



# RSK&G BRIEFS



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PROPERTY TAX APPEALS, TAX EXEMPTIONS  
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## GLENN GUTTMAN OFFICER OF ILLINOIS PROPERTY TAX LAWYERS ASSOCIATION



The Illinois Property Tax Lawyers Association (“IPTLA”) is an Illinois not-for-profit corporation that has been incorporated since June of 2003. Since its incorporation, IPTLA has been very active in shaping government policy on many Illinois legislative and administrative matters affecting all Illinois property taxpayers. Over the years, IPTLA has established a highly-regarded reputation for drafting, sponsoring, and successfully obtaining revisions in the Illinois Property Tax Code through the Illinois legislature, as well as for winning taxpayer-friendly changes to the administrative rules of local taxing bodies and assessing officials in counties throughout Illinois. Glenn Guttman, who is a partner here at Rieff Schramm Kanter & Guttman, is an officer of IPTLA and is currently serving as its Treasurer. □

## EILEEN SERGO LEGISLATIVE LIAISON OF CBA TAX COMMITTEE



The Real Estate Tax Committee of the Chicago Bar Association reviews existing laws and proposed legislation relating to the taxation of real property and considers their constitutionality, practicality and administrative feasibility. The Committee is most interested in the government’s administration and the judicial enforcement of these laws and makes recommendations to administrative agencies and the legislature to make the real property tax more equitable and efficient. As the Legislative Liaison for the Committee, Rieff Schramm Kanter & Guttman’s own Eileen Sergo remains current on all pending legislation regarding the Illinois Property Tax Code, and makes regular reports regarding the status of such legislation to the Committee. □

### *In This Issue:*

<i>Glenn Guttman Officer of Illinois Property Tax Lawyers Association.....</i>	<i>1</i>
<i>Eileen Sergo Legislative Liaison of CBA Tax Committee.....</i>	<i>1</i>
<i>Defenses Against Omitted Assessments.....</i>	<i>2</i>
<i>Fraudulent Solicitation.....</i>	<i>2</i>
<i>A Top Ten List Of Some Often Misunderstood Facts Of Property Taxation.....</i>	<i>3</i>
<i>1st Installment Of 2014 Real Estate Taxes Due March 1st.....</i>	<i>3</i>



In response to Ben Franklin’s quote about nothing being certain in life but death and taxes, J.C. Watts, Jr. stated, “Death and taxes may be inevitable, but they shouldn’t be related.”

## **DEFENSES AGAINST OMITTED ASSESSMENTS**

Sometimes an assessor may fail to assess a tax parcel completely by inadvertently omitting from the parcel's assessment one or more of the improvements (buildings) located on that parcel. The Illinois Compiled Statutes, however, provide the assessors with a means by which they may retroactively capture an "omitted property" through a process commonly referred to as a back-tax or omitted assessment. This article will discuss the defenses against being subjected to such omitted assessments. The relevant provision in the Illinois Compiled Statutes is Chapter 35, Section 9-270.

This section first provides that an omitted assessment shall not be made against any property for years prior to the date of ownership by the owner at the time the omitted assessment was first ascertained. The section then enumerates seven affirmative defenses, stating that "No charge for tax of previous years shall be made against any property" if:

1. The assessor failed to notify the board of review of the omitted assessment in compliance with the statute;
2. The property was last assessed as unimproved, the owner of the property gave notice of the subsequent improvements and requested a reassessment, but reassessment was not made within 16 months;
3. When formerly exempt property had a change in leasehold estate or titleholder to a transferee that does not qualify for exemption, and a notice in writing of the change had been provided by the transferee to the assessor, return receipt requested, within 90 days of the transfer;

4. The assessor received a building permit evidencing new construction but failed to list the improvement;
5. The assessor received a survey or similar document containing the omitted property but failed to list the improvement;
6. The assessor received a real estate transfer declaration from an exempt property owner to a non-exempt property owner but failed to list the property; or
7. The property was the subject of an assessment appeal before the assessor or board of review that had included the intended omitted property as part of the assessment appeal and provided evidence of its market value.

Through strict adherence to the provisions of this statute, we have successfully defended our clients against the imposition of omitted assessments. In one recent instance concerning an industrial property owner, we succeeded in completely avoiding the imposition of three years of omitted assessments that would have resulted in a real estate tax liability totaling \$150,000.

□

## **FRAUDULENT SOLICITATION**

Please note that the Assessor of Cook County has posted on his website the following notice:

A fraudulent solicitation was recently mailed to many Cook County taxpayers regarding a property's Home Equity Line of Credit (HELOC). The letter states that it is from the Assessor's Office and that the county will provide a 5% property tax discount if taxpayers fax a copy of their bank statement. This letter is fraudulent and was NOT sent by the Cook County Assessor. □

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**A TOP TEN LIST OF SOME OFTEN  
MISUNDERSTOOD FACTS OF  
PROPERTY TAXATION**

10. For assessment purposes, two adjacent buildings with identical physical characteristics may legitimately have different market valuations on the bases of income and/or sale price.
9. An increase in a property's assessment may be valid even though the Assessor does not give notice of the change in assessment to the owner.
8. The payment of a property tax is not excused even when the tax bill is not received by the taxpayer.
7. Once a year's assessments are certified, the Assessor and Board of Review lose their ability to change the assessments, however, under limited circumstances regarding more serious mistakes, such as vacancy or incorrect square footage, Certificates of Error may issue.
6. The State Equalization Factor, which for the 2013 tax year was 2.6621 in Cook County, does not more than "double" the taxes owed.
5. Through judicial construction, the timely payment of taxes in full is considered to be "under protest" for the purpose of filing Tax Objection complaints in the Circuit Court.
4. Taxpayers are not "parties" to the Certificate of Error proceedings that concern their own real estate tax liabilities on their own properties.

3. Tax Rate Objections, as distinguished from Tax Objection complaints, may be pending for as long as ten years before refunds are ordered by the Circuit Court and issued by the County Collector.
2. The "fair cash value" upon which the Assessor bases a property's assessment does not necessarily reflect the property's actual market value.

**And the number one most frequently  
misunderstood fact of property taxation is:**

1. Through judicial construction, real estate tax assessment and collection officials are presumed by law to perform their duties correctly. □

**!st INSTALLMENT OF 2014 REAL  
ESTATE TAXES DUE MARCH 1st**

In Illinois, real estate taxes are billed in the year following each assessment year. In this way, last year's 2014 real estate taxes will be payable this year, in 2015, because both the assessment process and the assessment appeals process take time. In fact, as this newsletter goes to press in January, 2015, the Cook County Board of Review is still conducting hearings regarding the 2014 assessments for some Cook County townships.

For this reason, the 1st installment tax bill for 2014 real estate taxes is merely an estimated bill that is calculated at 55% of the previous year's total tax bill. The 1st installment tax bill for 2014 is expected to be issued on or about February 1, 2015, and be due March 1st. Any change in a property's 2014 assessment, whether up or down, will not be reflected in that property's real estate tax bill until the 2nd installment tax bill is issued on July 1, 2015. □

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