

State and Local Tax Bulletin

May 24, 2010
Tennessee Edition



BRADLEY ARANT
BOULT CUMMINGS
LLP

Property Tax Relief for Flood Victims

By Joseph W. Gibbs, Patricia Head Moskal and Brian S. Shelton

Upcoming Seminars Involving Members Of Our SALT Practice Group

May 25, 2010

COST's Southeast Regional Update will be held in Birmingham, Alabama at Energen Corp. headquarters from 8:00 a.m. to 1:30 p.m. This seminar will present updates on significant state tax issues for the Southeast States: Alabama, Arkansas, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee. For more information, please visit the COST website: www.cost.org.

May 26, 2010

Lorman Education Services. Joe Gibbs will be one of the speakers at the annual Tennessee "Sales and Use Tax" seminar to be held in Nashville, Tennessee. For more information, please visit the Lorman website at www.lorman.com/seminars.

June 6 – 11, 2010

The Institute for Professionals in Taxation ("IPT") will be presenting its annual Basic State Income Tax School at Indiana University - Purdue University at Indianapolis, Indiana. Chris Grissom will be co-teaching with Linda A. Klang of Lehman Brothers Holdings on the topic of "State Taxation of Pass-Through and Disregarded Entities." This school is open to members of IPT. Information on this school and IPT can be found on its website: www.ipt.org.

REAL PROPERTY

If any buildings or improvements on your property were demolished or substantially damaged by the recent floods and are not restored or other improvements built in their place before September 1, the local assessor of property is required to make an adjustment to your property tax assessment. Tenn. Code Ann. § 67-5-603(a). The adjustment will be based on the value of the property after the destruction or damage to the improvements even though there was no damage to the property as of January 1; however, the adjustment in the assessment is prorated for the portion of the year prior to the date of destruction or damage. "Substantial damage" as used in this tax relief provision means that the improvement has been rendered unfit for use or occupancy or when such damage has reduced the value of the improvement by more than fifty percent (50%). Tenn. Code Ann. § 67-5-603(a)(3).

COMMERCIAL AND INDUSTRIAL PERSONAL PROPERTY

If any of your commercial and industrial tangible personal property was destroyed, demolished or substantially damaged by the recent floods, or by fire, wind or any disaster certified by the federal emergency management agency (FEMA) after January 1 and before September 1, and is not restored and no other commercial and industrial property is operated in its place before September 1, the local assessor is required to prorate the commercial and industrial personal property assessment for the portion of the year prior to the date of destruction, demolition or substantial damage. Tenn. Code Ann. § 67-5-606.

CONTACT YOUR LOCAL PROPERTY ASSESSOR'S OFFICE

You should check with the office of the local assessor of property to ask about any special procedures for reviewing tax assessments of flood damaged property. For example, the Davidson County Assessor of Property is advising property owners that on June 1 it will begin accepting requests by property owners for prorated adjustment of assessments for properties "substantially damaged" or rendered unfit for use or occupancy for 30 days or more. The Davidson County Assessor's Office also advises that the Metropolitan Board of Equalization will not hear cases involving prorated assessments of flood damaged properties. Instead, flood damage cases will be reviewed by staff with the Davidson County Assessor's Office, and any appeals from the prorated assessments will be sent directly to the State Board of Equalization. For more information in Davidson County, check the website of the Davidson County Assessor's Office at <http://www.pacdn.com/index.html>.

Now is the Time to Appeal Tennessee Property Tax Assessments

By Joseph W. Gibbs, Patricia Head Moskal and Brian S. Shelton

For appeals other than for flood damaged property, now is the time to request an appointment to appeal real or personal property assessments if you disagree with your local property assessor's appraised value or classification of your property.

DEADLINE TO APPEAL

County boards of equalization usually begin hearing regular property tax appeals on June 1. They have the authority to increase, decrease or leave unchanged the appraised value of the property or change the classification of the property. You must make an appointment to appear before the county board by contacting your local property assessor's office. The deadline for review varies by county. If you fail to appear before the county board, the property tax assessment is deemed conclusive and you lose any further rights of appeal, except in very limited circumstances. Tenn. Code Ann. § 67-5-1401. *Contact the local assessor's office to request an appointment to appeal your property tax assessment by June 1.*

STEPS TO APPEAL

There are multiple levels of appeals that taxpayers must follow in order to preserve their rights, and the appeal path can become a trap for the unwary if deadlines are missed.

1. Informal Review – The first level of review, which is informal but should not be overlooked, is to talk with the local property assessor's office. This is an easy and inexpensive means to review your assessment and determine if there has been a mistake or if the property assessor is willing to make an adjustment based on information you can provide about the use or value of the property. To request an informal review, call your local property assessor's office.

2. County Boards of Equalization – If you are not satisfied with the informal review or if you decide to skip that step, ***you must request review by the county board of equalization to preserve your appeal rights.*** Tenn. Code Ann. § 67-5-1401. County boards typically begin their sessions each year on June 1 and you should contact your local property assessor's office to request an appointment. You must appear "in person" before the county board prior to its final adjournment. You may

appear before the county board on your own behalf or you may be represented by a qualified property tax representative or an attorney. *Again, if you fail to appear, the assessment will be deemed conclusive against you.* Tenn. Code Ann. § 67-5-1401.

