

Property Tax

MARCH 2004

Lancaster County to Complete Reassessment of Property Values — Appeals Must Be Filed Within 40 Days of Receipt of Notice

SUMMARY

Lancaster County has completed its most recent mass evaluation of property located in the county. In Lancaster, such reassessments occur every eight years as per a resolution adopted by the county commissioners. According to the county's website, reassessment notices will be mailed around June 1, 2004. The notice is a statement of the reassessed value that Lancaster County's Tax Assessment Office has established for the real estate owned by you or your business. The first tax bills to be affected by the reassessed value will be the County and Municipal 2005 bills and the 2005/2006 school bills. You have the right to challenge the reassessed value.

Assessment appeals may be filed by property owners, their authorized representatives, or lessees responsible for the payment of property taxes within 40 days from receipt of the notice. Only attorneys licensed to practice law in Pennsylvania may appear as representatives of property owners at appeal hearings, and testimony regarding valuation may only be provided by property owners or licensed real estate appraisers or brokers. At assessment hearings, property owners are required to make a "full and complete disclosure" of all information bearing on the market value of the property. Appeals may not be based upon the impact of reassessment upon tax increases, the percentage increase in assessments or the financial ability of the property owner to pay increased taxes, and must be based upon the total value of land and improvements, rather than solely based upon the value of either land or improvements.

WHAT SHOULD PROPERTY OWNERS DO WHEN THEY RECEIVE THE NOTICE OF ASSESSMENT?

Once a property owner of a commercial or industrial facility receives a Notice of Assessment, the property owner must decide whether to appeal the new assessment. An appeal is filed with the Lancaster County Board of Assessment Appeals.

An appeal from a new assessment value from a countywide reassessment must be filed within **40 days from the mailing date of the assessment notice**. 72 P.S. § 5349(b). Any municipalities in which the real property that is at issue in the appeal is situate may also file an appeal or may oppose an appeal filed by the taxpayer.

Once an appeal is filed, the Lancaster County Board of Assessment Appeals will schedule a hearing. The Board will schedule hearings and must provide the taxpayer with notice of the hearing not less than 20 days prior to the hearing. 72 P.S. § 5349(d); 72 P.S. § 5349(g)(2). No appeal will be heard before 30 days after the mailing of the initial notices and all appeals must be heard and decided by the Board no later than October 31, 2004. 72 P.S. § 5349(g)(6). This is an informal hearing at which the taxpayer may present its appraisal along with any additional evidence challenging the Board's assessment.

Before the notices are issued, a taxpayer may review the information the county recorded about the property in one of four ways: (1) look at the property listing online at www.co.lancaster.pa.us/ta; (2) call the assessment office; (3) visit assessment office personnel at Boscov's from now through April 8, 2004 from 10 a.m. until 8 p.m. Monday through Friday; or (4) visit

assessment office personnel at Yoder's Country Market from March 29, 2004 through April 2, 2004 from 8 a.m. until 4 p.m.

To prepare for a hearing before the Board of Assessment Appeals, those owners of commercial and industrial properties should undertake an independent appraisal of the real property. An independent appraisal, which can be a complex undertaking for commercial and industrial properties, must be started with haste if the taxpayer plans to file an appeal.

After hearing the appeal, the Board may raise, lower or not change the reassessed value. If the taxpayer does not agree with the Board's decision on their assessment appeal, then the taxpayer has 30 days in which to file an appeal with the Lancaster County Court of Common Pleas. 72 P.S. § 5020-518.1. The County Court will hear the appeal in the first instance, affording the decision of the Board no discretion.

Even if the taxpayer files an appeal, the taxpayer must pay all taxes levied on the reassessed value while the appeal is pending. 72 P.S. § 5350d. If the appeal is successful, the taxpayer will then be entitled to a refund of the excess taxes paid.

UNDERSTANDING TAX ASSESSMENT

Each county in Pennsylvania is responsible for annually determining the assessed value of property within its boundaries. The assessed values determined by the County Tax Assessment Office are then utilized by the county, cities, boroughs, townships and school districts to levy real property taxes. Tax rates are stated in millage rates which are one-tenth of a percent of assessed value. For example, a 30-mill tax is equivalent to a tax of 3% of assessed value.

