

3. The hearings may be adjourned from time to time but the Equalization Table shall be completed before May 10.

4. At the first hearing, any taxing district may object to the ratio or valuation fixed for any other district, but no increase in any valuation shall be made by the board without giving a three-day notice to the governing body and assessor of the taxing district affected.

(k) Any qualified person appointed to the position of assessor shall within 30 days of such appointment notify the respective Administrator of the appointment and shall note if the appointee is in a full-time position or is servicing more than one municipality and the names of such municipalities.

1. Any assessor who intends to terminate his position as assessor shall within 30 days of his termination date notify the respective Administrator.

2. The Administrator shall forthwith notify the Director of the Division of Taxation of any new appointments or terminations.

(l) The assessor shall maintain predetermined and specific hours during which time he or a member of his staff will be available to the general public. Thereafter, at the request of a taxpayer or any member of the public, the assessor shall within five working days thereof, meet by personal appointment, with said taxpayer or member of the public or their representatives.

1. The assessor shall furnish his respective County Tax Administrator with a schedule of these hours together with the fact of his availability for appointment, and also have the same posted in a municipal building in a conspicuous place on or before January 25 of each year.

2. The County Tax Administrator shall summarize these schedules and furnish the Director of the Division of Taxation with this summary on or before February 1 of each year.

3. It should be noted that these hours are not to be construed to be the full working period for the assessor, but it is intended to assure that the assessor or a member of his staff will be available to the general public during predetermined and specific hours.

4. Nothing herein shall be construed to supersede any agreement between the assessor and the municipality with regard to hours of work.

#### 18:12A-1.4 Seal

The seal adopted as the official seal of the board shall be circular in shape, and around the outside margin thereof shall be the words "\_\_\_\_\_ County Board of Taxation" and shall be used upon all certificates, processes and necessary documents and papers issued and authorized by the board.

#### 18:12A-1.5 Entitling of cause

All proceedings before each board shall be captioned "\_\_\_\_\_ County Board of Taxation" and shall be entitled in the cause in which said proceedings are held.

#### 18:12A-1.6 Petitions of appeal; cross-petitions of appeal

(a) All complaints concerning property tax assessments, whether by an individual or corporation, shall be by written petition of appeal on forms prescribed by the Director, Division of Taxation, to be furnished to the boards. A petition of appeal filed by a party respondent in a tax appeal shall be denominated as a "cross-petition of appeal" and shall be filed on the same form and subject to the same standards applicable to petitions of appeal. All petitions shall contain the name and address of the taxpayer, the block and lot number or account number of the property and the assessed value of the land and improvement respectively stated, and such other information as the Director may require.

(b) A petition of appeal filed by a party respondent in a tax appeal shall be denominated as a "cross-petition of appeal" and shall be filed on the same form and subject to the same standards applicable to petitions of appeal. Where a petition of appeal is filed on April 1, or within the period covering 19 days next preceding April 1, respondent shall have 20 days from the date of service to file a cross-petition with the county board of taxation.

(c) A separate petition of appeal shall be received and filed with the board on or before April 1 for each separately assessed property under appeal. Where an appeal involved 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.

(d) A petition of appeal filed with the board shall be duly signed by the taxpayer, by the taxpayer's attorney or, in cases of extreme hardship which shall include old age, illiteracy and the like, by an agent of the taxpayer who is either a family member or resident caregiver. Where all information on the petition is not supplied or the petition is otherwise incomplete, the board shall nevertheless accept said petition for filing but the petitioner shall be afforded 10 days from the date of filing unless additional time shall be granted by the board of appeal within which to complete the petition. All parties shall be given at least five days notice of any additions or changes with respect to the petition of appeal. Failure to complete a petition within such time may result in its dismissal.

(e) A taxpayer who shall file an appeal from an assessment against him shall pay to the collector of the taxing district no less than the total of all taxes and municipal charges due, up to and including the first quarter of the taxes and municipal charges assessed against him for the current tax year in the manner prescribed in R.S. 54:4-66. In the event a taxpayer who has filed a tax appeal has failed

to pay the total of all taxes and municipal charges due and in the further event the municipality appropriately makes an application before the county board of taxation for a dismissal of the petition of appeal, the county board of taxation shall allow the taxpayer a 10-day period of time to pay such taxes prior to the entry of a judgment of dismissal. The 10-day period may be extended by the county board in the interest of justice. If such taxes are not paid within the 10-day period, then the county board of taxation shall enter a judgment dismissing the petition for failure to pay taxes. Such a 10-day period for the payment of taxes should be limited where necessary by the July 1 annual deadline imposed upon county boards by law for the entry of judgments.

