

Tax Court of New Jersey

Real Property Tax

Small Claims Case Handbook

LOCAL PROPERTY TAX
DIFFERENTIATED CASE MANAGEMENT
PILOT PROGRAM



Tax Court Management Office

Richard J. Hughes Justice Complex

7th floor - North Wing

25 Market Street

P. O. Box 972

Trenton, N.J. 08625-0972

(609) 292-5082

<http://www.njcourtsonline.com> - select Tax Court

Office Hours: 8:30 A.M. - 5:00 P.M.

Monday - Friday; Except State Holidays

This Real Property Tax Small Claims handbook was developed as an information guide to assist you in filing an appeal with the Tax Court of New Jersey.

It is not a substitute for the rules of the Tax Court or for the advice or services of an attorney.

COMPLAINT PROCEDURE

THE PROCESS

What is A Real Property Tax Small Claims Case?

A case is a small claims case if each separately assessed parcel of property included in the complaint is either a Class 2 residential property (1-4 family residence) or a Class 3A farm residence as described below:

Class 2 residential property - house including lot or parcel of land designed for use by not more than four families.

Class 3A farm residence - farm property not assessed under the Farmland Assessment Act.

Small Claims Filing Procedure

1. Obtain the following forms from the Tax Court Management Office:
 - ? *Form of Complaint*
 - ? *Proof of Service and*
 - ? *Case Information Statement*
2. Complete and sign the Complaint. Name the municipality in which your property is located as the defendant.
3. Complete and sign the Proof of Service.
4. Complete the Case Information Statement.
5. Mail these forms and a copy of the *Judgment issued by the county board of taxation* to the Tax Court Management Office.
 - ? *Enclose the correct filing fee with the Complaint.*
6. You must also send copies of the completed:
 - ? *Form of Complaint*
 - ? *Proof of Service and*
 - ? *Case Information Statement to the*
 - ? *County Board of Taxation*
 - ? *the Tax Assessor of Your Municipality*
 - ? *the Clerk of Your Municipality.*

NOTE: *The date of mailing to the county board of taxation, clerk, and tax assessor must correspond to the "date served" you indicated on the Proof of Service form.*

At the time you file a complaint with the Tax Court, you must have paid all real estate taxes or any installments then due for the year of your appeal.

For example, if you file your complaint with the Tax Court in June, you must have paid the tax installments due on February 1 and May 1. If you file in September, you must have paid the tax installments due on February 1, May 1 and August 1.

Filing Deadline

Your complaint must be filed with the Tax Court Management Office *within 45 days* of the mailing date that appears on the county board of taxation's final judgment.

The date the Tax Court Management Office receives the complaint is the filed date. The date your complaint was mailed is not the case filed date.

Filing Fee Payment

The filing fee must be received with your complaint. Checks or money-orders must be made payable to the Treasurer, State of New Jersey.

The fee is \$35 for complaints representing one property. The fee for complaints representing multiple properties is \$35 for the first property, then \$10 for each additional property (which is contiguous and in common ownership).

Tax Court Rules and Reports

The rules governing Tax Court practice can be found in Part VIII of the *Rules Governing The Courts of New Jersey*. The *New Jersey Tax Court Reports* (the published decisions of the Tax Court) can be found at most public law libraries.

Proof of Service

A proof of service form must be submitted at the time a complaint is filed. This form indicates to whom and how a copy of the complaint was "served." Methods of service can be personal or by regular, registered or certified mail.

PREPARING YOUR CASE

DISCOVERY



Discovery, the process by which each party obtains information or evidence from the other, is limited in small claims cases to those items indicated below.

- ? You are entitled to inspect and, at your cost, obtain from the municipality a copy of the property record card for your property.
- ? The municipality may inspect your property.
- ? The municipality may request a copy of a closing statement if there has been a sale of your property within three years of the assessing date, and may request the cost of improvements made within three years of the assessing date.
- ? The municipality may request income, expense and lease information if the property is income-producing.
- ? Requests for additional information, either by you or the municipality, may be made only with court approval.
- ? If you need additional information from the municipality, you should apply in writing to the assigned Tax Court judge, stating the reasons for your request.

