

Property tax update: New law permits exemption for property development, a reminder on upcoming tax appeal deadlines

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A new law, Senate Bill 235, authorizes local governments to grant property tax exemption to the increased value of real estate that is being developed. The new exemption is available for “newly developable property” or “redevelopment property,” which are properties on which no commercial, agricultural or industrial activities are currently occurring but on which industrial or commercial development are planned. A local government that approves a property owner’s request for exemption under the new law would freeze the property’s taxable value for up to six years. A new exemption would prevent the local school district and other taxing authorities from receiving additional property tax revenue that would ordinarily result from increases in the property’s value.

Application process

A property owner seeking to achieve exemption under the new law must file an application with the local government where the property is located. If any part of the property is already exempt from taxation under a tax increment financing (TIF) arrangement, the owner must apply with the municipal corporation, township or county that authorized the TIF exemption. Before it grants such an exemption, the local government must notify the school district where the property is located. However, the new law does not require the school district’s approval for the local government to grant the exemption. If the local government approves a property owner’s application, the property owner must also file an application for real property tax exemption with the county auditor.

Exemption applies to the increase in value for up to six years

A local government that approves a property owner’s request for exemption must adopt a resolution or ordinance declaring that:

- The development serves a public purpose; and
- Any increase in the property’s value is exempt beginning with the tax year in which the property owner filed the application or the following tax year.

The exemption would apply to the portion of a property’s value that exceeds the value that the county auditor had assessed the year before exemption was granted. The exemption on this increased value would automatically continue for six years, unless an event occurs causing the exemption to terminate early.

Early termination and recoupment charge

Exemptions granted under the new law will only terminate before the end of the six year exemption period if:

- The owner obtains an occupancy permit for the property;
- The owner sells the property;
- The owner begins conducting commercial, agricultural or industrial activities on the property;

- The property is rezoned in a manner that causes the development to become impermissible; or
- The property is subdivided in a manner that makes the exemption impermissible.

In addition, if the owner (1) sells the property without constructing improvements or (2) conducts commercial, agricultural or industrial activities on the property before obtaining an occupancy permit, the exemption would terminate early *and* the owner would have to pay a penalty. The penalty, which is called the “recoupment charge,” would equal the tax savings the owner enjoyed during the three years before the termination of the exemption. In other words, the recoupment charge would be the difference between the taxes the owner would have owed in the absence of an exemption and the lower amount of taxes the owner was able to pay for the three years before the exemption ended.

Opportunity for school districts to influence local governments’ decisions

The new law gives local governments the discretion to grant or deny a property owner’s request for a development exemption. In other words, local governments are authorized, but are by no means required, to approve requests for exemption. And requiring local governments to notify school districts of their intended action provides an informal mechanism for schools to influence whether local governments choose to grant these requests. School districts may choose to waive opposition to the new exemptions. Alternatively, school districts may attempt to negotiate compensation agreements to help offset some or all of the revenue loss resulting from the new exemptions.

Other opportunities to increase and preserve property tax base

Ohio law continues to permit school districts to participate in administrative appeals regarding the valuation of real estate. School districts derive substantial revenue from property taxes, while property owners often seek to reduce their tax burdens by seeking reductions in the county auditor’s valuation of their property. These adverse interests result in a significant number of complaints each year, which can substantially affect tax payments and school revenue.

Filing complaints and counter-complaints

The annual deadline to initiate property tax valuation complaints falls on **March 31**. These complaints relate to a property’s value for the preceding tax year. For example, March 31, 2017, is the deadline for property owners and school districts to initiate complaints for tax year 2016. Complaints must be filed with the county auditor.

If a property owner files a complaint requesting a reduction in value that meets a certain threshold, then the county auditor must notify the school district in which the property is located of the complaint. The school district can then make itself a party to the case by filing a “counter-complaint” so that it may monitor or oppose the reduction in value the property owner seeks.

Importantly, school districts must file their counter-complaints within 30 days of receiving notice that a complaint has been filed. Counter-complaints filed more than 30 days after the county auditor has provided this notice are too late and fail to make the school district a party to the case or any subsequent appeal.

Some school districts also choose to track recent sales of properties in their districts and initiate complaints to increase the value of properties that have recently sold for more than the value set by the county auditor. Other districts participate in tax appeals only when property owners initiate complaints seeking to reduce the value set by the county auditor. In either situation, participating in the Board of Revision (BOR) process can increase revenue for school districts and, in light of Senate Bill 235, could also decrease revenue loss resulting from development exemptions granted by local governments.

Because property tax valuation disputes can be complex, many school districts find it beneficial to receive guidance from legal counsel about the BOR process.

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