

(i) Any settlement agreed upon between the parties shall be in writing, on a form approved by the Director, Division of Taxation, signed by the parties or their attorneys and shall indicate if the assessor is in agreement with the settlement. Such proposed settlement shall include the basis for the settlement and shall be submitted to the county board of taxation for approval without the necessity for an appearance by the parties or their attorneys unless the board requests such an appearance by the parties or their attorneys. If the board approves the settlement, the board shall enter judgment in accordance with the terms thereof. If the board disapproves the settlement, the board shall notify the parties of such disapproval and schedule a hearing date for the appeal.

(j) The board may, as occasion shall require, by order, refer any appeal or other matter pending before it to one or more of its members for the purpose of taking testimony and reporting thereon to the board for appropriate action.

(k) No person shall testify at a hearing of the board concerning an assessment unless he shall have inspected the property.

(l) No assessor shall appear before the board as an expert witness against another assessor or taxing district within the State except to defend the assessment of his taxing district.

As amended, R.1975 d.46, eff. March 6, 1975.

See: 7 N.J.R. 74(c), 7 N.J.R. 180(b).

As amended, R.1979 d.14, eff. January 16, 1979.

See: 10 N.J.R. 517(c), 11 N.J.R. 105(d).

As amended, R.1984 d.330, eff. August 6, 1984.

See: 16 N.J.R. 1330(a), 16 N.J.R. 2153(a).

Rewrote (h); and substantially amended (i).

As amended, R.1984 d.580, eff. December 17, 1984.

See: 16 N.J.R. 2760(a), 16 N.J.R. 3480(b).

In (f), deleted "or a member of the board of assessors".

Amended by R.2004 d.69, effective February 17, 2004.

See: 35 N.J.R. 4850(a), 36 N.J.R. 1022(a).

In (a), substituted "county board of taxation" for "board"; in (d), rewrote the last sentence; in (e), substituted "complete" for "completion"; in (h), substituted "county board of taxation" for "board" in the first sentence; in (i), substituted "county board of taxation" for "board" preceding "for approval" in the second sentence.

Case Notes

Taxpayer's failure to timely serve appraisal upon opposing counsel before second scheduled county tax board hearing after receiving extension from first hearing date did not constitute "failure to prosecute". *Jepson Refrigeration Corp. v. City of Trenton*, 295 N.J.Super. 492, 685 A.2d 505 (A.D.1996).

Taxpayer's counsel appeared before county tax board and called local assessor as witness; administrative property tax appeal was not subject to dismissal for failure to prosecute, and tax court had jurisdiction over taxpayer's request for de novo review; where letter to counsel, in manner consistent with administrative regulation, warned only of dismissal for failure to appear. *VSH Realty Inc. v. Harding Tp.*, 291 N.J.Super. 295, 677 A.2d 274 (A.D.1996), also published at 15 N.J.Tax 653.

Statute barring judicial review if administrative appeal to county tax board was dismissed for failure to prosecute did not supersede or vitiate regulation providing for dismissal in case of failure to appear before board. *VSH Realty, Inc. v. Harding Tp.*, 291 N.J.Super. 295, 677 A.2d 274 (A.D.1996), also published at 15 N.J.Tax 653.

Dismissal on grounds of failure to prosecute was not warranted where taxpayer appeared at scheduled county board of taxation hearing to decide his appeal of tax assessment on twenty properties, but was not prepared to present testimony of appraiser, and his witness was not available at hearing. *Wilshire Oil Company of Texas v. Jefferson Township*, 17 N.J.Tax 583 (1999).

Dismissal for failure to prosecute was not warranted by appearance of taxpayer's attorney on scheduled hearing date to request that county board of taxation adjourn or affirm without prejudice where there was no indication that prejudice to board would result from adjournment, and taxpayer was prepared to proceed on adjourned hearing date. *ARP Realty Associates v. Washington Borough*, 16 N.J.Tax 281 (1997).

Board of taxation's mailing of notice of hearing to address different in significant respects from that specified in written notification from taxpayer's attorney did not constitute adequate notice and did not create presumption that notice was received. *Family Realty Co. v. Secaucus Town*, 16 N.J.Tax 185 (1996).

