

Tax Trends

The newsletter of the Illinois State Bar Association's Section on State & Local Taxation

Chair's Column: An Opportunity to Serve

BY JOHN B. SPRENZEL

I am truly honored and humbled to have this opportunity to write to you. At the ISBA's Annual Meeting last month, I had the privilege of being installed as chair of the State and Local Taxation (SALT) Section Council for the 2024-2025 bar year. There are many people to thank for this opportunity. Without the collegiality and

professionalism of SALT Section Council members, I would not have had this chance to introduce myself and what I hope SALT can achieve this year.

First and foremost, I serve the section council and the section at large as a steward of the goals and objectives of its members.

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Appellate Court Decision Clarifies Notice Standards for Property Tax Assessments in Illinois

BY SCOTT L. GINSBURG & KATHY C. ROPKA

On May 9, 2024, the Appellate Court of Illinois, Third District, issued an opinion in the case of *Jackson Generation, LLC*, 2024 IL App (3d) 2202328 (May 9, 2024), *affirming in part and reversing in part*, the circuit court's dismissal of the Plaintiff's amended complaint, and clarifying notice standards for taxpayers and counties with respect to assessment increases.

The *Jackson Generation* case arose from an increase in the Tax Year 2020 property tax assessment for the real estate owned by Plaintiff Jackson General, LLC ("Jackson"). Jackson was nearing completion of its newly constructed natural gas fueled combined-cycle power plant (the "Subject Property") when it learned that Will County (the

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In the last four or so years as part of SALT's Committee, I had the honor to observe and learn from some incredible leaders. These leaders, of whom many have served as chair of the SALT Committee, fervently carried the mantle for this section council during some arduous times and over some thorny matters. It is because of these individuals' utter devotion to the section council and its goals and objectives that I do not take this prestigious title lightly.

My predecessor, Ex-Officio Samantha Breslow, emphasized the need for more in-person meetings throughout the past bar year and the section council was able to do so with several members generously offering up and arranging for meetings at their places of business. I, too, will push for more in-person meetings, because it is that in-person interaction that permits our members to flourish and demonstrate their strengths. We have some of the brightest minds on SALT's section council and I see it amplified when we are in person. Notwithstanding, I appreciate (as some may also agree) the flexibility of a remote attendance option and would rather have participation than not at all.

I encourage the section council to find ways to contribute this bar year. Whether you are a SALT section council member or not, one way you can contribute is by writing articles for the *Tax Trends* newsletter or proposing draft legislation. These are excellent opportunities for you to highlight an issue affecting state and local tax that some may be unaware of or that may require more attention.

I thank Samantha Breslow for her leadership and care this past bar year and appreciate her friendship since serving as co-legislative liaisons together. I would also like to thank Whitney Carlisle, past chair, for appointing me as an associate editor of SALT, and Daniel Heywood, past chair, for presenting me with an opportunity to serve SALT and its members as a part of its leadership group. They along with Tim Moran, David Eldridge, John Norris, and

many other SALT members, have been mentors to me and left an indelible mark for what is expected of me as your chair. I thank them for their cordiality and guidance.

With me as part of SALT's leadership group is Keith W. Staats as vice chair, Nicholas P. Jordan as secretary, and Lynnette Lockwitz as legislative liaison. I am proud to have them aboard and look forward to working with them to further the goals and objectives of the section council. We are fortunate to have them at the helm of SALT's leadership. The people and contributions of SALT have been remarkable over the years, and we endeavor to provide opportunities for SALT and its Members to be remarkable this year.

As I sit here and write this column, it is only a few hours until two teams have the opportunity to compete in a Game 7 to win the Stanley Cup. For the sport of hockey, there is nothing more remarkable than this opportunity. Will members of these two clubs relish and seize this opportunity or will its weight be too overbearing? The former will have their names ceremoniously remembered as leaders (and emblazoned on the Cup), while the latter will think what could have been. This bar year, I hope each of you seizes an opportunity to demonstrate your leadership in furthering the goals and objectives of SALT.

