

Michael Conroy

v.

Town of Bow

Docket No.: 27594-15EX

DECISION

The “Taxpayer” appeals, pursuant to RSA 72:34-a, the “Town’s” 2015 denial of his tax year 2015 application for an RSA 72:37-b disability exemption. For the reasons stated below, the appeal is denied.

The Taxpayer has the burden of showing, by a preponderance of the evidence, he was entitled to the statutory exemption for the year under appeal. See RSA 72:34-a; RSA 72:37-b; and Tax 204.05.

The Taxpayer argued he was entitled to the disability exemption because:

- (1) the Town granted the exemption for several years (since 2013) but denied it for tax year 2015, after it learned of his marriage;
- (2) he is permanently disabled and is having financial difficulty (as shown in Taxpayer Exhibit No. 1), but feels the Town’s system (of applying the \$50,000 income limit to married persons) is “hurtful” and an “exception” can and should be made for him; and
- (3) the appeal should be granted.

The Town argued the denial of the disability exemption was proper because:

- (1) as shown in Municipality Exhibit A, the Town, pursuant to the disability exemption statute, increased the income limit for married persons to \$50,000 in 2008;
- (2) there is no dispute the combined income of the Taxpayer and his wife exceed this limit; and
- (3) the appeal should be denied.

Board's Rulings

Based on the evidence, the board finds the Town did not err in denying the disability exemption for tax year 2015. The appeal is therefore denied.

There is no dispute regarding the total income calculated by the Town for the Taxpayer and his wife and that this income amount exceeds the maximum.

The rights of Taxpayers appearing before the board, and the board's powers and jurisdiction, are determined by statute. Appeal of Land Acquisition, 145 N.H. 492, 494 (2000). The tax abatement statutes, including those pertaining to exemptions, provide the exclusive remedy to a taxpayer filing a tax appeal. Cf. Porter v. Town of Sanbornton, 150 N.H. 363, 367 (2003). Consequently, the board has no authority, based on the Town's undisputed income calculations and the Taxpayer's marital status, to grant the 'exception' the Taxpayer seeks.

The appeal is therefore denied.

Any party seeking a rehearing, reconsideration or clarification of this Decision must file a motion (collectively "rehearing motion") within thirty (30) days of the clerk's date below, not the date this decision is received. RSA 541:3; Tax 201.37. The rehearing motion must state with specificity all of the reasons supporting the request. RSA 541:4; Tax 201.37(b). A rehearing motion is granted only if the moving party establishes: 1) the decision needs clarification; or 2) based on the evidence and arguments submitted to the board, the board's decision was erroneous

in fact or in law. Thus, new evidence and new arguments are only allowed in very limited circumstances as stated in board rule Tax 201.37(g). Filing a rehearing motion is a prerequisite for appealing to the supreme court, and the grounds on appeal are limited to those stated in the rehearing motion. RSA 541:6. Generally, if the board denies the rehearing motion, an appeal to the supreme court must be filed within thirty (30) days of the date on the board's denial with a copy provided to the board in accordance with Supreme Court Rule 10(7).

SO ORDERED.

BOARD OF TAX AND LAND APPEALS

Michele E. LeBrun, Chair

Albert F. Shamash, Member

Theresa M. Walker, Member

Certification

I hereby certify a copy of the foregoing Decision has this date been mailed, postage prepaid, to: Michael Conroy, 19 Hooksett Turnpike, Bow, NH 03304, Taxpayer; Chairman, Board of Selectmen, Town of Bow, 10 Grandview Rd., Bow, NH 03304; and Monica Hurley, 10 Grandview Rd., Bow, NH 03304, representative for the Town of Bow.

Date: 12/8/15

Anne M. Stelmach, Clerk