

TREASURY — TAXATION

(a)

DIVISION OF TAXATION

Local Property Tax: General

Proposed Readoption with Amendment: N.J.A.C. 18:12

Authorized By: Michael Bryan, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:1-35.1, 54:1-35.35, 54:3-14, 54:4-1, 54:4-8.66d, 54:4-23.21, 54:4-26 and 54:50-1.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-285.

Submit written comments by January 14, 2011 to:

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The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1c, N.J.A.C. 18:12 expires on May 20, 2011. The Division of Taxation has reviewed these rules, including the proposed amendment, and has determined them to be necessary, reasonable, and proper for the purposes for which they are being proposed. They are proposed to carry out the statutory mandates of N.J.S.A. 54:1-35.35 et seq. and 54:4-1 et seq., which require the establishment of standards for valuation and revaluation of real property, property subject to taxation, specified classes entitled to tax deductions from real property taxes and qualifications for appraisal firms and individuals under contract with municipalities as tax assessors.

The rules proposed for readoption and the proposed amendment is summarized as follows:

N.J.A.C. 18:12-1.1(a) sets forth categories of real estate transactions that are not to be used, subject to exceptions listed under subsection (b), in determining assessment-sales ratios.

N.J.A.C. 18:12-1.1(b) sets forth categories of real estate transactions that are normally excluded in determining assessment-sales ratios, but may be used in sales transactions in a competitive market where there was a willing buyer and a willing seller, both acting with full knowledge of the sales environment. Upon further review, the Division has determined that categories 2, 13 and 31 transactions under subsection (a) cannot be used to determine assessment-sales ratios because they are not between a willing buyer and a willing seller, both acting with full knowledge of the sales environment. Therefore, categories 2, 13 and 31 are proposed to be deleted from subsection (b).

N.J.A.C. 18:12-2.1 requires the municipal tax assessor to classify each line item in the tax list according to categories designated by the applicable property classification code symbol set forth in the rule.

N.J.A.C. 18:12-2.2 sets forth property classifications with definitions.

N.J.A.C. 18:12-2.3(a) requires the municipal tax assessor to prepare a summary of property valuations appearing on the tax list with an alphabetical list of taxpayers by name.

N.J.A.C. 18:12-2.3(b) requires the municipal tax assessor to prepare a summary of deduction amounts for senior citizens, disabled citizens, and their surviving spouses; and for veterans and their surviving spouses and the surviving spouses of servicepersons; along with the number of parcels and exemption amounts for specified property exemption categories.

N.J.A.C. 18:12-2.3(c) requires the municipal tax assessor to prepare a summary of special tax districts.

N.J.A.C. 18:12-2.4 requires the municipal tax assessor to include in the tax list the applicable building description code designations set forth in the rule for each line item.

N.J.A.C. 18:12-2.5 requires the tax list to show parcels of assessed farmland which are classified partly "Class 3B" and partly "Class 3A" as separate line items with real property improvements included as Class 3A.

N.J.A.C. 18:12-2.6 requires designations on the tax list for approved tax deductions for senior citizens, disabled citizens, and their surviving spouses, and for veterans and their surviving spouses and the surviving spouses of servicepersons.

N.J.A.C. 18:12-2.7 requires the municipal tax assessor for certain taxing districts to prepare an annual tax list indicating whether each parcel of property, in part or in whole, is located within the boundaries of the Hackensack Meadowlands District. Any parcel so located is to be designated as such.

N.J.A.C. 18:12-2.8 sets forth the real property tax list and accompanying instructions describing the format and content, including page and column headings, specific property exemptions, special tax codes, property classification summary and municipal tax assessor's affidavit.

N.J.A.C. 18:12-3.1(a) requires municipal tax assessors to enter the name of the owners, value and a description of all churches, cemeteries, public buildings and other real properties exempt from taxation, in the exempt property list.

N.J.A.C. 18:12-3.1(b) provides that the information contained in the exempt property list is to be prescribed by the Director of the Division of Taxation and should include page and column headings.

N.J.A.C. 18:12-4.1 provides definitions for the terms "contract," "Director" and "firm" as they relate to revaluation of real property by appraisal firms.

