

Rule requires all petitions of appeal to a county board of taxation to contain the taxpayer's name and address; mailing of judgment to the post office address listed on petition, in the absence of attorney representation, or, if the address is lacking, to the post office address listed in the municipal tax records is procedurally proper; service by mail is presumed complete on the date of mailing. *Tolentino v. Oxford Tp.*, 4 N.J.Tax 173 (Tax Ct.1982).

Rule on acceptance of appeal by county tax board requiring a resolution to be appended to a county board petition for the board to have subject matter jurisdiction is not mandatory; factual issue as to whether a borough ever adopted a resolution authorizing an appeal precludes summary judgment for the taxpayer. *Fair Lawn Boro. v. Blue Hill Associates*, 3 N.J.Tax 55 (Tax Ct.1981).

18:12A-1.7 Filing fees

(a) A filing fee in the amount determined by N.J.S.A. 54:3-21.3 must accompany each petition of appeal filed by the taxpayer and shall be computed on the basis of the total assessment including both lands and improvements, if any.

(b) The filing fee for adding assessment appeals shall be based upon the apportioned valuation indicated on the tax list and duplicate as the prorated assessment.

(c) No filing fee shall be required to contest the denial of an application for:

1. A veteran's deduction;
2. A veteran's widow's deduction;
3. 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;
4. An exemption of a disabled veteran or a widow of a disabled veteran; or
5. A homestead tax rebate.

(d) Where an appeal involves assessments of more than one property, separate petitions of appeal shall be filed for each property separately assessed unless prior permission has been obtained from the board and a separate fee shall be paid for each property for which an appeal has been filed. Where permission is granted pursuant to N.J.A.C. 18:12A-1.6 for the filing of one petition for appeals involving more than one property the filing fee payable shall be an amount equal to the amount that would have been payable had individual petitions been filed separately for each parcel of property.

As amended, R.1980, d.148, effective April 9, 1980.
See: 12 N.J.R. 161(a), 12 N.J.R. 293(d).

18:12A-1.8 Petitions; commercial, industrial properties or multi-dwelling appeals

(a) There shall be annexed to a petition of appeal from an assessment of a commercial, and industrial property or a multi-dwelling (that is, more than a four-family dwelling) an itemized statement showing all sources of income and expenses with respect to such property for the most recently

completed accounting year and for such additional years as the board may request.

(b) No appeal shall be heard from the assessor's valuation and assessment with respect to income producing property where the owner has failed or refused to respond to such written request or to testify on oath when required, or shall have rendered a false or fraudulent act.

(c) The board may impose such terms and conditions for furnishing the requested information where it appears that the owner, for good cause shown, could not furnish the information within the required time.

As amended, R.1975 d.46, eff. March 6, 1975.
See: 7 N.J.R. 74(c), 7 N.J.R. 180(b).

18:12A-1.9 Hearings

(a) The Administrator, with the approval of the board, shall prepare a calendar assigning dates and times for hearings and shall not grant adjournments except for good cause shown.

(b) The board shall give at least 10 days' notice of the time and place of hearing of the appeal to the petitioner, assessor and attorney of the taxing district.

(c) The board may continue hearings from time to time, if necessary.

(d) The board shall permit a petitioner (other than a corporation or a taxing district) to appear in an appeal in his own behalf. No person shall be permitted to appear in an appeal in a representative capacity unless said person is duly licensed to practice law in this State; provided, however, that an attorney of any other jurisdiction of good standing there, may appear at the discretion of the board in any matter subject to the provisions of rule 1:21-2 of the Rules Governing the Courts of New Jersey. This rule may be waived in cases of extreme hardship; that is, old age, illiteracy and the like.

(e) A petitioner shall be prepared to prove his case by completion and competent evidence. In the absence of some evidence, the board may dismiss the petition. In the case of failure to appear, the board may dismiss the petition for lack of prosecution.

(f) When a case is set down for hearing, the assessor of the taxing district involved shall attend said hearing together with counsel for the taxing district, unless the board shall in individual cases decide otherwise.

(g) Where the assessed valuation is determined by the "capitalization of income" method, the assessor shall produce at the hearing a copy of the property record card for the property under appeal, showing his computation of the capitalization of income.

(h) A party intending to rely on expert testimony shall furnish to the board three copies of a written appraisal report and shall furnish one copy of the appraisal report to each opposing party at least one week prior to the hearing. If the municipality intends to rely on its tax assessor or a representative of a revaluation company as its expert and if such testimony will involve data and analysis which is not reflected on the property record card, the municipality shall furnish to the board three copies of a written report reflecting such data and analysis and shall furnish one copy of the report to each opposing party at least one week prior to the hearing. At the request of a taxpayer-party, the municipality shall also furnish that party with a copy of the property record card for the property under appeal at least one week prior to the hearing. The board in its discretion and in the interest of justice may waive the requirements for the submission of written reports.