Failure of taxpayer's attorney to appear before board of taxation in support of appeal from local property tax assessment, after board had advised attorney that it would not grant adjournment or affirmance without prejudice, warranted dismissal of taxpayer's appeal. *West Essex Sav. & Loan Ass'n v. Montville Tp.*, 16 N.J.Tax 152 (1996).

No proof of value adduced by taxpayer; tax court could reasonably conclude that there was de facto failure to prosecute property tax appeal before county board of taxation, foreclosing further judicial review. *Ganifas Trust v. Wildwood City*, 15 N.J.Tax 722 (A.D.1996).

County board of taxation properly dismissed taxpayer's appeal from commercial real property assessments for failure to prosecute; taxpayer did not submit appraisal report prior to second hearing date after receiving five-week extension from first hearing date. *Jepson Refrigeration Corp. v. Trenton City*, 15 N.J.Tax 467 (1996).

Taxpayer's submission of appraisal one day before date for hearing on his tax appeal was not "egregious" violation of rules for bringing tax appeal, and county board of taxation's dismissal of taxpayer's appeal on that basis was improper. *Pipquarryco, Inc. v. Hammond Borough*, 15 N.J.Tax 413 (1996).

Taxpayers presented evidence regarding recent sale price; county tax board could not dismiss case for lack of prosecution; tax court not barred from hearing valuation case on appeal. *VSH Realty, Inc. v. Harding Tp.*, 14 N.J.Tax 379 (1994).

Municipality's appraisal expert could testify in challenge to real property assessments. *Jablin v. Northvale Borough*, 13 N.J.Tax 103 (A.D.1991).

New Jersey taxation of Missouri corporation with minimum nexus to New Jersey did not violate commerce clause. *Mark Andy, Inc. v. Taxation Div. Director*, 8 N.J.Tax 593 (1986).

Small relative size of New Jersey revenue generated by Missouri corporation did not preclude imposition of business tax. *Mark Andy, Inc. v. Taxation Div. Director*, 8 N.J.Tax 593 (1986).

Missouri corporation that actively solicited New Jersey customers was "doing business" in New Jersey for tax purposes. *Mark Andy, Inc. v. Taxation Div. Director*, 8 N.J.Tax 593 (1986).

18:12A-1.10 Subpoenas

Subpoenas to compel the attendance of witnesses and the production of books and records at hearings shall be furnished by the county board of taxation without cost upon request.

Amended by R.2004 d.69, effective February 17, 2004.

See: 35 N.J.R. 4850(a), 36 N.J.R. 1022(a).

Substituted "county board of taxation" for "board" preceding "with-out cost".

18:12A-1.11 Record of proceedings

The county board of taxation may record all proceedings before it involving tax appeals, and, if recorded, shall furnish a transcript of the record of any appeal to any party to that appeal upon request, and upon payment of a reasonable fee to be fixed by the board.

Amended by R.2004 d.69, effective February 17, 2004.

See: 35 N.J.R. 4850(a), 36 N.J.R. 1022(a).

Substituted "county board of taxation" for "board" preceding "may record".

18:12A-1.12 Determination; judgments

(a) A majority of the members of the county board of taxation shall constitute a quorum for the transaction of business, and any action or determination agreed to by such majority shall be taken as the action of the board.

(b) In order to provide for a more orderly appeal procedure, the county board of taxation shall, effective immediately, institute the procedures herein described with respect to the issuance of judgments.

1. Valuation appeals.

i. The judgment shall indicate separately the assessed value of the land, improvements and the total of same.

ii. The judgment shall also indicate the determination of the county board of taxation separately for land, improvements and total.

iii. In the case of affirmance or dismissal and there is no change in valuations, the judgment shall indicate, in lieu of (b)lii above, the words "Affirmed" or "Dismissed", or any phrase indicating an appropriate disposition.

2. Other appeals. In all appeals not involving property valuations, the judgment shall indicate the county board of taxation's disposition, as appropriate.

