December 15, 2010?

By

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Few of us have heard of the significance of this date as presented here. It is the deadline to file an action in tax court to challenge the Assessor's valuation of real property for 2011 tax calculations. Even if we know the date, tax bills are often sent directly to the lender and paid from an escrow account. We never see the bill and the maxim "out of sight, out of mind" proves its truth.

Nevertheless, in this declining real estate market, challenges to property valuations are increasing. In common sense, as property values decline, so should property taxes. In government sense, however, inflated property values over the past decade resulted in increased tax revenues and, consequently, unfettered governmental spending. Though government is finally cognizant of the fallacies created by the inflated real estate market, it is equally cognizant of the financial commitments it made during the short-lived real estate "boom." Reducing property taxes now may prove fatal to satisfying the government's commitments. Hence the reason that property valuation is taking on an increasing role of importance. Ensuring that your property is valued fairly is the first step toward ensuring fair taxation.

So how does the system work? Prior to March 1, the County is required to mail to property owners a Notice of Value that sets forth the Full Cash Value (FCV) for the owner's property for the following year. Arizona statutes require the FCV to be the relative equivalent to fair market value. However, the FCV for 2011, for example, is determined in early 2010. Clearly, the FCV cannot be the fair market value of property at the beginning of 2011. In fact, it is not even an estimate of that value.

Rather, 2011 property values are based on data for sales made from January 2008 through June 2009. This valuation procedure can create substantial discrepancies between the FCV and fair market value at the time when the FCV takes effect. The sales data from 2008 through 2009 may not fairly represent the fair market value at the beginning of 2011. If property values continue to decline, using outdated data may result in an inflated FCV. In stable real markets the difference may be insignificant. However, the instability of the last several years has resulted in property values plummeting. Only now, however, have property valuations for tax purposes begun to catch up. Consider that in 2010, the data upon which property was valued came from 2007 through 2008. In early 2007, the "bust" had barely begun so when the 2010 Notice of Values issued, the FCVs exceeded fair market values. Property owners were being taxed on property valuations set upwards of $100,000 more than fair market values.

Property valuations are not necessarily firm, however. A property owner may challenge the FCV by filing an appeal with the Assessor within 60 days after the Notice of Value date. If the Assessor declines the appeal, the owner may appeal that decision to the Board of Equalization within 25 days from the date the Assessor's decision is mailed. The Board of Equalization may overrule the Assessor's office and establish a new property valuation or it may affirm the Assessor's decision. In the case of the latter or if the property owner failed to meet the timelines set forth above, then the owner may still file an appeal with the Arizona Tax Court, which is a division of the Maricopa County Superior Court. That appeal must be filed by no later than December 15.

In many instances, the cost of appealing exceeds the tax savings realized in a successful challenge so little incentive exists to raise the issue. However, in the present real estate market, challenges are expected to increase. Current tax levels are based on collecting revenue sufficient to meet the financial commitments made during the real estate boom. Many, if not most, of those commitments remain in place, meaning that government needs to collect equal tax revenues even though property values have significantly declined. So even though common sense dictates that if property owners are required to pay more taxes when values increase they should pay less taxes when values decline that is unlikely to occur. As values decline, tax rates may actually increase so that revenues remain stable.

Although this potential is disconcerting, a greater concern will arise when real estate values rebound. How will the government respond? If property taxes remain consistent now despite the decline in values, then property taxes should remain stable until property values increase again to the values upon which the current level of taxation was premised. If not, and the government increases taxes as property values rebound, then owners will be paying increased taxes not once, but twice on the same increase in value. And that concern is one reason why property valuation challenges are on the rise.