And They’re Off! Kentucky Real Property Tax Appeals Give New Meaning to the First Week of May
By Attorney Daniel G. Mudd, Frost Brown Todd LLC

Every year in early April, many Kentuckians will receive a notice of assessment from their local property tax administrators (“PVA”) notifying them that the value of their personal and/or business property has increased. This may be good news for some in terms of your property’s resale/market value, but for most, it simply means that you will pay higher taxes on the property. As this is one of the most common issues I am asked about as a tax practitioner each year, this article provides taxpayers with an overview of what to look for when you receive a property tax bill in Kentucky, why your values have increased, and the deadlines and options you have for appealing same.

You Snooze, You Lose — Kentucky’s Two-Week Annual Appeal Period in May

Kentucky real property tax is assessed on January 1 of each year. If there is a change in value from the prior year, the owner of record for that year (as of January 1) will receive a Notice of Assessment (“Notice”) from the PVA. While typically sent in April, you do not have to receive a Notice in order to contest your property value as you have the right to do so each year.

Kentucky is unlike many states in that you only have one chance, each year, to appeal your property values, and if you miss it, you lose your ability to appeal the value until the following year. Kentucky law allows for a two-week “Open Inspection Period” annually at the beginning of May that property owners may file a property tax appeal with their local PVAs (more on that in a bit).

Whether appealed or not, the PVA typically sends out a final property tax bill for that year around October. So, for example, if you received a tax bill in October 2019, unless you appealed it during May of 2019, the tax bill must be paid by December 31, 2019, or else it becomes delinquent and additional interest, penalties and fees will be assessed, and the property may eventually be sold at auction pursuant to local processes (a story for a different day).

Properties may be reassessed in a given year due to various situations that demonstrate an increase in value, including a recent sale of the property or a business on the property, major improvements on the
Tech Tip: Connect to Subscriber Databases from home

During our lockdown we wanted to reminder our subscribers many of you still have access to various databases from the safety from your home. If you are a solo attorney, or an attorney at a firm where all attorneys subscribe, go to https://lawlibrary.hamiltoncountyohio.gov and log in to our website using your credentials.

If you do not know your username and/or password, email the reference staff (reference@cms.hamilton-co.org) and we can provide your information. You can also use the “Lost Password” link.

Typically, usernames are lastnamefirstname with no spaces. Passwords are your borrower number. The same number you use to log into the computer lab PC’s in the law library.

If you need something and you do not find it in one of our databases, the reference staff has access to Westlaw from the safety of our homes. Call us (513-946-5300) and leave a message or email us (reference@cms.hamilton-co.org) and we will be happy to assist you.
Ebooks
Just a reminder – if you’re missing our print collection, all subscribers have access to our ebooks collection through our Lexis Digital Library. We have a large collection of LexisNexis Matthew Bender titles, as well as books from West Academic and ABA Publishers. Check out Vanessa’s blog post for more information and Julie’s Tech Tip in the March newsletter (Page 3) for tips on how to access it on your mobile device. You can also click to access the login page on your computer using many browsers. Your user name is your “LastnameFirstname” and your password is your borrower number. If you have any trouble accessing it or need your borrower number, please don’t hesitate to email us at reference@cms.hamilton-co.org.

Law Library Update
We appreciate your patience during this strange and unprecedented situation. The Law Library is currently closed in person, with a tentative reopening date of May 1. The situation is fluid, so I’d encourage you to check our website for updates as we reassess.

Even though we’re closed in person, we’re happy to continue to serve you via remote reference assistance during our normal business hours, Monday-Friday, 8am-4pm. We are all working remotely, and have access to the databases we need to meet your research needs. If you haven’t used this service before, I’d encourage you to give it a try. We can send you cases, annotated statutes, sample forms, etc and are happy to conduct and tweak searches based on your feedback. Please just email us at reference@cms.hamilton-co.org. This email account is monitored by our librarians all day during business hours.

Solos attorneys and attorneys at firms where all attorneys subscribe to the Law Library also have remote access to certain databases. Vanessa’s blog post provides a complete list and instructions to access them.

For anyone who currently has print materials checked out, we’ll continue to renew them and waive any late charges while we’re closed.

Celebrate National Library Week 2020
National Library Week is April 19-25 this year. National Library Week is a national observance sponsored by the American Library Association (ALA) and libraries across the country each April. It is a celebration of libraries and library workers and the transformative work they do in their communities. The theme for 2020 National Library Week is "Find Your Place at the Library.” While we realize this means something a little different right now, we hope that you can still “Find Your Place” with us during this trying time through our remote reference services, blog and social media accounts, and our ebooks.

The ALA really says it best:

"‘Find your place at the library,’ was chosen some time ago, before any of us could imagine the emergence of a global pandemic that would force most libraries to temporarily close their physical spaces. But you can still find your place at the library because libraries are open for business online, providing the virtual services and digital content their communities need more than ever.”

This Library is thrilled to be able to serve the Greater Cincinnati legal community every day and meet your information needs.
property, and/or nearby sales or developments. But remember, Kentucky PVAs are required to physically inspect properties every four years, so a Notice could come on any given year regardless of whether any changes to/near the property have occurred. So as you check your early Derby racing forms in April, also be sure to check your mailbox for a Notice because you only get one shot to appeal, beginning the first week of May.

