

PROPERTY TAX REFUND REVENUE RECOVERY IN MOST CASES APPROVED BY GENERAL ASSEMBLY

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With the passage of Senate Bill 508 in the closing minutes of its spring 2021 session, the General Assembly has set the stage for all school districts and other local taxing districts in counties subject to the Property Tax Extension Limitation Law (PTELL) to benefit from supplemental tax levies. These supplemental levies would make up for those revenues lost due to property refunds paid out to taxpayers who have obtained refunds at the districts' expense based on most retroactive property assessment reductions. This would include refunds due to rulings by the Illinois Property Tax Appeal Board (PTAB), the courts in specific objections cases, and certificates of error. The bill will now go to the Governor for his consideration.

SB 508 provides that county treasurers in each county must, by November 15 each year, certify the amount of tax refunds affecting each taxing district over that last 12 months. That information would then be used by county clerks to apply a "prior year adjustment" increase to the district's annual tax levy, beginning with the 2021 levy. The adjustment is automatic; it does not require action by the taxing districts. The bill further provides that this tax levy adjustment is not to be used in the determination of the district's limiting rate. In short, this legislation provides for a make-whole supplemental tax levy which is outside the tax-cap provisions of PTELL.

Certain limitations should be kept in mind, however. First, the provision of a new refund-recovery levy would not be available for districts in non-PTELL counties. Further, there would be no recovery for losses from refunds due to certain other reasons, such as tax rate objections or the granting of new property tax exemptions. Moreover, any revenue recovery would take time since refunds issued in one year would not be offset by new levy revenue until the next year.

Most important, making districts financially whole for taxpayer refunds comes at a significant long-term cost. It means that tax rates will go up and that the property tax burden in the community will be shifted to other taxpayers. Since most PTAB appeals and specific objection complaints are initiated by the largest commercial and industrial taxpayers, the bringing of more successful, or even uncontested, property tax assessment cases will inevitably result in higher and higher tax bills for homeowners and small businesses. This result may only exacerbate the problem already facing many suburban and small city communities, where higher property taxes discourage new development and hold down property values, thus increasing tax rates even more and further discouraging development. It is a cycle of fiscal disadvantage which the State has promised to ameliorate, but to date without much effect. These factors should be weighed when future involvement in opposing assessment appeals is considered.

We will keep you informed of when the Governor acts on this bill or when county officials offer input on the implementation of this legislation.

If you have any questions about this important legislation, please do not hesitate to contact one of our attorneys.