3. Written memorandum of judgment.

i. The president of the county board of taxation shall have the responsibility for overseeing the writing of the written memorandum of judgment required pursuant to N.J.S.A. 54:3-26, and each memorandum shall be under his or her signature as well as the signature of any other member of the board who participated in the rendering of the county board judgments on appeal.

ii. Judgments must be considered to be the action of the board and must be agreed upon by the majority of such board.

iii. The board shall transmit a written memorandum of its judgment to the assessor of the taxing district and to the taxpayer setting forth the reasons on which such judgment was passed on the form prescribed by the Director of the Division of Taxation, and the procedures set forth by him.

4. Date of judgment. All judgments must indicate the date determined, as follows: "Judgment filed this _____ day of _____, 20____."

or

"Dated: (state date)."

5. Size and reproduction.

i. The judgment shall be uniform size 8½ x 11 inches and be such that it is capable of reproduction on a photocopier.

ii. Judgments must contain the following statement:

"The action of the county board of taxation may be reviewed by filing a complaint with the Tax Court within 45 days of the service of the judgment of the county board of taxation."

Address:

Tax Court of New Jersey
Richard J. Hughes Justice Complex
25 Market Street
Trenton, New Jersey 08625

Mailing Address:

PO Box 972
Trenton, NJ 08625-0972
Telephone Number: (609) 292-5082

6. The county board of taxation should endeavor to send out judgments at the time decided or as soon thereafter as practical, and not hold them until the time for hearing and determining appeals has expired pursuant to N.J.S.A. 54:3-26, as extended by N.J.S.A. 54:3-26.1. Earlier disposition will assist the Tax Court in the processing of its caseload.

(c) Upon entry of any judgment involving the appeal of a veteran's property tax deduction, or a property tax deduction for persons of the age of 65 or more years, or less than 65 years of age who are permanently and totally disabled and certain surviving spouses, the county board of taxation shall, within 10 days from the date of such entry, forward a copy of said judgment to the Division of Taxation, Property Administration.

As amended, R.1979 d.385, eff. September 28, 1979.

See: 11 N.J.R. 595(b).

As amended, R.1980 d.40, eff. January 17, 1980.

See: 12 N.J.R. 97(b).

As amended, R.1981 d.478, effective December 21, 1981.

See: 13 N.J.R. 621(a), 13 N.J.R. 948(c).

(c) added.

As amended, R.1984 d.580, effective December 17, 1984.

See: 16 N.J.R. 2760(a), 16 N.J.R. 3480(b).

Changed address.

Amended by R.2004 d.69, effective February 17, 2003.

See: 35 N.J.R. 4850(a), 36 N.J.R. 1022(a).

Rewrote the section.

Case Notes

Time for seeking review in tax court did not commence where county board failed to serve attorney of record for property owner. *Estate of Frankel v. Borough of Hillsdale*, 10 N.J.Tax 213 (1988).

Rules do not provide any procedure concerning the method of transmitting memoranda of judgments of the county boards of taxation to taxpayers; service by mail held sufficient; presumption of service by mail not rebutted in instant case. *Tolentino v. Oxford Tp.*, 4 N.J.Tax 173 (Tax Ct.1982).

18:12A-1.13 Freeze Act

(a) When an assessment is subject to the "freeze" provisions of N.J.S.A. 54:51A-8 or 54:3-26, there shall be no increase in the assessment for any tax year subject to such "freeze" except upon petition first filed with and granted by the county board of taxation or the Tax Court.

(b) If the taxing district alleges that there has been a change in the value of the property since the date of a county board of taxation judgment is subject to the Freeze Act, the taxing district shall file a petition with the board together with proof of service thereof upon the owner of the property to increase the amount of the assessment. Such petition shall specifically set forth the nature of the changes relied upon as a basis for the claim that there has been a change in value of the property. A copy of the petition shall be served upon the owner of the subject property prior to the filing of the petition with the board.

(c) A judgment entered by a county board of taxation which is not further appealed by a party shall be deemed to be binding and conclusive upon the municipality and municipal tax assessor for the tax year in question and the two tax years immediately thereafter unless a revaluation, reassessment or change in value has occurred subsequent to the assessing date. If as of October 1 of the pretax year, the property in question has been the subject of an addition qualifying as an added assessment, a condominium or cooperative conversion, a subdivision or a zoning change, the conclusive and binding effect of such judgment shall terminate with said pretax year.

