

# SCHOENBERG, FISHER, NEWMAN & ROSENBERG, LTD.

Editor's Corner by Herbert B. Rosenberg  
October 2001

## REAL ESTATE TAX NEWSLETTER

### Payment of 2000 Taxes

We have concluded a successful property tax season. The 2000 Cook County triennial was a reassessment in the City of Chicago. Our firm successfully represented taxpayers who owned various types of real estate from family residences to large industrial and commercial buildings. Our property tax team diligently pursued all remedies on behalf of our clients to achieve a bottom line tax result.

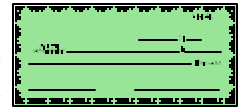
The second installment of the 2000 tax bill has been mailed to our Cook County clients. The tax bill is due on November 1, 2001. It is no longer necessary to pay your taxes under protest to appeal your tax rate. However, we must receive a **complete** copy of your tax bill for you to be a part of the lawsuit which objects to the tax rates within your taxing district.

If you desire, we will pay your tax bill to the Cook County Collector. The only requirement is that we receive a **complete** copy of your 2000 second installment tax bill. In summary, please do the following prior to **NOVEMBER 1, 2001** if you desire our firm to pay your 2000 second installment tax bill:

### CONTENTS

Payment of 2000 Taxes .....	1
Appeal of 2000 Tax Rate .....	2
Taxpayer Remedies .....	2
Purchase Price of Real Estate or Construction Costs are Greater than Assessor's Value. Should you Appeal? .....	2
A Change in the Facts in a Non-Triennial Year May Affect a Tax Bill .....	3
Steps in a Property Tax Appeal .....	4

1. Prepare a separate check for each tax bill payable to the Cook County Collector for the exact amount of the Second Installment Tax Bill;
2. Place the permanent real estate tax number on each check;
3. Mail the check and the complete tax bill to our office at the following address:



**Schoenberg, Fisher, Newman & Rosenberg, Ltd.**  
222 South Riverside Plaza  
Suite 2100  
Chicago, IL 60606  
312-648-2300

Attn.: Mr. Thomas Dorsey  
Property Tax Department

TAX BILLS AND CHECKS SENT TO OUR OFFICE WILL BE PRESENTED TO THE COOK COUNTY COLLECTOR FOR PAYMENT ON THE DUE DATE, **NOVEMBER 1, 2001**. THEREFORE, PLEASE SEND YOUR TAX BILLS AND CHECKS TO OUR OFFICE AS SOON AS POSSIBLE TO ALLOW US TIME TO PREPARE THE PROPER ADMINISTRATIVE FORMS.

### A SPECIAL THANKS FROM SFN&R TAX TEAM

HERBERT B. ROSENBERG  
HENRY A. HAUSER  
MONA COLON  
THOMAS DORSEY

WE THANK YOU FOR YOUR COOPERATION  
AND WE LOOK FORWARD TO SERVING  
YOU IN THE FUTURE.

**Appeal of 2000 Tax Rate**

We can file a complaint to appeal your tax rate in the event you have already paid or you pay the tax bill prior to November 1, 2001 to the Cook County Collector, provided you mail to our office at the address set forth on page 1, a copy of your entire tax bill.

We can also file a complaint to appeal your tax rate if you pay your tax bill through a tax escrow account. Please send to our office at the address on page 1, a copy of the entire tax bill, the name of the financial institution at which your tax escrow account is located, and the escrow account number, if any.

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**Taxpayer Remedies**

The new Cook County appeal remedies for a taxpayer before the Property Tax Appeal Board and the Circuit Court of Cook County offer additional remedies for many of our clients.

As we have discussed in previous newsletters, the administrative remedy before the Property Tax Appeal Board has resulted in additional tax savings for many of our clients. However, you should be aware that many taxing districts have retained legal counsel to file intervention petitions in these proceedings either to object to the proposed request for a tax reduction or to file an underassessment complaint (i.e., to propose an increase in the taxes). An appeal before the Property Tax Appeal Board must be prepared in a very careful manner, including but not limited to securing a competent, credible expert appraiser where the case involves a factual issue of valuation.



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**Purchase Price of Real Estate and Construction Costs are Greater than Assessor's Value - SHOULD YOU APPEAL?**



Many real estate assets have been purchased and sold within the past three years. Many taxpayers assume that if the purchase price exceeds the Assessor's value that a property tax appeal should not be filed, even if the Assessor's value represents a significant increase over the previous triennial assessment. There are many components to a purchase price. Some of the components of the purchase price may not be subject to real estate taxation. Only real estate is subject to real estate taxation. All of the other components that make up the purchase price of real estate assets are not subject to real estate taxation. The components not subject to real estate taxation include the following:

1. Personal property;
2. A premium paid for business value for a hotel, motel, theatre, restaurant, or other form of entertainment facility;
3. A premium paid for location so that a taxpayer is in close proximity to another location;
4. A premium paid for location so that a taxpayer is in close proximity to its customers;
5. A financing cost as in a sale and leaseback;
6. A premium paid for a special use facility; or
7. A premium paid for future investment value such as the purchase of an apartment building which the purchaser may intend to convert to a condominium.