(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 board 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 judgement 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).

Deleted old (h) and inserted new.

Subsection (i) substantially amended.

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

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

(f): Deleted "or a member of the board of assessors" from text.

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.

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 board without cost upon request.

18:12A-1.11 Record of proceedings

The board 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.

18:12A-1.12 Determination; judgments

(a) A majority of the members of the board 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.

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)1ii 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's disposition, as appropriate.

3. Written memorandum of judgment.

i. The President of the Board shall have the responsibility for overseeing the writing of the written memorandum of judgment required pursuant to R.S. 54:3.26, and each memorandum shall be under his 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.

ix. 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.

2. The assessor of a municipality directed to undertake a revaluation shall file with the county tax administrator a written plan detailing measures that are being taken or have been accomplished to comply with the terms and provisions of the approved revaluation order issued by the county board of taxation. The assessor shall submit the report on Form RCR (Revaluation Compliance Report), prescribed by the Director of the Division of Taxation, within 30 days of notice of the order and the first of each month thereafter, until approval of a contract for revaluation has been obtained from the Director of the Division of Taxation.

(c) An assessor proposing to revise and update assessments shall submit an application to perform a reassessment with the county board of taxation.

1. The application shall be completed on Form AFR (Application for Reassessment) as prescribed by the Director of the Division of Taxation.

2. The county board shall review the application within 30 days of its submission and forward a copy to the Director of the Division of Taxation with a recommendation of approval or disapproval. In the case of a recommendation of disapproval, the Director shall be advised of the reason.

3. Within 30 days of receipt of the application and the board's recommendation, the Director shall advise the county tax administrator of his or her determination as to whether the assessor may proceed with the reassessment program. In the case of disapproval, the Director shall specify the reason for his or her determination.

(d) The assessor of a district that has received approval of a contract for revaluation or an application to perform a reassessment shall submit a plan of work to the county tax administrator within 30 days of such approval. Thereafter, a report on the status of the revaluation or reassessment, as the case may be, shall be filed with the county tax administrator every 30 days until the program has been completed and the tax list has been filed with the county board of taxation.

1. The plan of work and revaluation progress report shall be completed on Form POW/RSR (Plans of Work/Revaluation Status Report) as prescribed by the

Director of the Division of Taxation, and include the following information:

i. A listing of all major activities and functions to be performed during the course of the revaluation or reassessment;

ii. An indication, in the case of a revaluation, as to whether the assessor or the revaluation firm will be responsible for the performance of each listed activity or function;

iii. The overall anticipated starting and completion date of each listed activity or function;

iv. The breakdown of units, portion or percentage of work activities or functions that are targeted to be started and completed during each month of the revaluation or reassessment program;

v. The breakdown of units, portion or percentage of work activities or functions that have been completed during the month for which the progress report is being submitted; and

vi. Any revision or change in schedule from the previously submitted plan of work or progress report.

(e) The board shall require that the assessor of a taxing district shall actively participate in any such revaluation program and shall be familiar with all facets of such program.

(f) In case of an approved reassessment, the provisions of N.J.S.A. 54:3-22f shall be applicable with respect to the year in which the program becomes effective.

(g) Where a contract for a revaluation under (a) or (b) above has been entered into by a municipality with an appraisal company, the Director of the Division of Taxation, before approving or disapproving said contract, shall forward a copy thereof to the county tax administrator for his or her review and comment. The county tax administrator shall submit his or her comment respecting the contract to the Director within two weeks. In the event that the county tax administrator fails to respond to said request within the prescribed period, the Director shall proceed with his or her review and approve or disapprove the contract, as provided by law.

As amended, R.1979 d.217, effective June 4, 1979.

See: 11 N.J.R. 263(b), 11 N.J.R. 359(b).

Amended by R.1990 d.339, effective July 16, 1990.

See: 22 N.J.R. 1350(a), 22 N.J.R. 2183(b).

Assessor required to file plan, schedule and monthly status reports; county taxation board and Division approval required for reassessment initiated at municipality.

18:12A-1.15 Practice and procedure

(a) In the absence of a rule covering any matter at issue, the rules of the Tax Court insofar as they may be applicable, shall govern.

(b) The rules applicable to the Tax Court regarding pretrial discovery shall be applicable to the county boards of taxation except as follows:

1. Initial interrogatories shall be served within 10 days following the deadline for filing petitions of appeal with the county board of taxation.
2. The party served with interrogatories shall serve his answers thereto upon the party propounding them within 20 days after service of such interrogatories upon him.
3. All discovery shall be completed at least seven days before the scheduled hearing date.
4. Upon motion by any party to an appeal and for good cause shown, the county board of taxation may make any order which justice requires either to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense or to require a party or person to comply with specific discovery demands.

