

NEW TAX COLLECTOR'S WORKBOOK

1. INTRODUCTION TO TOWN GOVERNMENT

<u>TOPIC</u>	<u>PAGE</u>
A. Overview	1
B. Selectmen	2
C. Tax Collector	2
D. Treasurer	3
E. Town Clerk	4
F. Budget Committee	4
G. Trustees	5
H. Sewer Commission	5
I. Conservation Commission	5
J. Auditors	6
K. Quiz	7

SAMPLE: Notice of Abatement Refund and Credit Applied

SAMPLE: Delegation of Deposit Authority

INTRODUCTION TO NH TOWN GOVERNMENT

What is the purpose of government in a democracy? One answer is to provide services for the public which cannot be reasonably provided by individuals. Among these are protection from harm and fire, such as the police and fire departments. Other purposes are to provide education, roads, parks, and libraries, which are more efficiently provided by a municipality.

In New Hampshire, town meeting may exercise all powers of the town except those that are assigned by statute to particular officers or boards. The town meeting is considered the "**legislative body**" of the town. The legislative body may appropriate money, purchase and sell real estate, borrow money, and adopt zoning ordinances.

Individual officers, such as a municipal treasurer, town clerk, and tax collector, may perform some public services. In other cases, services are provided by a board, as in the board of selectmen, library or cemetery trustees, or in a commission, such as the conservation or sewer commissions. Some towns also have a budget committee. All must cooperate to achieve the common goal of providing efficient and cost effective services to the public.

These services must also be provided in the manner prescribed by the voters. In the case of sewers, by adopting the provisions of RSA 149-1, the voters have given the supervision of sewer services to the sewer commissioners. The state legislature, by enacting RSA 202-A, has delegated the supervision of libraries to the library trustees. Some towns, by adopting provisions of RSA Chapter 32: 14-24, have delegated the duty to formulate recommended budgets to the budget committee. Each board and commission has its own powers, duties and obligations. The aim of this introduction is to describe the various offices and boards and to define their principal duties and obligations. Who authorizes expenditures and who is the custodian of the funds? Are year-end reports required? How do these various boards and offices fit into the general design of providing efficient services to the public?

Every town has four primary offices to operate. (In cities the titles may be different, but the duties are much the same). These are: the board of selectmen (City Manager or Mayor); the treasurer; the town clerk (City Clerk); and the tax collector. These offices have been established by acts of the legislature or by city charters and cannot be easily changed or overridden by town meeting or the city council.

Per RSA 669:7, most of these offices are incompatible with one another. For example: a selectman cannot be the treasurer, or the tax collector. The treasurer cannot be a selectman, tax collector or town clerk. The tax collector cannot be a selectman or the treasurer. The town clerk cannot be treasurer. A statutory exception is made for the positions of town clerk and tax collector. In accordance with RSA 41:45-a, town meeting can combine these two positions into one.

SELECTMEN

The selectmen shall manage the prudential affairs of the town and perform the duties prescribed by law (RSA 41:8). The board of selectmen is composed of either three or five members, as provided for in RSA 41:8-b. If the responsibility to administer the town's operation has not been specifically assigned to someone else by law, the responsibility belongs to the selectmen.

Per RSA 76:10, the selectmen can also be the town's assessors. They determine the value of all properties in the town. Once a tax rate has been established, each taxpayer's fair share of the taxes are committed to the tax collector for collection, as is required by RSA 76:10. This commitment is in the form of a warrant and accompanying lists charging the collector with the amount to be collected. The document must be signed by a majority of the board of assessors. RSA 76:16 states that the selectmen for good cause may abate any tax assessed, and RA 76:17-d authorizes them to apply all or a portion of any taxes abated, along with interest, to any outstanding taxes. At the end of this section we have included a sample for applying those abatements (NOTICE OF ABATEMENT REFUND & CREDIT APPLIED).

The selectmen also have financial responsibilities. RSA 41:9 require the selectmen to turn over all receipts to the treasurer, stating from whom and for what received. They must also direct the treasurer to pay bills with proper vouchers; keep accurate financial records; post or publish a general fund balance sheet in the annual report; and address any general fund deficit at the town meeting. In addition, if town meeting votes to sell land, it is the selectmen who sign the deed.

