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## Real Property Tax and Financing Issues

With the recent changes to the Empire Zones Program, we want to bring to your attention certain real property tax issues that could stem from these changes, and to provide you with a defensive measure for addressing them. Depending upon your circumstances, your business(es) will fall into one (or more) of the following three situations:

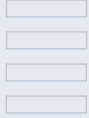
1. Should your entity receive a retention certificate, it will be eligible to continue to receive the Empire Zone benefits. However, as the timeframe for this process remains unclear, cash flow may become an issue for some businesses.
2. If, after the review process by Empire State Development, your entity is decertified, the value of the Zone property will decrease due to the loss of Empire Zone benefits. Without the real property tax credit, tax reduction credit, sales tax exemption, etc., the cost of operating that Zone business will go up, and the increase will probably not be insignificant.
3. For lands within an existing Zone, the elimination of the sales tax exemption, the reduced real property tax credit, and the 20:1 cost/benefit ratio certification requirement for any new business other than a manufacturer will decrease the overall benefit of the Zones Program, and burden a buyer who would want to be certified. These benefit reductions coupled with increased procedural hurdles will decrease the fair market value of all Empire Zone property.

As a measure of protection in any of these circumstances, you may wish to review your current assessment to determine if it is appropriate or excessive. If excessive, especially when factoring in the decreased value of the property, it may be worth your time and effort to file a grievance with the local grievance board.

Tax Grievance Day for most towns is May 26th this year. (Most cities have different dates for Grievance Day.) This is the deadline by which a taxpayer must file an administrative complaint challenging their property tax assessment. The complaint is heard by the Board of Assessment Review. You should contact the

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municipality in which your property is located to determine specific deadlines for filing the form and hearing procedure on Grievance Day.

The Board of Assessment Review may also request various property-related information after the receipt of the complaint. These requests can be for various data including, but not limited to, income/expense information, copies of appraisals, capital expenditure data, survey maps, mortgage and insurance amounts. Responses to such requests must be submitted quickly - generally by mid-June. After the Board of Assessment Review deliberates, Notices of Determination will be sent advising of the Board's decision on or before the tax roll becomes final; around the First of July. If the Board does not reduce the assessment or if the reduction is not to the satisfaction of the taxpayer, you may file a court challenge pursuant to Real Property Tax Law Article 7 within thirty (30) days of the later of (i) the last date allowed by law for the filing of the final assessment roll or (ii) the published notice of such filing. ■

*Should you wish to discuss this process further, please contact one of the designated members listed on the front of this alert.*