daytime telephone number;
- (2) If the ~~appellant~~ **taxpayer** is not the owner, a statement of the ~~appellant's~~ **taxpayer** basis/standing for appealing;
- (3) The location of the property subject to the excavation tax, identified by street address and tax map and lot number;
- (4) A copy of the excavation tax bill;

- (5) A copy of the report and original and supplemental notice of intent to excavate;
- (6) ~~A complete and specific statement of the grounds supporting the appeal~~ **The grounds for the appeal with sufficient specificity to allow the board and the municipality to understand the taxpayer's arguments. Conclusory statements without supporting arguments or data shall be insufficient.**; and
- (7) The proper filing fee under Tax 501.

(b) ~~If an appellant files an~~ **the appeal document is incorrectly completed or that** lacks sufficient specificity, the board, ~~on its own or by municipality motion,~~ shall declare the ~~appellant taxpayer~~ **taxpayer** in default. The board shall then order the ~~appellant taxpayer~~ **taxpayer** to **file a completed appeal document or to amend the appeal document**  ~~cure the default~~ within 10 days of the clerk's date. If the ~~appellant taxpayer~~ **taxpayer** fails to comply with such order, the board shall dismiss the appeal.

(c) Throughout the appeal, the issues raised by the ~~appellant taxpayer~~ **taxpayer** in the abatement application and appeal document may differ, but the grounds stated in the appeal document shall control the issues before the board.

Tax 214.04 Filing Deadlines in Excavation Tax Appeals.

- (a) The filing deadlines for excavation tax appeals shall be as stated in RSA 72-B:13.
- (b) An abatement application filed with a municipality or an appeal document filed with the board shall be untimely filed if it is filed:
  - (1) After the statutory deadlines; or
  - (2) On or before the notice of tax date.
- (c) The board shall not extend statutory timelines except as stated in (d) below, and the board shall dismiss the appeal when the abatement application was not timely filed with the municipality. In accordance with Appeal of Gillin, 132 N.H. 311, 313 (1989) and Daniel v. B & J Realty, 134 N.H. 174, 176 (1991), taxpayers must timely file an abatement application as a jurisdictional prerequisite for the board to hear the appeal.

(d) If an ~~appellant's taxpayer's~~ **taxpayer's** abatement application was not timely filed, the board shall treat the abatement application as timely filed only if the ~~appellant taxpayer~~ **taxpayer** demonstrates all of the following:

- (1) The municipality supplied the ~~appellant taxpayer~~ **taxpayer** with the incorrect filing deadline;
- (2) The ~~appellant taxpayer~~ **taxpayer** was unaware of the correct filing deadline;
- (3) The municipality should have known the ~~appellant taxpayer~~ **taxpayer** would rely on the municipality's information; and
- (4) The ~~appellant taxpayer~~ **taxpayer** detrimentally relied on the municipality's information such as missing the deadline for filing the abatement application with the municipality in accordance with City of Concord v. Tompkins, 124 N.H. 463, 467 68 (1984).

Tax 214.05 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following ~~information~~:

- (1) The date the ~~appellant~~ **taxpayer** filed the abatement application; ~~and~~
- (2) Whether the ~~appellant~~ **taxpayer** properly filed the original and supplemental notice of intent to excavate and the report of excavated material in accordance with RSA 72-B:8, RSA 72-B:8-a and RSA 72-B:9-; ~~and~~
- (3) **Details regarding how the excavation tax was calculated and assessed.**

(b) The municipality shall file the completed checklist within 30 days of the checklist date, copying the completed checklist to the ~~appellant~~ **taxpayer**.

Tax 214.06 Burden of Proof. In excavation tax appeals, the ~~appellant~~ **taxpayer** shall have the burden of proving the volume of earth upon which the assessment was made was not properly determined in accordance with RSA 72-B:1.

PART Tax 215 **SPECIFIC RULES GOVERNING DISCRETIONARY EASEMENT, ~~AND~~ REVITALIZATION, BETTERMENT ASSESSMENT, QUALIFYING HISTORIC BUILDINGS AND FARM STRUCTURES AND LAND UNDER FARM STRUCTURES' APPEALS**

Tax 215.01 Applicability. This part, as well as Tax 101, Tax 201 and Tax 202, shall apply to all appeals of discretionary easement, ~~and~~ revitalization, **betterment assessment, qualifying historic buildings and farm structures and land under farm structures'** appeals under RSA 79-C, RSA 79-D ~~and~~ RSA 79-E, **RSA 79-F:6, RSA 79-G:5 and RSA 231:32.**

Tax 215.02 Appeal to the Board.

