

Tax Court of New Jersey
Small Claims Case Handbook
LOCAL PROPERTY TAX



Tax Court Management Office

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njcourts.com/taxcourt

Office Hours: Monday - Friday, 8:30 a.m. to 4:30 p.m.

Closed on State Holidays

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.

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.

WELCOME TO THE NEW JERSEY STATE COURTS

Tax Court of New Jersey

This Local Property Tax Small Claims handbook was developed as an informational guide to assist the taxpayer 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. If you cannot afford a lawyer, you may contact the legal services program in your county. You can also contact the county bar association for information on a lawyer referral service to see if they can provide names of attorneys in your area willing to handle your case. The telephone numbers can be found in your local telephone book.

In general, your case will be assigned to the judge closest to your property. You will be given the address and telephone number of the assigned judge when the case is scheduled for trial. If you need that information before the trial is scheduled (for example, you wish to make a motion), contact the Tax Court Management Office.

The Tax Court currently maintains chambers in Trenton, Newark, Morristown and Hackensack.

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. Rutgers Law School-Camden maintains copies of the opinions of the New Jersey courts and a link to the Rutgers Law School site is provided on the Tax Court web page.

All Tax Court forms, rules, recent opinions and other important information and resources are available at njcourts.com/taxcourt/index.htm.

What is A Local 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 or the prior assessment year's property taxes were less than \$25,000. Each are described below:

- Class 2 residential property - a lot or parcel of land on which a house designed for use by not more than four families is situated.
- Class 3A farm residence - farm property not assessed under the Farmland Assessment Act.
- Prior year's tax - the property tax paid on your property for the year before the assessment year you are appealing must have been less than \$25,000.

Types of Appeals

Appeal from County Board of Taxation

You must first file with your county Board of Taxation when your local property tax appeal:

- is not an added or omitted assessment and is \$1,000,000 or less; **or**
- is an added or omitted assessment and is \$750,000 or less.

You would then file with the Tax Court if you are not satisfied and wish to appeal the county Board of Taxation judgment.

Direct Appeal

You may bypass filing with the county Board of Taxation and file directly with the Tax Court when your local property tax appeal:

- is not an added or omitted assessment and exceeds \$1,000,000; **or**
- is an added or omitted assessment and exceeds \$750,000.

General Information

Filing Deadlines

A complaint for review of a final judgment of the county Board of Taxation must be filed with the Tax Court Management Office **within 45 days** of the mailing date that appears on the judgment.

A complaint for a local property tax appeal that qualifies for direct review of the assessment by the Tax Court must be received in the Tax Court Management Office on or before **April 1** of the tax year.

In a taxing district where a municipal-wide revaluation or a municipal-wide reassessment has been implemented, complaints that qualify for direct review of the assessment by the Tax Court must be filed on or before **May 1** of the tax year.

The filed date is the date the Tax Court Management Office receives the complaint, NOT the date the complaint was mailed. If the filing deadline is about to expire and you want to ensure the complaint is filed on time, you should bring it directly to the Tax Court Management Office in Trenton.

At the time you file a complaint with the Tax Court, you must have paid all real estate taxes or any installments due for the assessment year involved in your appeal. Also, you must have paid any other municipal assessments, such as water and sewer charges, as well as all taxes and charges for prior years. For example, if you file your complaint with the Tax Court in June, you must have paid the tax installments and charges due up to and including May 1. If you file in September, you must have paid the tax installments and charges due up to and including Aug. 1.

If you are proceeding in the Small Claims Division based on the prior year's property tax of less than \$25,000, you must submit proof of the amount of property tax paid. A copy of the prior year's final tax bill or the current year's notice of assessment card or a statement certifying the amount of the prior year's property taxes must be submitted with your complaint. If you fail to submit the required documentation, your complaint will be returned as a nonconforming paper stamped "Received but not filed (date)". You will have 10 days from the date of the notice returning your complaint to correct the deficiency.

Filing Fee Payment

The fee for complaints involving one property is \$35. The fee for complaints involving multiple properties is \$35 for the first property and \$10 for each additional property that is contiguous (next to) and in common ownership with the first property even if separated by a road. If you are appealing two properties in common ownership that are not contiguous, you must file two separate complaints. The filing fee must be received with your complaint. Checks or money orders must be made payable to the *Treasurer, State of New Jersey*.

If you are unable to pay the filing fee, you may apply to the court to qualify as indigent. Your filing fees may be waived by the judge. A Certification of Indigency form must be completed and submitted to the Tax Court Management Office in order to waive a filing fee. The form is available from the Tax Court Management Office or the Tax Court Web site.

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 may be personal or by regular, registered, or certified mail. The date you mail a copy of your complaint forms to the county Board of Taxation, the clerk and the tax assessor is the "date served" to be used on the Proof of Service form.

Filing Procedures

You can obtain the Local Property Tax Complaint Packet from the Tax Court Management Office or online at njcourts.com/taxcourt. The packet contains a *Complaint Form*, *Proof of Service Form* and a *Case Information Statement* along with other important information.

