

## Publications

### Recent Significant Legislative Changes Impacting Real Property Taxation

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This summer the Ohio legislature passed significant changes to real property taxation that will impact all property owners. These changes include clarifying how a property is to be valued for real property tax purposes, changing how a recent sale should impact the value of property for taxation purposes, as well as other changes that will impact the filing of complaints at local Boards of Revision.

#### House Bill 487

On June 11, 2012, Governor Kasich signed legislation that amended R.C. 5713.03. The changes to R.C. 5713.03 included changing the language on how the county auditor is to value real property. Prior to this legislation, 5713.03 provided that each county auditor “was to determine \*\*\*the true value” of each parcel. The changes now specify that the auditor is to value the true value of “the fee simple estate, as if unencumbered.” This change appears to be a clarification of the law.

Additional changes to R.C. 5713.03 include changing “shall” to “may” when considering a sale of real property. This change appears to address concerns with the Supreme Court’s decision in *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* (2005), 106 Ohio St.3d 269, in which the Court concluded that a sale price is to be utilized pursuant to R.C. 5713.03. The change from “shall” to “may” is significant because it no longer required that a sale be automatically adopted as the value of the real property. When harmonized with the fee simple language added to the statute, the new law would appear to state that the standard for accepting a sale as evidence of value is that the sale price must reflect the value of the fee simple interest. For additional information please see the Vorys’ [Client Alert](#) released in June.

Several questions still remain about the timing of the changes to the law due to the uncodified section language found in section 757.51 which provides that “[t]he amendment by this act of section 5713.03 of the Revised Code applies to the first tax year, after tax year 2012, to

which division (A) or (B) of section 5715.24 of the Revised Code applies in the county.” Therefore, it appears that as the counties complete reappraisal or update starting in tax year 2013 would not apply until tax year 2013 in some counties, however, it implies that the changes will not be effective in Cuyahoga County until tax year 2015.

So far, the Ohio Board of Tax Appeals has declined to entertain claims based upon the new legislation. See *Bd. of Edn. of the Mt. Vernon City Schools v. Knox Cty. Bd. of Revision* (July 3, 2012), BTA No. 2009-K-2698, fn. 4, unreported. In this decision the BTA cites to the uncodified language and also states that it does not find the reference to HB 487 compelling nor does it find that the fact that the property may have had a lease in place renders the sale unreliable.

There is discussion that the legislature may take the issue of uncodified language issue up this fall to address the uniformity concerns discussed above. Future editions of this newsletter will provide updates as legislative changes and decisions come out concerning the application of this new law. In the meantime, please contact Vorys if you have any questions regarding how this new law will impact property owners.

## House Bill 509

On June 26, 2012, Governor Kasich signed legislation that further amended real property tax law. Originally, this legislation was part of HB 487, however, prior to passage it was split out of HB 487. In summary the significant changes appear to be:

- Amending R.C. 5713.13 requiring that a decrease complainant sign the complaint.
- Amending 5715.19(A)(1) to allow a complainant to utilize a U.S. postmark placed upon the envelope or receipt to be treated as the date of filing (a complainant can utilize both regular mail or certified mail, however a private meter postmark on an envelope is not value for purposes of establishing the filing date).
- Amending 5715.19(A)(4) to allow a “second” complaint within the same triennial period, provided that the complaint is withdrawn prior to the complaint being heard by the County Board of Revision.

The legislation also defines residential property for the purpose of the existing limitation on tax exemption for such property under the tax increment financing (TIF) statute.