

## THE STATE OF GEORGIA MORATORIUM ON INCREASES IN ASSESSMENTS OF PROPERTY VALUES

In response to the significant decline in the value of real properties across Georgia stemming from the severe downturn in the national and local economies that began in 2008, the Georgia legislature passed a new law placing a *moratorium* on any increases in the assessed values of real property and all other classes of property subject to ad valorem taxation. The new law, **O.C.G.A. §48-5B-1**, was enacted May 5, 2009, and applies to all taxable years beginning January 1, 2009, and expiring on January 9, 2011. However, the moratorium does not go into effect until January 1, 2010, for counties where a comprehensive county-wide revaluation of all property took place in 2008, or for counties that had entered into a contract for the performance of such a revaluation for the year 2009, provided such contract was entered into prior to February 28, 2009.

The statute includes certain exceptions that allow for property values to be increased during the moratorium. The local tax officials can reassess a property in order to correct any manifest factual error or omission in its prior valuation. Improvements made to property during the moratorium can be valued at their fair market value and added to the property's value. If the owner of a property rezones, subdivides or combines his property with other property during the moratorium and if the use of the property is changed to conform to such rezoning, subdivision or combination with such other property, it may be reassessed for ad valorem tax purposes at its fair market value. The law does not apply to properties in counties that have, by an amendment to the Constitution of the State of Georgia, imposed millage rate limitations in their counties as to ad valorem property taxes for real property in such counties or in the school districts in such counties, unless the constitutional amendment is repealed.

If you receive a reassessment notice during the moratorium period you should determine the basis for the reassessment. If the reassessment is not based on one of the permitted exceptions an appeal is clearly in order. Even if the basis for the reassessment is one of the exceptions, you may still have grounds for filing an appeal, e.g., you may believe that the amount of the increase in the value is excessive. Depending on the facts of the particular case at hand, there can be many issues that come into play in the appeal of a reassessment of the value of real property. If your property is reassessed *at any time* you should always consult an attorney to evaluate whether or not an appeal is in order. You have 30 days from the date of the mailing of the official reassessment notice to file an appeal.

Finally, while the statute imposes a moratorium on increases in property tax valuations, it does not prohibit assessed values of property from *decreasing*. If you believe that the value of your property has decreased you must file a return for your property before April 1 of the current calendar year in order to gain the benefit of such reduced value for the taxes on the property for that year. On the return you will identify the property and set forth the value you believe it to be. You should have a current appraisal or other evidence to support your valuation. If the tax officials don't agree, they will reassess the property to the previous amount that otherwise would be frozen, or a higher value that is less than the frozen amount, but higher than your returned value. In either case you will have the opportunity to appeal the tax officials' reassessment of your returned value. You have the right to return your property in such manner every year, not just during the moratorium. In Muscogee County, which has by a constitutional amendment, imposed a freeze on increases in homestead property valuation, the Board of Tax Assessors take the position that a taxpayer is not allowed to file a return and seek a reduction in their homestead valuation, though an argument can be made that such a position is not correct.

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