

Publications

Ohio General Assembly Passes Significant Real Property Tax Reforms

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CLIENT ALERT | 4.8.2022

Update 4/21/2022: Governor DeWine signed Am. Sub. H.B. 126 into law on Thursday, April 21, 2022.

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Perhaps the most significant change in decades to Ohio real property tax valuation contests has just been adopted by the Ohio General Assembly, with the governor's signature expected in the coming weeks.

Am. Sub. H.B. 126 was adopted by both houses of the Ohio General Assembly on April 6, 2022, after much input from property owners, county auditors and local subdivisions, including boards of education. The bill, once signed and enrolled, will make sweeping changes in Ohio real property tax law that hopefully will end practices that have kept property owners tied up in litigation for multiple tax years.

Below is the summary of significant aspects of the bill. It is likely that these changes will impact each property owner, buyer, seller, or tenant differently. Please contact your Vorys real property tax attorney to discuss your specific situation.

The bill limits the filing of property tax complaints by boards of education and other subdivisions to instances where: 1) "the property was sold" in a recent arm's length transaction in a year^[1] before the tax year for which the complaint is filed, 2) the sale price is at least 10% and \$500,000 more than the auditor's value, and 3) the subdivision first adopts a resolution authorizing the complaint. The \$500,000 threshold also is indexed to increase each year with inflation. **This ends the practice of retroactive tax increases attributable to years in which a sale occurs.**

- For example, a property listed in by a county auditor at \$60 Million sells for \$64 Million. The subdivision could not file an increase complaint on the sale. Although the sale price is \$500,000 above the current value, the sale price is not at least 10% more than the current tax value (e., at or above \$6 Million).

The bill also requires subdivisions to authorize the filing of the complaint beforehand. Notice must be sent to the property owner at least seven days before adopting the resolution. What role the owner may play in contesting the authorization resolution prior to the filing of a complaint is still unclear. Your Vorys real property tax lawyer will be able to consider specific notice situations.

Am. Sub. H.B. 126 ends private pay settlement agreements between a property owner and a board of education after the effective date of the bill. Under a private pay settlement agreement the owner makes a settlement payment to the board to dismiss, not file, or settle a complaint by agreeing to new value for the property that is not reflected on the tax list. This effective date for the private pay prohibition may create a brief window of opportunity for settlement based on private payment agreements. These opportunities may vary by circumstance, so contact your Vorys real property attorney for additional insight.

A prohibition on a subdivision's standing to appeal a board of revision (BOR) decision to the Board of Tax Appeals (BTA). Their one chance is at the BOR. The bill is silent on whether a subdivision could enter an appearance as an appellee in a BTA appeal from a BOR decision.

Other changes adopted in Am. Sub. H.B. 126 include:

- Removal of the requirement that school districts receive notice of a complaint.
- Modification of the timeline in which school districts can file a counter-complaint to 30 days after the initial complaint is filed. Currently, a school district may file a counter-complaint within 30 days after receiving notice of the owner's complaint.
- A requirement that a county BOR dismiss a complaint filed by a subdivision within one year after the complaint was filed if the BOR does not render a decision by then.

Am. Sub. H.B. 126 specifies that its changes apply to complaints or counter-complaints filed for tax year 2022 and thereafter, except that the bill's provisions regarding private payment agreements apply to such agreements entered into on or after the bill's effective date. The governor's position on the bill is reported to be favorable. Vorys will continue to monitor the process to alert you on an effective date for the reforms.

Please contact your Vorys real property tax lawyer to discuss this or any other real property tax issue.

^[1] The legislative announcements and floor comments on the bill indicated that the filing was limited to sales in the year before the tax lien date. We do not see this limitation. At this time we expect that this may need to be addressed in clarifying legislation.