

## **Nassau County Commercial Real Property Tax Alert**

*By Arthur K. Feldman, Willets S. Meyer and Jon N. Santemma*

### **The New “Disputed Assessment Fund”** (Updated May 2016)

Through state legislation, Nassau County has obtained a new law to authorize it to create a disputed assessment fund (DAF). The purpose of the fund is to raise money through real estate taxes to fund anticipated real estate tax refunds, which the County must pay, resulting from real property tax assessment (tax certiorari) cases. Many of our clients are painfully aware of the refund delays experienced after their cases have been resolved. Like all laws, every action has a reaction. Below, we have highlighted key issues and have attempted to anticipate common questions. We have also attached an FAQ (Frequently Asked Questions) published by Nassau County.

#### **Class 4 Commercial Properties Only**

The DAF only applies to class 4 Commercial properties. Class 4 excludes all forms of residential property, except hotels and motels. It excludes most utility property as well.

#### **When does DAF take effect?**

The 2016/17 tax year, which starts with the October, 2016 1<sup>st</sup> half school bill, is the scheduled commencement for DAF. The first tax bill showing the change will be the January 2017 first half general. We have not seen sample tax bills which show the implementation.

#### **How is DAF supposed to work?**

The law provides that where a property’s assessment is protested in court, the taxes levied will be based upon the assessment claimed by the taxpayer/property owner to be appropriate. However, with some exceptions, the taxes levied will not be less than 90% of the taxes scheduled to be levied based upon the original assessment. Most importantly, the taxpayer will still get stuck with a tax bill for 100% of the original levy. The difference between the scheduled taxes and the claimed taxes will be paid into the DAF.

#### **Will all Commercial/Class 4 properties be impacted?**

Absolutely. Whether or not a property’s assessment is protested, the implementation of DAF will have an impact on all Class 4 properties. Here’s why: If under DAF, only 90% of the scheduled school tax is paid, the school district still needs to fund the missing 10%. This funding will have to come in the form of a tax rate increase. Class 4 school rates could potentially rise an additional 11% to make up for the “missing” 10%.

## **How do I get my Refund?**

Refunds for settlements or court orders involving Class 4 commercial properties will come out of the DAF so that the county's persistent need to borrow to pay the refunds should be lessened.

## **What happens if there is no Refund for a particular year?**

If a case is resolved without a refund for a particular year or years, the DAF money is supposed to be paid back to the various taxing districts that were "shortchanged" by the implementation of DAF, even though they should have already received their full funding.

## **Should I stop protesting my assessment to avoid the DAF?**

No. As shown above, whether or not you protest, you will still pay 100% of your scheduled taxes. The only issue is that the tax receiver sends a portion of your money into the DAF. Given the anticipated tax rate increases, if you have not been protesting your assessments, you may wish to start now.

## **We will keep you in the Loop**

As more information becomes available regarding the workings of this new program and the litigation it will spawn, we will let you know. In the meantime, if you have questions or concerns, please do not hesitate to contact Art Feldman, Will Meyer or Jon Santemma.



Arthur K. Feldman  
[afeldman@farrellfritz.com](mailto:afeldman@farrellfritz.com)  
516.227.0707

Willets S. Meyer  
[wmeyer@farrellfritz.com](mailto:wmeyer@farrellfritz.com)  
516.227.0678

Jon N. Santemma  
[jsantemma@farrellfritz.com](mailto:jsantemma@farrellfritz.com)  
516.227.0603