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Local Finance Notice

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Municipal Tax Collectors

Guidance on Preparing for Tax Appeals and Paying for their Impact; Including a Discussion of the Newly Enacted P.L. 2011, c. 224

This Local Finance Notice discusses the various options, including the new option available under the recently enacted [P.L. 2011, c.224](#), available to municipalities to address the impact of settled or adjudicated tax appeals.

In recent years, the troubled real estate market has resulted in a substantial increase in the number of tax appeal filings. This situation is most prevalent in municipalities who completed their revaluations near the peak of the real estate market, and where taxpayers believe their property assessments do not reflect the subsequent reductions in market values.

Prudent municipalities have been preparing for this situation by conducting revaluations or reassessments to bring property tax assessments more in line with actual market conditions. These municipalities have also appropriated adequate reserves to prepare for the impact of pending tax appeals. However, even those municipalities taking preparatory measures can still face tax appeal judgments that exceed their reserves.

Once municipalities begin experiencing the fiscal impact of tax appeal settlements or adjudications, there are several options available to phase-in the budgetary impacts that cannot be reasonably funded within the confines of the current year budget.

Option One: Emergency Appropriation to Authorize Repayment

Municipalities who have not budgeted sufficient funds to refund property owners for prior year taxes paid can pass an emergency appropriation to authorize repayment. That emergency appropriation, with the approval of the Local Finance Board, may then be refunded over a period of years. Generally, the Local Finance Board will approve such refundings so long as maturities are designed to ensure that the annual impact of paying down the refunding is a **minimum** of \$50 on an average assessed home.

Option Two: Issue Notes in the Amount of Credits Reflecting Overpayment in Previous Quarters for the Current Year

To the extent a municipality's budget is unable to absorb the revenue losses associated with settled or adjudicated current year tax appeals, the municipality may issue notes in the amount of 75% of the property tax credits reflecting the overpayment of previous quarters for the current year. This option was first made available in Fall 2011, when the Attorney General's Office modified previous informal legal advice that prohibited such an option.

Because of the extraordinary nature of borrowing to effectively make up for lost revenues in a current year, the Local Finance Board generally places conditions on such approvals. Applicants must make the following commitments: (1) not to make similar applications in the future; (2) to conduct a revaluation or reassessment in order to address the underlying factors that lead to the substantial numbers of tax appeals; and (3) not to hire any employees for the ensuing year without first receiving the approval of the Director of the Division of Local Government Services. The purpose of the conditions is to ensure that aggressive steps are being taken to control spending while the budget is adversely impacted by tax appeals.

Option Three: New Legislation Allows Municipalities to Borrow for Prior Year Cash Deficits Resulting from Tax Appeals

Governor Christie signed P.L. 2011, c. 224 into law on January 17, 2012. This law contains a provision permitting municipalities to seek Local Finance Board approval to bond for a prior year deficit resulting, in part or in whole, due to impacts from tax appeals. Section Three of P.L. 2011, c. 224 states that:

Any municipality that has ended the previous budget year with a deficit in operations caused, whether in whole or in part, by obligations created from tax appeals, may issue notes with the approval of the Local Finance Board on such conditions as the Local Finance Board deems appropriate. The amount of notes authorized pursuant to this provision shall not exceed the cash payments or tax credits due to tax appeals and shall be authorized by a bond ordinance approved by the Local Finance Board.

With the enactment of P.L. 2011, c.224, a municipality that runs a cash deficit for the prior year because of tax appeals may, with Local Finance Board approval, issue notes. The amount of the notes cannot exceed the cash payments or tax credits due to tax appeals. Be advised that this option should be considered a last resort; the Local Finance Board, as a condition of support, will impose the same substantive level of State monitoring and oversight as is imposed on municipalities seeking State financial assistance through the Transitional Aid Program. To understand the conditions and State oversight attached to Transitional Aid please review [Local Finance Notice 2011-39](#).

Municipalities with questions about the options discussed above should contact the Bureau of Financial Regulation and Assistance at 609-292-4806 or via email at dlgs@dca.state.nj.us.