Finally, the selectmen are responsible for establishing and maintaining appropriate internal control procedures to ensure the safeguarding of ALL town assets and properties (RSA 41:9, VI).

TAX COLLECTOR

The duties of this office, as defined in RSA 41:35, are to collect the taxes that have been committed to them by the assessors; to keep in suitable books a fair and accurate account of all that has been committed, paid, and abated; and, when asked in writing by the selectmen, to provide a detailed list of uncollected taxes. The tax collector must also remit to the treasurer the monies collected. Failure to deposit on a timely basis shall be cause for immediate removal from office.

The relationship between the tax collector and the assessors is a very important one. As required by RSA 76:10, the assessors commit the taxes to the tax collector in the form of a warrant, with accompanying lists, informing the collector as to the amount to be collected. The document must be signed by a majority of the assessors. Without this document, the collector is not authorized to collect these taxes (except see Prepayments RSA 80:52-a). Once the collector has the warrant with its accompanying lists, she/he has 30 days to send out bills and start collecting taxes.

The selectmen may abate any tax assessed for good cause, and have the authority to apply all or a portion of any taxes abated, along with interest, to any outstanding taxes. RSA 76:20 states that " ...no abatement of a tax is of effect until recorded in the records of the selectmen ... " Thus only selectmen can abate. The tax collector does not have that power. The collector must also apply the abatements in RSA 76:17 -d as advised by the selectmen. All abatements must be in writing in order to maintain an audit trail. (See sample form at the end of this section.)

In accordance with RSA 41:35, Duties of Collector, the tax collector shall remit all money collected to the town treasurer, or to the town treasurer's designee as provided in RSA 41:29, VI, at least on a weekly basis, or daily whenever tax receipts total \$1,500 or more. The penalty for not remitting in a timely manner can be immediate removal from office. The object of this is to: a) minimize the danger of the town's losing money and b) get the money into the bank as soon as possible in order to maximize interest earned.

Per RSA 41:35 the tax records are public records. Anyone can ask to see the records and has a right to that information. It must be during working hours and at the convenience of the tax collector. We suggest tax collectors not leave someone alone with original records.

RSA 41:35 also states that, upon written request, a tax collector shall furnish the selectmen with a list of uncollected taxes as of the end of the year. One reason for that list is to facilitate the audit. The auditors can check the list to verify uncollected taxes.

The tax collector must make a written year end report of the accounts: TAX COLLECTOR'S REPORT -FORM MS-61. A copy of that report should be printed in the town report and another one sent to DRA. This report covers all phases of the collection of taxes, including liens and redemptions.

If the tax collector is appointed, per RSA 41:33 the appointment shall be made prior to April 1 by the selectmen. There must be a written contract with the tax collector outlining the terms of compensation.

RSA 41:38 states in part " ... the tax collector shall appoint a deputy with the approval of the selectmen ... " Shall appoint means must appoint a deputy. Appointing a deputy is one way to ensure that the office will keep functioning if the collector leaves for any reason. The collector is responsible for the deputy and also has the power to remove the deputy from office.

TREASURER

The treasurer's duties are relatively straightforward. Per RSA 41:29, the treasurer is the custodian of town money and pays out these funds on order of the selectmen. (There are some exceptions to this).

The town clerk, the tax collector, and the selectmen receive town funds and it is their duty to remit these funds to the treasurer or the treasurer's designee.

While the treasurer has custody of conservation commission funds, the conservation commission

itself orders payments from these funds. The same applies to the sewer and water commission if the town has appropriated the funds.

Per RSA 41:29, another duty of the treasurer is to invest the town's funds, with the approval of the selectmen, and in accordance with the town's investment policy and within the guidelines specified in the statute.

