

Client Briefing

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Managing Real Estate Taxes

Real Estate Taxes Too High? File Your Complaint By March 31st

by John W. Waldeck, Jr.

Calendar year 2003 was a re-appraisal year for a number of counties in Northeast Ohio. Many property owners in Northeast Ohio received "sticker shock" in the form of their tax bills for first half 2003 real estate taxes. In spite of the downturn in the economy that continued for much of 2003, County Auditors were nevertheless, in many circumstances, aggressive about increasing the fair market values of many properties in their counties. It seems that commercial properties were especially hard hit.

Ohio real property owners who believe that their real estate taxes are too high as a result of the fair market values assigned to the property by the County Auditor have the right to complain about the result through the filing of a Complaint with the County Board of Revision. The Complaint must be filed with the Board of Revision on or before Wednesday, March 31, 2004. The Complaint must be filed on the approved Department of Tax Equalization form. A copy can be obtained from your local county offices, or we can send you one in the mail. All of the information on the form must be properly and fully completed, otherwise the Board of Revision will reject the Complaint. This can have a disastrous consequence, as the rejection might come after the March 31st deadline and will probably preclude you from filing another Complaint for calendar year 2003. Further, the Ohio Supreme Court has ruled that in most instances involving a commercial enterprise such as a corporation or a limited liability company, an attorney licensed to practice law in Ohio must file the Complaint on behalf of the commercial enterprise.

Can Proper Planning Make A Difference In How Much You Pay?

Property taxes definitely deserve proper consideration at the time of transfer. Most people, both owners and tenants, have felt and expressed the stress of constantly increasing property taxes, but with planning, this stress and cost can be reduced. Although very little, if anything, can be done to directly reduce

the tax rate in any community, that certainly doesn't limit the possibility of managing and holding down the cost of real estate tax. Knowing in advance and preparing documentation can help you to save money.

What You Need To Know In Order To Save Money

The Real Property Conveyance Fee Statement of Value (DTE 100 Form) is a fundamental part of property transfer, and one that is often overlooked in the closing process. The buyer should review this document closely and make sure that if non-real estate property is included in the sale, a line item allocation is made for it. In the end, this will offset some of the real estate tax cost. Without line item allocations, under Ohio law, the taxable, fair market value of the real estate will simply be the full purchase price paid by the buyer.

Non-real estate property includes personal items that are of value, and are taken into consideration when determining the sale price of the property - even though they are not the real estate itself. Planned allocations for homeowners can include appliances, carpeting, furniture, equipment and other items of value. In a commercial transaction, the allocations are often even more significant because of the increased value and variety of the non-real estate property typically transferred. In the case of landlords, both on a personal and commercial level, potential property transfer allocations can include their tenant prospect list, computer equipment and databases containing tenant information, covenants not to compete with the new owner of the property and other similar categories of non-real estate items.

What is the most important thing for the buyer to do? Plan ahead and take note of the items that should be allocated on the Real Property Conveyance Fee Statement of Value (DTE 100 Form). These items can make a significant difference in the "sticker shock" often delivered with the first tax bill.

Building Permits and Cost Reporting - Accurate Valuation

In most municipalities, building permits related to new construction and property renovation are used by the County Auditor to assign an increased value to real property. There are often errors made on building permit applications that affect the overall real estate tax for that property.

During negotiations with the project contractor, it should be discussed that construction management fees, architectural fees, and other "soft costs" not be included as a part of the reported project construction costs if not necessary. In addition, items considered personal property, including items discussed in regards to The Real Property Conveyance Fee Statement of Value (DTE 100 Form), should also be left off of the building permit application(s). Including these dollar amounts on the building permit form will falsely drive up the valuation of the real estate, causing the real estate taxes to take an erroneous and costly jump.

Business Purchases and Their Assets - Allocate Accordingly

Making a case for an accurate valuation of a business acquisition requires closely examining the purchase components and undergoing negotiations between buyer and seller about the accurate value of the business assets. Though time consuming, this attention to detail is certainly an important part of the "property" transaction. Business acquisitions often include business assets, the non-real estate intellectual and personal property described in discussions on The Real Property Conveyance Fee Statement of Value (DTE 100 Form), in addition to property.

Buyers should also take into account their intended use of the property as one of the determining factors in accurate valuation. A building or piece of property is not always in condition for immediate use upon purchase. If a property is functionally obsolete upon purchase, there may be a case for accurate valuation to reflect just the land under the existing facility.

It isn't safe to assume that the valuation reported on the Auditor's tax duplicate at the time of consummation of the asset sale accurately reflects the true value of the property. The buyer and seller are the best source to make detailed negotiations and accurately value the property.

complete, intellectual property or other intangible property will drive up the valuation of the real estate and cause an inflated tax cost.

When Is It Too Late?

It is possible to do something about inaccurately high real estate taxes even after the tax bill has been delivered. The important date to remember each year: March 31st. Before this date, you can make a case against the County Treasurer's bill regarding the valuation of your property on the Complaint form discussed earlier. The only limitation - unless extraordinary circumstances exist (e.g. there has been a demolition or destruction of a building on the property) - is that individuals disputing the valuation of their property can only file a complaint once every triennium, or once during the three-year period when the Auditor's revaluation of the property remains in effect. Once accepted, the complaint will be reviewed in a proceeding before a Board of Revision, including one person each from the County Auditor's Office, the County Treasurer's Office and the County Commissioner's Office. In some circumstances, it may be mandatory that your attorneys file the Complaint and appear on your behalf, so you must plan in advance.

This triennium cycle also presents another, less costly alternative to disputing property valuation. Once every three years, the County Auditor's office should send out a notice in anticipation of raising taxes for the new triennium. When this statement arrives, if the property valuation proposed for the new duplicate appears to be inaccurate, make a case immediately with the County Auditor's office - they are usually very quick to respond to the complaints of taxpayers.

How We Can Help

We all have the obligation to pay taxes which are legally due, but no more than that. Our real estate lawyers offer decades of combined legal experience in matters ranging from simple property purchases or sales to the most sophisticated and imaginative development projects. Our goal is to help our clients do the deal - in compliance with the law and with minimum exposure to future liability. We are available to answer any questions you might have regarding the March 31st filing deadline, or other real estate related issues. Our contact information is highlighted below.

For information on this or other real estate issues, please contact one of our Real Estate attorneys:

Sophia M. Deseran	(sdeseran@walterhav.com)	216-928-2969
Carl J. Dyczek	(cdyczek@walterhav.com)	216-928-2981
Christopher L. Gibbon	(cgibbon@walterhav.com)	216-928-2893
John W. Monroe	(jmonroe@walterhav.com)	216-928-2913
John W. Waldeck, Jr.	(jwaldeck@walterhav.com)	216-928-2914

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The information in this newsletter is a summary of often complex legal issues and may not cover all the "fine points" related to a specific situation or court jurisdiction. Accordingly, it is not intended to be legal advice, which should always be obtained in consultation with an attorney.

WALTER & HAVERFIELD LLP
ATTORNEYS AT LAW

The Tower at Erieview • 1301 E. Ninth Street • Suite 3500 • Cleveland, Ohio 44114-1821
Tel: 216.781.1212 • Fax: 216.575.0911 • www.walterhav.com