After the last reassessment in Lancaster County, assessments were based upon 100% of the estimated market value of property. This percentage (which is used to calculate assessed values based upon the market value of property) is known as the "pre-determined ratio." The amount of tax levied upon a parcel of real property is determined by multiplying the market value of property by the pre-determined ratio to calculate the assessed value and by multiplying the assessed value by the decimal equivalent of the millage rate. For example, if a commercial or industrial property has a market value of \$2.5 million, its assessed value

should be \$2.5 million. A 30-mill property tax (imposed on property located in the City of Lancaster) results in an annual payment of \$75,000, *i.e.*, \$2.5 million x .030.

WHAT IS A COUNTYWIDE REASSESSMENT?

Lancaster County is a third-class county and is subject to the Second Class A and Third Class County Assessment Law, 72 P.S. §§ 5342 — 5352, and the General County Assessment Law, 72 P.S. §§ 5020-101 — 5020.602. The Pennsylvania Constitution, article VIII, section 1 (the "Uniformity Clause") and County Assessment Laws require real estate assessments to be uniform and fair. In order to establish a uniform and fair property taxation scheme, a county must perform a countywide reassessment. A county cannot selectively reassess part of the county at a time, but must reassess the entire county at the same time. Lancaster County began the process of reassessing all properties within the county in 2003. The county used data that it maintained on the properties in the county since the last reassessment in 1996 and sales of comparable properties for the period 1/1/2000 through 12/31/2002 for analysis to estimate the market value of each property. This resulted in an increase averaging 20.46% countywide.

The average assessment increase can be misleading, however, because some property owners may obtain reductions, while others may see increases far in excess of the average. In general, properties in many of Lancaster County's affluent suburbs increased by more than the average, while properties in less affluent communities increased less or declined.

The new property tax assessments will be used by Lancaster County, and by cities, townships, boroughs and school districts located within the county, for levying taxes for fiscal years beginning in 2005. Increases in property tax assessments, however, will not automatically result in higher property tax liabilities because each taxing authority is required to reduce its millage rate by an amount which will ensure that total taxes collected from properties subject to taxation in the prior year do not increase by more than ten percent. For good cause shown, however, taxing authorities may impose additional millage rate increases with the approval of the court of common pleas.

It is difficult to determine the impact of the reassessment upon tax burdens for individual property owners. As a general rule, assuming taxing authorities do not elect to increase millage rates, property owners with assessments that roughly double should either not experience a county tax increase or experience an increase of up to ten percent. Property owners with greater or lesser reassessments should experience a proportional increase or decrease in county property taxes.

THE ROLE OF LEGAL COUNSEL IN ASSESSMENT APPEALS

As you consider whether to appeal the assessment, it is important to have a clear understanding of the governing law. Property tax assessment appeals, especially for commercial and industrial properties, can often result in substantial valuation adjustments. The assistance of counsel may be critical in the effective pursuit of negotiations or appeals. Attorneys experienced with assessment appeals can assist taxpayers in retaining and working with professional appraisers and can ensure that all appropriate tax exemptions and exceptions are claimed in appeals, including exemptions for charitable organizations and exclusions for machinery and equipment issued in industrial establishments. Effective representation by counsel can also help protect taxpayers against attempts by municipalities and school districts to increase assessments. Kirkpatrick & Lockhart LLP is a Pittsburgh-based law firm of over 700 attorneys, with branch offices in nine other cities.

Our firm's Harrisburg office has significant experience with taxation issues, including appeals from real estate property assessments of commercial and industrial properties. Most recently, our attorneys have successfully appealed or negotiated favorable resolutions of the assessment of various utility properties across the state. Several examples of Kirkpatrick & Lockhart's recent successes, obtained through either court decision or negotiated settlement, include: in a recent assessment appeal regarding an electric generation power plant in Greene County, Kirkpatrick & Lockhart obtained a reduction in valuation from approximately \$70 million to \$29 million; successfully litigated in Pennsylvania appellate courts to obtain the most recent determination of the scope of the machinery and equipment exclusion and the application of obsolescence in computing the assessed value; in a tax assessment appeal of a pulp processing facility in Northampton County, Kirkpatrick & Lockhart was successful in obtaining a reduction in valuation from approximately \$11.5 million to \$2.4 million; in an assessment appeal of an electric generation power plant in Franklin County, Kirkpatrick & Lockhart obtained a reduction in valuation from \$28 million to \$4 million. We have also successfully resolved assessment appeals in counties in Central Pennsylvania, including Dauphin, Berks, Bucks, Lancaster and Reading.

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