

Email from:

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Pronouns: he, him, his

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I was unable to respond to you before noon as you indicated, but I wanted to get you some information prior to the weekend. If this doesn't answer your questions, please feel free to respond to this email or call me at (802) 262-1915 on Monday. Ultimately, the selectboard will need the town attorney's assistance on finalizing a tax stabilization agreement. It is a legal document and follows a vote on the same topic and property, so an attorney will be necessary to ensure the applicable legal provisions are complied with, the town's best interest is maintained throughout, etc.

Regarding your question about whether the "deferred" money will need to be "paid back" or is it "forgiveness." The simple answer is that tax stabilization is effectively forgiveness of the municipal tax rate and in some instances the education tax as well. By agreeing to a tax stabilization, you are fixing the rate for a period of time and for that parcel the full tax rate is inapplicable so there is no deferred money to be paid back – that rate was never applied.

A selectboard vote will be necessary, but depending on what "article" approved by the voters you are referring to in your voicemail, it may have already been accomplished. For example, if you were referencing that the voters approved an article granting the selectboard full authority (discretion) to enter into tax stabilization agreements, then you will need a selectboard vote to approve the specific agreement. However, if the voters approved an article granting the selectboard limited authority to enter into tax stabilization agreements, each tax stabilization agreement negotiated by the selectboard will then need to be sent to the voters for approval. In that case, you would need to approve the agreement prior to it being put to the voters, and if you are referencing that the voters approved the article on this specific tax stabilization agreement, then it likely needs no further selectboard approval – it is most likely effective on passage, but you should confirm with the language of the article because it may merely authorize the selectboard to enter into the agreement in which case a vote would be necessary. Let me reiterate though, we strongly recommend you consult an attorney before moving too far along in this process.

Please see the following canned information on tax stabilization agreements that may be helpful for the selectboard's purposes.

Tax stabilization allows municipalities to enter into agreements for example commercial or industrial properties to fix the valuation of a property or its tax rate in order to foster the development of certain resources for the community. Here's the law on tax stabilization agreements [24 V.S.A. §

2741]: <http://legislature.vermont.gov/statutes/section/24/075/02741>. State law allows towns to vote at annual or special town meetings to:

- (1) provide general authority to its Selectboard to enter into tax stabilization agreements as application is made; OR
- (2) provide limited authority to its selectboard to negotiate tax stabilization agreements, which shall be effective upon ratification by a majority of those present and voting at an annual or special meeting warned for that purpose.

So, the selectboard may ask the voters at town meeting (via an article) to grant them general authority to enter into such agreements as described in 24 V.S.A. § 2741, or ask voters to grant them authority to negotiate such agreements with the caveat that such negotiated agreements wouldn't be approved until voters ratify each specific agreement by vote at town meeting.

The Legislature has given municipalities the authority, accomplished through a vote at an annual or special town meeting, to enter into tax stabilization agreements in order to encourage the following public interests (24 V.S.A. § 2741):

- economic development;
- alternative energy development;
- agriculture and forestry; and
- preservation of open land.

In addition to the authority granted under 24 V.S.A. § 2741, there are other, more specific statutes that deal with tax stabilization for the following types of properties. They are as follows with emphasis added to the hotels use, which has restrictions and parameters for this exemption:

- Factories, quarries and mines, 32 V.S.A. § 3834;
 - Private homes and dwellings, 32 V.S.A. § 3836;
 - Airports, 32 V.S.A. § 3837;
 - Hotels, 32 V.S.A. § 3838
- at <https://legislature.vermont.gov/statutes/section/32/125/03838>;
- Low income housing, 32 V.S.A. §§ 3843, 3844, 5404a((a)(3));
 - Public utilities and railroads, 24 V.S.A. § 2743;
 - Alternate-energy sources, 32 V.S.A. § 3845;
 - Farmland, 32 V.S.A. § 3846;
 - Tax stabilization in gores and unorganized towns, 32 V.S.A. § 4985;
 - Non-profit fire and ambulance companies, 32 V.S.A. § 5404a(a)(4);
 - Certain municipally owned property; and
 - Tax exemptions generally, 32 V.S.A. Chapter 125.

Tax stabilization may be accomplished in one of three ways: fixing the valuation of a property, fixing the tax rate or amount of tax on the property, or by fixing the tax as a

percentage of the total, annual property tax. 24 V.S.A. § 2741(a). The first step in tax stabilization is for the voters to approve it by a two-thirds majority in the case of commercial or industrial property or by a simple majority vote in the case of other types of property. The voters may give the selectboard authority to enter into stabilization contracts or it may allow it to negotiate a contract that must then be ratified by the voters. The term of such contracts may not exceed ten years and, in the case of alternative energy plants, may not exceed the term of any licenses or permits needed by the plant. 24 V.S.A. § 2741 (b)(c).

If the town moves forward on any tax stabilization process and the town votes to give authority to the selectboard to enter into these agreements, the selectboard should also create a policy for making decisions about circumstances in which to offer and the benefits (which may vary according to e.g. number of jobs created or other factors). A tax stabilization policy is merely a statement of how and when the selectboard will exercise its legal authority to enter into tax stabilization agreements. It would make sense for the selectboard to be working on its tax stabilization policy while it is in the process of seeking legal authority. This way the voters can get a sense of why the selectboard is seeking the authority and the kinds of circumstances in which the board will use the authority (e.g. when a project will create X number of jobs or will preserve X amount of acres open space, etc.). I must mention one caveat: Vermont's Equal Educational Opportunity Act created a system under which some tax stabilization agreements and other tax exemptions affect only the town's property tax grand list and not the education property tax grand list. This is spelled out in 32 V.S.A. § 5404a. <https://legislature.vermont.gov/statutes/section/32/135/05404a>.

I hope this helps.

Best,

Kail