Thank you to all for your past contributions to SALT and I look forward to serving as your steward for the contributions to come this bar year. ■

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Appellate Court Decision Clarifies Notice Standards for Property Tax Assessments in Illinois

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“County”) had split the Subject Property into separate parcels, PIN 0010 and PIN 0020. In addition to splitting the PINs, the parcels were reassessed from a total value of \$90,516 to \$54,815,645. As such, the total property tax liability for Tax Year 2020 increased from approximately \$7,500 to over \$4,100,000. Jackson sought to overturn this increase because the notices of the assessment change and the final assessment decisions were returned to the County as undeliverable. Jackson argued that given the circumstances, the County should have taken further action to notify Jackson of the dramatic assessment increase.

According to Jackson, the only notice attempted by the County regarding the proposed reassessment was mailed via First Class Mail to the owner’s address of record in Houston, Texas. Jackson alleged that the County “knew” that Jackson’s mailing address in Houston, Texas was “not being monitored”. Regardless, Jackson claimed that the County acted in violation of the law when it finalized an assessment increase of this magnitude without first making any attempt to notify Jackson of the proposed reassessment after the notice was returned. Jackson emphasized that the County knew other contact information for Jackson and its counsel.

When Jackson learned of the assessment increase, all appeal deadlines had already expired. The County refused to reverse or reconsider the assessment change after the deadlines to appeal passed, so Jackson filed suit in Will County. Jackson raised claims for declaratory relief and due process violations or, in the alternative, a tax objection claim. On the motions of various defendants from the County, Jackson Township and local taxing districts, the circuit court dismissed Jackson’s Complaint with prejudice for failure to exhaust administrative remedies. In dismissing the challenge, the circuit court found that that case was more in the nature of a tax objection which was barred because Jackson had not exhausted its administrative

remedies.

On appeal, Jackson’s main argument was that it pled facts sufficient to show that, as a result of “constitutionally deficient” notice, it was excused from exhausting its administrative remedies and, therefore, the reassessment was void in its entirety. Jackson argued that due process requires that property owners be given notice and an opportunity to be heard on the issue of the property’s valuation at some point in the assessment procedure before liability to pay the property tax becomes conclusively established. *Dietman*, 5 Ill. 2d at 489. Jackson claimed that failure to do so renders the property tax void and uncollectible. *Id.*; see *M.S. Kaplan Co. v. Cullerton*, 49 Ill. App. 3d 374, 379 (1977). The appellate court rejected Jackson’s argument that the circumstances of this case, including the alleged special attention given its unique property and the amount of increased tax liability at stake, required additional steps to effectuate notice when the Board’s notices were returned to sender. The final notices of the reassessment were mailed to the address Jackson provided to the County for its tax bill. Jackson did not allege that the address the notices were sent to in Houston was wrong, but rather, that Jackson chose not to “monitor” the address that it had provided. There were no allegations that Jackson had informed the County that the Houston address would not be “monitored”. Furthermore, as argued by the County, the County sends out hundreds of notices with no means of knowing whether an address is “unmonitored.” Citing to *Passalino v. City of Zion*, 237 Ill. 2d 118, 124 (2009) (quoting *Jones v. Flowers*, 547 U.S. 220, 223 (2006)), the appellate court found that the manner of notice met the statutory requirements and that this manner of notice—a mailing to the address on the tax record—has been recognized to be sufficient to satisfy procedural due process. *Passalino* at 127-29.

Finally, based on the particular facts alleged here and for all the reasons discussed,

the appellate court found that the circuit court properly dismissed Jackson’s claims. The appellate court did find that the circuit court erred in dismissing claims based on a second PIN because for that parcel the County failed to provide notice of reassessment. Even though the parcels were contiguous and constituted part of the same property, Jackson was entitled to notice for each separate parcel. Thus, for this second parcel Jackson was not required to exhaust its remedies.

The *Jackson Generation* decision underscores the critical importance of proper notice in property tax assessments and clarifies the procedural due process requirements for both taxpayers and counties. By affirming the need for reliable communication channels, this ruling will likely influence future assessment practices and the handling of taxpayer notifications in Illinois. The decision also serves as a crucial reminder for taxpayers to ensure that their contact information for assessment matters is always up to date. Under the decision, it is clear that failure to monitor provided addresses can result in missed notifications and significant financial repercussions. Accordingly, taxpayers and practitioners must be vigilant in their maintenance of current contact details with county tax authorities. ■