

Assessing Standards Board
Subcommittee to Review
Payments In Lieu of Taxes

DRAFT

DATE: February 9, 2024

TIME: 11:30 a.m.

LOCATION: NH Department of Revenue Administration, 109 Pleasant Street, Concord NH

SUBCOMMITTEE MEMBERS

(E) Excused

Robert Edwards, Municipal Official, <3,000, Chair
Joe Lessard, NHAAO, Towns <3,000
Betsy Patten, ASB, Public Member
Jim Wheeler, Municipal Official, City, Designee

MEMBERS of the PUBLIC

Sam Greene, NHDRA

Mr. Edwards convened the meeting at 11:30 a.m. Introductions followed.

The purpose of this subcommittee is to discuss what types of properties are allowed to make a payment in lieu of tax (PILOT) and how terms are determined. One of the issues previously discussed by the ASB was whether payments in lieu of tax should be required rather than optional for exempt organizations.

Exempt Property

RSA 72:23-n Voluntary Payments in Lieu of Taxes. – The governing body of any municipality may enter into negotiations for a voluntary payment in lieu of taxes from otherwise fully or partially tax exempt properties, and may accept from such properties a voluntary payment in lieu of tax.

There is little confidence that the legislature would consider the idea of requiring a payment in lieu of tax from tax exempt entities. An issue with PILOT agreements is that there is no standardization in how the terms are determined. It is ultimately between the municipality and the entity or a developer, depending on the property type.

In most cases, a PILOT is meant to simulate what taxes would be if a property was assessed at ad valorem value. Many agreements begin with obtaining information that would be used to value a property for tax purposes. For long-term agreements, such as those for renewable energy systems, an economic development tool is then used to determine a schedule of payments. Some may use a level stream of payments over 20 years, and some may use an unlevel stream that start with lower payments in the early years which help finance the project and then adjust over time to gradually increase payments. As with any long-term agreement, there is a risk the project will not be completed to make the later payments.

One of the difficulties that municipal officials face is when proprietary information is not provided, and terms must be negotiated based on input from others with applicable expertise. Language may also be incorporated relating to land leases and payments, which may require a different expertise. As there is no standardization for developing terms of any type of PILOT agreement, it is a difficult task for municipal officials. Another concern expressed is whether PILOTs are fair and equitable and how that might be determined.

A brief discussion followed about the income from a PILOT and if it is shared with a school district and county or if it stays with the municipality.

- Is a PILOT divided between the town, school and county?
- Does a PILOT agreement typically include negotiation of payments to the school(s) and county?
- How does a PILOT affect a municipality's total assessed value?
- How does a PILOT affect a municipality's total equalized value?

RSA 72:74 III. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.

Municipalities and assessors may request information from property owners however there is no statutory requirement to provide it or penalty if it is provided and the confidential information is disclosed. While there is some cooperation, most do not provide it. The DRA requests the same information and is required to maintain the confidentiality of all documents received.

Non-Exempt Properties

There is a misconception that a 501C entity registering with the Secretary of State's Office as a charitable organization is exempt or that they may enter into a PILOT agreement with a municipality. Certain statutes do provide exemptions for specific properties and require a PILOT. In such instances, the entity may appeal to the BTLA to abate the payment.

RSA 72:23 defines those entities that qualify for exempt status as charitable, educational or religious organizations; it is more than being a non-profit. Assessors must research organizations to verify that they meet the specific requirements, verify the appropriate paperwork is timely filed, and that the property is being used and occupied for the purpose of the organization.

The subcommittee will complete the following tasks before meeting again. Research the New England states to see if any have requirements or standards for PILOTs. Summarize the list of exempt properties under RSA 72 and determine whether PILOTs are required or optional. Request a list of PILOTs from DRA, including renewable energy facilities, to see what types of properties are being granted PILOTs.

The next meeting will be held at the call of the Chair.

Mr. Lessard *motioned to adjourn*; Ms. Patten *seconded the motion*.

Mr. Edwards adjourned the meeting at 12:27 p.m.

Respectfully submitted,

Stephanie Martel, ASB Clerk
Municipal and Property Division
NH Department of Revenue Administration

All meetings are recorded and available upon request.

Documentation relative to the Assessing Standards Board may be submitted, requested or reviewed by:

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