

PA TAX ALERT

July 13, 2010

Appeal Deadlines on Horizon for Pennsylvania Property Owners Economic Downturn Makes it Especially Important to Evaluate Assessments

by Randy L. Varner

Pennsylvania property owners should be aware of swiftly approaching tax assessment appeal deadlines throughout the Commonwealth.

Berks, Bucks, Chester, Dauphin, Delaware, Erie, Lancaster, Lehigh, and York Counties have a deadline of August 1 for their annual appeals. If you own properties in those counties, time is quickly running out to evaluate your assessment for possible appeal.

With the exception of Allegheny County with its March 31 deadline, most other counties not using 2010 as a countywide reassessment year have a filing deadline of September 1 for their annual appeals. For those counties undergoing countywide reassessments (including Cumberland and Adams Counties), the appeal deadline will appear on the face of the reassessment notice (and may have already passed for this year). Even if you have missed the deadline for appealing a reassessment notice, you still can challenge the amount of that assessment during the annual appeal process in 2011.

Evaluating your assessment now is especially important given the recent economic downturn that has seen the fair market values of many properties decrease significantly. While fair market values have been declining, many property owners have been paying too much in taxes based upon stale assessments that have not taken into account the economic climate. Property owners can get a rough idea of whether their current assessments are overstated by taking what they believe to be the fair market value of the property and multiplying it by the common-level ratio determined by the State Tax Equalization Board (the ratios can be found at www.steb.state.pa.us). If the result is less than the assessed value of the property, the assessment is too high and an appeal should be considered.

Also, your company should be sure that no exempt items are included in your assessment, such as machinery, tools, appliances and other equipment contained in a mill, mine, manufacturing or industrial establishment.

For those considering an annual appeal, we can help you evaluate whether your assessment is appropriate in light of its current fair market value. Please contact Randy Varner at rvarner@mwn.com or 717-237-5464 or another member of the SALT team for assistance.

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Pennsylvania Supreme Court Upholds Tax on Canned Computer Software

by Randy L. Varner

In a long-anticipated decision, Pennsylvania's Supreme Court has ruled that transfers of canned computer software are subject to sales and use tax as tangible personal property. *Dechert LLP v. Commonwealth*, 12 MAP 2008, decided July 20,

2010. McNees attorneys Dave Kraus, with Randy Varner, prepared the briefs and argued the case before the Court on December 2, 2008. Four Justices joined the majority opinion; one Justice filed a concurring opinion; and, one Justice filed a dissenting opinion.

The majority determined that although the sales tax statute is somewhat lacking in clarity, legislative action surrounding Pennsylvania's tax on computer services during the 1990's suggests that the legislature was aware of, and therefore tacitly approved, the Department of Revenue's position that canned computer software constituted tangible personal property and was thereby taxable upon transfer. The Court upheld taxation of software transferred by disc and by electronic download. Although the Court did not directly decide the issue, the majority opinion indicates that tax does not apply to software support and maintenance services which do not involve any transfer of software or other tangible personal property.

Please feel free to contact [Dave Kraus](#), [Randy Varner](#) or any of our other state tax lawyers if you need a copy of the Court's decisions or wish to further discuss how this decision affects you.

Mark Your Calendar!

McNees Wallace & Nurick's State and Local Tax Group will be presenting full-day seminars on state and local tax developments this Fall at the following locations:

State College - Friday, October 1

Lancaster - Friday, November 5

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