- Complete and sign the *Complaint*. Name the municipality where your property is located as the defendant.
- Complete and sign the *Proof of Service*.
- Complete the *Case Information Statement*. If you require special accommodations under the Americans with Disabilities Act or require the services of an interpreter, complete the appropriate sections on page 2 of the *Case Information Statement*. You will be contacted shortly after the filing of your complaint.
- Mail the original forms and, if an appeal from the county Board of Taxation, a copy of the *county Board of Taxation Judgment* or, if a direct appeal, a copy of the *Notice of Assessment Card* or *tax bill* to the Tax Court Management Office.
- Enclose the correct filing fee with the *Complaint*.
- You must send copies of the completed *Complaint Form*, *Proof of Service* and *Case Information Statement* and any other attached documentation to the *County Board of Taxation*, *tax assessor* and *clerk* of your municipality. Check your local telephone book for the addresses and telephone numbers.

The Tax Court Management Office will docket the complaint and send a Case Management Notice that will include the docket number, anticipated trial date, assigned judge and discovery completion date.

Preparing Your Case

Discovery

Discovery is the process by which each party obtains information or evidence from the other. In small claims cases, discovery is limited to the following:

- 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 must provide you with a copy of the property record card within 30 days.
- 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 it may request the cost of improvements made within three years of the assessing date.
- The municipality can request income, expense, and lease information if the property is income-producing (i.e. you have a tenant to whom you rent all or part of the property).
- Limited information can be obtained by the municipality by an onsite inspection of your property. You must permit the inspection to take place.

Requests for additional information, either by you or the municipality, can 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 and state the reasons for your request.

You and the municipality must provide each other with information about any comparable sales you will rely on at trial. If an expert is to testify at trial, his or her report must be provided to you and the municipal attorney before the trial.

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 Oct. 1 preceding the year for which your appeal is filed. For example, the assessing date for an appeal of a 2009 assessment is Oct. 1, 2008.

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 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. The purchase price of your property is strong evidence of value, but it is not conclusive.

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

For income producing properties, you may rely on comparable rentals. You need to establish the amount of income your property could generate. This amount must be included in an income approach, which is a complex method of determining value.

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 this list no later than 20 days before the trial date. **Please note that information you provided to the county Board of Taxation or the municipality in connection with your county Board of Taxation hearing does not satisfy your obligations to your adversary in the Tax Court proceeding.**

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

- Name of seller and buyer
- Date of sale
- Sales price
- Book and page number at which the Deed is recorded in the Office of the Clerk or registrar of your county
- 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 Oct. 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 no later than 20 days before the scheduled trial date. If the person who prepared your appraisal or valuation report does not appear to testify at trial, the Tax Court judge might not rely on the appraisal or report.

If the municipality will rely upon an appraisal or other valuation report, it must supply it to you no later than 20 days before the scheduled trial date. The person who prepared the report will testify about it, and you will have the opportunity to cross-examine him or her.

Chapter 123 Ratio

Each year, the Director of the Division of Taxation determines 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 there has been a revaluation or reassessment in your municipality for the tax year under appeal, 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. The assessment is subject to increase if the ratio of the assessed value to fair market value is less than the lower limit of the ratio.

The upper limit of the Chapter 123 Ratio is the ratio plus 15 percent of the ratio. If, for example, the Chapter 123 Ratio is 80 percent, the upper limit would be 92 percent, as determined using the following calculations:

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

The lower limit of the Chapter 123 Ratio is the ratio less 15 percent of the ratio. If the Chapter 123 Ratio is 80 percent, the lower limit would be 68 percent.

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

If, in any given year, the Chapter 123 Ratio for your municipality is 80 percent with an upper limit of 92 percent and a lower limit of 68 percent 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 on the example above):

$$\text{\$190,000 divided by } \$200,000 = .95 \text{ or } 95 \text{ percent.}$$

Since 95 percent exceeds the upper limit of 92 percent, your assessment would be reduced. To determine the new assessment value, multiply the fair market value times the Chapter 123 Ratio:

$\$200,000$ (Fair Market Value) \times .80 (ratio) = $\$160,000$

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

If the judge in that same case had determined the fair market value of your property to be $\$300,000$, THEN:

$\$190,000$ divided by $\$300,000$ = .63 or 63 percent.

Since 63 percent is lower than the lower limit of 68 percent, your assessment would be increased. To determine the new assessment value, multiply the fair market value times the Chapter 123 Ratio:

$\$300,000$ (Fair Market Value) \times .80 (ratio) = $\$240,000$

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

If the ratio of assessment to fair market value of 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 the reasons listed below.

1. Non-Payment of Taxes/Municipal Charges

If you have not paid all taxes and municipal charges due and payable for the year for which review is sought and for all prior years 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 and municipal charges due at the time 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. This is information requested in the year before the taxes being appealed and not information requested during discovery.