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

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

(b) added.

Case Notes

Direct appeal to tax court did not preempt jurisdiction of county tax board. *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.

Time for seeking review by tax court never commenced running due to failure to serve attorney of record. *Estate of Frankel v. Borough of Hillsdale*, 10 N.J.Tax 213 (1988).

Letter to county board constituted motion for reconsideration. *Ipine Borough v. Gilbert*, 10 N.J.Tax 537 (1989).

Untimely motion for reconsideration failed to toll time for taking appeal. *Alpine Borough v. Gilbert*, 10 N.J.Tax 537 (1989).

18:12A-1.16 Tax assessment lists and duplicates; EDP

(a) All tax assessment lists and duplicates shall be type-written unless an accounting machine is used. The tax list shall be the original and the tax duplicate shall be an exact copy of the tax list.

(b) With respect to counties employing electronic data processing, all tax assessment lists and duplicates shall be prepared in accordance with the specifications incorporated in the electronic data processing program as developed by the State of New Jersey, Division of Taxation, as modified.

(c) The tax list shall be the original and the tax duplicate (now designated as the intermediate tax duplicate) shall be an exact copy of the tax list.

(d) There shall be an additional list produced which shall be designated as the extended tax duplicate. The extended tax duplicate shall contain the identical information as that which is on the tax list filed on January 10, reflecting the results of any corrections, revisions and additions by the county board of taxation pursuant to N.J.S.A. 54:4-46. In addition, the extended tax duplicate shall reflect the appropriate extensions after having the tax rate applied to the taxable ratables.

(e) All tax lists must comply with the specifications and contain all related reports as set forth by the Local Property and Public Utility Branch.

(f) The administrator of each county board of taxation shall designate the critical dates as to the submission of change forms to effectuate the electronic data processing program, in keeping with the administrative procedure now in force with respect to the EDP program used for the construction of the tax rolls and satellite reports.

(g) All tax lists must comply with the specifications of the Director, Division of Taxation, as promulgated in N.J.A.C. 18:12-1 through 18:12-3. Each board may adopt such procedure as it deems necessary to implement the specifications in the EDP program as adopted by the Director, Division of Taxation.

(h) An approved household improvement exemption (chapter 104, Laws of 1975) shall be indicated on the assessors' tax list and duplicates by the symbol "H". The symbol "H" and the amount of the exemption shall be shown in column seven of the assessors' tax lists and duplicates.

(i) There shall be an additional list produced which shall be designated as the "Chapter 104 Record List". This list shall contain the following data:

1. Name and code numeral of county and taxing district;
2. Name and address of owner;
3. Block number, lot number and qualification code, if any, as shown on the official tax map of the taxing district;
4. Effective date(s) of the exemption(s);
5. Total of exemption(s) for each tax year;
6. Expiration date of each exemption.

Amended by R.1974 d.242, effective August 30, 1974.

See: 6 N.J.R. 327(a), 6 N.J.R. 414(c).

Amended by R.1977 d.131, effective April 14, 1977.

See: 9 N.J.R. 146(a), 9 N.J.R. 245(b).

Case Notes

Seller of municipal tax assessment data and commercial real estate appraiser were entitled to computer copies of county's property tax-assessment list. *Higg-A-Rella, Inc. v. County of Essex*, 141 N.J. 35, 660 A.2d 1163 (1995).

Private company providing access to real estate tax assessment records was entitled to obtain from county copy of master computer. *Higg-A-Rella, Inc. v. County of Essex*, 276 N.J.Super. 183, 647 A.2d 862 (A.D.1994), certification granted 139 N.J. 440, 655 A.2d 443, certification granted 140 N.J. 277, 658 A.2d 301, certification granted 140 N.J. 326, 658 A.2d 726, affirmed 141 N.J. 35, 660 A.2d 1163.

18:12A-1.17 Filing of sales ratio data

(a) The sales ratio data is required by the Director of the Division of Taxation to fulfill certain statutory responsibilities. The following time schedule concerning the filing of sales ratio data shall be followed.

1. Flow of SR-1A form:

i. Within 10 days after receipt of an abstract of deed, the board shall prepare an SR-1A form and forward same to the tax assessor of the taxing district within which the property sold is located;

ii. The tax assessor shall complete section 2 of the SR-1A form and return the original and two copies to the board within three weeks after the receipt of said form;

iii. Upon receipt of the SR-1A form from the tax assessor, the board shall forward the SR-1A form to the Local Property and Public Utility Branch within one week.

