

# BOARD OF TAX & LAND APPEALS

## 2022 NHMA UPDATE

November 17, 2022

# CLERK'S CORNER



- Tax Year 2021 Appeals Filed = 250/600 Pending
- Supreme Court cases pending = 2  
(RAMA & Effingham)
- New Website ([www.btla.nh.gov](http://www.btla.nh.gov))
- New BTLA staff
- Scheduling

# RULEMAKING



- Rules expire June 2024
- Most are editorial in nature
- Public Rulemaking Hearing: 1/19/2023, 10:00 a.m.
- Written Comment Deadline: 2/2/2023, 4:00 p.m.
- Major change: Exhibits (Tax 201.31)

# EXHIBITS (TAX 201.31)

## Tax 201.31 ~~Copies of Exhibits~~ Exchange and Submittal of Exhibits.

(a) The party offering any exhibit, **including appraisals and statistical reports**, ~~at a hearing~~ shall provide one original to be marked, one copy to the other party and 3 copies to the board. **These copies shall be provided after the hearing notice, but not less than 14 days before the hearing.**

(b) **An appraisal or statistical report submitted with the abatement application, the appeal document or otherwise submitted before the hearing notice shall not constitute compliance with this rule. If a party fails to comply with (a) above, the board shall exclude the appraisal or statistical report.**

(bc) Additional copies shall not be required for photographs, maps or other documents that are not easily copied.

(ed) If a party fails to supply the correct number of copies, the board shall either return the document for copying by the party or copy the document and bill the party for copying costs.

(e) **Any party submitting rebuttal evidence shall provide the required copies in (a) at the time of submittal.**

NEW HAMPSHIRE CONSTITUTION  
PT. 1, ART. 12, PROTECTION & TAXATION  
RECIPROCAL

Every member of the community has a right to be protected by it, in the enjoyment of his life, liberty, and property; he is therefore bound to contribute his share in the expense of such protection....

June 2, 1784

- requires all taxes to be proportional. A disproportional assessment violates this provision. Rollins v. Dover, 93 N.H. 448 (1945)
- prohibits the exemption of properties operated for private profit because that would be a special tax exemption. Eyers v. Gilsum, 84 N.H. 1 (1929)
- prohibits the legislature from exempting all property owned by certain types of institutions (such as educational institutions) *unless all the property is used for the exempt purpose* in order to prevent an unreasonable shift of the tax burden. New London v. Colby Academy, 69 N.H. 443 (1898)

# RSA 71-B:16

The board may order a reassessment of taxes **previously assessed** or a new assessment to be used in the current year or in a subsequent tax year of any taxable property in the state:

II. When it comes to the attention of the board **from any source**, except as provided in paragraph I, that a particular parcel of real estate or item of personal property has not been assessed, or that it has been **fraudulently, improperly, unequally, or illegally assessed**;

# RSA 72:6 REAL ESTATE

All real estate shall be taxed except as otherwise provided.



What is ‘otherwise provided’ ?

- Personal Exemptions
- Personal Credits
- Institutional Exemptions
- Properties owned by the state, municipalities, school districts and counties

## SOMETHING OTHER THAN MARKET VALUE

- Current Use (RSA 79-A)
- Conservation Restrictions (RSA 79-B)
- Discretionary Easements (RS 79-C)
- Residences on commercial/industrial land (RSA 75:11)
- Excavation (RSA 72-B)
- Farm Structures (RSA 79-F)
- Historic Buildings (RSA 79-G)
- Chartered Schools (RSA 79-H)
- LIHTC Properties (RSA 75:1-a)
- Renewable Generation PILOTs (RSA 72:74)



# INSTITUTIONAL EXEMPTION REQUIRED FORMS

## “Institutional” Exemptions

- Charitable – RSA 72:23, V – A9 & A12
  - Religious – RSA 72:23, III – A9
  - Educational – RSA 72:23, IV – A9

# QUALIFYING EXEMPT PROPERTIES

- Statutory requirements are mandatory (RSA 72:23, RSA 72:23-c and RSA 72:23-1)
- Recommend that each Town have written policies & procedures for processing annual exemption applications
- Take affirmative steps to verify use and occupancy, including site inspections
- Ensures no irregularities with qualifying exempt properties
- Devote at least the same care & diligence to institutional exemptions as they do to individual (elderly, veteran, etc.)
- Exemptions improperly granted cause disproportionality

# COMPLYING WITH RSA 72:23

- BTLA Form A-9 (Annual List) is an application for exemption
- BTLA Form A-12 (Financial Statement) required by June 1
- No application or financials filed = No exemption
- If filed – must be “Owned, Used & Occupied”
- Each property owned by an organization must be examined according to its particular use (See Appeal of Town of Wolfeboro, 152 N.H. 455,462 (2005))
- Town has authority and obligation to remove previously granted exemptions from any property that does not comply or no longer complies with RSA 72:23

## RSA 76:16 ‘GOOD CAUSE’ ARGUMENT

- No statutory support to conclude that an entity who does not qualify for an RSA ch. 72 exemption can receive an RSA 76:16 abatement for “good cause”
- Contrary to statutory framework established by legislature

# CONTACT INFORMATION

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- Website: [www.btla.nh.gov](http://www.btla.nh.gov)
- Available: Forms, rules, hearing calendar, decisions, ratios, etc.

# QUESTIONS