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Pay attention to your RE tax assessment between revaluations

May 13, 2009 - Connecticut

In Connecticut, municipalities are required to conduct a revaluation of every parcel of real estate within their borders at least once every five years. As a property owner or real estate professional, you can get the most "bang for your buck" in real estate tax savings when you challenge your real estate tax assessment immediately after a general revaluation. Still, in non-revaluation years, there are ways to keep your real estate taxes in check. Here are a few practical tips:

1. File Income and Expense Statements annually by June 1.

Connecticut assessors may require commercial property owners to file income and expense information annually, by June 1, on a form provided by the assessor. Failure to do so can result in the imposition of a "penalty assessment" equal to a 10% increase in the property's assessed value. The extent to which assessors require the filing of this information or impose the penalty varies, but in economic times like these, every city and town is looking to maximize revenue. Some commercial property owners actually choose not to provide the information and pay the 10% penalty out of fear that competitors may gain access to their confidential information. As a general rule, this concern is unfounded, especially because by law, the information provided to the assessor is not subject to the disclosure requirements of the Freedom of Information Act.

2. Compare your personal property declaration to your real estate tax assessment.

Personal property declarations must be filed annually, by November 1. The municipal assessor may inadvertently "double-count" fixtures or other improvements, including their value as part of the building and also requiring that they be included on the personal property declaration. This is often an issue in special purpose properties, such as gas stations, but it can happen in any type of commercial building. In the case of tenant fit-up, for example, portions of the improvements may be considered to be personal property by the assessor, but will also cause the assessor to increase the assessed value of the building itself. A careful review and comparison of your personal property and real estate assessments could result in an immediate assessment reduction if the assessor can be persuaded to categorize the matter as a "correction of error" under state statute, which allows the assessor to correct clerical errors going back three years. If the matter cannot be resolved with the assessor, an aggrieved party may appeal to the local Board of Assessment Appeals.

3. Be proactive in the case of new construction.

When there is new construction (including expansion of an existing structure), the assessor will determine the value of the new improvements and the municipality will issue a pro-rated tax on construction completed after the October 1 assessment date. The tax will be imposed either from the date the certificate of occupancy is issued, or from the date the new construction is first used. Many assessors are willing to discuss the value that will be assigned to the new construction prior to completion. Taking advantage of this opportunity can lead to a fair and accurate assessment. If a pro-rated assessment is incorrect, it can often be resolved through discussions with the assessor, or, if necessary, an appeal to the Board of Assessment Appeals.

4. If your assessment is excessive, plan to appeal to the Board of Assessment Appeals by next February 20.

By statute, an aggrieved party may challenge an assessment on the October 1 Grand List of a given year by filing an appeal with the Board of Assessment Appeals on or before February 20 of the next year. This deadline, which is often extended in revaluation years, is critical because in the vast majority of cases, an appeal to the board is a prerequisite to the filing of a court appeal, which must be filed within two months of the board's decision. The decision as to whether to pursue an appeal in a non-revaluation year will be dictated by comparing the potential tax savings for the remainder of the revaluation cycle to the costs associated with an appeal. This decision is best made through collaboration by the property owner, an experienced real estate appraiser and competent counsel.

5. Consider a direct appeal to Superior Court if your assessment is "illegal or wrongful."

In certain circumstances, an aggrieved party need not appeal to the Board of Assessment Appeals, but may commence a direct appeal to Superior Court. This type of appeal is rare, but is available when the tax imposed is manifestly excessive and could not have been arrived at except by disregarding the statutory rules of valuation. Unlike the typical appeal to the Board of Assessment Appeals, the direct court appeal may be commenced within one year from the date on which the property was last evaluated by the municipality.

6. Be sure the assessor has your correct mailing address.

When a municipality mails notice of action by the assessor or others, there is often a short time-frame within which to appeal or otherwise act to preserve your rights. Therefore, it is essential that the correct address be on file with the municipality, whether it be the assessor, the tax collector or others. With the number of possible entities to whom notice could be sent (including owners, tenants, lenders, property managers or other agents), it is essential that a property owner provide clear instruction as to where notice should be sent, possibly even requesting that notice be sent to multiple entities.

Paying attention to your real estate tax assessment between general revaluations can result in real tax savings, for a modest investment of time and treasure.

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