INTERROGATORIES



Limited information may be obtained by the municipality by any of the following methods:

- ? An on-site property inspection of your property.
- ? A letter to you sending you formal questions (known as interrogatories).

NOTE:

You must permit the inspection to take place. You must also provide all the requested information for each request you receive within 30 days.

The municipality must provide you with your property record card within 30 days.



SALES OF COMPARABLE PROPERTIES

? At trial you will be required to prove to the Tax Court judge that your assessment is excessive. You can prove that your assessment is excessive only by proving the fair market value of your property as of the assessing date. The assessing date is October 1 preceding the year for which your appeal is filed. For example, the assessing date applicable to an appeal of a 1998 assessment is October 1, 1997.

? Fair market value, in general, means the price a willing buyer will pay and a willing seller will accept. The buyer and seller must be entirely independent of each other and neither being compelled to buy or sell.

You cannot prove the fair market value of your property by comparing your assessment with assessments on other properties or comparing your taxes with those of other properties. Simply describing conditions affecting your property, such as heavy traffic or flooding, is not sufficient. It is your obligation to prove to the judge that you are entitled to a reduction by proving the fair market value of your property.

One method of proving the fair market value of your property is to provide information as to the sales of comparable properties. For income producing properties, you may rely on comparable rentals. If you intend to rely on sales of comparable properties or on comparable rentals, you must provide the attorney for the municipality with a list of such comparable sales or comparable rentals. The municipal attorney must receive such list not later than twenty (20) days before the trial date. **Information that you provided to the county board of taxation**

does not satisfy your obligations to the Tax Court.



You may use sales of comparable properties which occurred within a reasonable time before or after the October 1 assessing date. Sales of properties that are similar to your property and occurred close in time to the October 1 assessing date will be more persuasive. Presenting sales of properties which have significant differences from your property or which occurred significantly before or after the October 1 assessing date will have

little persuasiveness.

Information as to the sales of other properties can be obtained from realtors, from SR-1A forms on file with your county board of taxation and from any other reliable source available to you.

For each comparable sale on your list upon which you will rely, you must include the following information:

1. Name of seller and buyer;
2. Date of sale;
3. Sales price;
4. Book and page number at which the Deed is recorded in the Office of the Clerk or Registrar of your county; and
5. If you are able to obtain the information, the Form SR-1A identification number assigned to the sale by the New Jersey Division of Taxation.

- ? For each comparable rental upon which you intend to rely, your list must include the name of the landlord and tenant, the date of the lease and the relevant terms of the lease. The more similar the comparable rentals are to your property and the closer to the October 1 assessing date that the rentals occurred, the more persuasive the comparable rentals will be.
- ? If you intend to rely upon an appraisal or other valuation report, you must supply a copy of the appraisal or report to the municipal attorney. The municipal attorney must receive this document not later than twenty (20) days before the scheduled trial date.
- ? If the municipality intends to rely upon comparable sales or rentals or upon an appraisal or other valuation report, you are entitled to receive, not later than twenty (20) days before the scheduled trial date, the information described above as to such sales or rentals and a copy of any such appraisal or other report.

CHAPTER 123 RATIO AND PROTECTION FROM DISCRIMINATION

The Director of the Division of Taxation determines for each year the average ratio of assessed value to the true value of all real property in each municipality. This ratio is known as the Chapter 123 Ratio, N.J.S.A. 54:51A-6. You can obtain the Chapter 123 Ratio for your municipality for a particular year from the tax assessor.

Unless, for the tax year under appeal, there has been a revaluation or reassessment in your municipality, the Chapter 123 Ratio is used to determine whether you are entitled to a reduction in assessment once the fair market value of your property is determined.

Chapter 123 provides that a taxpayer is entitled to a reduction in assessment only if the ratio of the assessment on the taxpayer's property to the fair market value of the property exceeds the Upper Limit of the ratio. If the ratio of the assessed value to fair market value is less than the Lower Limit of the Ratio, then the assessment is subject to increase.

