



New law affecting tax assessment challenges for Payments in Lieu of Taxes (PILOTs) - by John Gordon and Nicole Forchelli

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At the end of 2022, New York State passed legislation requiring a 45-day notice prior to filing a tax assessment challenge for any properties which are subject to an agreement to make Payments in Lieu of Taxes (PILOTs).

The most common type of PILOT arrangement is through an Industrial Development Agency (IDA). IDAs provide incentives in the form of exemptions from real property taxes in exchange for a contractual agreement to pay PILOTs, which are then distributed proportionately among the affected taxing jurisdictions. PILOT payments are generally less than what the taxes would have been.

For owners of properties with set PILOT payments, there is generally no reason to challenge the assessment. However, some PILOT payment amounts are based on the property's assessment (or assessed value), which can change each year. In those instances, it is often worthwhile to challenge such an assessment.

However, taxpayers should be aware of potential pitfalls in how the new law is set up. For instance, the new law requires that taxpayers paying pursuant to PILOTs give notice 45 days in advance of filing a grievance to challenge the assessment. However, the new annual assessment is generally published only 15-20 days prior to the due date for filing a challenge. This puts many property owners with PILOTs in the peculiar position of being required to notify the taxing municipality of their intention to challenge their assessment before they know what their assessment is.

As an example, in municipalities that publish their tentative roll in the month of May, the new tax roll with the new assessment should be released May 1st, and the grievance will generally be due only 2 or 3 weeks after that. Thus, the PILOT payor in that municipality would have to give notice of intention to file by early April, long before the PILOT payor can see what the assessment will be for that tax year.

We are advising all property owners with PILOTs who are considering challenging their assessments to consult with a Tax Certiorari attorney well in advance of the filing deadline to ensure compliance with these requirements.

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