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April 16, 2020

To: UCCI Membership

Re: Options for Postponement of certain portions of the Property Tax Cycle

Several counties have discussed providing some sort of property tax relief in light of the COVID-19 pandemic and the effects of the related disaster declarations and stay at home orders issued by the Governor. Any county considering such action should be aware of the provisions of the Property Tax Code¹ discussed herein.

Mailing of Tax Bills

- Section 20-5 provides that “A copy of the bill shall be mailed by the collector, at least 30 days prior to the date upon which unpaid taxes become delinquent, to the owner of the property taxed or to the person in whose name the property is taxed.”² This provision is consistent with the legislative history supporting Public Act 97-0944 wherein both senators and representative indicated that a taxpayer should have at least 30 days to pay a tax bill, particularly where tax bills are delayed by acts of the county.³

Action County Officials May Take Directly

- Section 21-15 provides “all property upon which the first installment of taxes remains unpaid on the later of (i) June 1 or (ii) the day after the date specified on the real estate tax bill as the first installment due date annually shall be deemed delinquent and shall bear interest after that date.”⁴ The language relating to the second installment is similar: “all property upon which the second installment of taxes remains due and unpaid on the later of (i) September 1 or (ii) the day after the date specified on the real estate tax bill as the second installment due date, annually, shall be deemed delinquent and shall bear interest after that date at the same interest rate.” This language suggests that if tax bills have not already been sent out, a date later than June 1, 2020 could be set as the due date for the first installment and a date later than September 1, 2020 could be set as the due date for the second installment.⁵

¹ 35 ILCS 200/1-1 *et seq.*

² 35 ILCS 200/20-5

³ 97th Ill. Gen. Assem., Senate Proceedings, March 22, 2012, at 169 (in reference to Senate Bill 3250 and relating to Section 21-15, Senator Holmes stated “[The bill] makes it clear that taxpayers actually have a full thirty days to pay their property taxes from the date the bill’s mailed before the interest starts accruing.”). See also, 97th Ill. Gen. Assem., House Proceedings, May 15, 2012, at 67 (statements of Representative McAsey).

⁴ 35 ILCS 200/21-15

⁵ Section 21-15 does not expressly state who, the County Treasurer or County Board, is charged with setting the date specified on the real estate tax bill. Section 20-5 does indicate that it is the responsibility of the township and/or county

- Section 21-40(a) provides that “[i]n any county with **less than 3,000,000 inhabitants, the county board may adopt an ordinance under which 50%** of each installment of taxes shall not become delinquent until 60 days after each installment would otherwise become delinquent under Sections 21-15, 21-20, 21-25 or 21-30.”⁶ Notably, **50% of each installment would still be subject to delinquency as normal.** Thus, this may be an option to provide some relief without pushing back due dates of installments and ensure some property taxes are being paid.

Action County Board May Take That Requires Application By Taxpayer

- Section 21-40(b) provides “in any county that has been designated, in whole or in part, as a disaster area by ... the Governor of the State of Illinois due to a disaster that occurred during the calendar year in which the taxes are payable or in the preceding calendar year, the county board may adopt an ordinance or resolution under which interest [for delinquent amounts related to real properties] that have been affected by the disaster does not accrue until the court enters the order for sale of the property”⁷
- Section 21-40(c) also applies to “any county that has been designated, in whole or in part, as a disaster area by the President of the United States or the Governor of the State of Illinois” and allows the county board to adopt an ordinance or resolution modifying provisions of the Code relating to any specified installment(s) of real property tax, including postponing the date on which any specified installment(s) of tax due on the damaged or adversely affected property in the current year becomes delinquent and exempt any specified installment or installments of tax due on that real property from the interest penalty until the postponed delinquency date established by the ordinance or resolution.⁸
- It should be noted that Sections 21-40(b) and 21-40(c) indicates that this relief was intended for property owners on a case-by-case basis rather than a blanket application to all property in the county. Both of those provisions require the ordinance or resolution to establish a procedure for affected property owners to **apply to a designated county official who** then determines, according to the guidelines in the ordinance or resolution, whether the property is substantially damaged or adversely affected and shall approve damaged or adversely affected property for the delay in accrual of interest specified in the ordinance or resolution under 21-40(b) or the relief specified in the ordinance or resolution adopted under 21-40(c). Additionally, both sections require the designated county official to notify the county collector of the parcel number and the name of the owner of property approved for relief.

At the request and direction of UCCI this opinion was prepared by
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collectors to prepare and mail those bills. Due to the lack of clarity, Treasurers/Collectors and County Boards should coordinate any steps taken to modify the date specified on the real estate tax bills.

⁶ 35 ILCS 200/21-40(a) (emphasis added)

⁷ 35 ILCS 200/21-40(b)

⁸ 35 ILCS 200/21-40(c) (emphasis added)

Disclaimer: This opinion was prepared by Giffin, Winning, Cohen and Bodewes, P.C., at the request of UCCI and is to be used solely by UCCI and its members. The State’s Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State’s Attorney.