N.J.A.C. 18:12-4.2 requires the Director of the Division of Taxation to establish assessment standards to be used in the valuation and revaluation of real property and to prescribe minimum qualifications for firms providing such services. This section also requires any municipality contracting for such services to submit the contract, prior to execution, to the Director for a 30-day review period. Assignments or transfers of the contract may not occur without the written consent of all contractual parties, including the surety company, county board of taxation and the Director. Finally, this section prohibits any other changes in the contract without the mutual consent of the contracting parties and the written permission of the surety company and the Director.

N.J.A.C. 18:12-4.3 provides for a formal hearing before the Director by any municipality, firm or individual aggrieved by a determination of the Director regarding the revaluation contract. The rule requires the hearing to be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., with an appeal allowable to the Appellate Division pursuant to the Rules of Court within 45 days of the date of the Director's final decision.

N.J.A.C. 18:12-4.4 requires an appraisal firm seeking approval from the Director to become a revaluation firm, to provide annually certain financial, personnel and other information about the firm.

N.J.A.C. 18:12-4.5 requires that revaluation contracts submitted to the Director for review must include a provision that no county board of taxation commissioner or employee have any interest as an officer, stockholder or employee of the appraisal firm, nor shall any such company represent any property owner or taxpayer filing a tax appeal with respect to a revaluation by the firm.

N.J.A.C. 18:12-4.6 sets forth the minimum requirements that principals and employees of an appraisal firm must meet in order to be able to engage in municipal revaluation programs. Such requirements include numbers of years of appraisal experience and in-office training pursuant to the Division's oversight obligations under N.J.S.A. 54:1-35.35.

N.J.A.C. 18:12-4.7 requires a municipality using an appraisal firm to do a revaluation, to provide certain information to the firm, including an up-to-date tax map which is also to be submitted to the Property Administration section of the Division of Taxation for suitability determination, along with a surveyor's certification that the map is up-to-date and a revision block showing approval of the map by the municipal engineer. Additionally, the municipality is to provide any other official records, letters of introduction and mailing addresses of all property owners, all of which will assist the firm in carrying out its revaluation

responsibilities. Finally, this section requires a municipal tax assessor to sign informational letters to property owners sent by the firm as may be necessary.

N.J.A.C. 18:12-4.8 requires any firm engaged in a revaluation to comply with the standards and conditions set forth in Subchapter 4. This subsection further provides that determinations made by an appraisal firm be submitted to and approved by the municipal tax assessor so as to help implement N.J.S.A. 54:1-35.35. The rule sets forth methodologies for revaluing different property classifications, how real property identification material is to be entered on property record cards and how property inspections are to be performed. The rule also requires every revaluation contract to include certain items regarding progress and control of operations, and that the revaluation firm also conduct a program of taxpayer orientation and education regarding the revaluation. The rule requires the appraisal firm to create a neighborhood map prepared for the municipal tax assessor indicating all neighborhoods in the municipality. This requirement will make it easier for assessors to compare property values of changing neighborhoods. The rule also recommends that a municipality obtain a CAMA package for revaluation maintenance. Obtaining this software program will assist a large scale appraisal by facilitating statistical analysis. Finally, the appraisal firm must assist the municipality in the defense of all valuations by providing expert witnesses in an initial appeal to the county tax board.

N.J.A.C. 18:12-4.9 sets forth procedures to be utilized by appraisal firms to provide taxpayers who wish to review their proposed real property assessments.

N.J.A.C. 18:12-4.10 requires an appraisal firm to provide surety and insurance protection, including workers' compensation, liability and a performance surety bond, to a municipality in the event of a lawsuit, litigation, demand or claim arising out of the revaluation contract.

N.J.A.C. 18:12-4.11 requires an appraisal firm to provide a municipal tax assessor with completed property cards filed by block and lot numbers, along with all supporting data, documentation and special procedures used in deriving values. This subsection also requires the firm to make qualified personnel available to the assessor to explain and provide instruction on materials submitted regarding the revaluation.

N.J.A.C. 18:12-5 through 9 are reserved.

N.J.A.C. 18:12-10.1 defines terms that pertain to the taxability of property used primarily for business.

N.J.A.C. 18:12-10.2 provides definitions for the terms "real property" and "personal property" for determining when such property is subject to local property tax pursuant to the provisions of N.J.S.A. 54:4-1.

