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Dauphin County Issues Final Tax Reassessment Notices: Appeals Must Be Filed Within Forty Days

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SUMMARY

On June 21, 2001, Dauphin County issued official property tax reassessment notices based upon the results of the first countywide reassessment of real property in the county since 1973. Most property owners previously received an advance notice of reassessment in March and were provided an informal opportunity to seek changes to the results of the reassessment. Property owners dissatisfied with results of the reassessment may file appeals before the County Board of Assessment Appeals within 40 days of the date of the official reassessment notice.

Assessment appeals may be filed by property owners, their authorized representatives, or lessees responsible for the payment of property taxes. 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 information bearing upon the market value of 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.

IMPACT OF REASSESSMENT UPON PROPERTY TAX BURDENS

Dauphin County's reassessment will affect approximately 107,000 parcels of real property located

within the county and will increase the total estimated market value of property from approximately \$6.4 billion to more than \$13 billion, an adjustment which will more than double current property valuations. In Harrisburg alone, the reassessment has increased the value of taxable property from \$862.5 million (as determined based upon a partial reassessment conducted in 1985) to \$2.24 billion.

The new property tax assessments will be used by Dauphin County, and by cities, townships, boroughs and school districts located within the county, for levying taxes for fiscal years beginning in the year 2002. 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 does 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 following table estimates the magnitude of

county tax increases based upon the percentage of property tax reassessment:

Assessment Increase	Change in Tax Liability
None	52% to 42% decrease
25%	40% to 30% decrease
50%	28% to 18% decrease
85%	11% decrease to no change
100%	no change to 10% increase
125%	19% to 29% increase
150%	44% to 54% increase
200%	51% to 61% increase

The effect of reassessments upon city, township, borough and school district taxes will vary depending upon the extent to which the reassessment increases overall property values within each taxing district.

Generally, properties which have been recently constructed or reassessed or which are located in parts of the county experiencing only modest economic growth may enjoy tax cuts due to the reassessment, while long-time owners of property or persons owning property in the more rapidly developing portions of the county may be subject to substantial tax increases.

THE BASICS OF PROPERTY TAX ASSESSMENTS

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 that are one-tenth of a percent of assessed value. For example, a 27 mill tax is equivalent to a tax of 2.7% of assessed value.

Properties are assessed based upon a fraction of market value known as the “predetermined ratio.” Accordingly, if a county has a predetermined ratio of 50%, the assessed value of each \$1 million of market value is \$500,000. As a result, a 27 mill tax will generate tax liabilities of \$13,500 annually upon each \$1 million of taxable value in a county with a 50% predetermined ratio.

When assessments are not periodically adjusted, the predetermined ratio may fail to accurately reflect the actual difference between the market value of property and tax assessments. An agency known as the State Tax Equalization Board is required by law to annually estimate the actual ratio of market value to assessed

value of property based upon property conveyances reported to the County Recorder of Deeds. This amount is known as the “common level ratio.” If there is a 15% or greater difference between the predetermined ratio and the common level ratio, taxpayers filing assessment appeals are entitled to use the common level ratio rather than the predetermined ratio. The goal of a countywide reassessment is to bring the predetermined ratio and the common level ratio as close together as possible.

Unlike many other counties, Dauphin County uses a 100% predetermined ratio. As a result, the assessment value of property should be equivalent to the market value. Prior to the countywide reassessment, however, for the year 2000 the State Tax Equalization Board found Dauphin County’s common level ratio to be only 54.1%. This meant that on average, prior to the countywide reassessment, assessed values of property in Dauphin County reflected only 54.1% of market value rather than the standard 100% predetermined ratio used by the county.

Except for countywide reassessments, counties are prohibited from making adjustments to the assessed value of individual parcels or real property (known as “spot assessments”) unless new construction, other improvements or subdivisions are made to the land. Accordingly, the mere sale of property, even if it occurs at a sales price substantially in excess of the assessed value divided by the predetermined ratio, may not result in a tax reassessment. The issuance of a certificate of occupancy for a new building or structure or the subdivision of land, however, may result in a reassessment.

Except for years in which countywide reassessments occur, Dauphin County is required by July 15 of each year to determine the assessed value of each tract of land located within the county for the upcoming year and to notify taxpayers of any changes to assessments. In the event of a countywide reassessment, notice must be given by July 1. In addition, so-called interim-assessments may be issued at other times if improvements are made to property or land is subdivided.

Appeal deadlines vary based upon the type of action subject to appeal. If no change is made to the assessed value, appeals must be filed by September 1. If changes are made in assessed values (including changes made pursuant to a countywide reassessment),

taxpayers may file appeals within 40 days of the mailing date of the reassessment notice. Notwithstanding the tight time schedule established, counties are prohibited from extending these deadlines.

It is important to note that property owners cannot wait until receiving higher tax bills based upon reassessments in order to appeal reassessments. Because assessed values determined during the year 2001 will be used to calculate county, municipal and school district taxes for the year 2002, tax bills based upon the new assessments will not be received until 2002.

Assessments are required to reflect the market value of property, *i.e.* the amount which a willing buyer would pay a willing seller not required to dispose of his or her property. Assessments are usually based upon comparable sales prices for similar realty, the cost of improvements made to realty and the rental value of real property.