**Notice Received – Should I Appeal, and What is the Process for Doing So?**

Once a property owner receives a Notice, one must go through a variety of questions to determine whether to file an appeal. A step-by-step process for such a determination is provided below:

**Step 1: When is the Deadline to Appeal?**

The Open Inspection Period begins the first Monday in May and continues for a 13-day period (excluding Sundays). Therefore, each year the exact dates of this appeal period may change.

For the 2020 tax year (i.e., property owners as of January 1, 2020), the Open Inspection Period begins Monday, May 4, 2020 and ends May 18, 2020. Note that this is just the statutory minimum, as some of the larger counties in Kentucky, like Jefferson County (Louisville) and Fayette County (Lexington), will often extend the deadline to file such an appeal by opening the period early or extending for an additional time period, so it is important to stay on top of these dates or contact your local tax practitioner to verify. Jefferson County has already extended this timeframe in 2020 by opening the period up ten-days early – a rare move – starting April 24, 2020 (and may even extend it beyond the May 18th deadline too depending on volume of appeals at a later date).

Why is this so important? Because if you don’t file an appeal during this annual two-week period, you are barred from appealing the value during that year and must wait until the next annual Open Inspection period to challenge same. This is critical because not only would a property owner have to pay higher taxes for that year, but it makes it that much more difficult the next year for a taxpayer to argue the value was too high (because if it was, why didn’t you appeal it the prior year?).

**Step 2: Should I Appeal?**

Even if you believe your property is overvalued, it is always wise to determine if the increase in value, and corresponding increased tax, is enough to make an appeal worthwhile. A review of Kentucky’s real property tax rates is a good place to start.

Most Kentucky real estate is subject to full state and local rates. The state real property tax rate can vary from year to year and is computed by the Department of Revenue’s Office of Property Valuation typically by July 1, but it has remained at $0.122 per $100 value since 2008. The local tax rates make up the bulk of a taxpayer’s real property taxes as it often includes not only the county’s tax rate, but also taxation by local schools, cities, and other municipal jurisdictions. For example, a property in Louisville has a county rate ($0.1235/$100), a sizeable school tax rate ($0.7040) and possible additional city and other local district taxes on top. Accordingly, the potential tax savings for challenging the increased assessment not only for the tax year at issue, but also for future years, can be substantial, making an appeal well worth the fight.

In addition to determining how much the increase in value will cost you in additional taxes, a property owner should also understand that it must provide support for your belief that the increased value was wrongful. Knowledge of recent/nearby sales, recent appraisals, insurance policies, or other documentation can be very persuasive in an appeal. A taxpayer must also understand how the PVA may calculate or support its increase in value as it is entitled to use one of three valuation methods – the cost method (how much does the land/improvements cost), the sales method (recent/comparable property sales), and the income method (detailed income/expense analysis). The latter method is the most commonly used
Step 3: How Do I Appeal?

In order to file a timely real property tax appeal, the property owner must first have a “conference” with the local PVA during the Open Inspection Period. For many Kentucky counties, you must physically schedule an in-person meeting with your local PVA official to discuss why you disagree with the value. However, many local PVAs allow for, and often require (e.g., Jefferson County), such a “conference” be held remotely online or via telephone. As part of this conference, a property owner typically must provide certain financials and other relevant documents (e.g., recent appraisals, contracts, policies, etc.), as well as an income/expense worksheet for income-producing properties, to support the property owner’s assertion of the “fair cash value” of the property under Kentucky law. Again, knowing your county’s local requirements and customs is critical to a timely filed, and successful, appeal.

If a property owner provides sufficient/compelling information, data or documentation to support its position that property was overvalued, the local PVA may agree to an adjustment. But oftentimes, the PVA will uphold its increase/assessment, and the property owner only has until one day after the Open Inspection Period closes to appeal this decision to your local Board of Assessment Appeals (“BAA”). Note that there are occasions where this deadline is also extended in larger counties, like Jefferson County.

This appeal is a more formal process than the PVA conference as it requires an in-person hearing with the local BAA (comprised of three members from the local community) who will consider the property owner and PVA’s positions, any supporting documents, and will then issue a decision either: (i) upholding the PVA’s value/assessment, (ii) adjusting the assessment (e.g., meeting in the middle); or (iii) agreeing with the value asserted by the property owner.

A party aggrieved by the local BAA’s decision (the property owner and/or PVA) may then appeal this decision to the Kentucky Claims Commission (“KCC,” f/k/a the Kentucky Board of Tax Appeals) within 30 days of the mailing date of the BAA’s decision. This is the next level of formality as a Petition of Appeal must be filed by a Kentucky-licensed attorney, and both parties may potentially issue discovery, make substantive filings, and retain experts (e.g., appraisers, consultants, etc.) for a full-evidentiary hearing before the KCC. However, in my personal experience, many of these appeals often get resolved prior to reaching this stage which is often the best approach for cost-tax savings purposes.