1. If the assessor increases the assessment or fails to reflect on the tax duplicate a county board of taxation or Tax Court judgment issued prior to the final preparation of the tax duplicate in either of the two years following the year for which the judgment of the county board of taxation was rendered, and if said judgment is a final judgment not further appealed, the burden of proof shall be on the taxing district to establish that the assessor acted reasonably in increasing the assessment. If the county board of taxation finds that the assessor did not act reasonably in increasing the assessment or failed to reflect said judgment on the tax duplicate, the county board of taxation shall award to the taxpayer reasonable counsel fees, appraisal costs and other costs which shall be paid by the taxing district.

(d) A taxpayer may waive the application of the Freeze Act for one or both of the tax years affected and such

waiver of the freeze shall be reflected in a judgment entered by the county board of taxation.

(e) A taxpayer may apply to the county board of taxation within a reasonable period of time upon proper notice to the municipality seeking the enforcement of the Freeze Act with regard to a judgment previously entered by the county board of taxation.

As amended, R.1984 d.330, effective August 6, 1984. See: 16 N.J.R. 1330(a), 16 N.J.R. 2153(a).

New (c) through (e).

As amended, R.1984 d.580, effective December 17, 1984.

See: 16 N.J.R. 2760(a), 16 N.J.R. 3480(b).

Substituted "54:51A-8" for "54:2-43".

Amended by R.2004 d.69, effective February 17, 2004.

See: 35 N.J.R. 4850(a), 36 N.J.R. 1022(a).

In (a), substituted "county board of taxation or the Tax Court" for "Board"; in (b), substituted "a county board of taxation judgment is subject to the Freeze Act" for "such assessment"; rewrote (c); in (d) and (e), inserted "taxation" following "county board".

Law Review and Journal Commentaries

Taxes—Freeze Act—Reassessments. Steven P. Bann, 136 N.J.L.J. No. 5, 74 (1994).

Case Notes

"Final" judgments under Freeze Act can be either after trial on the merits or pursuant to settlement. *Union City Associates v. City of Union City*, 223 N.J.Super. 316, 538 A.2d 836 (A.D.1988), certification granted 111 N.J. 607, 546 A.2d 527, reversed 115 N.J. 17, 556 A.2d 769.

Judgment entered as housekeeping matter after appeal filed is not "final" under Freeze Act. *Union City Associates v. City of Union City*, 223 N.J.Super. 316, 538 A.2d 836 (A.D.1988), certification granted 111 N.J. 607, 546 A.2d 527, reversed 115 N.J. 17, 556 A.2d 769.

Freeze Act; revaluation or reassessment programs. *Ennis v. Alexandria Tp. (Hunterdon County)*, 13 N.J.Tax 423 (1993).

18:12A-1.14 Revaluations; reassessments, compliance plans

(a) Regarding voluntary revaluation, when a taxing district proposes to revalue real property in said district voluntarily, the taxing district must notify in writing the assessor and the county board of taxation of such intent and must obtain approval of the revaluation contract from the Director, Division of Taxation as prescribed by law (N.J.S.A. 54:1-35.35 et seq., N.J.A.C. 18:12-4 and N.J.S.A. 54:4-23 as amended P.L. 2001, c.101).

(b) Regarding revaluation orders by a county board of taxation, when a board determines the need to order a taxing district to revalue its real property, it shall submit the proposed order to the Director, Division of Taxation, for his or her approval outlining the reasons that warrant such action. Upon approval of such order, the board shall take appropriate action to implement same.

