

APPROACHES TO TAX ASSESSING

JOINT SESSION WITH AMANJ & NJILGA

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New Jersey Statutes, Administrative Code & Case Law

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New Jersey Constitution

Art. VIII, §1- Requires that all property be assessed uniformly according to the same standard of value.

New Jersey State Statutes (*You can find most of the “assessing” or assessment statutes within Chapter 4 of Title 54 of the New Jersey Statutes. Below is not an exhaustive list by any means*)

All property real and personal within the jurisdiction of this State not expressly exempted from taxation or expressly excluded from the operation of this chapter shall be subject to taxation annually under this chapter. Such property shall be valued and assessed at the taxable value prescribed by law. *N.J.S.A. 54:4-1*

All real property subject to assessment and taxation for local use shall be assessed according to the same standard of value, which shall be the true value of such real property and the assessment shall be expressed in terms of the taxable value of such property, which taxable value shall be that percentage of true value as shall be established by each county board of taxation as the level of taxable value to be applied uniformly throughout the county *N.J.S.A. 54:4-2.25*

Every percentage level of taxable value of real property established by a county board of taxation shall be expressed as a multiple of 10%, and no level so established shall be lower than 20% or higher than 100% of the standard of value. *N.J.S.A. 54:4-2.26*

When a municipality does not act voluntarily, county boards of taxation may issue an order of revaluation to a municipality. *N.J.S.A. 54:4-47 see also N.J.S.A. 54:3-13*

Director of Division has independent statutory authority to also initiate the revaluation process and does not need to wait for a municipality or a county board of taxation to act where the need for a revaluation is present. *N.J.S.A. 54:1-26 through -30; see also N.J.A.C. 18:12A-1.14(c)(6)*

All real property shall be assessed to the person owning the same on October 1 in each year. The assessor shall ascertain the names of the owners of all real property situate in his taxing district, and after examination and inquiry, determine the full and fair value of each parcel of real property

situate in the taxing district at such price as, in his judgment, it would sell for at a fair and bona fide sale by private contract on October 1 next preceding the date on which the assessor shall complete his assessments, as hereinafter required...*N.J.S.A. 54:4-23*

The assessor shall make a list in tabular form of the names of the owners, and set down in proper columns opposite each name the description and area of each parcel sufficient to ascertain its location and extent and the taxable value of each parcel as determined by him. Property held in trust shall be assessed in the name of 1 or more of the trustees as such, separately from his individual assessment. If the name of the owner of a parcel shall be unknown, it shall be so entered in the list of names, and where an owner is not known to reside in the taxing district the list shall describe him as nonresident. *N.J.S.A. 54:4-24*

When any parcel of real property has been sold by any municipality as not needed for public use, and the deed has been delivered after October 1 in any year and before January 1 following, or when any parcel of real property contains any building or other structure which has been erected, added to or improved after October 1 in any year and completed before January 1 following, the assessor shall, after examination and inquiry, determine the taxable value of such parcel of real property as of the first day of the month following completion or sale of said property and if such parcel of real estate was not assessed as of October 1 preceding or if such value so determined exceeds the assessment made as of October 1 preceding, the assessor, shall enter the amount of such assessment or such excess, as an assessment or an added assessment against such parcel of real property, for the subsequent tax year in a list to be known as the "Added Assessment List, 19..." (inserting the name of the year in which the assessment is made); such entry to be made opposite the name of the owner and the description and area of the parcel of real property. In addition, the assessor shall enter in such added assessment list an assessment for that portion of the pretax year between the first day of the month following completion or sale of said property and December 31 to be determined by multiplying the amount of such assessment or such excess by the number of whole months remaining in the pretax year after the completion or sale of said property, and by dividing the result by 12. *N.J.S.A. 54:4-63.2*

In any year or in the next succeeding year, the county board of taxation may, in accordance with the provisions of this act, assess any taxable property omitted from the assessment for the particular year. *N.J.S.A. 54:4-63.12*