2. Flow of SR-6 form: Each tax assessor within the county shall examine the preliminary grantor listings which summarized the SR-1A information previously submitted. A tax assessor shall forthwith file an informal petition of correction (SR-6 form) with the Local Property and Public Utility Branch if he obtains additional information concerning whether the sale is usable or nonusable for sale ratio purposes.

3. Flow of SR-3A form: Each tax assessor shall submit to the board the real property classification form (SR-3A) in accordance with N.J.S.A. 55:4-26 not later than January 10 of the tax year.

4. Each board shall submit said forms to the Local Property and Public Utility Branch, Division of Taxation, not later than April 15 of the tax year.

Case Notes

Expiration of time for taking appeal requires that school aid table be fixed. *Fort Lee Borough v. Director, Div. of Taxation*, 12 N.J. Tax 299 (1992), affirmed 13 N.J. Tax 323, certification denied 134 N.J. 563, 636 A.2d 521.

Expiration of time for challenging school aid table precludes challenge to previous year component. *Fort Lee Borough v. Director, Div. of Taxation*, 12 N.J. Tax 299 (1992), affirmed 13 N.J. Tax 323, certification denied 134 N.J. 563, 636 A.2d 521.

18:12A-1.18 Conflict of interest

No commissioner or employee of a county board of taxation shall have any interest whatsoever, directly or indirectly, as an officer, stockholder or employee, or in any other capacity, in a revaluation firm engaged in revaluing properties in any taxing district within that county.

Amended by R.1994 d.81, effective February 22, 1994.

See: 25 N.J.R. 4951(a), 26 N.J.R. 1110(a).

18:12A-1.19 Posting of rules and regulations

(a) A copy of these rules and regulations, as prescribed by the Director, Division of Taxation, and as they may be amended, shall be posted in a permanent place in the office of each county board of taxation and in the office of the assessor of each taxing district.

(b) Copies of these rules, as provided by the Division of Taxation, shall be made available by the board to any person who may request them.

18:12A-1.20 Appeals; late filing

(a) Where a petition or cross-petition of appeal to a county board of taxation is actually received by the board after April 1 of the tax year (except if April 1 shall fall on a Saturday, Sunday or holiday, then after the first business day immediately thereafter), the county board of taxation or the county tax administrator, if authorized by the board by resolution, shall not accept said petition or cross-petition of appeal for filing but shall forthwith return the same to the person filing it, together with the filing fee, if the filing fee accompanied said petition or was otherwise paid. The petition or cross-petition to be returned shall have endorsed thereon the date of receipt and a statement "Petition or cross-petition is returned by reason of late filing", and shall be accompanied by a judgment of dismissal by the county board of taxation for late filing.

(b) Where a cross-petition of appeal to a county board of taxation is actually received by the board after the 20th day following the date of service noted on the petition of appeal (except if the 20th day shall fall on a Saturday, Sunday or holiday, then after the first business day immediately thereafter), the county board of taxation or the county administrator, if authorized by the board by resolution, shall not accept said cross-petition of appeal for filing but shall forthwith return the same to the person filing it, together with the filing fee, if the filing fee accompanied said cross-petition or was otherwise paid. The cross-petition of appeal to be returned shall have endorsed thereon the date of receipt and a statement "Cross-petition is returned by reason of late filing" and shall be accompanied by a judgment of dismissal by the county board of taxation for late filing.

Amended by R.1981 d.44, effective February 4, 1981.

See: 13 N.J.R. 44(d), 13 N.J.R. 165(a).

Effective date material deleted and material concerning appeal to a county board of taxation added.

Amended by R.1984 d.330, effective August 6, 1984.

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

"or cross-petition" added.

Amended by R.1988 d.110, effective March 7, 1988.

See: 19 N.J.R. 2264(a), 20 N.J.R. 547(b).

Added (b).

Amended by R.1993 d.481, effective October 4, 1993.

See: 25 N.J.R. 2653(a), 25 N.J.R. 4604(b).

Case Notes

Direct appeal to tax court did not preempt jurisdiction of county tax board. *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.

Taxing districts held required to take appeals challenging their own assessments as too low by the August 15 deadline; proceeding with appeals beyond deadline through alternative pleadings not allowed; failure to make a timely appeal results in the original assessments standing, where the taxpayers' appeals challenge assessments based on true value, and discrimination cannot be an issue. *F.M.C. Stores Co. v. Boro. of Morris Plains*, 195 N.J.Super. 373, 479 A.2d 435 (App.Div. 1984), affirmed 100 N.J. 418, 495 A.2d 1313 (1985).