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LAW ALERT

Beware of Property Tax Appeal Letters

February 7, 2011

In these tough economic times, increasing numbers of residential, commercial and industrial property owners are going to greater lengths in an effort to minimize property tax liability and save money. Taxpayers' attempts to cut costs by contesting property tax assessments may have a negative financial impact on a taxing district's revenue. Statistics are beginning to verify this troubling trend. For instance, the Kane County Supervisor of Assessments recently reported that a typical tax year brings approximately 700 tax assessment appeals. Compare that with recent years, where almost four times that many property owners appealed their assessed valuation. Similarly, according to Lake County's Chief Assessment Officer, the Lake County Board of Review typically sees 3,000 - 4,000 tax objections annually. That number has more than tripled in recent years. Of these appeals, figures show that 30-50% result in reductions which translate into thousands of dollars in lost revenue for taxing districts.

The refund liability that can result from a successful property tax appeal can cause significant disruption to a taxing body's budget. If the Illinois Property Tax Appeal Board (PTAB) finds that the county has over-valued a parcel of property, each taxing district in which the property lies could be ordered to pay a property tax refund out of its general revenues. Because taxing bodies may have to pay thousands of dollars in refunds to each taxpayer who succeeds in having his or her assessed property value lowered, an accumulation of these refunds can lead to serious financial constraints within the taxing district. Moreover, a reduction in a property's assessed valuation can have a negative effect on a taxing body's tax revenue in future years. Accordingly, it is important that taxing bodies are aware of what they can do to curtail tax objections and reduce the impact of tax objections.

Pursuant to Illinois law, taxing bodies have the right to intervene in PTAB appeals initiated by taxpayers within their district boundaries. Taxing bodies have a recognized interest in ensuring that the real property within their taxing district is not undervalued. In order to intervene in a PTAB tax appeal, however, taxing bodies must comply with a set of time sensitive rules. Most importantly, the rules require a taxing district to intervene within 60 days from the date that a Notice of Appeal is sent to the taxing district by the county's Board of Review. If a taxing district fails to intervene within that 60 day period, the district's right to intervene in the PTAB proceeding will be forfeited.

Intervention in a PTAB proceeding can be extremely advantageous for a taxing district wishing to preserve its taxable property base, minimize tax refund liability and prevent future objections. After a taxing district has intervened in a PTAB proceeding, the taxing district is entitled to present its own appraisal evidence and expert witness testimony, and rebut evidence introduced by the taxpayer claiming that the property at issue is overvalued. Furthermore, once a taxing body is added as a party to a PTAB proceeding, it can negotiate a settlement with the taxpayer, and that settlement can extend over the course of the next several years, thereby preventing the expenditure of time and resources that would be necessary for the defense of future tax year objections. Also, if a property has been substantially underassessed, intervention can result in an increased assessment, requiring the taxpayer to pay more than the county would have required had the taxpayer not filed the appeal. Additionally, taxpayers who are aware that taxing bodies within the district will intervene in PTAB proceedings will be presented with risks that would not otherwise be present, such as the risk of expending time and money on an appeal that may have little chance of success if the taxing body participates in the proceeding. Finally, appealing a tax objection to PTAB can be much more cost-effective than participation in a typical legal proceeding, as the taxing bodies with jurisdiction over a particular parcel of property can join to share the costs associated with defending that property's assessment.

For all of these reasons, it is important that officials are able to recognize a Notice of Appeal, which the county Board of Review must send to every taxing district that may be affected by an appeal seeking a reduction in assessed valuation of \$100,000 or more. The notice identifies the property and the date upon which the Notice of Appeal has been sent. Because a petition to intervene in the appeal, along with a resolution of the taxing body authorizing the intervention, must be filed within 60 days of the date indicated on the Notice of Appeal, you should be careful not to disregard these notices. Instead, promptly forward the notice to legal counsel for analysis and evaluation. This will give your attorneys time to analyze the notice, and help the taxing body decide whether intervention is in the taxing district's best interest.

If you would like to discuss these matters, or how we can assist you in participating in tax objection proceedings, please feel free to contact Kenneth M. Florey, Frederick S. Lane, or Scott L. Ginsburg of Robbins Schwartz Nicholas Lifton & Taylor's Property Tax practice group.

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