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 or, if a direct appeal, with the Tax Court 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.

The four reasons for dismissal listed above are the most common. However, other Rules exist which may also result in dismissal of your case.

Other Important Items

Do I Need An Attorney?

You can present your own case at trial unless ownership of your property is in the name of a corporation or an entity other than a sole proprietor. A New Jersey attorney must appear on behalf of a corporation or entity such as a trust.

Subpoena Process

A subpoena can be used to compel a witness to appear and testify at trial, to produce a specific important document or to produce other existing items 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. Sample subpoena forms are available from the Tax Court Management Office or on the Tax Court Web site.

Trial Notice

You will receive a 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 a small claims matter within six months of the date of filing of the complaint to give you adequate time to arrange for your appearance.

Motion Practice

If you need formal action by the Tax Court prior to trial, you must file a motion 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. Sample motion forms are available from the Tax Court Management Office or the Tax Court Web site.

Withdrawal Process

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

Communicating With the Judge

Copies of all letters and other written communications you send to the judge assigned to your case must also be mailed to the attorney for the municipality.

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 or the municipal attorney a few days before the scheduled trial date and ask if they are 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. 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 do not need to appear in court on the scheduled trial date. If you do not settle prior to the trial date and you do not settle on the trial date, a Tax Court judge will hear your case.

The Trial

Every effort will be made to schedule trial within six months of the filing of the complaint. If you have any questions about or problems with the trial date, communicate directly with the assigned judge's chambers. The judge's telephone number are provided on the trial notice.

The trial in small claims cases is conducted informally and the Rules of Evidence are not strictly applied. All testimony is given under oath, and the proceedings are recorded. You will have an 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. This is called cross-examination. You can state your opinion as to the value of your property. You also can present the in-person testimony of an expert, such as a real estate appraiser. The judge might 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 20 days before the trial.

After you have presented your case, the municipality has the right to present its case. The testimony usually will consist of testimony from the assessor or other expert. After each witness presented by the municipality has finished testifying, you will have the right to ask that person questions, just as the municipal attorney can cross-examine your witnesses.

The judge will usually render a decision at the conclusion of the trial.

After Trial or Settlement

The Judgment

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

The Freeze Act

After a judgment is entered in your case, you have the right to seek Freeze Act relief pursuant to statute, N.J.S.A. 54:51A-8. You should request this option if you want the Freeze Act to apply. If applied, (by the judge at your hearing, or afterward through the use of the Freeze Act application form), the Freeze Act will “freeze” your tax assessment at the judgment figures 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. For example, you have made improvements to the property.

Appeals

If you are not satisfied with the Tax Court decision, you can appeal that decision to the Appellate Division of Superior Court. Your notice of appeal must be filed within 45 days of the date of the Tax Court judgment. Appellate Division forms and instructions are available at njcourts.com/appdiv. You can request a copy of your case transcript for use with an appeal, at your cost, by contacting the assigned judge's chambers. You will be referred to a court reporting service to make the appropriate arrangements.

File your notice of appeal to the Appellate Division at the following address:

Clerk of the Appellate Division, Superior Court
Richard J. Hughes Justice Complex
25 Market St. - 5th Floor, North Wing
P.O. Box 006
Trenton, NJ 08625-0006
Telephone: (609) 292-4822

A copy of your notice of appeal to the Appellate Division should also be sent to your adversary, the assigned trial judge and the Tax Court Clerk/Administrator, as provided by the Appellate Division Rules.

Final Notes

- File on time.
- Complete all forms and include the correct filing fee.
- If you are an entity other than a sole proprietor, such as a corporation or a trust, you must be represented by a New Jersey attorney.
- Be sure to submit proof of the amount of property tax paid if you are appealing based on taxes less than \$25,000. A copy of the prior year's final tax bill or the current year's notice of assessment card or a statement certifying the amount of the prior year's property taxes must be submitted with your complaint.
- 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 not later than 20 days before the trial.
- Have your proofs ready and subpoena any witnesses for trial.

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.

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 sobre el funcionamiento del tribunal.
- **PODEMOS** decirle cuáles son los requisitos para que el juez considere su caso.
- **PODEMOS** darle algunos datos relativos al expediente de su caso.
- **PODEMOS** darle muestras de los formularios del tribunal que estén disponibles.
- **PODEMOS** darle asesoramiento para llenar formularios.
- **PODEMOS** por lo general contestar preguntas sobre los plazos máximos que establece 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 caso en el tribunal.
- **NO PODEMOS** recomendarle un abogado, pero podemos darle el número de teléfono de un servicio local que recomienda abogados.
- **NO PODEMOS** hablar con el juez en su nombre sobre lo que irá a pasar en su caso.
- **NO PODEMOS** permitirle hablar con el juez fuera de la sala del tribunal.
NO PODEMOS cambiar ninguna orden emitida por un juez.

Nos será muy grato ayudarle bajo estas condiciones.

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