Cullen | Dykman

Complex Real Property Tax Issues

Utilities and other owners of mass property face unique legal issues associated with the assessment and taxation of their property. Pipes, wires, and other assets located on public property in New York are considered special franchise property; and, as such, they are subject to assessment at the state level and taxation by local taxing jurisdictions. Mass property located on private property is also assessed and taxed at the local level as specialty property, special franchise property, and other utility mass property is valued differently from most other types of property using the reproduction cost new less depreciation (RCNLD) method. Our attorneys work with appraisers and engineers to produce trial-quality appraisals to support reductions in assessments, significant tax refunds and future savings.

A Proven Record of Success Before the New York State Board of Real Property Tax Services and in New York State Court

Our attorneys have played a major role in the administrative and judicial review of the methodology employed by the New York State Board of Real Property Tax Services in valuing special franchise property. Our attorneys have represented natural gas, electric, and water distribution companies, telecommunications companies, and interstate natural gas and petroleum pipeline companies in administrative proceedings before the State Board of Real Property Tax Services and have challenged special franchise assessments in civil litigation before the New York State Supreme Court, Appellate Division and Court of Appeals. We often call upon nationally-recognized appraisers of utility and “specialty” property with whom we have long-standing relationships to assist with administrative and judicial hearings involving all aspects of real property tax assessments, including technological, economic, and environmental factors affecting value.

Our attorneys have also negotiated major settlements resulting in modification of the State Board of Real Property Tax Services’ valuation methodology and the adoption of original cost modifiers, salvage values, service lives, and physical and functional deprecation factors favorable to our clients. These settlements have produced significant assessment reductions and tax refunds as well as prospective tax savings.

We also regularly advise utilities regarding the legality of their real property tax bills. Our attorneys have commenced and prosecuted declaratory judgment actions and CPLR Article 78 proceedings challenging the imposition of certain levies, the constitutionality of taxing statutes and the methodologies used by municipalities in calculating tax rates and apportioning mass property among various districts. For example, the Firm has successfully challenged the imposition of special ad valorem levies for garbage services upon utility mass property in Nassau County and we have obtained millions of dollars in refunds and future tax savings for several utility clients, and the attorneys in our Property Tax department have litigated complex property tax issues at

every level of the New York State courts.

Resolving Complex Property Tax Issues for Energy and Utility Companies

Our attorneys regularly advise energy and utility companies on complex real property tax issues , including issues involving property tax bills, pending real property tax legislation, the intricacies of the real property tax system in special assessing units, and annual reporting requirements with the New York State Board of Real Property Tax Services. We have also successfully represented energy and utility clients in tax assessment matters involving traditional forms of real estate, including office buildings, service centers, and unimproved land throughout New York City as well as suburban and rural areas throughout New York.