

Client Bulletin



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ness are the highest compli-
ments we could ever receive.

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Deadline for Real Estate Tax Valuation Complaints is March 31, 2011

The statutory deadline for the filing of complaints against the valuation of real property for tax year 2010 (the payment for the first half was due a month or two ago depending upon the county) is March 31, 2011, which deadline cannot be extended. If you purchased property, whether residential or commercial, within a period of 18 months to 24 months of January 1, 2010 (whether before or after that date) and paid less for the property than the market value set forth on the tax bill, assuming that the purchase was “arm’s length,” you have a good case for getting the valuation reduced to the purchase price, without needing any expert testimony from an appraiser. We can assist you in preparing the appropriate complaint form and its supporting documents and, if warranted, representing you at the hearing before the Board of Revision.

In the event there has not been a purchase, there can still be a complaint against valuation on the basis that the Auditor’s valuation exceeds the fair market value of the property as of January 1, 2010, particularly given the Great Recession’s adverse impact on real estate values. If a commercial property is involved, in most instances it will be necessary to present an appraisal report and have the appraiser testify. However, if residential property that is not unique is involved, it is possible to present a viable case before the Board of Revision without an appraisal report and the testimony of an appraiser. If you have refinanced the property within a year or so of January 1, 2010 and have a copy of the appraisal from the refinance, it can be used if presented in the right way (so that it is not excluded as “hearsay evidence”). If you do not have an appraisal, if your residence is not unique or a custom home, the complaint against valuation can be supported with “sales comparables” of houses similar to your house in your subdivision or another subdivision (for example, the same model by the same builder). Sales at foreclosure cannot be used and generally sales by a bank (REO or “bank owned”) will generally not be considered to be “comparables” by the Board of Revision. Again, we can help you prepare the complaint against valuation and its supporting evidence and, if warranted, represent you in a short hearing before the Board of Revision.

Reminder-Recording of Code of Regulations/Bylaws of HOAs

As a reminder, as set forth in a previous Client Bulletin in some detail, March 8, 2011 is the deadline for recording the code of regulations or bylaws for homeowners’ associations that meet the definition of an association of a “planned community” under Ohio’s Planned Communities law which became effective in September 2010. (Basically, the subdivision is a “planned community” if there is real property or personal property owned by the association, such as an entry feature, or if the homeowners have to pay dues or assessments to the association.)

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Required Changes to Cafeteria Plans (125 Plans)

Some of the provisions of the Health Care Reform Act enacted in 2010 may require that changes be made to your Cafeteria Plan/125 Plan, or components thereof, such as the flexible spending account (FSA) or the dependent care flexible spending account (DCAP).

If your Cafeteria Plan includes an FSA component, the plan must be revised to exclude over the counter drugs as reimbursable expenses effective January 1, 2011, unless those over the counter drugs are prescribed by a medical practitioner.

The Health Care Reform Act also requires that certain dependents of employees must be eligible to participate in the employer's health care plan until the dependent reaches age 26. The IRS has ruled that the cost of coverage for such dependents can be paid on a pre-tax basis. Your Cafeteria Plan/FSA should be amended to allow change of election for events affecting the eligibility of these adult dependents and to allow FSA reimbursements for eligible expenses incurred by these now-eligible dependents.

Effective January 1, 2013, Cafeteria Plans must limit FSA contributions to \$2,500, but you may want to consider amending the FSA component of your Cafeteria Plan at this time to avoid the necessity of a future amendment to comply with the \$2,500 limit that becomes effective on January 1, 2013 (or to avoid the possibility of forgetting to make the amendment in 2012).

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Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.