The Upper Limit of the Chapter 123 Ratio is the Ratio plus 15% of the Ratio. If, for example, the Chapter 123 Ratio is 80%, the Upper Limit would be 92% as determined by the following calculations:

$$\begin{aligned} (\text{Ratio ?}) \quad 80 \times .15 (\text{? 15\% of Ratio}) &= 12 \\ 12 + 80 &= 92 \text{ or } 92\% \end{aligned}$$

The Lower Limit of the Chapter 123 Ratio is the Ratio less 15% of the Ratio. If the Chapter 123 Ratio is 80%, the Lower Limit would be 68%.

Before applying the Chapter 123 Ratio, the judge must first determine the fair market value of your property. Once determined, the Ratio is then applied as in the following example.

Example:

If, in any given year, the Chapter 123 Ratio for your municipality is 80% with an Upper Limit of 92% and a Lower Limit of 68%

and

The assessment on your property is \$190,000

and

The judge determines the fair market value to be \$200,000

Then: To determine if the Upper or Lower Limit of the Ratio was exceeded, the following calculation is performed (based upon the example above):

$$190,000 \div 200,000 = .95 \text{ or } 95\%$$

Since 95% exceeds the Upper Limit of 92%, your assessment will be reduced. To determine the new assessment value, multiply the fair market value by the Chapter 123 Ratio:

$$\$200,000 (\text{Fair Market Value}) \times .80 (\text{Ratio}) = \$160,000$$

Your assessment would be *reduced from \$190,000 to \$160,000.*

Another Example:

If the judge determines the fair market value of your property to be \$300,000

Then: $190,000 \div 300,000 = .63.3$ or 63.3%

Since 63.3% is lower than the Lower Limit of 68%, your assessment will be *increased*. To determine the new assessment value, multiply the fair market value by the Chapter 123 Ratio:

$$\$300,000 \times .80 = \$240,000$$

Your assessment would be *increased from \$190,000 to \$240,000*.

NOTE: *If the ratio of assessment to fair market value for your property falls between the Lower Limit and the Upper Limit of the Chapter 123 Ratio, your assessment will not be changed.*

DISMISSAL OF YOUR APPEAL

Your appeal may be dismissed for any of these reasons:

1. *Non-Payment of Taxes*

? If you have not paid all taxes due and payable for the year for which review is sought at the time of filing a complaint with the Tax Court.

? If the county board of taxation correctly dismissed your case because you did not pay the required amount of taxes when you appealed to the County Board of Taxation.

2. *Failure to Provide Income and Expense Information*

? If you are the owner of an income-producing property and you did not provide the assessor with requested income and expense information within 45 days of the assessor's written request sent by certified mail.

3. *Prior Settlement, Withdrawal or Failure to Pursue Your Case Before the County Board of Taxation*

If the Tax Court determines that you:

? settled or withdrew your case before the county board of taxation; *or*

? failed to present your appeal at a hearing before the county board of taxation (for example, you did not appear on the scheduled hearing date).

4. *Late Filing*

- ? If you did not file your petition of appeal with the county board of taxation by the filing deadline, generally April 1 of the tax year under appeal.
- ? If you did not file your complaint with the Tax Court within 45 days after the date the county board of taxation judgment was mailed to you.

5. *Failure to Answer a Municipality's Interrogatories*

- ? If you failed to respond to the municipality's interrogatories within 30 days.

6. *Other Reasons As Set Out in the Rules of the Court*

- ? The five reasons for Dismissal listed above are the most common. However, other Rules exist which would impose Dismissal as well.

OTHER IMPORTANT ITEMS



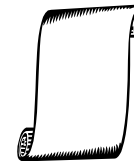
Do I Need An Attorney?

Unless ownership of your property is in the name of a corporation or other business entity other than a sole proprietor, you may present your own case at trial or you may be represented by an attorney. If ownership of your property is in the name of a corporation or other business entity other than a sole proprietor, such as a partnership, a New Jersey attorney must appear on behalf of the corporation or business entity.