The same principle applies for new construction. In many cases, the construction cost of a new facility exceeds the value for the facility as determined by the Assessor. Many

taxpayers assume that where the Assessor's value is less than the construction cost that no tax appeal should be filed. However, there are many components that may be a part of the construction cost and the acquisition of the site area that are not related to real estate, such as financing costs and premiums paid for the acquisition of the site area for various business reasons. In addition, many special purpose facilities such as theatres, bank facilities and other special purpose facilities have a substantial amount of depreciation upon completion of the project. If the projected stabilized income required by a willing buyer based upon the construction cost is less than the actual income which a willing buyer will receive, then the shortfall or deficiency capitalized by a reasonable capitalization rate is referred to as external depreciation. We have successfully advocated this proposition in various types of hotels, motels, theatres, banks, and other forms of facilities.

These types of cases must be carefully prepared, usually with the assistance of capable appraisers as expert witnesses. It is a delicate balancing act to determine if these are non-real estate components to the real estate purchase price or construction costs. A mistake in judgment could either result in the unnecessary overpayment of the real estate tax bill if a tax appeal is not filed which should have been filed or an undervaluation complaint being filed against the property if an appeal is filed which should not have been filed.

**EDITOR'S COMMENTS**

When you purchase or construct a new facility, allow our Property Tax Team to make a property tax analysis on whether to file a Property Tax Appeal.



You should also be aware that property tax planning is just as important as any other form of business or personal financial planning. The attorney who represents you in the acquisition or construction of a new facility must understand the ramifications that the purchase price or construction cost can have on the property tax bill that will be issued by the County Treasurer upon the closing or upon the issuance of a certificate of occupancy. The attorney should carefully consider the division of the purchase price or construction costs between real estate and non-real estate components.

**EDITOR'S COMMENT**

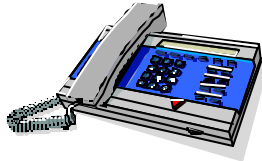
Our Property Tax Team can either assist you or your attorney in property tax planning related to the purchase of real estate or the construction of a building.



**A Change in the Facts in a Non-Triennial Year May Affect a Tax Bill**

The majority of tax reductions which we secure for our clients are in the year that the township is reassessed by the Assessor. Most of the

reductions should be for three years, except for one year vacancy reductions and other unusual circumstances that cause either the Assessor or the Board of Review to mark the reduction "one year only". In some cases, the Assessor, in a non-triennial year, will increase, for no apparent reason, the assessment on a property. Each year we inspect for our clients the Assessor's records in townships not reassessed to confirm that the assessment has not increased. If a client's assessment increases, we notify the client so that we can be authorized to prepare the appropriate appeal. However, we do not have the capability of knowing about a factual change that would entitle a client to a reduction or a further reduction in a property tax bill. Therefore, we depend upon your telephone call, letter, e-mail or facsimile to inform our Property Tax Team if one or more of the following factual changes occur with respect to a property:



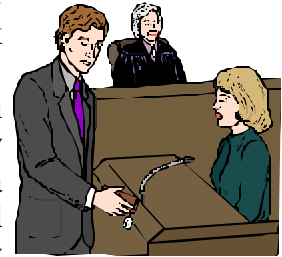
- < physical vacancy of the property;
- < a casualty loss such as a fire or flood;
- < economic vacancy of the property if a tenant does not pay all or part of its rent or the rents on a property are reduced for economic reasons;
- < excess vacant land if a portion of the property has been set aside for future development;
- < unusual soil conditions if a portion of the property is not buildable;
- < environmental contamination which requires that a portion of the property be remediated;
- < condemnation; or
- < improvement of the property such as an addition to the property or converting industrial space into office space.

These and any other unusual property conditions must be communicated to our office as soon as possible so that we can achieve for you the lowest real estate tax bill in each year of the assessment period.

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### Steps in a Property Tax Appeal

Many clients and practitioners assume that a property tax case begins and ends at the Assessor or the Board of Review. A taxpayer also has the right to request a tax reduction at the Property Tax Appeal Board or the Circuit Court of Cook County. A client who desires representation should be aware that only an attorney can represent a taxpayer before the Board of Review, the Property Tax Appeal Board, and in the Circuit Court of Cook County. This restriction does not apply before the Assessor. However, where a client places primary reliance on a non-attorney such as a tax consultant or public accounting firm to secure a tax reduction (i.e., your contractual agreement is with the non-attorney) you should have direct communication with the attorney who will represent you at the Board of Review and the Property Tax Appeal Board. The majority of property tax cases involve factual issues rather than pure legal issues. It is our judgment that the person who is the attorney for a client at the Board of Review and the Property Tax Appeal Board must have direct communications with you in order to have the best possibility of achieving the lowest possible tax result. However, we believe that accountants and some tax consultants can make a substantial contribution to the success of a property tax case provided each member of the Property Tax Team understands its role in the process and the client understands the role to be played by every



property tax team member at the beginning of the process when the fee agreement is executed rather than at the end of the process upon the issuance of the tax bill.

**EDITOR'S COMMENT**

KNOW ALL THE MEMBERS OF YOUR PROPERTY TAX TEAM WHEN YOU SIGN THE FEE AGREEMENT



The steps for a property tax appeal and the eligible representatives at each level of the appeal process are set forth below.

**ASSESSOR**  
an attorney or non-attorney



**BOARD OF REVIEW**  
only an attorney



**ALTERNATIVE REMEDIES**



<b>PROPERTY TAX APPEAL BOARD</b> only an attorney	<b>SPECIFIC OBJECTION LAWSUIT IN THE CIRCUIT COURT</b> only an attorney
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**CIRCUIT COURT**  
only an attorney



**STATE APPELLATE COURT**  
only an attorney



**STATE SUPREME COURT**  
only an attorney

An effective utilization of these remedies by our Property Tax Team will result in a bottom line tax result for a bottom line professional fee.



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