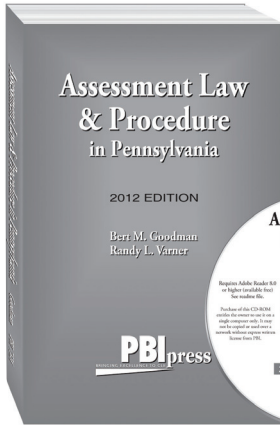


PA TAX LAW NEWS



McNEES ATTORNEYS GOODMAN AND VARNER AUTHOR 2012 EDITION OF ASSESSMENT LAW & PROCEDURE IN PENNSYLVANIA

McNees Wallace & Nurick attorneys Bert M. Goodman and Randy L. Varner are the proud authors of the 2012 edition of *Assessment Law & Procedure in Pennsylvania*, published by the Pennsylvania Bar Institute. The treatise is a comprehensive manual incorporating years of practical experience by McNees attorneys in this specialized area of the law. Designed to provide the reader with a guide through each step of the assessment and appeal process, *Assessment Law & Procedure in Pennsylvania* also provides detailed discussions of the relevant case law and statutory provisions that provide the framework for Pennsylvania assessment law. Originally circulated informally, the first edition was published in 1994 by the Pennsylvania Bar Institute and quickly became the “assessment bible” for counsel, assessment appeal board members, assessors and appraisers. The 2012 edition is the first edition to cover the Consolidated County Assessment Law that became effective on January 1, 2011. ■

COUNTYWISE REASSESSMENTS

Lehigh, Lebanon, Erie, Allegheny and Bedford County all are conducting countywide reassessments this year. That is, each parcel in those counties received a reassessed value and property owners either have received or will receive a reassessment notice in the mail with the new value. The deadline to file an appeal from a reassessment notice is 40 days from the date of the notice. If you are a taxpayer in one of those counties and have not already done so, you should immediately examine your reassessment notice to see if it reflects actual market value. It is important to note that the fact the notice indicates that your estimated taxes will not go up, does not mean that your property is properly assessed. ■

ANNUAL PROPERTY VALUATION APPEALS

Those who pay property tax in Pennsylvania have an annual opportunity to appeal the assessed value of property. Deadlines for these appeals vary by county, but most are either August 1 or September 1, so now is the time to analyze your assessment to determine whether you may be able to have it lowered to reduce your tax burden.

In order to properly analyze your assessment, you must have an idea of what your property is actually worth. That is, what is the price that you would be able to sell it to a willing buyer? Once you have made that determination, you must then apply your county's applicable common level ratio to your assessed value in order to determine the “implied market value.” If the “implied market value” from your assessment is higher than what you believe your property is worth, your assessment is likely too high and you are paying more property tax than is warranted.

In this economy, many property owners are experiencing issues that result in a lowering of property values. For instance, landlords may be experiencing higher than normal vacancy rates, for prolonged periods of time, which will affect the value of property. Those who own factories may be facing factors relating to obsolescence. Property owners may own property in blighted areas that have seen dramatic decreases in property values since the last revaluation. Regardless of context, all property owners should examine assessments annually to make sure they are in line with fair market value. ■

WELCOME STRANGER!

Generally the sale or exchange of real estate will not affect the status of the assessment on the property. This basic rule is founded upon the statutory and constitutional theory that it is inequitable and unfair to change an assessment based upon a sale until everyone in the particular county is brought up to market value pursuant to a countywide reassessment. An individual sale for a price that is above the indicated market value of the assessment is a definite indication that other properties that have not sold are also underassessed. It would be discriminatory to change only the assessment on those properties that were under-assessed and sold, while not altering the assessment on other under-assessed properties that have not sold.

A system that does this is creating disproportionality in taxation between sold and unsold properties, and between new and old owners. It is unconstitutional to intentionally raise a property that has sold and not touch a similarly valued property that has not. New owners of real estate are entitled to the same basic ratio of assessment to fair market value as the owners of similar unsold realty. The assessment law in Pennsylvania does not permit this so-called “welcome stranger” increase in assessment upon sale.

Alarm bells should go off in a property owner’s head when an assessment change notice is received immediately after a deed has been recorded. In 99 percent of realty sales transactions, no change in assessment will be warranted under the law. If a property owner receives the “welcome stranger” assessment increase, an immediate appeal with the appropriate board of assessment appeals should be filed. It is important to note that this appeal must be filed within 40 days of the mailing date of assessment change notice called an “interim assessment notice.” The assessment appeal should clearly note that the appeal is based upon an illegal spot assessment.

Improvements to real estate in Pennsylvania are not triggering events for a full reassessment of the property, but the existing law allows the assessor to value the increase in value of the property due to the improvement. Assessment changes to the unrealized economic increase in value unrelated to the improvement are strictly prohibited and constitute an illegal spot assessment under the law.

A sale or transfer of real estate, however, will result in certain assessment timing issues that may affect taxes. Some of these issues are the timing of exempt status, condominium assessment, subdivision assessment changes, and clean and green violations.

A buyer in an arm’s-length real estate transaction should compare the existing assessment’s indicated fair market value on the property against the sales price. If the sales price is lower than the indicated assessed market value, an appeal based on the sales price should be filed with the local board of assessment appeals. Indicated market value can be arrived at by dividing the assessment by the prevailing county ratio of assessment to fair market value. Where no assessment change has taken place, a taxpayer is entitled to appeal his or her assessment once a year.

It should be noted that while a County Assessment Board cannot change an assessment on the sale and purchase of a property, the taxing districts at the present time have the legal right to file an appeal to the County Board of Assessment Appeals seeking to raise the assessment to the purchase price. In this scenario a party should seek legal advice on how to best combat this practice. The majority of these appeals are brought by school districts seeking additional revenue. The assessment law presently allows the taxing districts to do by appeal what the Boards of Assessment Appeals are prohibited to do by statute. We are finding this practice more and more common as districts face the need for more revenue. ■

WE CAN HELP

The property tax assessment and appeal process can be confusing and intimidating and directly affects the bottom line of your business. We can help you analyze the assessment on your property and, if necessary, handle an appeal. Feel free to contact us for any questions related to the assessment and appeal process.

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