Subpoena Process

A subpoena may be used to compel a witness to appear and testify at trial or to produce a specific important document or other existing item of evidence. You are responsible for issuing and serving the subpoena on the proposed witness within a reasonable time prior to trial. Additionally, you incur responsibility for all fees associated with this process.



Trial Notice

You will receive a Case Management Notice from the Tax Court Management Office stating the date, time, location and the assigned judge for your case. The Tax Court Management Office makes every effort to schedule small claims matters not more than 6 months from the date of filing.



Motion Practice

If you need formal action by the Tax Court prior to trial, motions are to be filed directly with the judge assigned to your case. If your complaint has not been assigned to a judge, the motion must be filed with the judge assigned to the geographical area in which your property is located. You can obtain the name, address and telephone number of this judge by contacting the Tax Court Management Office.

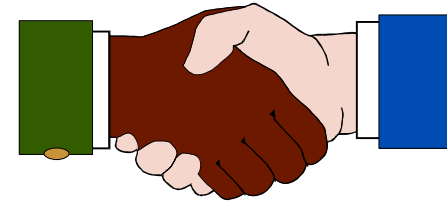
Simultaneous with the filing of the motion, copies of all documents must be sent to the other party. Return dates for motions are generally every other Friday. Exact dates may be obtained by calling the assigned judge's chambers.



Withdrawal Process

A complaint may be withdrawn by forwarding a letter of withdrawal or Stipulation of Dismissal to the Court.

SETTLING YOUR CASE BEFORE TRIAL



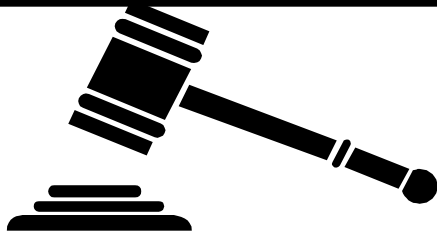
You can reach a settlement agreement with the municipality at any time before or up to your trial. If the tax assessor for your municipality does not communicate with you before the trial is scheduled, you should place a telephone call to the assessor a few days before the scheduled trial date and ask if the assessor is willing to discuss settlement of your appeal.

If you reach a settlement agreement, the assessor or the municipal attorney will prepare a form of Stipulation of Settlement for your signature and signature by the municipal attorney and the assessor. Once the Stipulation of Settlement has been signed by all parties, the assessor or municipal attorney will send it to the Tax Court judge to whom your case has been assigned.

Additionally, if settlement is reached, the Tax Court judge should be notified immediately. If the municipal attorney cannot place the call, it is your responsibility to do so.

If the judge is advised before the trial date that your case is settled, you need not appear in court on the scheduled trial date.

THE TRIAL



The trial itself is conducted informally and the Rules of Evidence are not strictly applied. All testimony is given under oath and the proceedings are tape recorded. You will have a full opportunity to explain to the judge why you believe your assessment is too high and to present whatever evidence you believe supports your position. You should be prepared to prove the value of your property.

After you and each witness testifying on your behalf finish testifying, the municipal attorney will have the right to ask you and each witness questions. You may state your opinion as to the value of your property. You may also present the in-person testimony of an expert, such as a real estate appraiser. The judge will not consider an appraisal or other opinion as to value unless: 1) the person who prepared the appraisal or opinion testifies at the trial, and 2) the appraisal or the other opinion of value is provided to the municipality at least ten (10) days before the trial.

After you have presented your case, the municipality has the right to present its case which will usually consist of testimony by its assessor or other expert. After each witness presented by the municipality has finished testifying, you will have the right to ask that person questions.

Except in unusual circumstances, the judge will render a decision at the conclusion of the trial.

AFTER TRIAL OR SETTLEMENT

Judgment



After your case has been decided or the Stipulation of Settlement has been signed by all parties and received by the Court, the Tax Court Management Office will issue a judgment reflecting the decision.

Freeze Act



After a judgment is entered in your case, you have the right to seek Freeze Act relief pursuant to a statute, N.J.S.A. 54:51A-8. You should request this option if you want the Freeze Act to apply. If applied (at your hearing, or afterward through the use of the Freeze Act application form which can be obtained from the Tax Court Management Office), the Freeze Act will "freeze" your tax assessment at the judgment figure for the following two tax years, unless a complete revaluation or reassessment is undertaken by the municipality or unless there has been a change in the value of your property.

