



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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REVENUE:

Whether 25% Limitation in
Section 108a of Revenue Act
Applies When Board of Review
Equalizes Assessments Pur-
suant to Paragraph (5) of
Section 108.

Honorable James E. Dull
State's Attorney
Jefferson County
Mt. Vernon, Illinois 62864

Dear Mr. Dull:

I have your letter concerning the relationship
between paragraph (5) of section 108 of the Revenue Act of
1939 (Ill. Rev. Stat. 1976 Supp., ch. 120, par. 589) and
section 108a of the Act. (Ill. Rev. Stat. 1975, ch. 120,
par. 589.1.

Paragraph (5) of section 108 authorizes the county
board of review to equalize assessments between classes of

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property. Section 108 reads in pertinent part as follows:

"In counties containing less than 1,000,000 inhabitants, the board of review shall, in any year, whether the year of the quadrennial assessment or not:

* * *

(5) Increase or reduce the entire assessment of either real or personal property, or both, or of any class included therein if, in its opinion, the assessment has not been made upon the proper basis, or equalize the assessment of real or personal property, by increasing or reducing the amount thereof, in any township, or part thereof, or any portion of the county as may, in its opinion, be just, * * *."

Section 108a authorizes the county board of review to equalize assessments between townships. The board may raise or lower the total assessed value of property in any township so that the property will be assessed at 33 1/3% of its fair cash value. An annual assessment ratio is prepared by analysis of property transfers, appraisals, and such other information as may be submitted by interested taxing bodies and by such other means as the board may deem reasonable and proper. From these ratio studies, the board determines the amount to be added to or subtracted from the aggregate assessment of property subject to local assessment in each

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township in order to produce a ratio of assessed to 33 1/3% of fair cash value equivalent to one hundred percent. However, in equalizing the assessments between townships under section 108a, the aggregate assessment of a township may not be increased or decreased by more than 25% of its equalized valuation for the previous year, exclusive of additions and deletions. Section 108a states in pertinent part:

"* * * Provided, however, in determining the amount to be added to the aggregate assessment on property subject to local jurisdiction in order to produce a ratio of assessed value to 33 1/3% of the fair cash value equivalent to one hundred per cent, the board shall not, in any one year, increase or decrease the aggregate assessment of any assessment district by more than 25% of the equalized valuation of such district for the previous year, except that additions, deletions or depletions to the taxable property shall be excluded in computing such 25% limitation. * * *"

Pursuant to paragraph (5) of section 108 the Jefferson County Board of Review has classified property within each township as either urban or rural and has applied class multipliers to each township so that both urban and rural property may be assessed at 33 1/3% of their fair cash value. The application of these class multipliers resulted in increasing

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the aggregate assessments of some townships by more than 25% of their equalized valuation for the previous year. You ask whether section 108a of the Revenue Act prevents such an increase. My answer to this question is No.

The Jefferson County Board of Review has not acted to equalize the assessments between townships pursuant to section 108a. Instead, the board acted under paragraph (5) of section 108 to equalize urban and rural property within each township in order to remedy the disparity between the assessments of the two classes of property. After equalizing the assessments between classes of property within each township, the board found it unnecessary to equalize the assessments between townships according to section 108a. Because the board of review has not acted to equalize the assessments between townships pursuant to section 108a, the 25% limitation in section 108a is not applicable to the board's equalization between classes of property within each township.

The primary rule in construing statutes is to ascertain the legislative intent from language used in the statutes. (Certain Taxpayers v. Sheahan (1970), 45 Ill. 2d 75, 84.)

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Where the legislature has expressed its intention in clear terms, it is not proper to annex new provisions or substitute different ones, or read into a statute exceptions, limitations, or conditions which depart from the statute's plain meaning. Belfield v. Coop (1956), 8 Ill. 2d 293, 307.

The county board of review's power to equalize the assessments between classes of property under paragraph (5) of section 108 was well established when section 108a was added to the Revenue Act in 1957. (Scott, Assessment Equalization by Boards of Review, 47 Ill. Bar J. 686 (1959).) In exercising this power the board of review had not been limited to percentage increases in township assessments. The enactment of section 108a did not create such a limitation on the board's power. According to the clear language of section 108a, the 25% limitation on the increase in a township's aggregate assessment applies only when the board of review acts to equalize assessments between townships pursuant to the procedure in section 108a. The legislature has not provided a percentage limitation on the increase in a township's assessment when classes of property within the township are

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equalized pursuant to paragraph (5) of section 108. It is not proper to apply the 25% limitation in section 108a to paragraph (5) of section 108 because such a construction would read into paragraph (5) a limitation that departs from the plain language used by the legislature.

The constitutional requirement of uniformity in taxation (Ill. Const. of 1970, art. IX, sec. 4(a)) makes it particularly important to avoid the application of the 25% limitation to equalizations carried out under paragraph (5) of section 108. In interpreting a statute, a construction which would raise doubts as to the statute's validity is to be avoided. (Stubblefield v. City of Chicago (1971), 48 Ill. 2d 267, 271.) As noted by the Supreme Court in Hamer v. Kirk (1976), 65 Ill. 2d 211, 219, there has existed throughout the State a disparity between urban and rural assessments. Paragraph (5) of section 108 provides a means of correcting this disparity. However, in many instances the achievement of uniformity between urban and rural assessments would be greatly delayed if the board of review was not able to increase the aggregate assessments of townships by more than

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25%. Such a delay is of doubtful validity in view of the constitutional requirement of uniformity in taxation. Thus, the application of the 25% limitation to paragraph (5) of section 108 should be avoided.

In conclusion, for the reasons stated herein, it is my opinion that the 25% limitation in section 108a of the Revenue Act did not prevent the Jefferson County Board of Review from applying class equalization multipliers which resulted in increasing the aggregate assessments of some townships by more than 25% of their equalized valuations for the previous year.

Very truly yours,

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