New Jersey Administrative Code- General Assessing

All applicants for a tax assessor certificate must take and pass an examination that is given annually in March and September at times and places announced by the Director of the Division of Taxation (Director). Prior to June 30, 1969, certificates could be issued without examination pursuant to *N.J.S.A. 54:1-35.28* that applied to persons performing the duties of an assessor, who satisfactorily

completed approved training courses. This procedure is no longer available and all persons must take the examination described. *N.J.A.C. 18:17-1.1*

To be eligible for the tax assessor's examination, a person must meet the following requirements and submit proof of the same at the time the application is filed: 1. Applicant must be a citizen of the United States; 2. Applicant must be 21 years of age or older; 3. Applicant must be of good moral character; 4. Applicant must have obtained a certificate or diploma issued after at least four years of study in an approved secondary school, or have received an academic education considered and accepted by the New Jersey Commissioner of Education as fully equivalent; and 5. Applicant must have graduated from a four year course at a college of recognized standing, provided, however, in lieu of college an applicant may substitute full-time experience in real estate appraisal work or experience in property tax assessment work on a year-for-year basis. *N.J.A.C. 18:17-1.3*

The duties of the assessor shall include, but are not limited to, the following: 1. Make appraisals of real property upon which assessed values are based; 2. Review and determine applications for property tax exemptions and property tax deductions; 3. Represent the assessing office to the public, the governing body, and other municipal officials; 4. Represent the assessing office and the taxing district to the respective county board of taxation and personally and directly report to and receive instruction from the county board of taxation; 5. Represent the assessing office and the taxing district at formal tax appeal hearings; and 6. Not later than five business days following a written request from the municipal search official for the same, the assessor shall, on a form prescribed by the Director, notify the said municipal tax search official of his or her intention to place, or the existence of, an added, omitted, rollback, or other assessment respecting subject property, setting forth the nature of the assessment and the exact lot and block designations of the property to be affected by such additional assessment. *N.J.A.C. 18:17-4.1*

Recertification requirements regarding continuing education credits of Tax Assessors in the State of New Jersey can be found at *N.J.A.C. 18:17-2.1*.

Any person has tenure and holds his or her position as municipal tax assessor during good behavior and efficiency and compliance with requirements for continuing education, and is not subject to removal, except for good cause shown at a proper hearing before the Director, notwithstanding the fact that such person was appointed for a fixed term of years, if he or she holds a tax assessor certificate and serves four or more consecutive years as a municipal tax assessor and is reappointed. *N.J.A.C. 18:17-4.1*

New Jersey Administrative Code- County Assessing

The county assessor's initial term of office commences on or after January 1, 2010, upon appointment by the county governing body. If appointment occurs after January 1 at any time during any month for purposes of this Act, the term shall commence on the first day of the month following the date of appointment. The initial appointment is for a five-year term from the first day of the month following the appointment. The county assessor shall be a full-time employee of the pilot county. *N.J.A.C. 18:17A-1.2*

The county assessor shall acquire tenure in office upon reappointment to a second five-year term and, thereafter, shall hold office during good behavior and efficiency and shall not be removed for political reasons or for any cause other than incapacity; misconduct; disobedience of rules or regulations established by the director or by the county governing body; for dishonest practices; for willful or intentional failure, neglect or refusal to comply with the Constitution and laws relating to the assessment and collection of taxes, schedules or standards adopted pursuant to P.L. 2009, c. 118 or other good cause pursuant to *N.J.S.A. 54:1-35.29*. *N.J.A.C. 18:17A-1.2*

The county assessor shall have at least five years of experience as a municipal tax assessor or deputy county assessor, or shall have held the position of county tax administrator prior to the appointment of the first county assessor pursuant to this section. After the initial term, any appointment made to this position shall require five years of experience as a municipal tax assessor or deputy county assessor or any combination thereof. *N.J.A.C. 18:17A-1.5*