TOWN CLERK

This position might best be described as the town's recording secretary. RSA 41:16 states in part, "...a town clerk who shall record all votes passed by the town ...". This places the duty of keeping the record of town meeting on the town clerk. The minutes are a permanent record of the town. These records or minutes are of great importance because they contain all articles that town meeting has adopted over the years. Without these minutes, it is difficult to prove in court if and when ordinances were adopted, or when a bond issue was voted. We cannot overemphasize the need for complete and accurate records.

Another duty of the town clerk is to record the history of the town and be the custodian of such items as the blotter books, abatements, appointments, etc.

Per RSA 76:7, if the selectmen or assessors do not have an office that is open to the public five days a week during normal business hours, then they must leave a copy of the current tax records and abatement records with the town clerk.

Finally, the town clerk has other duties, such as collecting motor vehicle registrations. The clerk is required to remit the money collected to the treasurer on a weekly basis unless the amount on hand is less than \$1,500. (RSA261:165).

BUDGET COMMITTEE

The budget committee (if adopted under RSA 32:14) has the authority to recommend spending levels and formulate the budget that will be presented at town meeting.

To formulate the budget, the budget committee has the responsibility to confer with department heads and obtain estimates of receipts and expenditures for the coming year. The selectmen must also prepare and submit to the budget committee a complete budget. That budget will be posted with the budget recommended by the budget committee.

The budget committee is charged with seeing that the provisions of the municipal budget act (RSA 32:14-24) are followed. The committee can ask for reports of expenditures to review. If any expenditures are made without an appropriation, or if the total expenditures exceed total appropriations, the committee has the authority to petition superior court to have the

offending officials removed from office. The budget committee does not, however, have authority to dispute or challenge the governing body's discretion in making transfers of appropriations as set forth in RSA 32:10.

TRUSTEES-LIBRARY AND CEMETERY

Each town elects trustees of trust funds to administer their trust funds. Per RSA 31:25, the trustees shall have the custody of all trust funds, including capital reserve and expendable trust funds. The trustees of trust funds must adopt an investment policy for any trust funds in their custody. RSA 31:25 lists the types of investments that are authorized.

RSA 202-A gives the library trustees some degree of independence from the selectmen. They manage the affairs of the library and authorize their own payments. They have the power to adopt rules and regulations, to prepare operating and capital budgets, to expend income from library trusts in accordance with the wishes of the donors, to appoint a librarian and hire employees, and to determine compensation and terms of employment, in consultation with the librarian.

Must the selectmen prepare a library budget to submit to the budget committee or must they present the trustees' budget? Since the board of selectmen signs the budget, they can present their own version of the library budget. If the library trustees feel their own budget should be presented, they can petition to have such an article placed on the warrant. However, under municipal budget act provisions (RSA 32:14-24), the posted recommended budget is the one prepared by the budget committee.

Cemetery trustees have complete charge of managing the cemeteries (RSA 289), including preparing a budget and submitting vouchers for payment.

SEWER COMMISSION

In towns that have adopted the provisions of RSA 149-1, the sewer commission has all the authority of the board of selectmen when administering sewers. They authorize payment from the sewer fund appropriations and can set rates for their services. The town treasurer has custody of the sewer fund and pays these funds out on order of the sewer commissioners when appropriated. The sewer fund is kept as a separate fund.

CONSERVATION COMMISSION

Conservation commissions are established according to RSA 36-A. The conservation commission funds are in the custody of the town treasurer but are disbursed on orders of the conservation commission. Unexpended conservation commission appropriations may be placed in the conservation fund and allowed to be carried forward from one year to the next and can be spent for their purpose without further action of town meeting (except for a hearing for land purchase).

A conservation commission may be established for the proper utilization and protection of natural resources and for the protection of watershed resources of the city or town. The duties of the commission are to conduct research of its local land and water resources and to seek to coordinate the activities of unofficial groups with purposes similar to the commission's. The commission is to keep an index of marshlands, wetlands, and swamps and to recommend programs for their protection. They must keep an accurate record of their meetings and actions and must file an annual report, which **shall** be printed in the town report.

The commission has the power to receive gifts of money and property, both real and personal, in the name of the city or town, subject to the approval of the city councilor the board of selectmen. Such gifts are to be managed by the conservation commission.