The Board of Assessment Appeals technically consists of the three Dauphin County Commissioners. The commissioners, however, designate other county officials to serve as their designees on the board. Proceedings before the Board of Assessment Appeals are less formal than court proceedings and property owners are usually promptly advised of decisions by the board. Appeals from decisions of the board are taken to the Dauphin County Court of Common Pleas. Municipalities and school districts affected by appeals may participate in hearings before the board and the court and may seek to increase the assessed value of property.

REASSESSMENT IN DAUPHIN COUNTY

To assist with the countywide reassessment, a little more than three years ago, Dauphin County entered into a \$4.2 million contract with Manatron-Sabre, Inc, a firm specializing in computers for local governments with a division devoted to assessment support, Sabre Assessment Division, located in Ohio. Manatron-Sabre assumed responsibility for management and implementation of the reassessment process for all real estate parcels within the county and conducted an inspection of each property through use of data collectors in the case of residential property and specialists in the case of commercial and industrial property. The data collectors and specialists gathered information and reported it to appraisers. The Sabre appraisers reviewed the data collected and set a market value which became the basis for the assessment of each property.

In the first quarter of 2001, each property owner received a preliminary notice of the assessed value. The property owner could then schedule a meeting with a representative of Sabre to review the information and to suggest corrections of incorrect information. The property owner could also access information regarding his/her particular property through a website, but was not provided electronic access to information regarding comparable properties. With the issuance of the final reassessment notices, Dauphin County has belatedly made assessment information electronically available for all properties on its website: www.dauphinreval.org. Unfortunately, the information available through the website is often incomplete and, especially for commercial and industrial properties, rarely contains information regarding comparable properties upon which the reassessment was based. In comparison with websites made available by other counties, Dauphin County's website is also difficult to search for purposes of identifying comparable historical sales and making valuation comparisons. Although more complete information is available either on-line or by searching records at the county assessment office, taxpayers with significant reassessments are best advised to utilize the services of a professional property appraiser.

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

Once a property owner receives a formal Notice of Assessment, the property owner must promptly decide whether to appeal the new assessment.

The first step in such an evaluation involves reviewing the accuracy of information included on the taxpayer's property record card if the property owner did not do so after receiving the preliminary notice from Manatron-Sabre. The next step is to determine whether the methods used by the county and Manatron-Sabre reasonably predicted the market value of the property. While taxpayers may rely upon their own knowledge of real estate markets to initially form such judgments, the assistance of a board-certified qualified property appraiser can be very valuable.

An appeal from a new assessment value from a countywide reassessment must be filed with the Dauphin County Board of Assessment Appeals within 40 days of the reassessment notice. *Telephone conferences and informal meetings with Manatron-Sabre that may have occurred before the issuance of*

the Notice of Assessment do not constitute formal assessment appeals and do not extend the 40-day deadline for the filing of appeals.

Once an appeal is filed, the Dauphin County Board of Assessment Appeals will schedule a hearing. The board may schedule the hearings as early as 30 days after mailing the notice, but must conduct hearings and act on all appeals not later than October 31, 2001. To expedite the handling of appeals resulting from the countywide reassessment, the county has also appointed special auxiliary boards to hear appeals at different locations throughout the county. Municipalities and school districts in which property is located may participate in assessment appeals and may ask the board to increase the assessed value of the property.

After hearing the appeal, the board may raise, lower or not change the reassessed value. If taxpayers do not agree with the board's decision on their assessment appeals, then the taxpayers have 30 days in which to file appeals with the Dauphin County Court of Common Pleas. The County Court considers appeals *de novo* and is not bound to afford deference to the decisions of the Board of Assessment Appeals.

Even if taxpayers file appeals, they must pay all taxes levied on the reassessed value while the appeal is pending. Such payments should be accompanied by a written protest. If the appeal is successful, the taxpayers will then be entitled to a refund of any excess amount of tax paid.

THE ROLE OF LEGAL COUNSEL IN ASSESSMENT APPEALS

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 used in industrial establishments. Effective representation by counsel can also help protect taxpayers against attempts by municipalities and school districts to increase assessments.

The law firm of Kirkpatrick & Lockhart LLP has experience in litigating property assessment appeals throughout Pennsylvania. Kirkpatrick & Lockhart is a national law firm of over 600 attorneys with a well-established office in Harrisburg.

Kirkpatrick & Lockhart has handled appeals involving office buildings, department stores, shopping centers, manufacturing facilities (*e.g.* primary and specialty metals, pharmaceuticals and electronics), entertainment facilities, a railroad, a brewery, group homes for mentally ill and retarded adults and children, electric power plants, gas distribution facilities and landfills. The firm has also handled numerous appeals for hospitals, nursing homes, cemeteries, cultural facilities and extended care communities regarding denials of real estate tax exemptions, including the landmark matter of *St. Margaret's Seneca Place* before the State Supreme Court. Attorneys in the Harrisburg office are currently handling assessment appeals in many counties throughout the Commonwealth. In a recent assessment appeal regarding an electric power plant in Greene County, for example, Kirkpatrick & Lockhart was successful in obtaining a reduction in valuation from approximately \$70 million to \$29 million. While the Greene County case involved unique circumstances and should not be construed as reflecting the type of results obtainable in other assessment appeals, it illustrates the desirability of carefully reviewing tax assessments.

FOR FURTHER INFORMATION

Contact Raymond Pepe, Carleton Strouss or Jacqueline Jackson-DeGarcia in Kirkpatrick & Lockhart's Harrisburg office located at 240 North Third Street, Harrisburg, Pennsylvania 17101-1507, 717.231.4500, www.kl.com.



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