

Apr 07, 1992

Mr. Gary F. Boehmer, C.F.E.
Chief of Tangible Personal Property
Office of Property Appraiser
Hillsborough County
419 Pierce Street, Room 273-B
Tampa, Florida 33602-4089

RE: Tax Roll; Correction; Deadline for Judgment Changes;
Section 197.122, F.S.
Rule 12D-13.006, F.A.C.
Your letter to Norman McMillan dated January 24, 1992

Dear Mr. Boehmer:

Your letter of January 24, 1992 to Mr. Norman McMillan was referred to me for review and response. In your letter you request advice concerning the following questions:

ISSUES

At one point during the tax year we can no longer make changes to value based on judgment. The only changes allowed are made solely to correct any errors, such as a double assessment of leased assets. Hence, my question is centered around that specific date in time.

What is the deadline for changing an assessment based upon my opinion or judgment of value?

RESPONSE

Under the Korash v. Mills case, the property appraiser loses jurisdiction over the tax roll, for purposes of exercising judgment in making assessments, at the time he certifies the roll to the tax collector for collection. See Korash v. Mills,

263 So.2d 579 (Fla. 1972). This rule also applies to assessments made separately from the tax roll as a whole. The attorney general recently, in AGO 91-31, considered the effect of the Korash v. Mills case on the tax roll preparation process, and ad valorem tax refunds.

As a result, after the roll has been certified for collection, there can be no refund where the change in assessment resulted from a change in judgment by the appraiser, and refunds are only permissible where there was a mistake of fact amounting to an administrative error. For instance, if the appraiser has a base rate he applies to a class of property, but he overstated the amount of property in making his initial assessment, this would be a mistake of fact that could be remedied via refund. Correction would require a simple mathematical recalculation, with no new exercise of judgment.

However, there are certain changes to assessments that result from a combination of mistakes of fact and exercise of judgment. The Department has historically denied refunds in this category. After considerable review of the refund process, rules and statutes, we have requested and received a formal attorney general's opinion, AGO 91-31, to obtain further guidance in this area. As a result, we have been unable to determine the authority for making refunds in this category, and have, therefore, continued to deny them.

In the 1992 session the legislature passed SB 2022, section 6 of which permits the property appraiser, where he certifies that a material mistake of fact occurred, to correct the material mistake of fact for up to 60 days after the date the tax roll is certified. This period corresponds to the time for filing a lawsuit under section 194.171, Florida Statutes.

I hope this addresses the points you raise in your letter. If I may be of any further assistance, please do not hesitate to contact me.

Sincerely,

Stephen J. Keller

Assistant General Counsel
Office of General Counsel

SJK/bsc