1. The criteria utilized by a board when it is considering a proposal to order a taxing district to conduct a revaluation shall include the following. However, a board may consider any other criteria that relate to the need for revaluation. The results of a board's findings with respect

to these criteria and all other bases for issuing a revaluation order shall be attached to the written order when it is submitted to the Director of the Division of Taxation for approval.

i. **General coefficient of deviation:** A coefficient of deviation greater than 15 percent generally indicates a need for revaluation. If it is 15 percent or less, then other factors must also be used to justify a need for a revaluation. This is an average deviation from the average assessment sales ratio expressed as a percentage of average assessment ratio for each taxing district, for all properties included in "usable sales." It is a measure of variation in assessment-sales ratio of all properties sampled without regard to property class, property size, or any other property characteristic.

ii. **Stratified coefficient of deviation:** This is an average deviation of assessment sales ratios for all usable sales of each property class from the average assessment ratio for the class. It provides a measure of assessment uniformity for properties within each class, but provides no insight into comparability of assessment levels among property classes. A stratified coefficient of deviation of greater than 15 percent may indicate a need for revaluation.

iii. **Segmented coefficient of deviation:** This is an average deviation of assessment sales ratios for all "usable sales" of each property class from the average assessment ratio for all properties of all classes expressed as a percentage average assessment ratio for all properties of all classes. It provides a measure of uniformity or lack thereof of one property class compared to other property classes. A segmented coefficient of deviation of greater than 15 percent may indicate a need for revaluation.

iv. In analyzing the coefficient of deviation, consideration should be given to the size of the sales sampling. For the above purpose, a coefficient of deviation above 15 percent generally denotes lack of uniformity in assessments.

v. **Director's Ratio:** The Director's Ratio is the average ratio of assessed to true value for each taxing district as determined by the Director, Division of Taxation, in the Table of Equalized Valuations promulgated annually pursuant to N.J.S.A. 54:1-35.1. A source of information for ascertaining assessment-sales ratios is the data gathered in the equalization program for the distribution of State school aid. A Director's Ratio of 85 percent or lower generally denotes noncompliance where, as is the norm, the adopted percentage level of assessment established by the county board of taxation is 100 percent. A continual decline of assessment-sales ratios in a district from the percentage level of taxable value established by a board is an indication of a lack of maintenance of the assessment list. However, a declining ratio does not provide any insight into the level of uniformity of assessment and in and of itself does not imply any automatic judgment with respect to lack of uniform assessments.

vi. **Individual assessment-sales ratios:** The individual sales are listed in order of ratios from the lowest to the highest. A wide divergence of ratios as opposed to a clustering of ratios at a common level would be indicative of a lack of uniformity in assessments. Ratios above and below the common level range of P.L. 1973, c.123 (N.J.S.A. 54:1-35a.b) are also indicative of a lack of uniformity in assessments.

vii. **Class weighted ratios:** The weighted ratio of a property class is found by dividing the total ratables of a property class by the total true value of that property class. Conformity in the class weighted ratios is an indication of uniformity between property classes. Wide variances in class weighted ratios are an indication of a lack of uniformity in assessments between property classes.

viii. **District weighted ratio:** The district weighted ratio is found by adding the total ratables for each of the four property classes and dividing the sum by the total true value for all classes of real property. A district weighted ratio, which is based on usable sales for the most recent sample period, is indicative of whether there is compliance with the adopted percentage level of assessment established by a county board of taxation.

ix. **Neighborhood and zoning changes:** The need for a revaluation program may be indicated by neighborhood and zoning changes which affect value in part or all of a taxing district. Changes in uses permitted by zoning may substantially increase or decrease the value of property. A revaluation order citing changes in zoning as its basis must delineate the impact of zoning changes as the changes relate to assessments.

x. **Lack of adequate records:** A lack of adequate records, such as property record cards, which cause difficulty for the assessor in arriving at a sound assessment, is indicative of the need for a revaluation. The absence of essential information which may affect assessments is detrimental to the valuation process and may impede the maintenance of an assessment list. The absence of information relating to changes made to improvements such as failure of property owners to secure building permits or copies of building permits not being furnished to an assessor is a contributory factor resulting in the lack of uniform assessments.

xi. **Year of last revaluation or reassessment:** If a revaluation or reassessment has not taken place in a municipality for 10 years or more, this can be a factor in ordering a revaluation.

xii. **Amount of revenue lost due to appeals.** The county tax board can consider the amount of revenue a municipality has lost due to appeals as indicating a need for a revaluation.