

Real Estate Tax Appeals – SOMETIMES A NECESSITY IN ILLINOIS

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I. Overview-Illinois Property Taxes/ 2nd Highest In Nation

In Illinois, property taxes are one of the most important sources of local government revenues. For example, property taxes provide revenue funding for public schools, municipalities, counties, libraries, fire districts, townships, etc. Schools claim the majority share of the revenues. Fundamentally, most taxpayers have no objection to paying their fair share of real estate taxes, which is an ad valorem tax (i.e., according to the value of the real estate) provided that they receive a benefit in return for payment of the tax. According to a recent study, Illinois residents pay the second-highest property tax rate in the nation. (See “2019’s Property Taxes by State.” WalletHub, wallethub.com/edu/states-with-the-highest-and-lowest-property-taxes/11585).

In general terms, property can be divided into two classes – real and personal. As set forth in the Illinois Property Tax Code (the “Code”) (35 ILCS 200/1 et seq. (2019)), real property can be defined as the land and anything permanently attached to the land, such as buildings and fixtures permanently or constructively attached to a building. (35 ILCS 200/1-130 (2019)). Thus, personal property can be viewed as all property that is not real, such as automobiles, livestock, money and furniture. In Illinois, all owners of real property must pay property tax unless specifically exempted by State law. Thus, the presumption exists that all real property is taxable unless proven to the contrary.

However, if the foundation or premise for the real estate tax assessment is flawed or inequitable, then the Code affords taxpayers the right to protest or appeal the real estate tax assessment. Accordingly, whether you are a commercial or residential taxpayer, the real estate tax assessment should be reviewed on an annual basis to determine whether you are paying more than your fair share of real estate taxes in violation of the law.

II. Fair Cash Value and the Assessment Process

In order to determine what portion of the total tax burden each property owner will bear, the local township assessor must assess real estate on a periodic basis according to its “fair cash value” (commonly known as “fair market value”). The Code defines “fair cash value” as “[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller”. (35 ILCS 200/1-50 (2019)). The assessment process is somewhat complex and includes the location of real property within a jurisdiction, listing it on the tax rolls, appraising the real estate and establishing a value on the tax rolls. This process establishes the real estate assessment, which is a critical component of the real estate tax bill.

Usually, an assessor measures fair market value using one or more of three (3) approaches to value:

1. Cost Approach: The cost of reproducing the property minus accrued depreciation, plus land value.
2. Income Approach: A capitalization rate is applied to the stabilized net income that is generated by the property.
3. Market Approach: Comparing recent sales of similar properties.

Once the fair market value for the real estate is determined, an assessor formulates the assessment. The assessment level differs depending on where the real estate is located.

In all Illinois counties, except for Cook County, real property is typically revalued or reassessed every four (4) years through a General Reassessment.

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In non-Cook counties, real property is valued at 33.33% of its fair cash value. For example, 2019 will be a General Reassessment for DuPage, Kane, Lake, McHenry and Will Counties. A property that has a fair market value of \$100,000 is assessed at \$33,330 (\$100,000 [fair market value] x 33.33% [assessment level] = \$33,330 [assessed value]).

In Cook County, real property is revalued or reassessed as part of a Triennial Reassessment cycle whereby the 38 townships that comprise the county are divided into reassessment districts. For example, 2019 will be a triennial reassessment for all properties located in the northwest suburbs of Cook County. For 2020, all properties located in the southwest suburbs of Cook County will be the subject of a triennial reassessment. In 2018, properties in the City of Chicago were reassessed.

Unlike the collar counties, the Cook County Assessor classifies real estate for assessment purposes. The Real Property Assessment Classification Ordinance, inter alia, enables the Cook County Assessor to classify real property for assessment purposes according to the property's use and characteristics. For example, the following assessment classifications, in part, exist in Cook County: residential real estate (Class 2) is valued at an assessment level of 10% of fair market value; industrial real estate (Class 5b) is valued at an assessment level of 25% of fair market value and commercial real estate (Class 5a) is valued at an assessment level of 25% of fair market value.

III. Real Estate Tax Appeal Filings/Procedure

Once the Assessor mails the Notice of Proposed Assessment to the taxpayer of record, the taxpayer has the right to appeal the proposed assessment. Typically, the taxpayer has thirty (30) days from the date of publication or legal notice of the proposed assessment to challenge the value. The object of the appeal is to prove that the assessed valuation against the real estate is excessive and, therefore, the tribunal that is hearing the appeal should reduce the assessment. Where do you appeal? You must determine the county in which the property is located before you begin the appeal process. For purposes of this article, we will summarize the counties as Cook County and Non-Cook County.

A. Cook County Appeals/Procedure

In Cook County, the taxpayer has various levels of assessment appeal opportunities. Most often, the taxpayer can first appeal to the Cook County Assessor through the filing of a Real Estate Assessed Valuation Complaint. The Assessor appeal is a process by which

the taxpayer completes the necessary complaint form and submits evidence in support of the appeal, arguing that the assessment is excessive. Usually, no hearing is held before the Assessor.

