

How to understand Maine's system for real estate assessment

By N. Joel Moser | March 23, 2015

When in receipt of a tax assessor's request for additional information, also known as a Section 706 request, it is hard to find any redeeming value, especially when commercially sensitive information is perceived to be at risk.

Two recent reforms to the law, however, as well as the historical role such a request plays in taxpayer rights and economic incentives, make it less of a burden than it appears.

Determining the assessment of commercial or industrial taxable property can be very difficult. As a result, local assessors sometimes issue a request for information from the taxpayer under Section 706 of Maine's property tax laws. Maine's constitution requires local assessors to determine a property's assessed value each year on April 1 and this important, yet unfamiliar, law controls how an assessor may request information from a taxpayer regarding his or her taxable real and personal property.

In the past, taxpayers have lamented this request for two reasons: a lack of definition of what constitutes a timely response and the possibility of having to divulge proprietary information. Understandably, some taxpayers viewed a Section 706 request as an unreasonable intrusion, but ignoring a Section 706 request would be a serious legal and business error.

First, failing to respond to the request results in a forfeiture of the taxpayer's right to further appeal. Although an assessor cannot force a taxpayer to turn over the information requested in a Section 706 request, if the taxpayer fails to respond the taxpayer will be prohibited from challenging the assessment later through an appeal. It is therefore critically important for taxpayers to provide a substantive response to such a request.

Second, the taxable value of property interests is a key element in securing economic incentives, structuring property transfers, and predicting tax assessments that may make or break transactions. Thus, it is an essential function of business and economic development — one your business may come to rely on in the future — making your attention to a Section 706 request strategically vital.

Finally, the Maine Legislature has addressed the response time and proprietary information concerns that have evoked dread upon receipt of these requests. A taxpayer now has 30 days from receipt of the Section 706 request to provide a substantive response back to the tax assessor. Upon written request to the assessor, the taxpayer is entitled to a 30-day extension, and the assessor may at any time grant written requests for additional extensions.

To alleviate concerns regarding sensitive information, an amendment to the law provides new protections for requested information that a taxpayer considers confidential or proprietary. The law now specifically makes confidential all proprietary information, which means "information that is a trade secret or production, commercial or financial information the disclosure of which would impair the competitive position of the person submitting the

information and would make available information not otherwise publicly available and information protected from disclosure by federal or state law or regulations." A person who knowingly violates the confidentiality provisions of Section 706 now commits a Class E crime.

Given these new changes, what should a taxpayer do in the event the taxman cometh with a Section 706 request? Start by recognizing the request as a strategically important business tool and an economic development necessity. With that approach, the obligation to respond truthfully, accurately and comprehensively to the request will come naturally. Then, avail yourself of the afforded protections to ensure your response is timely and manageable, requesting extensions if needed, which also preserves your right to an appeal; and by carefully labeling all commercially proprietary information as confidential.

Chances are you still would rather not receive a Section 706 request, but by understanding its value and availing yourself of its new protections you no longer have to lament it.

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