

Practice Update

Florida Ad Valorem Property Tax Refund Interest

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The Florida Legislature, in its continuing attempt to level the property tax playing field, provided that interest be paid on taxes collected above the tax ultimately warranted by the property assessment. The statute, §194.014(1)(a) of the Florida Statutes, states “A petitioner before the value adjustment board who challenges the assessed value of property must pay all the non-ad valorem assessments and make a partial payment of at least 75 percent of the ad valorem taxes, less the applicable discount under s. 197.162, before the taxes become delinquent pursuant to s. 197.333.” The delinquency date is April 1 of the post-tax year. This statute applies only to petitions before the value adjustment board (VAB) and not the circuit court on original jurisdiction.

Florida Statute §194.014(2) provides that ad valorem property taxes owed in excess of the amount paid accrue interest at the rate of 12% per annum from the delinquency date until the date paid and that ad valorem taxes paid in excess of the amount owed accrue interest at the rate of 12% from the delinquency date to the date of refund. The statute provides in both circumstances that “amount” is determined by the VAB. This recent change to the property tax assessment scheme was considered a large victory for the taxpayer.

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Some county tax collectors, including Miami-Dade, issued taxpayer refund checks with interest on the overpayment resulting from a taxpayer/Property Appraiser negotiated VAB appeal settlement, where the taxpayer withdrew the petition as a settlement term. However, this month, the Miami-Dade Finance Department (MDFD), Tax Collection Division – Ad Valorem Section, sent letters of refund interest recall to property taxpayers receiving refunds resulting from settled VAB appeals. MDFD claims that taxpayer/Property Appraiser disputes ending with settlements that include the withdrawal of the VAB petitions resulted in no “written” decision rendered by the VAB. MDFD concludes that no written decision by the VAB precludes interest on an overpayment refund. The MDFD letters demand immediate payment of the “erroneous” interest payment within 45 days and that “[f]ailure to remit . . . within the required period will result in additional collection enforcement actions”, not further described.

Clients should be warned that Florida counties may try to recover any interest payments made and that, absent any appellate decisions or statute amendment, Florida counties may exclude refund interest on VAB appeals resulting in withdrawn petitions. Clients should also be apprised that refund interest may not be available where petitions are withdrawn before VAB decision in settled appeals.

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