

***A written tax grievance was filed with the board of listers requesting a property assessment reduction. Although the taxpayer was neither personally nor otherwise represented at the hearing, the board of listers considered the grievance and issued a determination that reduced the assessment. Notice by certified mail was sent to the taxpayer's out-of-state permanent residence but was later returned by the post office as unclaimed. The deadline for filing an appeal with the BCA has passed. What is the responsibility of the listers at this point? Does the taxpayer still have a right to appeal?***

The law does not require that an aggrieved taxpayer be personally present or represented at the warned public hearing of the board of listers. As in this case, if the taxpayer does not attend the grievance hearing, the listers may still consider the request based upon the written grievance letter, issue a determination and amend the abstract. The notice must inform the taxpayer of his or her right to appeal the listers' decision to the BCA within 14 days of the mailing of the written notice. 32 V.S.A. § 4222. The board must either deliver in person or send the taxpayer written notice of its determination by certified or registered mail, postage prepaid. Otherwise, the presumption of law is that personal notice was not mailed as required. 32 V.S.A. § 4424.

In the situation you describe, the notice was properly mailed to the address noted on the grievance letter, which corresponded with the permanent address of residence of record in the town offices. In this case, the listers did all that was legally required with regard to giving notice. There is no statutory duty imposed upon the listers to ensure that the taxpayer actually accept the certified mail, nor to make a followup phone call or personal service if the mail is returned undelivered. Do *not* send out a second determination notice if the taxpayer then calls to say he or she never got the notice, as that could be interpreted as an admission that the first notice was defective. It is, however, appropriate to send out a *copy* of the original notice to the taxpayer with verification that the deadline for filing an appeal has lapsed. Once the deadline for filing an appeal to the BCA has passed, the taxpayer's rights to do so are extinguished by operation of law.