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Property Tax Assessments: A Primer on Appeals

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Property owners throughout Michigan receive their annual property tax assessments in February. Since the 1994 passage of Proposal A, this often leads to a mixture of uncertainty and frustration on the part of the taxpayers. The confusion amplifies in light of the recent real estate downturn.

Given all of the different values and terms on the notice (which include the Assessed Value, the Taxable Value, and the State Equalized Value), it is difficult for taxpayers to determine if there is any benefit to be gained in appealing their assessment and, even if they want to, how to go about exercising their right to appeal. This short discussion explores the following:

- tax assessment notices and how the values change from year-to-year
- the impact of the recent trend in the real estate market
- the methods used by appraisers in determining the value of the property
- the process for appealing the assessment.

When reviewing your property tax assessment notice, there are four values to keep in mind, three of which show up on the face of the notice. These values include:[1]

True Cash Value (TCV)

The fair market value or the usual selling price of the property (this value will not appear on the assessment notice).

State Equalized Value (SEV)

One half (1/2) of the property's TCV.

Assessed Value (AV)

Generally the same as the SEV, unless an equalization factor other than 50% has been applied by the State or the county in which the property is located.

[1] Source: The Michigan Tax Tribunal website (http://www.michigan.gov/taxtrib/)

Taxable Value (TV)

The value used to calculate the tax on the property. Due to Proposal A, a property's taxable value can only increase annually by the rate of inflation or 5%, whichever is less, unless there is an addition to the property (i.e., physical improvement or omitted property) or the property's ownership transferred during the previous tax year.

All of the above values are important in calculating the amount of tax ultimately paid, and more importantly, whether it makes sense to appeal. The year after a taxpayer acquires a property, the TV, the SEV and AV will be identical (as long as the county board of equalization does not adjust the AV from the initial SEV). The TCV will be twice the SEV. From the first notice received by the taxpayer after acquiring/upgrading the property, and going forward, these values may vary. The TCV, AV and SEV are fluid values and will change with the real estate market. However, the TV is "capped" and can only increase by the lesser of 5% or the rate of inflation each year, but in no event can the TV exceed the SEV.

One of the goals in adopting Proposal A was to minimize fluctuation in the amount of tax paid by property owners. Therefore, this "capping" concept was inserted into the law. Among other things, the "capping" of taxable values is intended to promote long-term property ownership. In times of consistent and/or significant increases in property values, property owners will not be subject to a significant corresponding increase in taxes.

The increase in property taxes will be capped at 5% or less. However, if a given property has been held by a taxpayer for a significant amount of time, and there may be a substantial difference between the SEV and the TV. Such a property owner may see an increase in property taxes, even as the property value decreases. That is the situation that many current long-term property owners currently find themselves today. Since the adoption of Proposal A in 1994, the inflation multiplier has never been as high as the 5% cap. However, the inflation multiplier established for 2009 was 4.4%, which was, by far, the highest multiplier utilized since the adoption of Proposal A. Therefore, while property values dropped drastically over the past few years, long-term property owners likely experienced their largest increase in property taxes since the year following the property's acquisition..

Another "surprise" new property buyers often experience, especially when the property is being acquired from a long-term property owner, is a significant increase in property taxes when the property is "uncapped." While the prior owner received the benefits of Proposal A's capping of annual tax increases at 5% or less for years, the entire difference is made up at one time and can result in a significant increase in taxes upon transfer.

Individuals often inadvertently uncap their properties when attempting to implement an estate plan. Consulting an experienced estate planning attorney, before executing and recording any deeds to the property, can minimize this risk. This is particularly relevant for commercial and industrial property owners since they are not typically afforded all of the exemptions of other property owners (i.e., residential or agricultural).

Recent Decline in Property Tax Values

Over the past five to 10 years, Michigan has experienced a well documented rise and fall of property values. Depending on the date of purchase, property owners may have experienced a moderate to severe decrease in the value of their property. However, there may be a hidden benefit to this decrease in the form of a decrease in property taxes.

Property owners should carefully review the property tax assessment notices and other recent sales of comparable properties in their geographic area to determine if their property is overvalued. While this could be a painful and sobering exercise, for some property owners, it could also increase the amount of available cash.