(a) To appeal to the board, a taxpayer shall, within the statutory period and in writing, file an appeal document with the board in accordance with RSA 79-C:5, RSA 79-D:5, ~~and~~ RSA 79-E:4 **and RSA 231:32.**

(b) Taxpayers may either modify the appeal document prepared by the board, or they may draft and file their own written appeal document that includes all of the following:

- (1) The ~~appellant's~~ **taxpayer's** name, address and daytime telephone number;
- (2) The property or properties for which the assessment is being appealed, identified by street address and tax map and lot number;
- (3) A complete and specific statement of the grounds supporting the appeal;
- (4) A copy of the pertinent application filed with the municipality and a statement of the municipality's action on the application; and
- (5) The proper filing fee under Tax 501.

Tax 215.03 Filing Deadlines. The filing deadlines for discretionary easement, ~~and~~ revitalization, **betterment assessment, qualifying historic buildings and farm structures and land under farm structures'** appeals shall be as stated in 79-C:5, RSA 79-D:5, ~~and~~ RSA 79-E:4, **RSA 79-F:6, RSA 79-G:5 and RSA 231:32.**

Tax 215.04 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking **information including** the following:

- (1) A complete copy of the pertinent application with any maps or surveys and any appraisals filed with the application;
- (2) The date the taxpayer filed the application and the municipality's decision thereon;
- (3) ~~Whether the municipality requires an inventory and, if so, the date the inventory was filed; and~~
- (43) Complete copies of the assessment-record cards for all appealed properties ~~under appeal~~.

(b) The municipality shall file the completed checklist within 30 days of the board's date on the checklist, copying the taxpayer ~~with the completed checklist~~. If the completed checklist shows the taxpayer has complied with all timely filing requirements, the board shall process the appeal.

Tax 215.05 Burden of Proof. In discretionary easement, ~~and~~ revitalization, **betterment assessment, qualifying historic buildings and farm structures and land under farm structures'** appeals, the taxpayer shall have the burden to prove the municipality's denial or decision was either made in bad faith or was discriminatory.

#### PART Tax 216 APPEAL OF A RESIDENCE LOCATED IN AN INDUSTRIAL OR COMMERCIAL ZONE

Tax 216.01 Applicability. This part, as well as Tax 101 and Tax 201, shall apply to appeals of residences located in an industrial or commercial zone under RSA 75:14.

##### Tax 216.02 Appeals to the Board.

(a) The board shall hear appeals from municipal decisions denying, in whole or in part, an application made pursuant to RSA 75:11 to appraise a residence at its current use as a residence in an industrial or commercial zone.

(b) A taxpayer shall, within the statutory period outlined in RSA 75:14, file an appeal document with the board after the municipality's decision or lack of a decision.

(c) Each appeal document shall include the following:

- (1) The ~~appellant's~~ **taxpayer** name, address and daytime telephone number;
  - (2) If the ~~appellant~~ **taxpayer** is not the owner, a statement of the ~~appellant's~~ **taxpayer** basis/standing for appealing;
  - (3) The property or properties being appealed, identified by street address and tax map and lot number;
  - (4) The assessment on the property or properties, and if available, the assessment broken down by land and building;
  - (5) A complete and specific statement of the grounds supporting the appeal, with the comparables relied on by the ~~appellant~~ **taxpayer**; and
  - (6) The proper filing fee under Tax 501.
- (d) ~~If an appellant files an~~ the appeal **document is incorrectly completed or that** lacks sufficient specificity, the board, ~~on its own or by municipality motion,~~ shall declare the ~~appellant~~ **taxpayer** in default. The board shall then order the ~~appellant~~ **taxpayer** to **file a completed**

**appeal document or to amend the appeal document** ~~are the default~~ within 10 days of the clerk's date. If the ~~appellant~~ **taxpayer** fails to comply with such order, the board shall dismiss the appeal.

Tax 216.03 Filing Deadlines. The filing deadlines for an appeal of an assessment of a residence located in an industrial or commercial zone shall be as stated in RSA 75:11 and RSA 75:14.

Tax 216.04 Checklist to Municipalities.

(a) Upon receipt of a timely filed appeal, the board shall send the taxpayer an acknowledgement of its receipt and the municipality a checklist, seeking ~~the following~~ information **including the following**:

- (1) Whether a timely annual application for classifying a residence under RSA 75:11 was made with the municipality; and
- (2) Copies of the assessment-record cards for all properties for which an RSA 75:11 application was made.

(b) The municipality shall file the completed checklist within 30 days of the checklist date, copying the completed checklist to the ~~appellant~~ **taxpayer**.

Tax 216.05 Burden of Proof. The ~~appellant~~ **taxpayer** shall have the burden of proving the assessment was disproportionate or illegal, resulting in the ~~appellant~~ **taxpayer** paying a disproportionate share of taxes in accordance with Appeal of Town of Sunapee, 126 N.H. 214, 217 (1985).