The county assessor must possess a valid tax assessor certificate from the State of New Jersey upon appointment and during his or her term of office, in accordance with the requirements of *N.J.S.A. 54:1-35.25* and *N.J.A.C. 18:17.*; *N.J.A.C. 18:17A-1.5*

If the newly appointed county assessor has not done so previously, then, in the first 24 months of his or her appointment, the county assessor shall successfully complete a training program developed for tax administrators and offered by Director of the Center for Government Services (successor to the Bureau of Government Research) at Rutgers, The State University of New Jersey. *N.J.A.C. 18:17A-1.5*

The county tax assessor's continued certification as a tax assessor shall be governed by the requirements of *N.J.S.A. 54:1-35.25b et seq.*, and *N.J.A.C. 18:17.*; *N.J.A.C. 18:17A-1.2*

Once the county tax assessor promulgates the phase-in schedule, the county administrator for the pilot county, in consultation with the county governing body and the county assessor, shall effectuate the transfer of the property assessment function in all of the municipalities within the pilot county to the county assessor. *N.J.A.C. 18:17A-7.1*

If a county assessor seeks to settle a property tax appeal, filed pursuant to *N.J.S.A. 54:3-21*, the county assessor shall inform the municipality in which the property that is the subject of the appeal is located prior to entering into any final settlement agreement, pursuant to *N.J.A.C. 18:17A-8.1*; *N.J.A.C. 18:17A-7.1*

Property tax appeal procedures, fees and deadlines shall be in accordance with *N.J.S.A. 54:3-1 et seq. N.J.A.C. 18:17A-8.1*

The county assessor can file an appeal with the county board of taxation as an agent of the county. *N.J.A.C. 18:17A-8.1*

If a county assessor seeks to settle a property tax appeal filed pursuant to *N.J.S.A. 54:3-21*, the county assessor shall inform in writing on a form prescribed by the Director, the municipality in which the property that is the subject of the appeal is located, prior to entering into any final settlement agreement, that the county assessor intends to settle the appeal. *N.J.A.C. 18:17A-8.1*

Where a county assessor and municipal governing body do not agree on a settlement stipulation, either party may appeal to the county board of taxation or Tax Court, as the case may be, and request such relief as that party may be entitled to under county board of taxation or Tax Court rules and statutory authority, respectively. *N.J.A.C. 18:17A-8.1*

CASE LAW

Purpose/Goal of Revaluation Process

The purpose and function of a revaluation is to achieve tax equality not only as to any given taxing district but also between municipalities of the same county. *Middlesex County Bd of Taxation v. Borough of Sayreville* 133 NJ Super 41 (App. Div. 1975); see also *Switz v. Township of Middletown* 23 NJ 580 (1957)- Shows how far back our courts have cited the need for period revaluation of all of the real property in a municipality in order to maintain true value assessments across the board.

Authority to Initiate Revaluation Process

County Boards of Taxation have authority to order revaluation of real property. *Bergen County Bd of Taxation v. Borough of Bogota* 114 N.J. Super. 140 (App. Div. 1971) see also *Borough of Totowa v. Passaic County Board of Taxation* 23 NJ Tax 466 (2007) where the Tax Court upheld the county board's revaluation order, finding, inter alia, that the general coefficient of deviation of 17.02 and 19.55 for the two preceding tax years indicated the need for revaluation; the ratio of assessed value to true value was 59.68%, and the last district-wide revaluation was 18 years ago.

Residential homeowners can bring action to compel revaluation. *Feldman v. Ringwood et al.* 23 NJ Tax 29 (2006)- The court held, in an action commenced by residential property owners, that

the evidence was insufficient to establish by a preponderance of the evidence that assessments were not uniform and equitable; the court also indicated, however, that it would order the county board to conduct a review to determine if revaluation was necessary.

