

**A REDUCTION IN OHIO PROPERTY TAXES CAN LOWER COSTS AND INCREASE BUSINESS VALUE  
(AND THE DEADLINE TO SEEK A REDUCTION IS FAST APPROACHING)**

In Ohio, County Auditors set the fair market value of real property, which determines the amount in property taxes that must be paid. In some cases, by increasing the fair market value, the Auditor raises property taxes; an increase that may be unwarranted based upon the commercial real estate market. In others, changing market conditions may warrant a decrease in the Auditor's assessed value, which would lower a tax bill. In both cases, property owners should consider contesting the Auditor's value. This article provides some background on the process and some of the items you will want to consider if you plan to contest the Auditor's value.

**Legal Background** The Auditor must reassess the value of all property every six years (the "sexennial reappraisal") and can update those values every three years (the "triennial update"). "Fair market value" ("FMV"), in simple terms, is what a reasonable buyer would pay a reasonable seller, free of any outside pressure, for a particular property as of January 1st of that Tax Year ("the tax lien date"). FMV is used to calculate a property's taxable value, which is 35% of the FMV. This taxable value determines the actual property taxes owed. There are multiple reductions and credits that must be calculated; however, for commercial properties, a good rule of thumb is that for every \$100,000 in FMV, approximately \$2500 in taxes must be paid.

While auditors strive to maintain accurate values, they sometimes overvalue property. This may be for a variety of factors: incorrect information regarding the property's characteristics, failure to consider the actual income the property generates (which, under Ohio law, is the proper method to value income-producing properties), environmental damage, and a failure to adjust for market conditions. In these instances, it may be prudent to file a Tax Complaint with a County Board of Revision, the entity empowered to reconsider and adjust the Auditor's value.

**Deadline to File 2010 Tax Complaints is March 31, 2011** Unless specific exceptions apply, Tax Complaints can only be filed once every triennial, mirroring the Auditor's statutory reappraisal periods. All complaints contesting 2010 values must be filed by March 31, 2011 and each county handles their complaints differently. By way of example, the Cuyahoga County Board of Revision describes its process on its website <http://www.cuyahoga.oh.us/bor/>.

**The Proof** The taxpayer must prove to the Board of Revision that the Auditor's value is wrong. Property owners must enter this process with their eyes wide open. The important questions that property owners must ask themselves are: "What is my property really worth?" and "What proof do I have, or can I get, to prove it?" In answering these questions it often useful to consult with attorneys familiar with the process or real estate professionals.

SKYLIGHT OFFICE TOWER  
1660 WEST 2ND STREET, SUITE 1100  
CLEVELAND, OHIO 44113-1448

firm  
216.583.7000

fax  
216.583.7001

internet  
[www.ulmer.com](http://www.ulmer.com)

CLEVELAND

COLUMBUS

CINCINNATI

CHICAGO

In cases where the requested FMV reduction is over \$50,000, the local board of education will be represented at the proceeding, often presenting evidence supporting the Auditor's value or seeking an increased valuation (in certain cases — often based upon a recent sale — boards of education can proactively seek an increase in a property's FMV). In many cases, property owners must testify or provide testimony from the property manager, and/or produce income and expense statements, rent rolls, recent sales of comparable properties, and, sometimes, an appraisal report prepared by a qualified real estate appraiser.

Since Ohio law provides that a recent sale price in an arm's length transaction is presumed to be the true FMV of a property, in some cases, the hearing costs are relatively low as the proven sale price will often be adopted by the Board of Revision. In other cases, establishing FMV requires more detailed proof and the costs can be quite high — including attorneys fees<sup>1</sup> and, for larger properties, fees for expert appraisal reports and testimony.

While a complaint is pending, real estate taxes must still be paid based upon the Auditor's value. There are provisions that allow a taxpayer to make payments based upon an estimated value, but if the Board of Revision does not adjust the valuation to the estimated value, the property owner is liable for interest on unpaid amounts and/or other penalties.

Members of all County Boards of Revision are concerned with ensuring that all property is fairly valued, but some differences exist. In smaller counties tax complaints can be resolved within a few months, in larger counties, like Cuyahoga, tax complaints can take a few years. This process becomes longer and costlier if the Board's decision is appealed to the Ohio Board of Tax Appeals or the local Common Pleas Court.

**The Potential Rewards** Despite the risks and costs, the rewards of filing and winning on a tax complaint can be significant. In addition to the actual tax savings, a reduction in real estate taxes decreases overhead which equates to an increase in net income. For example, for companies with a 10% profit margin, a \$10,000 savings in taxes for a year can approximate \$100,000 in increased sales. Similarly, for income generating properties, \$10,000 in tax savings for properties with a 10% capitalization rate equates to a \$100,000 increase in value. Considering the potential benefits, property owners must consider contesting the Auditor's valuation if the circumstances warrant such action. Once that initial decision is made, property owners should consult with an attorney — like myself<sup>2</sup> — familiar with the process and procedures to avoid potential pitfalls and increase their chances of success.



---

<sup>1</sup> With regard to attorneys' fees, some specialists will charge a taxpayer a certain percentage of the taxes actually saved, while others go by a strict hourly fee. The proper fee structure is often property specific, but taxpayers should be aware of the issue.

<sup>2</sup> I have represented school districts and public and private corporations before Boards of Revision and Common Pleas Courts across the State, the Ohio Board of Tax Appeals, and the Ohio Supreme Court in relation to properties with values ranging from \$100,000 to \$75,000,000. In one case of note, centered around a sale-leaseback transaction, I successfully argued that the sale-leaseback sale price was not fair market value for real estate tax purposes. (*Strongsville Board of Education, and City of Strongsville vs. Cuyahoga County Board of Revision, Cuyahoga County Auditor, Ceres Group, Royallon Investors, LLC, and Big T Investments, LLC.*, 112 Ohio St. 3d 309 (2006).