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Tender Payment of Real Property Taxes

Frequently, clients ask whether they have to pay the full amount of the County's real estate tax bill while their valuation [tax] appeal case is pending OR given their reasonable belief that the County Board of Revision will order a reduction in valuation whether they can pay some lesser amount. This pamphlet explains the benefits and risks of what is known as a "tender payment," Ohio Revised Code Section 5715.19 (E), where the property owners opt to pay real property taxes based on the property value claimed in their Complaint Against the Valuation of Real Property.

Eligibility

To be eligible, you must have filed a Complaint Against Valuation, which is still pending before the County Board of Revision or in an appellate forum. We recommend that the property either be mortgage-free or the property owner pays the real estate taxes directly (i.e., not through an escrow account).

Mortgage lenders and their loan servicing companies want real property taxes paid in full and on time; being risk-averse, they are not willing to increase their exposure of ultimately having to make the tax payments themselves. When a property owner winds up making tender payments for more than one (1) year (because of large number of case filings delay the BOR hearing or because a case was appealed), some County Auditors' web sites may reflect that the owner is delinquent on the tax payments — notwithstanding the fact that the owner has made all of the required tender payments based on the values in the Complaint Against Valuation. This could constitute an "event of default" under the terms of the mortgage, with the lender being allowed to demand payment of the entire outstanding indebtedness.

Process

Once eligibility has been established, the first step is to contact the County BOR and explain that you want to tender pay. Using the valuation figures in your Complaint, the BOR will calculate what the real estate taxes would be if that value is ultimately adopted and issue you a tender pay worksheet.

Next, you will need to take the tender pay worksheet to the County Treasurer's office for processing. The County Treasurer's office will hand correct your tax bill based on the information shown on the tender pay worksheet.

Finally, you will need to take the adjusted tax bill to the cashier's window where you will actually remit payment of the lower tax amount. We strongly encourage you to make tender payments in person as this tends to avoid misapplication of payments.

If you are mailing tender payments to the County Treasurer, be sure to return your bill in the envelope provided to you by the County Treasurer. If making the tender payment online, be sure to call

and alert the County Treasurer's office; otherwise, your tender payment could be applied incorrectly. Tender paying through a bank is not suggested.

This process needs to be repeated for each semi-annual tax payment period. In larger counties, tender pay worksheets must be requested from the County Auditor and submitted to the County Treasurer at least one (1) business day before tax bills are due (in Franklin County, the tax payment dates are January 20th and June 20th).

Possible Outcomes

After a final decision has been entered in your tax appeal, there are three (3) possible outcomes:

(1) If the tender payment is GREATER than the taxes due on the final value conclusion, you will receive a refund or credit against future taxes.

Auditor's Value	\$150,000	
BOR	\$100,000	You will receive a refund for the taxes due on the \$25,000 value differential. No interest is paid to the taxpayer on the overpayment.
Tender Pay	\$125,000	

(2) If the tender payment is LOWER than the taxes due on the final value conclusion, you will be responsible for paying the additional tax liability plus interest on the difference in the taxes that you paid and the final tax liability.

Auditor's Value	\$150,000	
BOR	\$100,000	Additional taxes are due on the \$25,000, plus interest charges (but <u>no</u> penalties).
Tender Pay	\$ 75,000	

(3) If, however, the final value is equal to or exceeds the Auditor's original valuation, you will have to pay the base real estate taxes due on the difference between the 2 values plus interest from the time that the additional tax should have been paid plus a penalty.

Auditor's Value	\$100,000	
BOR	\$125,000	Tax will be due on the \$50,000 difference, plus interest from the date the tax was originally due, plus penalties.
Tender Pay	\$ 75,000	

Benefits

Making tender payments based on the value claimed in your Complaint Against Valuation allows for increased cash flow for you and/or your business. When you have confidence in your tax appeal case, taking advantage of this tool can be very advantageous because you can start making lower payments now, instead of waiting for a final resolution in your case.

Please call our firm if you have any questions.

Please note:

This newsletter contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel. For more information, please visit our website at www.bluestonelawgroup.com or contact Charles L. Bluestone at 614-220-5900 or chuck@bluestonelawgroup.com. © 2017 Bluestone Law Group, LLC