

HOW TO APPROACH PANDEMIC RELIEF FOR OHIO REAL PROPERTY TAXES

FEBRUARY 2021

The COVID-19 pandemic has not only disrupted families, the healthcare system, and the economy, but it also has wreaked havoc on commercial, office, hospitality, and retail real estate values. Common sense would dictate that just as relief has been made readily available for the economy, it also should be made readily available to address 2020 real property tax liabilities. Unfortunately, common sense and reality do not always align. This year more than any other year, when and how you approach reducing your real property tax valuation may have a drastic impact on any reduction to which you may be entitled.

Understanding the tools at your disposal and the timing of using such tools may determine if you should challenge the 2020 tax value attributed to your real estate this year or wait until next year. This decision must be made by **March 31, 2021**, which is the due date to file a complaint challenging your real estate value. Careful analysis is needed to assess the appropriateness of filing a complaint this year in order to attempt to reduce your real estate tax liability due to the COVID-19 pandemic.

To assess the appropriateness of filing a complaint, a general understanding of the process is needed. In Ohio, each county auditor is charged with adjusting the assessed value of each parcel in that county every three years. There are two different adjustments that occur depending on whether it is a “Reappraisal Year” or an “Update Year.” Reappraisal Years occur every six years, at which point each parcel is physically reviewed and evaluated based on market conditions. Update Years occur three years after each Reappraisal Year and involve revaluing real estate without physical inspection. This is often done using computer-assisted modeling of value changes within neighborhoods and types of real estate within the county. Property taxes are always one year behind (*in arrears*); consequently, the tax bills you receive in 2021 will reflect the value of your property on January 1, 2020. Even if you have already paid your tax bill, you can still file a tax complaint to challenge the 2020 value.

Ohio counties are on differing Reappraisal Year and Update Year schedules. Tax year 2020 can be challenged this year by filing a complaint with your local county board of revision by March 31, 2021. Tax year 2020 – challenged this year by March 31, 2021 – is a Reappraisal Year for the following counties:

- Ashland
- Ashtabula
- Athens
- Butler
- Clermont
- Fulton
- Greene
- Knox
- Madison
- Montgomery
- Noble
- Summit
- Wayne

Tax year 2020 is an Update Year for the following counties:

- Auglaize
- Clinton
- Darke
- Defiance
- Delaware
- Franklin
- Gallia
- Geauga
- Hamilton
- Hardin
- Harrison
- Henry
- Jackson
- Licking
- Mahoning
- Mercer
- Morrow
- Perry
- Pickaway
- Pike
- Preble
- Putnam
- Richland
- Seneca
- Shelby
- Trumbull
- Van Wert
- Wood

If your county is not listed above, then your property will be reappraised or updated next year or the year after. It is important to take into careful consideration whether it makes sense to file a valuation this year or wait until next year because, generally, you are able to file a real property tax valuation complaint only once every three-year period commencing with either a Reappraisal Year or an Update Year (each three-year period is referred to as a “Triennium”), subject to certain exceptions. Consequently, if you are going to file for a reduction due to impacts from COVID-19, you need to assess whether it is to your strategic advantage to pursue a case for a COVID-19-related reduction for tax year 2020 this year or wait until next year since the Tax Lien Date considered next year will be the value of the property on January 1, 2021 – in the midst of the pandemic – as opposed to January 1, 2020 – when the pandemic was in its infancy.

This analysis is necessary because under current Ohio law, the relevant date for determining property values for tax purposes is January 1 of any given year (“Tax Lien Date”). So, if you are seeking to challenge the value this year for tax year 2020, the relevant Tax Lien Date the local board of revision will be looking at would be January 1, 2020. Note that January 1, 2020 is before cases concerning infections from the pandemic were reported in the United States; therefore, there is a risk that an argument for a reduction based on a COVID-19-related impact for tax year 2020 will be rejected because COVID-19 did not impact Ohio property values in January 2020. In such a situation, depending on where your county falls in the Triennium, it may make sense to wait until next year to challenge the 2021 Tax Lien Date because, as of January 1, 2021, COVID-19 was clearly impacting properties in Ohio. It is important to avoid raising a COVID-19-related impact for tax year 2020 because if it is rejected, your ability to raise it again will be barred for the next few years depending on where your county falls in the Triennium.

In December 2020, Amended House Bill 38 was passed in the Ohio Senate. The proposed legislation would have clarified that COVID-19-related impacts, which occurred after January 1, 2020, must be taken into consideration by local boards of revision, and that property owners may file more than one valuation complaint in a Triennium if related to impacts from COVID-19. Unfortunately for property owners, however, 2020 ended before the Ohio Senate’s changes to House Bill 38 could be reconciled with the Ohio House of Representatives, so the legislation did not become effective.

Even if legislation is not enacted to permit COVID-19 to be considered for the January 1, 2020 value, case law in Ohio may support a good faith argument that COVID-19 can be considered. The issue becomes whether the impact of the pandemic was foreseeable on January 1, 2020. Interestingly, the first reports of the virus in Wuhan, China were reported on December 31, 2019, but the extent of the virus was unknown at that time. Evidence may exist that would support a claim that the impact was foreseeable. The key will be to establish a record to support such claim.

Even if you own property in a county where tax year 2020 is not a Reappraisal Year or Update Year, it may make sense to challenge your property valuation, particularly if you have had a recent sale, appraisal, or COVID-19-related impact with respect to your property, such as loss of tenancy or reduction in rent. For example, if your property is located in a county where 2021 will be a Reappraisal Year or Update Year, you may have nothing to lose in challenging your 2020 tax valuation because it is the last year in the Triennium and you will not be barred from seeking relief next year for tax year 2021. 2021 is a Reappraisal Year for the following counties:

- Allen
- Sandusky
- Coshocton
- Vinton
- Guernsey

Tax year 2021 is an Update Year for the following counties:

- Belmont
- Lorain
- Brown
- Lucas
- Crawford
- Morgan
- Cuyahoga
- Muskingum
- Erie
- Ottawa
- Fayette
- Portage
- Highland
- Stark
- Huron
- Warren
- Jefferson
- Williams
- Lake

If your property is located in any of the counties listed above and you believe your property's value in 2020 has been negatively impacted by COVID-19 or there is other evidence to support a lower value, then the risk associated with challenging such 2020 value is much less because you can challenge again in 2022 for tax year 2021; however, you may not want to challenge if it is clear that your property is undervalued, was subject to a recent arm's-length sale at a sales price more than the tax valuation, was recently refinanced at an appraised value more than the tax valuation, or was recently substantially upgraded or improved.

Given the foregoing complexities, we recommend that you consult with an attorney experienced in real property valuation matters to assist you in developing strategies to reduce your real property tax liabilities for 2020 and beyond. But remember, any decisions must be made by **March 31, 2021**.

ADDITIONAL INFORMATION

For more information, please contact:

- [Anthony R. Vacanti](mailto:tony.vacanti@tuckerellis.com) | 216.696.2093 | tony.vacanti@tuckerellis.com
- [John P. Slagter](mailto:john.slagter@tuckerellis.com) | 216.696.5863 | john.slagter@tuckerellis.com

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