TOWN AUDITORS

Per RSA 41:31-a through 41:31-d, all municipalities shall conduct an audit of the accounts of any officer or agent handling funds of the municipality annually. If the audit is conducted by elected auditors, they use the MS-60 form and follow audit procedures in rules adopted by the Commissioner of Revenue Administration pursuant to RSA 541-A. Any audit whether conducted by a CPA firm or by a locally elected auditor must be submitted to the Department of Revenue Administration and be published in the annual report.

CONCLUSION

In order for a town to operate efficiently, the boards, committees, and commissions must **cooperate and coordinate** their actions. The purpose of town government is to provide services according to the manner set forth by state statute and town meeting.

1. Who is the "legislative body" of a town?
 - a. The Tax Collector
 - b. The Selectmen
 - c. Town Meeting
 - d. The Police Chief
2. Can a budget committee challenge/dispute budget transfers made by the Board of Selectmen? Yes or No
3. Can the tax collector be a selectman at the same time? Yes or No
4. Can the treasurer be a tax collector? Yes or No
5. Who can be the town's assessors?
 - a. The Town Clerk
 - b. The Police Chief
 - c. The Tax Collector
 - d. The Selectmen
6. Who is responsible for "internal control" in town?
 - a. The Police Chief
 - b. The FBI
 - c. The Selectmen
 - d. DRA
7. Are tax records public records? Yes or No
8. Who is the "custodian" of town funds?
 - a. The Janitor
 - b. The Library Trustees
 - c. The Treasurer
 - d. The Town Clerk
9. Who keeps the record of town meeting?
 - a. The Town Clerk
 - b. The Auditors
 - c. The Tax Collector
 - d. The Historical Society
10. Can the library have its own treasurer? Yes or No

NOTICE OF ABATEMENT REFUND & CREDIT APPLIED"

(RSA 76: 17-d)

DATE: _____

TOWN/CITY OF: _____

By vote of Board of Selectmen/Assessors, upon the application of:

Name: Address: _____

We have abated the amount of \$ _____

on _____ located at _____

or other tax by type _____ for the year _____

Reason for Abatement: _____

The abatement refund will be applied to your outstanding taxes pursuant to R A 6:17-d as follows:

Amount of Payment Applied: \$ _____

Type & Year of Tax Credited: _____

For Property Located at: _____

Remaining Amount For Refund: \$ _____

(if any)

Please contact the tax collector's office to determine any remaining outstanding balances of taxes due.

_____, Chairman

"RSA 76:16, III (h) says in part. "Any interest paid to the applicant must be reported by the municipality to the United States Internal Revenue Service, in accordance with federal law. Prior to payment of an abatement with interest, the taxpayer shall provide the municipality with the applicant's social security number or federal tax identification number. Municipalities shall treat social security or federal tax identification information as confidential and exempt from a public information request under RSA 91-A."

Copies to: Taxpayer, Treasurer; Tax Collector, and Accounting Office

DELEGATION OF DEPOSIT AUTHORITY

Pursuant to the provisions of RSA 41:29, II, the Town Treasurer has the responsibility to deposit all such monies received by the Town/City of _____ in appropriate financial institutions as outlined in the statute.

RSA 41:29, VI allows the Treasurer to delegate deposit or other financial functions to other town officials or employees provided such delegation is in writing and includes written procedures acceptable to the Board of Selectmen. Such delegation may only be to a town official or employee bonded in accordance with RSA 41:6.

The _____ Town Treasurer hereby delegates deposit function authority to the _____ Town Clerk/Tax Collector and his/her respective Deputy of the funds collected in that role. These deposits shall be made on a weekly basis or daily, whenever receipts total \$1,500 or more.

In making these deposits, the _____ Town Clerk/Tax Collector and his/her respective Deputy shall provide the Town Treasurer with the deposit slip from the Town's general fund financial institution, in addition to a detailed back-up report documenting the receipt of monies comprising the deposit made.

This authority shall remain in effect until rescinded by written notice of the _____ Town Treasurer.

Date: _____ Town Treasurer: _____

Approved by the _____ Board of Selectmen:

Date: _____

