



a closer LOOK



Why assessment appeals help school districts tax more fairly

Misunderstanding and opposition has risen over the use of assessment appeals by school districts.

Pennsylvania needs to adhere to one of the most basic principles of uniform taxation required by both the United States and Pennsylvania Constitutions – that a taxpayer pays no more or less than his or her proportionate share of the cost of government. In the crazy world of Pennsylvania property tax assessments it is assessment appeals that ensure that taxpayers have some way to keep the playing field level.

What is being lost in the discussions concerning property tax assessments is that *all other* property owners in a school district have to bear the tax burden of the under-assessed properties. Any property this is simply under-assessed for whatever reason inherently shifts the tax burden over to those property owners who are properly assessed in the form of increased millage rates. Legislation that takes away the only voice on behalf of other homeowners and businesses being forced to subsidize under-assessed properties is not taxpayer-friendly legislation. Those commercial properties that are undervalued will not be billed for their fair share of school property taxes. Guess who will make up for this shortfall – residential and small business property owners.

An individual property owner has an economic stake in his property assessment, because it will impact his or her tax liability. A school district also has a substantial interest in the correctness of property tax valuations, especially in re-emerging communities where large commercial and industrial projects could provide vital tax revenue. Current law recognizes these interests and provides appeal rights to individual taxpayers *and* local governments, including school districts.

No one would question that an individual taxpayer has the right to seek a reduction in taxes when warranted. It is equally fair that the school district which helps represent the interest of all taxpayers be provided the opportunity to ensure that the property owners who are paying their fair share in taxes are not doubly penalized because of subsidizing under-assessed property owners. The fact is that any property that is simply under-assessed for whatever reason inherently shifts the tax burden over to those property owners who are properly assessed in the form of increased millage rates.



Without a reliable system for accurate reassessment of real estate throughout the state, the use of assessment appeals helps both taxpayers and taxing bodies, including school districts, ensure uniform taxation. Restrictions on the ability for assessment appeals would leave school districts without a large portion of available revenues for many, many years. Restrictions would also hurt property owners who are fairly assessed and are paying their proportionate share of taxes, burdening them with carrying the weight of owners of under-assessed properties.

Yet, misunderstanding and opposition has risen over the use of assessment appeals by school districts. Following are key questions and answers about what assessment appeals are, what they are not, and why they can help taxpayers:

Question: Are taxing body assessment appeals “spot assessments?”

Answer: No.

This important right has existed since the 1930s providing taxing authorities including school districts the same right as tax payers to file appeals on properties that appear to be incorrectly assessed. Whether the appeal is filed by a taxing authority or a taxpayer, the process is even handed being the same by which the correct tax assessment is determined. A taxing authority appeal (so-called reverse appeal) is no more a “spot assessment” as one brought by a taxpayer, as neither party has the right to unilaterally determine an assessment outside of the tax appeal process. A taxing authority is expressly not an assessing authority.

Question: Have the courts addressed so-called “reverse appeals” with respect to “spot assessment?”

Answer: Yes.

The courts in Pennsylvania have repeatedly ruled that tax appeals initiated by school districts are permitted and are not considered as “spot assessments.” One notable court decision found: “This Court rejects claims that an assessment appeal lodged by a school district constitutes an illegal spot assessment or results in a violation of the Uniformity Clause.” (*See generally Penn Delco; Vees; Millcreek Twp. Sch. Dist. v. Erie Cnty. Bd. of Assessment Appeals, Weissenberger/BlackHawk Apartments v Chester County BOAA*)

Question: Has the Legislature addressed so-called “reverse appeals” with respect to “spot assessment?”

Answer: Yes.

The General Assembly articulated the matter in 2011 with Act 93 in a manner that is consistent with the courts: *A change in assessment resulting from an appeal to the board by a taxpayer or taxing district shall not constitute a spot reassessment.*

Question: Do taxing body assessment appeals reduce uniformity and fairness?

Answer: No.

