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Cap or No Cap: New Yorkers May Still Suffer From Heavy Property Tax Burdens

Cap or No Cap: Your Property Tax Bill Can Still Go Up

In 2011, Governor Andrew Cuomo (D-NY) signed a bill to "cap" New York's unbearably high real property taxes. The bill's stated goal is to provide real property tax relief to New York's property owners who shoulder the burden of some of the nation's highest property taxes. Beginning January 2012, local governments and school districts (except New York City, Buffalo, Rochester, Syracuse and Yonkers) will be prohibited from increasing their tax levy by more than 2% or the inflation rate – whichever is less – unless 60% of the voters approve a higher increase. The "tax levy" is the amount a local government or school district needs to raise through property taxes. However, the cap on the tax levy is not a cap on property tax bills. Property tax bills can still change each year due to changes in factors not limited by the cap – budgets, revenues, and the total taxable assessed value of property. As a result, your property tax bill can still rise under Cuomo's bill.

Cap or No Cap: What You Pay Depends on Your Property's Assessed Value

It is easy to assume the cap on tax levy increases will respectively cap your tax payments. However, the tax levy is just one part of the equation used to calculate the amount of your property tax bill. Your property taxes depend not only on the tax levy, but the tax rate and your property's assessed value. Basically, the tax rate is the amount of the tax levy (the total amount of money a local government must raise from property taxes) divided by the assessed value of all taxable real property. When the tax rate is multiplied by your property's assessed value, your tax burden results. Since the Governor failed to address assessment issues under the bill, including without limitation, the over and/or unequal assessment of real property in New York, the amount of your tax burden is ultimately still dictated by your property's assessed value. Thus, regardless of the cap, if your property's assessed value is excessive, your property tax bill will be excessive.

Cap or No Cap: Developers Take Note – Municipalities Still Need Development

Fortunately, the legislature addresses and encourages new development under the cap by excepting growth in the tax base attributable to a physical or quantity change from the 2% cap during the first year of change. Excepted growth includes new development and/or significant capital improvements to existing properties, but excludes increases in full value due to revaluations, the splitting or merger of parcels, or the return of property to the tax rolls after the expiration of exemption. Thus, because local governments will be able to increase their tax bases without impacting their cap limits during the first year of development, developers should take note that this growth exception may offer a powerful bargaining tool during site selection.

Cap or No Cap: Your Exemption May Be At Risk

Even if your property is or may become wholly or partially exempt from real property taxes, you should be concerned with how municipalities treat your property with the cap now in play. The cap may have municipalities searching for value to bump up the tax base. While such new value is treated specially in the first year, this "new growth" in the tax base from newly-taxable properties will be realized down the line. For this reason, one may see a rise in exemption denials or revocations. Diligence with respect to use and filing requirements is a necessity.

Cap or No Cap: Act Now to Protect Your Bottom Line in 2012

If you don't act timely, you can't decrease your tax expense. Bond has offices across New York State, each staffed with experienced attorneys who are capable of determining whether the real property in your portfolio is over-assessed and valued, whether you were wrongfully denied an exemption, and what other advantages the state property tax law may provide to you. Our attorneys will advise you through grievance filing and court proceedings. Bond's successful history in this field has helped craft real property tax law for decades. Bond has the resources you need to launch a successful attack on your assessment (http://www.bsk.com/groups/detail.cfm?id=31).

New York law requires that an owner or lessee challenge a property's assessed value each year by filing a grievance by the applicable grievance day. Grievance days vary from location to location, but for most towns and some cities in New York, grievance day is the fourth Tuesday in May. If you do not file a grievance by grievance day, you lose your right to challenge your assessment in court that tax year.

If you have any questions, please contact any member of Bond's Real Property Tax Assessment, Condemnation and Property Valuation Practice Group:

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Bond also provides many other valuable services that can help increase profitability, even the desirability of the real property in your portfolio. Bond attorneys have substantial experience with applying for and maintaining New York's numerous real property tax exemptions. In addition, Bond attorneys are experienced in negotiating, preparing and defending PILOT agreements. Of course, Bond attorneys can consult on numerous other areas of your business including labor relations, employee benefits administration, business planning, and environmental issues. Bond attorneys strive to help further your business by identifying the best strategies for keeping your property taxes and other business expenses at a fair and manageable level.