Because the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The intended effect of the rules proposed for re adoption with amendment is to increase real property tax fairness. They implement statutory provisions by establishing standards for classifications of property to be followed by appraisal firms and municipal tax assessors, preparation of tax lists by municipal tax assessors, requirements for the approval of appraisal firms and standards for revaluation, upgrading tax map preparation and property tax rebate procedures, and establishing time extensions for the filing of homestead rebate applications. The public policy of seeking uniformity in the way revaluations and reassessments of real property are done will continue. This will minimize the effect of artificial factors on real property valuations and contribute to relative tax fairness, both in substance as well as perception. Codifying and updating what have been largely traditional practices by appraisal firms and municipal tax assessors will also increase the goal of having most value determinations done in an equitable manner. Requiring appraisal firms seeking certification as revaluation firms to obtain background checks for all field personnel will increase security for home owners.

Economic Impact

The retaining, revising and adding of sales of real properties that may not be used in determining assessment-sales ratios is continued from the rules proposed for re adoption with amendment. The rules also seek to minimize the impact of artificial and/or subjective factors that would tend

to skew sales which are not arms length transactions between willing buyers and sellers but which are used in state or county equalization. The rules may also result in lower real property taxes for some real property owners and higher taxes for others, but are overall revenue neutral.

Additionally, the rules proposed for re adoption with amendment relate to the standards and conditions that must be met by appraisal firms before they can be approved to do revaluations. The requirement that the firms create neighborhood maps for municipal tax assessors may increase the cost of contracts between municipalities and firms.

The statute and supporting administrative rules may also promote uniformity of the revaluation process by providing additional information on the municipal tax map and requiring the municipality to accelerate the process by specific date submission of a tax map and to make inspections of real property before existing property record cards may be relied on.

Federal Standards Statement

The rules proposed for re adoption with amendment do not contain requirements that exceed those imposed by Federal law. The rules proposed for re adoption with amendment represent policies of the State of New Jersey regarding implementation of N.J.S.A. 54:1-35.35 et seq. and 54:4-1 that are independent of Federal requirements or standards. Accordingly, no Federal standards analysis is required.

Jobs Impact

It is anticipated that the rules proposed for re adoption with amendment may have an impact on the job market for persons applying for positions with firms doing revaluation work since the rules will require background checks of such persons. On the other hand, employment opportunities may increase with such firms due to the rules' requirement that they create neighborhood maps for municipal tax assessors.

Agriculture Industry Impact

The rules proposed for re adoption with amendment will have no adverse impact on the agriculture industry beyond the general impact on the population as a whole.

Regulatory Flexibility Analysis

The rules proposed for re adoption with amendment apply to real property revaluation firms approved by the Division of Taxation and retained by the municipal tax assessors to carry out municipal tax revaluations. The Division believes that most, if not all, of the firms currently approved by the Division are small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The compliance requirements imposed on the small businesses are fully explained in the Summary above, and any minimal financial implications are discussed in the Economic Impact above. There are no exceptions to the compliance requirements for small businesses because all of the requirements imposed by the Division are required by statute. The Division does not anticipate that any professional services will be required by the firms to comply with the rules proposed for re adoption with amendments.

Smart Growth Impact

The rules proposed for re adoption with amendment are not expected to have any adverse impact on the growth, development or redevelopment of the State's urban or suburban areas with regard to existing or proposed land use, protection of open space or transportation systems, but only implement statutory law and codify guidelines that have traditionally been used by the Division and municipal tax assessors in determining the value of real property for tax purposes. Therefore, the rules proposed for re adoption with amendment will not impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for re adoption with amendment could result in a change in the average costs associated with housing. Property tax assessments may change up or down as the result of a local assessment, revaluation or county tax board determination. However, the rules proposed for re adoption with amendment would have no greater impact on any aspect of housing than previously because the rules are not new and their re adoption only continues or slightly modifies rules that have been in place for many years.

Smart Growth Development Impact

The rules proposed for readoption with amendment would not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. This is because the rules have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey. The rules proposed for readoption with amendment only involve the law pertaining to county boards of taxation and assessments and revaluations.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:12.

Full text of the proposed amendment follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

18:12-1.1 Categories enumerated

(a) (No change.)

(b) Transfers falling within the foregoing category numbers 1, [2,] 3, 9, 10, [13,] 15, 17, 26[,] **and** 28 [and 31] (under (a) above), should generally be excluded but may be used if after full investigation it clearly appears that the transaction was a sale between a willing buyer, not compelled to buy, and a willing seller, not compelled to sell, with all conditions requisite to a fair sale with the buyer and seller acting knowledgeably and for their own self-interests, and that the transaction meets all other requisites of a usable sale.