(f) Petitioner who alleges discrimination, except where discrimination is claimed pursuant to P.L. 1973, c.123, as amended, and uses comparable sales on other properties as comparisons must affix a schedule to the petition of appeal and to the copy of said petition, giving the name of the owner, block and lot number, assessed valuation as shown in the current tax list and sales price. This rule may be waived in individual cases at the discretion of the board.

(g) A separate petition of appeal shall be received and filed with the board on or before December 1 for each assessment under appeal on the added assessment list.

(h) A separate petition of appeal shall be received and filed with the board on or before December 1 for each assessment under appeal on an assessor's omitted assessment list pursuant to N.J.S.A. 54:4-63.39.

(i) All other appeals from actions or determinations of tax assessors where no time is fixed by statute or by this chapter shall be filed within 60 days from the date of the action or determination appealed from.

(j) A petitioner must file a copy of each petition with the assessor and Clerk personally or by regular mail. The Clerk shall forthwith notify the collector and such other municipal officials as the governing body shall direct. In case of appeal by the taxing district, a copy of the petition must be served on the record owner of the subject property and on the assessor, unless the tax collector has received written notice that the taxpayer is a person, partnership or corporation other than the record owner, in which event a copy of the petition must also be served on the taxpayer. Where petitioner files a petition with respect to another owner's property, he shall furnish a copy of the petition to such owner in addition to all other parties.

(k) Proof of filing may be by receipt stamp of the taxing district or affidavit of service.

(l) If the last day for filing a petition falls on a Saturday, Sunday or a legal holiday, the last day for filing shall be extended to the first succeeding business day.

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

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

As amended, R.1978 d.325, effective September 15, 1978.

See: 10 N.J.R. 457(d).

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

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

As amended, R.1982 d.176, effective June 7, 1982.

See: 14 N.J.R. 231(a), 14 N.J.R. 580(f).

(j) added "assessor and" before "Clerk" and deleted "assessor" before "collector".

As amended, R.1984 d.31, effective February 21, 1984.

See: 15 N.J.R. 1930(b), 16 N.J.R. 380(b).

(d): Substantially amended.

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

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

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

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

Added new (b); renumbered old (b)-(k) as (c)-(l).

Administrative Correction to (j).

See: 21 N.J.R. 3674(c).

Amended by R.1995 d.473, effective September 5, 1995.

See: 27 N.J.R. 1961(a), 27 N.J.R. 3380(a).

#### Case Notes

Payment of back taxes in accordance with statutes requiring taxpayer who appeals assessment to pay taxes and municipal charges is jurisdictional, if municipality moves for payment in accordance with statute. *Bllum Ltd. Partnership v. Bloomfield Tp.*, 294 N.J.Super. 201, 682 A.2d 1229 (A.D.1996), also published at 16 N.J.Tax 41.

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 take 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).

Payments of back taxes jurisdictional to appeals of property tax assessments if municipality moves before county tax board for payment. *Bllum Ltd. Partnership v. Bloomfield Tp.*, 16 N.J.Tax 41 (A.D.1996).

Failure to pay taxes as required by statute; dismissal of appeal from assessment. *Bllum Ltd. Partnership v. Bloomfield Tp.*, 15 N.J.Tax 409 (1995).

Administrative remedies must be exhausted within statutory filing limits to give Tax Court jurisdiction. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Evidence failed to support a presumption that mailed petition of appeal was received by county board. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Delivery of appeal to mails does not meet taxpayer's duties with respect to appeal. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Timely filing of appeal is required to give county board of taxation jurisdiction. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Late filing with county board of taxation resulted in tax court complaint being dismissed. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Tax court cannot rule on matter if county board of taxation does not have jurisdiction. *Lamantia v. Howell Tp.*, 12 N.J.Tax 347 (1992).

Taxpayer's failure to make payments required by rule held not an absolute jurisdictional bar to appeal, but issue must be crystallized by municipality through appropriate defensive pleadings, a motion to dismiss or the institution of foreclosure proceedings; statute requires all taxes due for a current tax year to be paid prior to the entry of judgment by the county board of review (citing former rule). *Verden Realty Management Co. v. City of East Orange*, 5 N.J.Tax 637 (Tax Ct.1985).

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 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).

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.

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 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.

(b) In order to provide for a more orderly appeal procedure, county boards 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)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.

