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## Don't Lose Your Right to Challenge Your Tax Assessment

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Many property owners lose their right to challenge their real property tax assessment by ignoring the annual request by their local Tax Assessor to complete an Income and Expense Statement. This request is authorized by N.J.S.A. 54:4-34 and is known as a Chapter 91 filing. If you are served with a Chapter 91 request you must respond to same within the required time period otherwise the municipality can move to dismiss any subsequent tax appeal filed.

Unfortunately, many property owners either ignore the Chapter 91 request because they do not believe that they own income-producing property or they fail to complete the Income and Expense Statement properly. A common misconception is that any income derived in order to be reportable must be between unrelated parties and must be an arms' length transaction. This is simply not correct. Chapter 91 applies to all properties whether residential or commercial, whether owner occupied or tenanted, whether leased or totally vacant. The test is not the amount of income derived but rather whether the property is capable of deriving income. This means that if you have a vacant building and are served by the Tax Assessor with a Chapter 91 request you must still complete the Income and Expense Statement and return it to the Tax Assessor within the 45-day time period. We suggest that you return the completed form by certified mail so that you have proof of compliance within the requisite time.

Another common misconception is that if you own two entities and one owns the property and another leases the property then there is no need

to complete the Chapter 91 filing. Simply because the two entities may be related or the rent being paid is not “market rate” and the transaction is not arms’ length does not serve as an exemption for completing a Chapter 91 request.

A further mistake that is often encountered is a property owner failing to include income from all sources. Income derived from cell antennas, parking leases, ATM machines, food service concessions, bank kiosks and other relatively small service providers must be included on the Chapter 91 request.

In these difficult economic times, don’t lose your ability to reduce your real property taxes. Complete and file your Chapter 91 response in a timely manner.

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