Pro Tip – Be Ready at the Starting Gates or You May Get Disqualified

Challenging an increase in your property value can often be a confusing and complex process, so you should contact your local, trusted tax practitioner or advisor to help you. And don’t forget: the first week in May is not just for the Derby, but also for appealing your personal or business property value; otherwise you will be scratched from that year’s race.

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Attorney Daniel Mudd’s practice focuses on state and local tax planning, controversy and incentives matters, including property tax, sales tax, excise tax (tobacco, alcohol and gaming), income tax, employment tax and local business tax. Daniel is also a leader of the Firm’s Manufacturing Industry Team, and heads up its Consumable Goods Subteam which oversees all hemp, alcohol, tobacco, food and beverage clients.

Editor’s note: this article was posted on March 11, 2020. Please check with the state regarding any COVID-19 related changes.
### Subscriber Benefits

All subscribers have access to the following valuable resources and services:

- **Circulation privileges** to borrow from over 40,000 print volumes for up to six weeks at a time.
- Access to extensive legal information databases from the Law Library, including Westlaw, Wolters Kluwer Cheetah™, Bloomberg Law®, Overdrive e-books, HeinOnline, and Loislaw treatises.
- Wireless network throughout the Law Library.
- Polycom videoconferencing.
- Eight meeting rooms with speaker phones.
- Professional reference service by our law librarians, available via e-mail, telephone, and in person.
- Free document delivery by fax or e-mail of print and electronic materials.
- CLE seminars throughout the year, on legal research and substantive topics.
- Subscribers’ lounge, magazines, daily newspapers, and coffee.
- Bi-weekly news alerts by practice area.
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In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises, HeinOnline (for under 50 attorney firms), EBSCOhost, and Intelly-Connect Law, Business, Tax, and Accounting.

### CBA Bundle Renewals

A reminder for our subscribers who have bundled their Law Library subscription with their Cincinnati Bar Association membership – please make sure to select the Law Library add-on when you submit your 2020-2021 Membership Renewal to the CBA. Already renewed with the CBA and didn’t add it on? It’s not too late! Please contact Lauren by email at lmorrison@cms.hamilton-co.org and she’ll work with you to make sure it gets processed.

### Law Library Board to Meet July 9

The Hamilton County Law Library Resources Board will not meet in April 2020, but will instead hold its next regularly scheduled meeting on Thursday, July 9, 2020 at 11:00am in the Robert S. Kraft Board Room at the Hamilton County Law Library, 1000 Main Street, Room 601, Cincinnati, OH 45202. Meetings are open to the public.

### Upcoming CLEs

**Wednesday, May 13, 2020, 12 pm-1 pm**

**Complex Appeals**

**Presenter:** Attorney Paul Croushore

1.0 general credit approved in OH & KY

**Monday, June 15, 2020, 12pm-1pm**

**Elder Abuse Awareness (for World Elder Abuse Awareness Day)**

**Presenters:** Reference Librarian Amy Kurlansky & Attorney Matt Barnes, Pro Seniors, Inc.

1.0 general credit pending in OH & KY
Remote Access Resources

Law Library subscribers have access to a variety of Remote Access Resources, including those listed below. If you have questions about these resources, contact the reference staff at reference@cms.hamilton-co.org or 513.946.5300.

New OVERDRIVE E-Books
Anderson’s Appellate Practice in Ohio 2019
Anderson’s Ohio Civil Practice with Forms Vol. 1-5 2019
Anderson’s Ohio Creditor’s Rights Manual 2019
Anderson’s Ohio Criminal Practice & Procedure Vol. 1 & 2 2019-2020
Anderson’s Ohio Domestic Relations Practice Manual Vol. 1 & 2 2019
Anderson’s Ohio Family Law 2019 Vol. 1 Domestic Relations Vol. 2 Juvenile Court Practice & Procedure
Anderson’s Ohio Manual of Criminal Complaints and indictments 2020
Anderson’s Ohio School Law Manual 2020
Anderson’s The Simple Will in Ohio 2019-2020
Anderson’s Ohio Personal Injury Litigation Manual 2019
Constitution of the United States 2019
Federal Rules of Civil Procedure 2019
Federal Rules of Evidence 2019
Immigration Compliance and Best Practices 2019
Indiana Model Jury Instructions 2019
Kentucky Evidence Courtroom Manual 2019-2020
Ohio Criminal Law Handbook 2019
Ohio Evidence Court Room Manual 2020
Ohio Insurance Law Handbook 2019
Representing People with Mental Disabilities
Sixth Circuit Criminal Handbook 2019 Summer-Fall
Weissenberger’s Ohio Evidence Treatise 2020
Weissenberger’s Ohio Civil Procedure Litigation Manual 2020

HeinOnline
American Bar Association Journals ABA Journal ABA Journal of Affordable Housing & Community Development ABA Journal of Labor & Employment Law ABA Tax Times
Upcoming Events:

May 13, 2020: CLE: Complex Appeals, 1.0 credit pending in OH & KY

June 5, 2020: Bridging the Gap (stay tuned for more information)

June 15, 2020: CLE: Elder Abuse Awareness, 1.0 credit pending in OH & KY

April 2020 Law Library Newsletter

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