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FILE NO. S-404

TAXATION:
Reassessment

Honorable Robert J. Lehnhausen
Director
Department of Local Government Affairs
325 West Adams Street
Springfield, Illinois

Dear Mr. Lehnhausen:

I have your recent letter wherein you state:

"The Citizens Action Program and associated groups have complained to the Department of Local Government Affairs that the County Assessor of Cook County, Illinois, has not properly assessed ten specific properties in Cook County, i.e., four steel companies, five race tracks and the new First National Bank Building. They have also demanded that under Section 621 of Chapter 120 of the Illinois Revised Statutes this Department order a reassessment of these properties and/or all properties in their respective classification categories; viz., No. 2/B-Banking, No. 93-Industrial and No. 97-Special. (See

enclosed copies of CAP letter of December 9, 1971, and the Department's reply of December 27, 1971.)

The CAP representatives were not satisfied with the 'seek your administrative remedy' handling accorded and came in on January 4, 1972, demanding vocally, vociferously, vehemently and publicly throughout the news media present, that this Department order a reassessment immediately. They were informed that the original requests were too general in nature and to furnish authentic, specific and detailistic information. They stated they would do so. In the meantime, Assistant Director Cunningham indicated the Department would request an opinion from you as to the power and authority of the Department under the extant statutes to order a reassessment under the pertinent provisions.

Section 621 of the Illinois Revised Statutes, Chapter 120 provides:

'Whenever it shall appear to the Department that the real or personal property in any county, or in any assessment district thereof, has not been assessed in substantial compliance with law, or has been unequally or improperly assessed, the Department may, in its discretion, in any year, whether after or before the original assessment is completed by the local assessment officers, order a reassessment for such year of all or any class of the taxable property in such county, or assessment district thereof; and such reassessment shall be substituted for the original assessment.'

Under the circumstances, I would appreciate an opinion from you as soon as possible as to the following questions:

1. Does the Department of Local Government Affairs have power and authority to order a reassessment for the current year in any classification within

either a given township or an entire county in view of the fact that the Board of Appeals of Cook County has not as yet finished its work of reviewing assessments within some of these townships.

2. Does the Department have any power and authority to order a reassessment of one or more parcels for the year 1970 and prior years on which taxes have been extended and collected? Those taxpayers affected would then probably be obligated to remit the difference in the increased taxes for prior years resulting from any increase in the assessed valuation. Conversely, if the new assessment were less, would a rebate from the taxing districts be required? Perhaps the question should be at what point in time is an assessment final?

3. Does Section 633 of Chapter 120, which reads as follows, estop the Department from ordering a reassessment based on the above-mentioned complaints:

'Nothing contained in this Act shall be construed to give the Department any power, jurisdiction or authority to review, revise, correct or change any individual assessment made by any local assessment officer.'

In your first question you have asked whether the Department of Local Government Affairs has the power to order a reassessment for the current year (1971 taxes due and payable in 1972) in any classification within either a given township

or an entire county in view of the fact that the Board of Appeals of Cook County has not as yet finished its work of reviewing assessments within some of these townships.

Your attention is called to Section 140 of "An Act to revise the law in relation to the assessment of property and the levy and collection of taxes ***", (Ill. Rev. Stat., 1971, Ch. 120, par. 621), which reads as follows:

"Whenever it shall appear to the Department that the real or personal property in any county, or in any assessment district thereof, has not been assessed in substantial compliance with law, or has been unequally or improperly assessed, the Department may, in its discretion, in any year, whether after or before the original assessment is completed by the local assessment officers, order a reassessment for such year of all or any class of the taxable property in such county, or assessment district thereof; and such reassessment shall be substituted for the original assessment. The Department may order such reassessment made by the local assessment officers. The order directing such reassessment shall be filed in the office of the county treasurer of the county in which such reassessment has been ordered, except in counties having an elective board of review or board of appeals in which case such order shall be filed with such board. If any general or quadrennial assessment of real property shall not be published in any year for which such assessment was made, or if such publication was not made in time to permit the examination thereof by the Department in such year, then the Department may in any of the

three years intervening between the years for which general quadrennial assessments are made order such reassessment of such then last general quadrennial assessment of all or any class of real property in such county or assessment district, and such reassessment shall be substituted for such original general quadrennial assessment for such intervening year and thereafter until the next general quadrennial assessment is made. No substitute assessment shall invalidate any prior assessment as to taxes extended thereon. The Department may order at any time and from time to time the board of review of any county not having an elective board of assessors and an elective board of review to convene in extraordinary session for the purpose of further revising, correcting and equalizing the assessment of property within such county or any assessment district thereof. The compensation and other expenses of the board of review when convened in such extraordinary session shall be paid by the county on the certificate of the Department as provided in section 144 of this Act.

When a reassessment of property or any class of property in any county or one or more towns or taxing districts in the county has been ordered hereunder, the individual assessments made under such order shall be reviewed, revised and corrected by towns or taxing districts by the assessors making the same.

The assessors making such assessment shall give notice of the order under which it is made showing the class of property affected by the reassessment, the town or taxing district to be reviewed, revised and corrected and the time and place for such revision and correction, by publishing such notice in one or more newspapers, published and having a general circulation in the county, at least five (5) days before the time set for the revision in each town or taxing district."

The foregoing statute clearly states that a reassessment ordered in a non-quadrennial year shall be substituted for such original general quadrennial assessment for such intervening year and thereafter until the next general quadrennial assessment is made. It further states that no substitute assessment shall invalidate any prior assessment as to taxes extended thereon. Since the taxes for the current year have not yet been extended, I am of the opinion that the Department would, at least, have the power to order a reassessment for the 1971 taxes payable in 1972.

In your second question you have asked whether the Department has the power to order a reassessment for the year 1970 and prior years on which taxes have been extended and collected. The foregoing statute clearly states that no substitute assessment shall invalidate any prior assessment as to taxes extended thereon. Since the taxes for the year 1970 and prior thereto have already been extended, I am of the opinion that the Department would not have the power to order a reassessment for the year 1970 and prior thereto.

In your third question you refer to Section 152 of "An Act to revise the law in relation to the assessment of property

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and the levy and collection of taxes ***", (Ill. Rev. Stat., 1971, Ch. 120, par. 633), which reads:

"Nothing contained in this Act shall be construed to give the Department any power, jurisdiction or authority to review, revise, correct or change any individual assessment made by any local assessment officer."

You ask whether the foregoing statute estops the Department from ordering a reassessment based on the above complaints. This statute would, in my opinion, preclude the Department from revising individual assessments. The Department can only order a complete reassessment of all property in a particular class or in a particular county or tax district if the Department has substantial reason to believe that the property as a whole in such class, county or district, is improperly assessed. It is a factual question for your Department to determine if there are sufficient facts to justify a complete reassessment.

Very truly yours,

A T T O R N E Y G E N E R A L