Appeals



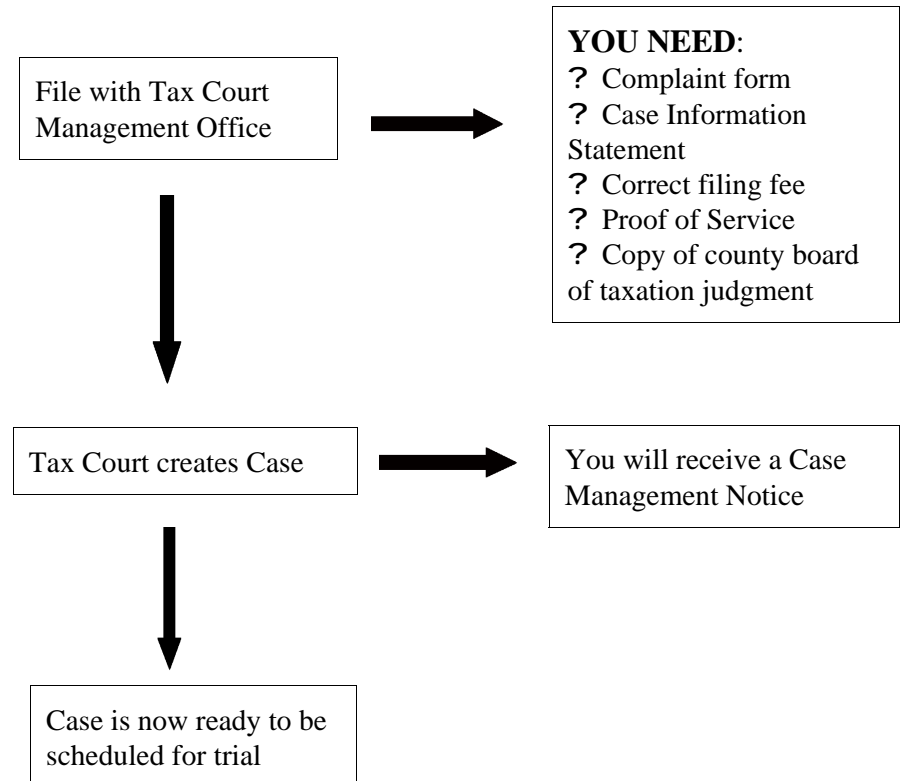
If, within 45 days after the date of the Tax Court judgment, you are not satisfied with the Tax Court decision, you may appeal your case to the Appellate Division of the Superior Court.

SMALL CLAIMS FILING PROCEDURE

Conditions to be met when you file a small claims case:

- ? You filed an appeal at the county board of taxation and are not satisfied with the county board of taxation judgment.
- ? Each separately assessed parcel of property included in the complaint is either Class 2 residential property (1-4 family residential) or Class 3A farm residence.

A SUMMARY



- ? Your case will be scheduled for trial not more than 6 months after the filing of your complaint.
- ? If you settle your case with the municipality prior to the scheduled trial date, the Tax Court will issue a judgment once a Stipulation of Settlement is received by the Tax Court.
- ? **Please note** that a copy of any documentation you submit to the court for its consideration must also be sent to the attorney for the municipality.

***YOU NEED
TO***





File on time.



Complete all forms.



Include correct filing fee.



Have your proofs for trial.



Subpoena any witnesses for trial.



If you are a business entity other than a sole proprietor, you must be represented by a New Jersey attorney.



If you intend to rely on sales or rentals of comparable properties or an appraisal report, you must supply a list of the sales or rentals or a copy of the appraisal report to the municipal attorney.



This information must be presented not later than twenty (20) days before the trial.



NOTE: Information that you provided to the county board of taxation does not satisfy your obligations to the Tax Court.