3. State Board of Equalization – If you are not satisfied with the decision by the county board of equalization, your next step in the appeal process is to the State Board of Equalization. Tenn. Code Ann. § 67-5-1412. There are several levels of appeal within the State Board and the process becomes more formal. Appeals to the State Board must be submitted in writing, sworn to, and filed with the Executive Secretary of the State Board. The State Board has forms available for your use or you may also file your appeal online at www.tn.gov/comptroller/sb/. There is a filing fee required for all appeals and the amounts are noted on the State Board's website.

Taxpayers have *until August 1 or 45 days after the date the notice of the decision of the county board of equalization was sent* to file a further appeal with the State Board, whichever date is later. Tenn. Code Ann. § 67-5-1412(e).

OTHER POINTS TO REMEMBER

You should also make note of the following important points:

1. Appeals for Successive Tax Years – Unless there is a change in your property assessment from last year, *you will not receive a separate notice of assessment each year.* Nevertheless, if you have appealed an earlier year, your appeal is limited to that tax year and does not preserve your appeal rights for the successive years in which the assessment remains unchanged. ***You must appeal the assessment for each tax year even if the assessment remains the same and you do not receive a new notice.***

2. Payment of Undisputed Taxes – While on appeal, a taxpayer still must pay the undisputed portion of the property tax assessment in order to pursue the appeal and avoid the assessment of penalties after the taxes become delinquent on March 1. The unpaid portion will accrue interest if you are ultimately required to pay the assessment.

3. Mark Your Calendars – Remember that even if you do not receive any of the notices that are required to be sent to you, you are not relieved, usually, of your obligation to meet all filing deadlines. If a deadline is approaching and you have not received a notice, call the local assessor or State Board office. Do not let any of the deadlines pass.

IMPORTANT DEADLINES FOR TENNESSEE PROPERTY TAX APPEALS	
January 1	Assessments of all real property and personal property are made annually as of January 1
May 20	Deadline for property assessor to make assessment
June 1	County Boards of Equalization begin their annual sessions. Taxpayers should call to schedule an appointment to appeal by June 1
August 1	Deadline to file appeal to State Board of Equalization, or 45 days after notice of the action of the County Board is sent, whichever is later
October 1	Date on which property tax payments first become due (not delinquent until March 1 of the following year)
February 28	Last date to pay prior year's property taxes before they become delinquent and subject to penalty and interest *
March 1	Unpaid taxes for prior year become delinquent *

*City taxes may differ from county taxes.

For more information, please contact Joe Gibbs, Pat Moskal or Brian Shelton.

Joseph W. Gibbs
(615) 252-2317
jgibbs@babac.com

Patricia Head Moskal
(615) 252-2369
pmoskal@babac.com

Brian S. Shelton
(615) 252-2313
bshelton@babac.com

Bradley Arant Boulton Cummings LLP Office Locations:

ALABAMA

One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203
(205) 521-8000

200 Clinton Avenue West, Suite 900
Huntsville, AL 35801
(256) 517-5100

The Alabama Center for Commerce
401 Adams Avenue, Suite 780
Montgomery, AL 36104
(334) 956-7700

MISSISSIPPI

188 E. Capitol Street, Suite 400
Jackson, MS 39201
(601) 948-8000

NORTH CAROLINA

100 North Tryon Street, Suite 2690
Charlotte, NC 28202
(704) 332-8842

TENNESSEE

1600 Division Street, Suite 700
Nashville, TN 37203
(615) 244-2582

WASHINGTON, DC

1133 Connecticut Avenue NW, 12th Floor
Washington, DC 20036
(202) 393-7150

SALT Practice Group:

Bruce P. Ely, Chair
(205) 521-8366
bely@babac.com

Joseph W. Gibbs
(615) 252-2317
jgibbs@babac.com

W. Stanley Gregory
(334) 956-7604
sgregory@babac.com

Christopher R. Grissom
(205) 521-8514
cgrissom@babac.com

K. Wood Herren
(205) 521-8505
wherren@babac.com

James E. Long, Jr.
(205) 521-8626
jelong@babac.com

Patricia Head Moskal
(615) 252-2369
pmoskal@babac.com

Brian S. Shelton
(615) 252-2313
bshelton@babac.com

William T. Thistle, II
(205) 521-8985
wthistle@babac.com

Robert D. Thorington
(334) 956-7609
rthorington@babac.com

Robert C. Walthall
(205) 521-8308
rwalthall@babac.com

This newsletter is sent to our friends as a courtesy of Bradley Arant Boulton Cummings LLP. If you would prefer not to receive future emailings of this type, please email our practice group assistant, Sherry Barber, at sbarber@babac.com.

This newsletter is a periodic publication of Bradley Arant Boulton Cummings LLP and should not be construed as legal advice or legal opinions on any specific facts or circumstances. The contents are intended for general information only, and you are urged to consult your own lawyer or other tax advisor concerning your own situation and any specific legal questions you may have. For further information about these contents, please contact your lawyer or any of the lawyers in our practice group.

The Alabama State Bar requires the following disclosure: "No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."

©2010 Bradley Arant Boulton Cummings LLP

www.babac.com