



Illinois Supreme Court Clarifies Calculation of Interest on Property Tax Refunds

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Last week, the Illinois Supreme Court settled the question of how interest should be calculated on property tax refunds when it ruled on *General Motors Corporation v. Pappas*. This follows the Illinois General Assembly's amendment to the interest provisions specified in the Property Tax Code which became law in August 2005. For property tax refunds involving taxes paid prior to December 31, 2005, interest will be calculated at 5% through the end of 2005. From January 1, 2006 forward, interest on those refunds will be calculated at the lesser of 5% or the percentage increase in the Consumer Price Increase (CPI). Additionally, those taxpayers in Cook County who challenged the Treasurer's use of the CPI interest rate for all years on refunds paid after January 1, 2006 are entitled to an additional judgment interest rate of 6% on the difference between the interest they would have been entitled to under the ruling and what they received from the Treasurer. The Court's ruling affects property tax refunds from all sources, including valuation and tax rate objections, PTAB appeals, and certificates of error.

As we published in a July 10, 2009 **FR Alert** reporting on the Appellate Court ruling in this case, the 2005 amendments to Section 23-20 of the Property Tax Code changed the interest rate on property tax refunds from 5% per year to "the lesser of 5% or the percentage increase in the Consumer Price Index" for the calendar year preceding the levy year for which the refund was made. The effective date of the amendment was January 1, 2006 regardless of when those taxes were paid. The Cook County Treasurer interpreted the amended statute to apply retroactively so that all interest would be calculated using the CPI rate for any refund issued after January 1, 2006. The objectors took the position that interest should be calculated at 5% per year for every year in any objection in which taxes were paid before January 1, 2006, arguing they had a vested right in the higher interest rate. The Circuit Court adopted a hybrid approach, ruling that interest should be calculated at 5% up to January 1, 2006 and then at the lower CPI rate after that date. The First District Appellate Court then upheld that ruling in its 2009 decision.

The Illinois Supreme Court agreed with the bifurcated interest rate approach adopted by the Circuit Court and upheld by the Appellate Court. The Court noted that the interest rate applied to property tax refunds is a creature of statute that the General Assembly can change at any time, so long as the change doesn't interfere with any vested rights. The Court found that the prospective application of the new interest rate after January 1, 2006 did not interfere with any vested rights.

Also before the Court was the question of whether the taxpayers that challenged the Cook County Treasurer's use of the CPI interest rate on all refunds issued after January 1, 2006 were entitled to 6% judgment interest under the Code of Civil Procedure on the difference between the interest they received under the Treasurer's approach and what they were entitled to under the hybrid, bifurcated interest approach. The Court found the taxpayers were entitled to judgment interest on that difference. In *Sears Holding Corp. v. Pappas*, another case that was the subject of a **FR Alert**, the First District Appellate Court held that because the Property Tax Code already provided for interest on property tax refunds, the application of judgment interest under the Code of Civil Procedure in addition to statutory interest was improper and tantamount to compound interest. In *General Motors*, Illinois Supreme Court overruled this part of the *Sears Holding Corp.* decision. The Court found that judgment interest was incidental to the judgment itself. The judgment entitled taxpayers to a sum certain and that the application of judgment interest was therefore not compound interest. Further, judgment interest was found to be necessary to preserve the economic value of the judgment while the case was being appealed.



Overall, the outcome is mixed for school districts and other units of local government. Positively, the CPI to be used in the statutory interest rate calculations has been below 5% since January 1, 2006, and accordingly, the principal and interest to be refunded to taxpayers will be less than it would have been if the Court had adopted the taxpayer's position of 5% interest across the board. On the other hand, the concept of judgment interest on those refunds now deemed underpaid by the Treasurer introduces additional refunds on cases previously closed on the Treasurer's books. Overall, the decision resolves an open question in the tax appeal process, bringing needed certainty to potential refunds. This certainty will allow units of local government and their counsel to accurately estimate the amount of interest that will be added to refunds resulting from settlements or decisions in assessment and tax rate litigation.

More Information

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