HOW WILL THE COVID-19 PANDEMIC AFFECT FUTURE PROPERTY TAX ASSESSMENTS IN NEW YORK CITY?

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One of the biggest concerns of New York City property owners during the COVID-19 pandemic has been the ability to pay their property tax bills, the first half of which was due July 1 and the second half should be due January 1 for most taxpayers. A separate but related concern going forward is how the pandemic-induced economic downturn will affect assessed values, which, of course, directly affects the amount of taxes ultimately due.

In New York City, the law requires that the city's Department of Finance (DOF) set the assessed values based on the status and condition of a property as of January 5 of each year — referred to as the "taxable status date." The status of the property on January 5 controls the assessed value for the fiscal year commencing July 1; for instance, the condition of a property on January 5 controlled the assessment for the 2020/21 tax year which began July 1. In setting the assessed value of a given property, DOF generally considers several factors, including whether any construction or demolition has taken place during the preceding year and, for income-producing properties, the income and expenses reported to DOF through the legally mandated Real Property Income and Expense (RPIE) filing process. (Of surprise to many property investors, especially those from outside of the state, is that sales prices are generally not taken directly into account by DOF in setting the annual assessment.)

The January 5 taxable status date governs, despite events that might occur during the nearly six-month-long interval between that date and the start of the next fiscal year. Thus, for instance, a property's 2020/21 assessment (for which the relevant taxable status date was January 5) would not be eligible for a decrease based on a fire occurring on February 15 which destroyed the entire building.

It is for this same reason that the 2020/21 assessments, generally speaking, have not been affected by the economic devastation wrought by the COVID-19 pandemic. As painful as the shutdowns and deleterious economic fallout have been for both commercial and residential property owners, they did not begin in New York until March — several months after the January 5 taxable status date. Therefore, the DOF did not take the pandemic into account in setting the 2020/21 assessments.

Nevertheless, amid all of the current doom and gloom, there is a good reason for property owners to hope for better news starting with the 2021/22 tax year. Given all that has transpired since March, and assuming that current conditions will continue through the remainder of the year, it is not a stretch to assume that the impact from the COVID-19 pandemic will cause the city to decrease 2021/22 assessed values.

On January 5, economic conditions and property values will look much different in the eyes of DOF than they did one year prior. Even though DOF will be working with properties' economic data and reported vacancies from the calendar year 2019 (due to the timing lag inherent in the RPIE reporting process), we expect that DOF will do the right thing and apply forward-looking adjustments to rental income and capitalization rates that will push actual assessed values to a significantly lower level than in previous years, as to properly reflect a value as of the taxable status date. Should DOF not decrease assessed values to match the deterioration of economic conditions, the NYC Tax Commission (the administrative agency which adjudicates tax appeals), would likely step in and fulfill its statutory role to correct the 2021/22 assessments to their supportable levels based on the realities as of January 5 (with the benefit of being able to consider calendar 2020 income and vacancy data).

One note of caution — while assessed values might come down in 2021/22, whether in the first instance or on appeal, an owner's taxes might not fall immediately (or decrease to the same extent as the 2021/22 value decreases) due to both the city's transitional assessment system (which in many cases differentiates between assessed values and taxable values) and potentially increasing tax rates (which may be imposed in order to cover its budgetary shortfall).