CHAPTER 80: ASSESSMENT OF INCOME PRODUCING PROPERTY FINDINGS

§ 80.1 Declaration of Legislative Findings

The Town Board finds that in determining the assessed value of an income-producing property, the actual income and expenses of the property are a most important factor. At the present time, the assessor rarely has these figures for the current period made available to him. If such information were to be made available sufficiently in advance of the making of assessments, the work of the assessor would be facilitated, assessments would be more accurate, the number of administrative and judicial review proceedings on objections would be lessened, the tax burden would be borne more fairly, and the amount of tax refunds would be substantially reduced.

The Town Board further finds that the improper assessment of income-producing property generally occurs because the assessor lacks adequate income and expense data. Full disclosure will provide that income and expense data necessary for proper assessment. The availability of such data will permit greater precision to the process of assessment and will benefit both the assessor and the taxpayer.

§ 80.2 Income and Expense Statements

a). Where real property is income-producing property, the owner shall be required to submit annually to the department not later than the first day of September a statement of all income derived from and all expenses attributable to the operation of such property as follows:

1. Where the owner's books and records reflecting the operation of the property are maintained on a calendar year basis, the statement shall be for the calendar year preceding the date the statement shall be filed.

2. Where the owner's books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes the statement shall be for the last fiscal year concluded as of the first day of August preceding the date the statements shall be filed.

3. Notwithstanding the provision of paragraphs one and two of this subdivision, where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for a consecutive twelve month period concluded as of the first day of August preceding the date that the statement shall be filed, then the statement shall be for the period of ownership.(Rev.LL7-93,May 1993)

4. The assessor may for good cause shown extend the time for filing an income and expense statement by a period not to exceed thirty days.

b). Such statements shall contain the following declaration: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of the law relevant to the making and filing of false instruments and will render this statement null and void."

c). The form on which such statement shall be submitted shall be prepared by the assessor and copies of such form shall be made available at the offices of the assessor.

d).

1. In the event that an owner of an income producing property fails to file an income and expense statement within the time prescribed in subdivision (a) of this section such owner shall be notified, by a certified mail letter, return receipt requested, to be sent the first week of October, that he is in default and that his cooperation is requested. A list of all persons so notified shall be delivered by the Assessor to the Town Board within three (3) days.

   In the event that an owner fails to file an income and expense statement by October 31st, after having been so notified, the Assessor shall during the first week of November send another certified mail letter, return receipt requested, notifying the owner that he is in default and that if he does not file an income and expense statement by November 30th, that the sanctions provided for in paragraphs "(2)" and "(3)" will be imposed. A list of all persons so notified shall be delivered by the Assessor to the Town Board within three (3) days. (new, LL7-93, May 1993)

2. The Assessment Board of Review shall deny a hearing on any objection to the assessment of property for which an income and expense statement is required and has not been timely filed.

3. Where an income and expense statement required under the provisions of this section has not been timely filed, the assessor may request the Town Board to authorize an application to any court of competent jurisdiction for an order compelling the owner to furnish the required income and expense statement. (rev. LL7-93, May 1993)

e). As used in this section, the term "income producing property" means property owned for the purpose of securing an income from the property itself but shall not include property with an assessed value of two hundred ninety thousand ($290,000) dollars or less, or residential property containing four or fewer dwelling units or any residential property with an accessory use authorized by Section 30.6. (rev. LL#17-97)

f). Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the assessor, any officer or employee of the assessor's office, or any other person

engaged or retained by the assessor of the Town on an independent contract basis, or any person, who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The assessor shall not be required to produce any income and expense statement or evidence of any contained in them in any action or proceeding in any court, except on behalf of the Town. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a certified copy of any statement filed by such owner pursuant to this section , or inspection by the legal representatives of the Town of the statement of any owner who shall bring any action to correct the assessment. Any violation of the provisions of this subdivision shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or both, at the discretion of the court. (Rev.LL 7-93, May 1993)

Historical Notes:

This Chapter was enacted by Local Law #4 of the year 1988 on May 24, 1988 effective immediately upon filing in the Office of the Secretary of State.
Revised, as marked, by LL 7 of 1993 filed with Secretary of State June 1, 1993.
Revised 5-93, spelling amended LL#13-94.
Revised §80.2 (e) LL#17-97.