

Act Now to Save Money on Your 2009 Property Tax Bill!

By Kimberly C. Gaddis, Esq.

The nationwide housing crisis has caused many homeowners' property values to plummet over the past 12 months. However, many local tax assessors' offices will not likely have an opportunity to re-assess every home's value prior to the 2009 tax bill deadlines. As such, unless you act now and file a Real Property Tax Return to declare what you believe to be the fair market value of your real property, you may lose the right to appeal later in the year, and you may end up paying more in property taxes than necessary.

All real property in Georgia is assessed an *ad valorem* property tax. In each county, there is a Board of Tax Assessors ("BOA") which is charged with the responsibility of reviewing all tax returns, seeking out unreturned property, and determining the assessed value of all property within the county. While the county Tax Commissioner collects the taxes, Georgia law requires every county to appoint a BOA to determine the fair market value and assess all property in the county.

Many homeowners do not realize it, but Georgia law requires each taxpayer to file a return for all taxable property owned on January 1 each year. If a taxpayer fails to file a return by the deadline (see below box as filing deadlines will range from March 1 to April 1, depending upon the county), then the taxpayer is deemed to have returned for taxation the same property as the preceding year and at the final value determined for that property in the preceding year. It is this provision that allows most taxpayers to file a return for the initial year in which a homeowner purchases property, and then file no further returns.

However, it is advisable to file a return for real property if you disagree with the previous year's value. For example, if your home was assessed in 2008 by the county as having a fair market value of \$275,000, but the housing market has caused the sales prices of homes in your neighborhood to decrease over the course of the past year, the current fair market value of your home may now be \$225,000. If you fail to file a return by the deadline established for your county and declare that the fair market value of your home is now \$225,000, and if the BOA does not re-assess the property and keeps it the same as 2008, then you do not have any appeal rights to the BOA later in the year and you will be required to pay taxes on the property as assessed at \$275,000. Thus, filing a Real Property Tax Return is your first opportunity to alert the county of a decreased value in 2009.

The only recourse a homeowner has to appeal the fair market value assessment if the homeowner fails to a Real Property Tax Return at the beginning of the year is in the event the county were to increase the fair market value assessment in 2009. Using the example above, for property that was assessed in 2008 at \$275,000, if the county were to increase that assessment to \$295,000 in 2009, then the homeowner would receive a Notice of Assessment Change in the spring of 2009 advising the homeowner of this increase in assessed value. At that time, the homeowner would have 30 or 45 days (depending on the county) to appeal the newly increased assessed value.

Once a Real Property Tax Return is filed between January 1 and April 1, the BOA must then make a written decision as to whether or not to accept the declared value. If the BOA accepts the valuation claimed by the owner on the Return, the BOA will send a Notice of Assessment Change to the homeowner in the spring advising the owner of the acceptance of the new value and the matter is concluded.

Alternatively, the BOA may deny the new value as declared by the homeowner, and state the reasons for the denial in a letter. This results in an automatic appeal to the Board of Equalization ("BOE") without any further action required by the taxpayer. Lastly, the BOA may make its own, independent determination of fair market value and send the homeowner a notice of this new assessment in the Notice of Assessment Change mentioned above. This will allow the owner to either accept the decision of the BOA as to the fair market value assigned by the county, or it will allow the homeowner to file an appeal of this decision with the BOE in writing within the time deadlines outlined in the Notice.

Under Georgia law, if the county fails to respond to the appeal within 180 days, the appeal will be automatically referred to the BOE. Upon receipt of the notice of appeal, the BOE must set a hearing. Hearings on contiguous properties owned by the same owner may be consolidated at the request of the owner. At the hearing the BOE will allow the taxpayer to challenge the tax assessment based on: (1) valuation issues; (2) application of the tax to a specific property; (3) calculation of the tax as it applies to various classes of property; or (4) uniformity issues. The decision of the BOE must be issued in writing stating the grounds of the decision. If the BOE grants the owner's appeal, any monies already paid by the owner over the BOE's determined value will be refunded to the owner with interest not to exceed \$150.

The owner may refer the appeal to arbitration in lieu of the BOE hearing. The owner or the county may thereafter appeal the decision of the BOE or the arbitrator to the Superior Court within 30 days from the issuance of the BOE or arbitrator's decision. This appeal constitutes a *de novo* action, meaning the Superior Court will conduct a new trial and not just review the evidence considered by the BOE or arbitrator.

Tax appeal deadlines are absolute. As such, a property owner should seek legal help early on in the appeal process.

**REAL PROPERTY TAX RETURN
FILING DEADLINES 2009**

■	DEKALB:	March 1
■	GWINNETT:	March 1
■	CLAYTON:	April 1
■	COBB:	April 1
■	FULTON:	April 1
■	FORSYTH:	April 1
■	HENRY:	April 1
■	PAULDING:	April 1

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Fee Arrangement for 2008 Tax Appeals

PRE-APPEAL (Return Processing) – All property values = same flat fee

Prepare and file Real Property Tax Return in appropriate county
between Jan. 1 and the appropriate deadline per county: \$75.00

APPEAL: Step 1 (Tax Assessor) – All property values = same flat fee

Prepare Tax Appeal Letter to Tax Assessors Office with all appropriate
documentation to justify appeal per statutory requirements: \$350.00

APPEAL: Step 2 (Board of Equalization) – Hourly billing

Attend BOE hearing in appropriate county and make arguments for client
justifying appeal value: \$250 per hour

APPEAL: Step 3 (Superior Court) – Hourly billing

Prepare Appeal to Superior Court; file all appropriate court filings by deadlines,
appear in court on behalf of client and appeal tax assessment based on all
appropriate statutory requirements: \$250 per hour