YOU CAN

- ? Request a copy of your case transcript at your own cost by contacting the assigned judge's chambers.
- ? Obtain a copy of the Tax Court Rules at no cost by calling or writing the Tax Court Management Office.
- ? View the *New Jersey Tax Court Reports* (which are the published decisions of the Tax Court) at your local law library.
- ? Appeal your case within 45 days of judgment if you are not satisfied with the Tax Court decision.
- ? File your appeal with:

*Clerk of the Appellate Division of the Superior Court
 5th floor, North Wing
 Richard J. Hughes Justice Complex
 25 Market Street
 P.O. Box 006
 Trenton, N.J. 08625-0006*

Phone: 609-292-4822

Revised July 2002

Welcome to the New Jersey State courts

We will be happy to help you if we can. However, we are allowed to help you only in certain ways, since we want to be fair to everyone in a case.

* * * * *

This is a list of some things the court staff *can* and *cannot* do for you. Please read it carefully before asking the court staff for help.

WE CAN explain and answer questions about how the court works.

WE CAN tell you what the requirements are to have your case considered by the court.

WE CAN give you some information from your case file.

WE CAN provide you with samples of court forms that are available.

WE CAN provide you with guidance on how to fill out forms.

WE CAN usually answer questions about court deadlines.

* * * * *

WE CANNOT give you legal advice. Only your lawyer can give you legal advice.

WE CANNOT tell you whether or not you should bring your case to court.

WE CANNOT give you an opinion about what will happen if you bring your case to court.

WE CANNOT recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.

WE CANNOT talk to the judge for you about what will happen in your case.

WE CANNOT let you talk to the judge outside of court.

WE CANNOT change an order issued by a judge.

* * * * *

**We look forward to helping you in accordance
with these guidelines.**

NEW JERSEY COURT SYSTEM MISSION STATEMENT

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and this State.

July 1999

BIENVENIDO A LOS TRIBUNALES DEL ESTADO DE NUEVA JERSEY.

TENDREMOS EL PLACER DE AYUDARLE SI PODEMOS. SIN EMBARGO, SÓLO SE NOS PERMITE DARLE CIERTA CLASE DE AYUDA PUESTO QUE QUEREMOS SER JUSTOS CON TODOS LOS INTERESADOS.

ANTES DE PEDIR AYUDA AL PERSONAL DEL TRIBUNAL, POR FAVOR LEA DETENIDAMENTE LA SIGUIENTE LISTA DE ALGUNAS COSAS QUE *PODEMOS* O *NO PODEMOS* HACER POR USTED.

PODEMOS explicar y contestar preguntas acerca del funcionamiento del tribunal.

PODEMOS indicarle los requisitos para que el juez considere su causa.

PODEMOS darle algunos datos relativos al expediente de su causa.

PODEMOS darle muestras de los formularios del tribunal que sean disponibles.

PODEMOS darle asesoramiento para llenar formularios.

PODEMOS, por lo general, contestar preguntas sobre los plazos máximos que hay en el tribunal.

* * * * *

NO PODEMOS darle consejos legales. Solamente su abogado le

puede dar consejos legales.

NO PODEMOS decirle si debe o no presentar su causa al juez.

NO PODEMOS darle una opinión sobre lo que ocurrirá si usted presenta su causa al juez.

NO PODEMOS recomendarle un abogado, pero podemos darle el número de teléfono de un servicio regional que recomienda abogados.

NO PODEMOS hablar con el juez en su nombre sobre lo que irá a pasar en su causa.

NO PODEMOS permitirle hablar con el juez afuera de la sala del tribunal.

NO PODEMOS cambiar ninguna orden emitida por un juez.

* * * * *

NOS SERÁ MUY GRATO AYUDARLE
BAJO ESTAS CONDICIONES.

**MANIFESTACIÓN DE LA MISIÓN DEL
SISTEMA JUDICIAL DE NUEVA JERSEY**

Somos un poder gubernamental independiente encargado por la
constitución de la resolución equitativa
y justa de disputas con el fin de conservar el imperio de la ley y de
proteger los derechos y libertades
garantizados por la Constitución y las leyes de los Estados Unidos
y de este Estado.

julio de 1999