While there have been recent news reports of an increase in property sales, it is currently uncertain how this has impacted property values and which classifications of property may be affected. However, should the property values turn for the better, property owners will only have the opportunity to reduce their taxes for the year of the assessment and future years, utilizing the property values applicable to those years. Therefore, if a property owner is contemplating an appeal of his/her property tax assessment(s), there may be no better time than now to do so.

If recent history has taught us anything, it is that fluctuations in the real estate market are unpredictable. If the appeal is successful, the property owner establishes a new TV. The TV is "capped" at the new level and may only increase the lesser of 5% or the rate of inflation moving forward, therefore, receiving the benefit of the successful appeal every year thereafter.

Valuation Process

If property owners need to know one thing about how an assessor values their property it is this: assessors do not have to use the purchase price in establishing the new TCV or AV after a transfer of property. The assessor, the Board of Review, and/or the Michigan Tax Tribunal (Tribunal) are not required to utilize or, in certain circumstances, even consider the purchase price of the property in determining the value of a property.

In fact, if a property owner appeals an assessment, armed only with the recent purchase price of the property, that property owner should be prepared to come out on the losing end. At a minimum, recent comparable property sales should be supplied, and, if the amount of disputed tax is large enough, the retention of a qualified real estate appraiser should be considered.[2]

While the purchase price of an arms-length transaction should be taken into consideration, there are multiple ways of valuing a property. The most accepted methods include the following:

a. Income Capitalization Approach (most common for income producing properties)

b. Comparable Sales Approach (most common for residential properties)

[2] If the property was recently acquired and the acquisition was bank financed, a real estate appraisal is likely already available. However, these appraisals are often viewed in a negative light on appeal and if unsuccessful at the Board of Review, consideration should be given to supplementing that bank appraisal.

c. Cost Less Depreciation Approach

Given the time and resource restraints placed on the taxing authorities, the appraisers for the taxing authority utilize a mass appraisal approach, which in turn, often utilizes some form of the cost less depreciation approach. It is these issues, mixed with the differing methods utilized by the local Boards of Review, which result in an inherent unpredictability into what is intended to be a very uniform system. While the State Tax Commission exercises some authority to minimize these differences between tax authorities, property owners often must take their case to the Tribunal in an attempt to achieve their desired results.

The Appeals Process

Commercial and industrial property owners are not required to appeal to the Board of Review. For residential homeowners, appeal to the Board of Review is the first step in the process, with a few exceptions;[3] the date and location of Board of Review will be included on the assessment notice.

If the appeal is denied by the Board of Review, residential taxpayers must appeal to the Tribunal no later than July 31 of the year of the tax involved. However, recent legislation has removed this requirement for some property owners, such as commercial and industrial property owners. Therefore, those select classifications of property owners can skip this step and appeal their assessments directly to the Tribunal. Still, a commercial or industrial property owner may choose to appeal to the Board of Review and attempt to obtain a decrease in the assessment directly from the taxing authority, but in any event, must appeal to the Tribunal by May 31 of the tax year involved.

The Tribunal itself is a multi-discipline administrative court, made up of seven members (two attorneys, one certified public accountant, one appraiser, one assessor, and two at-large members). It has sole and original jurisdiction over property tax and joint jurisdiction over non-property state and local tax. The inventory of open cases at the Tribunal is overwhelming, creating a longer than anticipated period from filing to hearing. While this does not generally increase the cost of an appeal, given that much of the time the case is dormant, it does create excessive delays.

Just as the Tribunal is a multi-discipline body, other non-attorney professionals, such as Certified Public Accountants may practice before the Tribunal. While the Tribunal is not itself a true court, but a quasi-judicial entity, it is intended to operate in a similar fashion. For example, while it has established its own set of rules, it also follows most of the Michigan Court Rules and the Michigan Rules of Evidence, making knowledge of the application of the rules important.

While the small claims division is intended to ease this burden for property owners that appeal their own assessments, if the dollar value is large enough, this option may not always be available, and the taxing authorities may hire attorneys of their own to handle the appeal.

[3] Certain jurisdictions may require an additional appeal the appraiser. If an additional appeal is required, this will be addressed in the notice of assessment.

About the Author

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