

Alert | State & Local Tax (SALT)



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Pandemic-Driven Devalued Retail Real Estate Owners Should Seek Property Tax Reductions

Retail real estate has been one of the hardest hit markets by the COVID-19 pandemic. State shutdown orders and health guidelines, a shift in retailers' needs, and tenant bankruptcies have created the perfect storm for declined retail space demand. Landlords have also had to endure government-mandated rent deferrals and holidays geared at assisting tenants. Even non-paying tenants have gained significant bargaining power over rents. Retail rent collections were reported at 20% to 40% in the Summer of 2020, and U.S. mall reappraisals in 2020 showed an average 60% drop in value from several years ago. The bottom line: retail real estate values have declined.

With this decline in property values, owners of malls, shopping centers, restaurants, gyms, and other retail properties should consider applying for a reduction in their property tax liability.

California Property Tax Appeals Overview

On the **Jan. 1, 2021**, valuation date, California's Regional Stay at Home order was in effect and actively limiting the use and profitability of many retail properties.¹ Therefore, retail taxpayers may wish to appeal the enrolled values of their properties, as the economic climate and government restrictions in place as of the Jan. 1, 2021, lien date clearly contributed to the decrease in these properties' market values.

¹ [Regional Stay at Home Order](#), Cal. Dept. of Public Health (Dec. 3, 2020).

In California, when the fair market value of a property declines below its assessed value on the assessment roll of the county where the property is located, taxpayers can, and should, proactively request the assessor to reduce the assessed value. This is often called a “Prop. 8 Request,” referring to the proposition amending the California Constitution to require that assessed values be reduced to reflect declines in market value below the adjusted base year value.

For an informal review, some jurisdictions have a form by which such request can be made, but a simple letter will suffice. Be sure to identify the correct addressee to ensure your request does not go astray. Any such request should be supported by evidence of stabilized revenue, such as a 2019 income statement, as well as similar information for 2020, and budgets or proformas for 2021 and if possible, 2022. If an assessor solicits such information, provide it promptly. Assessors must finalize the tax roll by the end of June, so this request should be made as soon as possible, preferably before the end of April, to give the assessor time to process the request. Reductions in the 25% range seem to be emerging. Any such reductions are temporary.

Taxpayers should also strongly consider filing a formal *Assessment Appeal Application* for reduced assessment due to a decline in value with their local appeals board. This is so even if a Prop. 8 reduction is made, but such reduction is inadequate. Applications based on a decline in value must be filed during the regular assessment filing period for that county.² If an appeal is not timely filed, the taxpayer generally loses the ability to contest the value later.

If the county assessor has elected to mail assessment notices to all owners of real property by Aug. 1, then the regular assessment filing period for all property is **July 2 through Sept. 15**.

If the county assessor does not elect to mail assessment notices to all owners of real property by Aug. 1, then the regular assessment filing period for all property is **July 2 through Nov. 30**.

The appeal must be based on the market value of the property as of Jan. 1 of the year in which the appeal is filed.

Colorado Property Tax Overview

Colorado assessors revalue properties every odd year, making 2021 a revaluation year. By **May 1** county assessors will mail notices of valuation, which will show the change in valuation for this year.

For 2021, the 18-month base period (sometimes referred to as the data collection period) is **Jan. 1, 2019 – June 30, 2020**. Because hospitality-related properties were significantly affected during the base period due to shutdowns, restrictions, and revenue loss, hotel owners should consider protesting if the assessor’s property valuation is higher than market value. Property tax protests must be filed by **June 1**.

New York Property Tax Overview

In New York City, real property is reassessed annually. Property owners must file a real property income and expense statement (electronically) by June 1 of each year showing income and expenses for the prior year that the NYC Department of Taxation and Finance will use to arrive at the assessment for the following January. The Department issues a Notice of Property Value with the tentative assessment by Jan. 15, showing the value it placed on the property as of the tax status date of Jan. 5. In order to protest the assessment, an Application for Correction must be filed with the New York City Tax Commission by

² California Revenue & Taxation Code section 1603.

March 1 for all properties other than one-, two- or three-family homes. Applicants to the Tax Commission with properties with an actual assessed value of \$750,000 or more have until March 24 to file a Tax Commission Income and Expense statement updating the income and expenses for the immediate past year. The Tax Commission will hear and determine all applications within a year after filing. If an offer to reduce the assessment made by the Tax Commission is not accepted by the taxpayer, or if no offer is made, owners must file a petition with the New York State Supreme Court in the county in which the property is located by Oct. 24.

New York's Temporary Suspension and Modification of Laws Relating to the Disaster Emergency Executive Orders were issued after the Jan. 5, 2020, tax status date and did not enter into consideration of values for the 2020/2021 tax year. These will be considered in the valuations as of Jan. 5, 2021, as they clearly contributed to the decrease in these properties' market values.

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