



Local Finance Opinion

LFO-2019-2
July 25, 2019

Topic: Timeliness of Property Tax Abatement Applications filed with the Local Board of Assessors

Issue: Does the so-called “Postmark Rule” apply to the delivery of abatement applications by private delivery services to Boards of Assessors?

1. What is the general rule governing the time for filing applications for property tax abatements with the local assessors?

The deadline is statutory and established in the first paragraph of G.L. c. 59, § 59.

“A person upon whom a tax has been assessed ... if aggrieved by such tax, may, except as hereinafter otherwise provided, on or before the last day for payment, without incurring interest in accordance with the provisions of section fifty-seven or section fifty-seven C, of the first installment of the actual tax bill issued upon the establishment of the tax rate for the fiscal year to which the tax relates, apply in writing to the assessors, on a form approved by the commissioner, for an abatement thereof...” (Emphasis added.)

As a result, the deadline is the last day for paying the *actual* property tax bill without incurring interest. In quarterly billing communities, the last day for filing for abatement with the assessors is ordinarily February 1. G.L. c. 59, § 57C. In communities where taxes are billed semi-annually, the last day to pay the actual tax bill is either November 1 or 30 days after the mailing of the actual tax bill. G.L. c. 59, § 57. (See [Bulletin 2015-05B](#) for due dates of abatement or exemption applications or property tax payments when the statutory due date falls on a day city/town offices are ordinarily closed for municipal business [Saturday, Sunday or legal holiday] or unexpectedly closed for business due to a weather or public safety emergency.)

Prior to the statute’s amendment in 2000, the court interpreted G.L. c. 59, § 59 as follows: “an application for abatement of taxes, to be timely filed, must be placed in the hands of the assessors or the Commissioner of Revenue, as the case may be, before expiration of the deadline date. Mailing it on the deadline date is not good enough if the application for abatement arrives after the due date.” *Tilcon Massachusetts, Inc. v. Commissioner of Revenue*, 30 Mass. App. Ct. 264 (1991). In 2000, however, G. L. c. 59, § 59 was amended by [St. 2000, c. 324, § 2](#), which added the so-called “postmark rule.”

2. What is the “postmark rule?”

The fourth paragraph of G.L. c. 59, § 59 contains the “postmark rule:”

“If any application for abatement of tax is, after the period or date prescribed by this section,

delivered by United States mail, or by such alternative private delivery service as the commissioner of revenue may by regulation permit, to the assessors, the date of the United States postmark, or other substantiating date mark permitted by regulation of the commissioner of revenue, affixed on the envelope or other appropriate wrapper in which such application is mailed or delivered shall be deemed to be the date of delivery, if such application was mailed in the United States in an envelope or other appropriate wrapper, first class postage prepaid, or delivered to such alternative private delivery service, properly addressed to the assessors. As used in this section, 'United States postmark' shall mean only a postmark made by the United States post office."

Accordingly, the date of the "United States post office" postmark is treated as the date of filing of an abatement application with the board of assessors for purposes of compliance with the deadline requirements of G.L. c. 59 § 59.

3. Does the "postmark rule" apply to the use of private delivery services, such as Federal Express, for delivery of abatement applications to local boards of assessors?

No. Although G.L. c. 59, § 59 authorizes the commissioner of revenue to issue regulations to permit a "postmark rule" regarding delivery of abatement applications by private delivery services, the commissioner of revenue has not issued such regulation. Therefore, the "postmark rule" is limited to delivery by United States post office mail. If an abatement application is delivered to a local board of assessors by a private delivery service, "to be timely filed, [it] must be placed in the hands of the assessors ... before expiration of the deadline date." *Tilcon Massachusetts, Inc. v. Commissioner of Revenue*, 30 Mass. App. Ct. 264 (1991). If the assessors receive such an application for abatement after the deadline, the application is not timely filed and the board of assessors must deny the application as the board has no jurisdiction to consider it and the Appellate Tax Board (ATB) has no jurisdiction to review the disallowance of the application. *Bible Baptist Church of Plymouth, Inc. v. Board of Assessors of Plymouth*, 391 Mass. 1015 (1984).

4. When deciding the timeliness of an abatement application to the assessors, may assessors follow ATB "postmark rules" regarding private delivery services and appeals to the ATB?

No. G.L. c. 59, § 59 governs deadlines for filing abatement applications with assessors. Although St. 2000, c. 324, § 1, 3 and 4 gave authority to the ATB to issue so-called "postmark rules" regarding private delivery services and filing deadlines for appeals to the ATB under G.L. c. 58A, § 7, G.L. c. 59, § 64 and G.L. c. 59, § 65, St. 2000, c. 324, § 2 gave authority to the commissioner of revenue to issue regulations to permit "postmark rules" regarding delivery of abatement applications by private delivery services to boards of assessors under G.L. c. 59, § 59. As previously stated, because the commissioner has not issued regulations regarding private delivery services regarding applications to boards of assessors under G.L. c. 59, § 59, the "postmark rule" does not apply to such deliveries.



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