



October 30, 2006

Christopher R. Keating
Attorney at Law
565 Rounseville Road - Unit 5
Rochester, MA 02770

Re: Property Tax Exemption Refunds
Our File No. 2006-346

Dear Mr. Keating:

You asked whether a Monson taxpayer who qualified for a property tax exemption on his domicile as of July 1, 2005 for fiscal year 2006, and sold it later in the fiscal year is entitled to a refund from the town. The exemption was applied to the tax bill on the property. The taxpayer is not entitled to a refund.

Personal exemptions are those that are granted because of an individual's age, income or other personal status. A taxpayer who owns and occupies his or her domicile and meets all other exemption requirements as of July 1 qualifies for an exemption from the tax assessed on the domicile for the fiscal year. This does not necessarily mean that the taxpayer will receive a refund. While the exemption is based on the taxpayer's personal status, it is the real estate that is exempt to the extent of the exemption amount. See G.L. c. 59, §5, Clause 22(a) ("Real estate of the following classes of persons who are ... veterans ... to the amount of ... the sum of \$400.") Consequently, any exemption (or abatement) granted is first applied to reduce the balance due on the tax assessed on the property for the year. G.L. c. 59, §69. No refund may be paid if at the time the exemption is granted, there is an outstanding balance equal to or greater than the exemption amount.

While the taxpayer qualified for the exemption for the year, the town is not in a position to ensure that the benefit goes to him. It is not a party to the sale and is not responsible for making sure the seller gets the benefit of the exemption or the buyer pays an amount commensurate with the time of ownership. Any allocation of the tax between the seller and the buyer is a private agreement and in cases where the tax may be reduced by an abatement or exemption, the agreement should take the reduction into account so that the benefit inures wholly to the seller. It is the parties who are responsible for making an equitable allocation, not the town.

If you have further questions, please do not hesitate to contact me again.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathleen Colleary".

Kathleen Colleary, Chief
Bureau of Municipal Finance Law

KC