

Nassau County's New "Disputed Assessment Fund" is Likely to Raise Tax Rates

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Commercial property owners in Nassau County take note: tax rates for your properties are likely to increase.

For years, when property owners successfully challenged their real property assessments in Nassau County, the County refunded overpaid taxes by dipping into its general fund. Since these refunds totaled millions of dollars each year, this created significant budgetary pressures on the County. The County has now enacted a new process in an effort to address this, but there may be some unintended consequences.

The County recently enacted section 6-41.0 of the Nassau County Administrative Code, which creates a Disputed Assessment Fund ("DAF") for class four commercial property owners in Nassau County that grieve their property tax assessment for their school and town/county/general taxes. ("Class Four" properties are all commercial properties other than residential co-ops and condos or utility property.) The DAF will place the burden for refunds for class four properties solely among class four properties, and not spread among the other three property tax classes.

Essentially, when a commercial property owner challenges the assessment, the County Assessor will set aside some of the taxes that are paid for potential refunds. The assessor will determine what percentage of a property's assessment will be allocated to its traditional school/town/county/general taxes and how much will be allocated to the DAF. The DAF will initially appear on the 2017 general tax bill in January 2017 as a separate charge. It will only appear on class four properties that grieved their 2016/17 assessment.

For example, if the property assessment is \$10,000 and the property is seeking a 20% reduction, the assessor may determine the property tax liability and the DAF as follows:

- Property tax liability: \$8,000 (80% of the property assessment) multiplied by the applicable tax rate
- DAF: \$2,000 (20% of the property assessment) multiplied by the applicable tax rate

The assessor has discretion in determining which portion of the assessment will go towards the property tax liability and the DAF (e.g., the assessor may determine that 85% should go towards the property tax liability and 15% towards the DAF.) A property owner will not be double-taxed under this new law.

While this new law will reduce Nassau County's burden in refunding property taxes from its general treasury, the local jurisdictions- school, town, county, etc.- still, need to be properly funded to meet their budgets. In order to

account for this reduction in property tax revenue and funding of the DAF, the local jurisdictions will be forced to increase tax rates for all class four properties, regardless of whether an appeal was filed for a specific parcel. We do not know how much of an increase there will be for property tax rates, but we expect rate increases of at least 10% or more.

If the 2016/17 property tax appeal has been resolved by July 22, 2016, the property owner will not be required to pay into the DAF. If the property appeal has been resolved or if the property did not file an appeal, the 2017 general tax bill will not have a separate charge for the DAF.

While many commercial property owners are vigilant in reviewing their property tax assessments, this new law in Nassau County provides an even greater incentive for commercial property owners to appeal their assessment. All class four property owners will likely see an increase in their property tax liability beginning in January 2017 due to an increase in property tax rates. Failure to file an appeal by the appropriate deadlines will leave the property owner with no potential recourse against Nassau County. By filing an appeal, the property owner will have the opportunity to offset some of its tax liability incurred by these likely higher tax rates.

If you have not already done so, please take some time to review the assessments for your commercial properties. The next filing period for tax protests will be in February/March 2017. If you have any questions about this new law or about future filings, please contact a member of our tax certiorari practice: Robert J. Sorge at 516-357-3783 or rsorge@cullenanddykman.com, Karen I. Levin at 516-296-9110 or klevin@cullenanddykman.com, Thomas B. Wassel at 516-357-3868 or twassel@cullenanddykman.com, and Michael Hrankiowskyj at 516-357-3886 or mhrankiowskyj@cullenanddykman.com.

Practices

- Corporate

Industries

- Real Estate

Attorneys

- Michael G. Hrankiowskyj
- Karen I. Levin