Keane et al v. Township of Monroe et al 25 NJ Tax 479 (2010)- Same concept as *Feldman* case above. Township homeowners filed complaint, as an action in lieu of prerogative writ seeking a revaluation of residential property in the Township. The Court found that a complete revaluation of township residential property was warranted, in order to bring uniformity to assessment of local property taxation in township, as required by State Constitution; the last revaluation of property had taken place 17 years earlier, numerous new residential neighborhoods had been added to municipality since last revaluation, it was not credible that these added residential developments had increased or decreased in value at same rate over 17 years, Director of Division of Taxation had analyzed criteria indicating when a revaluation might be required and concluded that a revaluation was needed, and general co-efficient of deviation, measuring how frequently sales transactions produced an assessment sales ratio that varied from common level of assessment in a municipality, exceeded 15 percent, which generally indicated a need for revaluation.

Mount Laurel Township v. Burlington County Bd of Taxation 25 NJ Tax 319 (2009)- Director of Division has independent statutory authority to also initiate revaluation process. In addition, this case also found that the county board of taxation failed to disclose its reasons for ordering a revaluation which is required pursuant to the Administrative Code. For those reasons the Tax Court remanded the matter back to the county board so a record could be made of its factual and legal conclusions.

Municipalities may voluntarily undertake a revaluation-*Village of Ridgely Park v Bergen County Bd. of Taxation 31 NJ 420 (1960)*- Municipality and taxpayers obtained revaluation order on several neighboring municipalities.

Miscellaneous Issues Surrounding Property Tax Assessments & Revaluation

Enis v. Alexandria Township 13 NJ Tax 423 (1993)- The Freeze Act does not apply to a year in which a complete revaluation of the taxing district has been put into effect. In this case the Tax Court held that, for Freeze Act purposes, a reassessment, a district wide program to bring all assessments up to true value conducted “in house” by the assessor and her staff, was the same as a revaluation, which is a program to bring all assessments up to true value conducted by an independent revaluation firm.

J.H. Becker, Inc. v. Marlboro 82 N.J. Super. 519 (App. Div. 1964)- Taxpayers dissatisfied with results of revaluations sought to invalidate the results and sought new revaluations. The Court found that taxpayers could not maintain such a cause of action and true remedy was for the aggrieved taxpayer to seek redress through the tax appeal process.



Essex County Bd. of Taxation v. City of Newark 73 N.J. 69 (1977)- Order for civil commitment of City's councilmen who failed/refused to approve appropriation for revaluation was modified by the Tax Court to order revenue distributable by the State to the City for its general purposes be diverted to pay for the revaluation.

Essex County Bd. of Taxation v. Caldwell Township 19 NJ Tax 587 (2001)- This case recounts the details of municipal resistance to an order of the county board of taxation directing revaluation which resistance lasted more than fifteen (15) years after the order from the county board of taxation was issued.

Cobblestone Acquisition LLC v. Township of Ocean (Decided August 2016- Unpublished Tax Court- 2016 WL4474320)- Municipality participating in the Real Property Assessment Demonstration Program ("ADP") in Monmouth County conducted a reassessment of property in 2015 but not a full revaluation. The Tax Court found that the reassessment conducted in conformance with the ADP did not rise to the level of a complete reassessment as contemplated for in the statute and administrative code. Therefore, the provisions of the Freeze Act did apply for tax year 2016.

1959 Highway 34, LLC v. Township of Wall 29 NJ Tax 506- Tax Court held that new statutory deadlines to file appeals to either county boards of taxation or State Tax Court under the ADP were clearly outlined under *N.J.S.A. 54:3-21(a)(2)* which is the later of April 1 or 45 days from the date of bulk mailing of assessment notices, not the standard May 1 deadline for the non ADP municipalities who had conducted a revaluation. However, the court did not dismiss the taxpayer's complaint as being untimely as the Tax Court found that the notice of assessment did not adequately set forth those filing deadlines, thus jeopardizing the plaintiff's due process rights and violated the mandate set forth under *N.J.S.A. 54:4-38.1*.