If a taxpayer is not satisfied with the outcome of the Assessor appeal, further appeal may be filed with the Cook County Board of Review. While the Cook County Assessor is the agency charged with assessing property at fair market value, the Cook County Board of Review is the agency responsible for insuring that assessments are fair and equitable. In most cases, the taxpayer is granted a formal, in-person, hearing before the Cook County Board of Review.

Once the Cook County Board of Review has issued a final decision on the appeal, and if the taxpayer is still unsatisfied with the outcome of the appeal, they may further appeal to the Illinois Property Tax Appeal Board ("PTAB") OR the Circuit Court. However, in order to file at PTAB or the Circuit Court, the taxpayer must have first appealed before the local board of review to exhaust their administrative remedy.

For PTAB filings, the dissatisfied taxpayer invokes the jurisdiction of PTAB by filing a petition for real property appeal within thirty (30) days of the postmark date or personal service date of the written notice of the decision of the local board of review. All proceedings before PTAB shall be considered de novo. Thus, the appeal shall be determined based on the evidence submitted without weight or consideration given to any prior actions by a local board of review. (Official Rules, Property Tax Appeal Board, Section 1910.50 (2019)). Procedurally, PTAB hears the case from the beginning to end without any regard to any prior filings or decisions from a local board of review. Additionally, a taxpayer is entitled to introduce evidence without regard to whether that evidence has previously been introduced at the hearing before the local board of review.

For Circuit Court filings, the taxpayer who is not satisfied with the local board of review decision may file a tax objection complaint within 165 days after the first penalty date of the final installment of the taxes for the year in question. (35 ILCS 200/23-10 (2019)) For example, the 2017 tax objection complaint must be filed within 165 days from August 1, 2018, which was the 2017 second or final installment of taxes for the year in question.

For any real estate tax appeal, the taxpayer will have the burden of proof to show that the real estate tax assessment is excessive.



The burden of proof will differ for the various levels of appeal. Thus, the taxpayer must always understand the merits of the case and the associated burdens of proof to support the real estate assessment appeal.

B. Non-Cook County Appeals/Procedure

In counties other than Cook County, the taxpayer has the same basic appeal rights as those taxpayers in Cook County. Typically, the first level of appeal would be an informal appeal to the township Assessor.

Next, the taxpayer can appeal to the county board of review within thirty (30) days of the publication of the Notice of Proposed Assessment. This appeal level is still administrative in nature whereby a formal complaint is filed and the matter is set for hearing to present evidence and testimony.

Like Cook County, if the taxpayer is dissatisfied with the county board of review decision he/she may further appeal to PTAB or the Circuit Court. The deadlines for filing at PTAB are identical to the time deadline for Cook County taxpayers. However, the Circuit Court filing must be made within 75 days after the first penalty date of the final installment of the taxes for the year in question. (35 ILCS 200/23-10 (2019).

C. Evidence or Data To Support the Appeal

Regardless of the county where the real estate assessment complaint is filed, you must support your complaint with evidence in support of the assessment reduction request. Some forms of evidence can include an appraisal report, analysis of comparable properties that are not assessed uniformly when compared to the real property under appeal, income/expense data and vacancy analysis. At all levels of appeal, it is the taxpayer's burden to disprove the presumption that the assessment is correct.

IV. Residential Exemptions

In all counties, residential taxpayers may reduce their real estate tax bills by taking advantage of the various real estate exemptions. Depending on the exemption, the taxpayer may be able to save hundreds or even thousands of dollars in real estate taxes. Some of the most common exemptions include: General Homestead Exemption (35 ILCS 200/15-175), Homestead Improvement Exemption (35 ILCS 200/15-180), Senior Citizens Homestead Exemption (35 ILCS 200/15-170), Senior Citizens Assessment Freeze Homestead Exemption (35 ILCS 200/15-172), Disabled Persons' Homestead Exemption (35 ILCS 200/15-168), Veterans With Disabilities (35 ILCS 200/15-165) and the Returning Veterans' Homestead Exemption (35 ILCS 200/15-167). Each of these exemptions, in principle, assists the taxpayer/homeowner in reducing their real estate tax liability.

Due to the various statutory and county-specific requirements for each exemption, the taxpayer should contact their local assessor's office to request application and guidelines for each of the exemptions. The assessor's office is often a good starting point to get the ball rolling to apply for or verify whether you are receiving an exemption.

V. Don't Be Afraid to Review and Challenge Your Assessment

The Illinois property tax system generates large revenues for local government based upon the value of your property. Although the property tax system can be daunting and complex with various layers of bureaucracy and mathematical hoops, each taxpayer should annually review their real estate assessment to verify that they are being fairly assessed. If the assessment is excessive, an appeal process exists that helps to ensure that you pay only your fair share of taxes on the real estate tax bill. If you have evidence to support a real estate tax appeal, don't be afraid to challenge the assessor's real estate tax assessment.



The Law Office of Dennis M. Nolan, P.C. concentrates its practice in the following areas of law: Real Estate Tax Appeals/State and Local Taxation; General Real Estate and Business Matters. Mr. Nolan represents commercial and industrial taxpayers in real estate tax management and appeals in all Illinois counties.

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