The courts have been clear that these appeals do not violate the Uniformity Clause (see previous excerpt from *Weissenberger/Black Hawk Apartments v. Chester County BOAA*). The courts go further to state that such appeals actually ensure uniformity and fairness: *“exercise of appeal rights by both the [school] district and the property owner, will ensure that the uniformity required by our state constitution is maintained.” PA Commonwealth Court Vees v. Carbon Cty BOAA*

Question: How much revenue have taxing body appeals generated by correcting the assessments of unfairly under-taxed commercial properties?

Answer: Millions.

Taxing authority appeals have resulted in hundreds of millions of dollars in additional, desperately needed tax revenue to counties, townships and school districts over the past decade.



Question: How much revenue will be lost if significantly under-taxed commercial properties are allowed to remain unchallenged?

Answer: Over \$2 billion dollars.

This loss of revenue estimated over the next decade would otherwise be generated from correcting unfairly low assessments on commercial properties. Such a loss of revenue would be potentially catastrophic to school districts. Such school districts are too numerous to mention but are represented throughout every corner of the Commonwealth.

Question: Are there examples of appeals that have resulted in correcting significantly under-taxed properties?

Answer: Yes.

Contrary to various property types like single-family homes, manufacturing facilities and farms, the market values of some commercial properties such as apartment complexes and shopping centers have risen dramatically in recent years. Many commercial properties may also be under-taxed due to previous taxpayer appeals the reasons for which have since been resolved.

Many owners of such properties that have benefitted from increased values have acknowledged this reality and have agreed in the course of negotiating settlements of various school district initiated appeals that their properties were in fact highly under taxed and have subsequently agreed to pay in the aggregate millions of dollars of additional property taxes.

There are literally hundreds of examples of the appropriate use of taxing authority appeals that have proved to be enormously helpful to struggling homeowners, small business owners and taxpayers in general who otherwise would be forced to unfairly foot the bill.

Question: Do all taxpayers subsidize large under-taxed commercial properties?

Answer: Yes.

All tax payers subsidize significantly under tax commercial properties through unnecessary millage rate increases, painful cuts to the schools and reductions in other essential services such as senior programs, police and fire protection. Taxing body assessment appeals rectify this injustice.

Question: Do taxing authority appeals represent a tax increase?

Answer: No.

Quite the opposite. The use of school district initiated appeals has resulted in reducing taxes on the body of taxpayers as the properties that are significantly under-assessed are appropriately addressed through the tax appeal process in an effort for such properties to pay their fair share of the overall tax burden.

Question: Are taxing body assessment appeals pro-child; pro-senior; pro-police and pro-fire fighter?

Answer: Yes.

The additional revenue generated by correcting egregiously under-taxed commercial properties has resulted in hundreds of millions of dollars in revenue to pay for schools, senior programs, police and fire fighter departments and many other essential services, while helping to reduce unnecessary tax increases on struggling homeowners and people on fixed incomes.



Question: Will property tax increases resulting from appeals of grossly under-taxed apartment complexes be passed on to renters?

Answer: No.

Real estate taxes are not passed on to apartment tenants. Any tax increase resulting from an appeal is absorbed by the property owner and is not passed on to occupants any more than a tax reduction resulting from a taxpayer appeal is shared with tenants as a rent credit.

It is a widely acknowledged principle of the apartment business that apartment owners charge the maximum rent that the market will bear irrespective of expenses. Any suggestion to the contrary is both unfounded and misleading.

Question: Do taxing body appeals correct unfair assessments due to large taxpayers withholding information from assessment offices?

Answer: Yes.

Some large commercial taxpayers have neglected to report significant improvements made to their properties to the county assessment offices in contravention of the General County Assessment Law. The non-reporting of such improvements has resulted in the loss of millions of dollars in tax revenue. Such non-reporting has been discovered and rectified through taxing body initiated assessment appeals.

Question: Do taxing body appeals help to prevent false reporting by taxpayers of financial information in tax appeals?

Answer: Yes.

Taxing bodies have used the assessment appeal process to compel accurate and supportable financial information essential to determining proper tax assessments. Such financial information has too often been found to contradict that which had been previously provided by property owners to assessment boards in support of a taxpayer appeal. Taxing body appeals provide a critical check and balance against such practices.

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