

July 15, 2008

Taxing District Levy Certification

Question: Can the county assessor levy a property tax for a taxing district that has not certified an amount to levy?

Answer: No. The county assessor does not have statutory authority to levy on behalf of a taxing district.¹

Discussion: The authority for a taxing district to impose property tax is generally found in the statutes related to the specific type of taxing district. For example, chapter 52.16 RCW provides authority for fire protection district commissioners to levy property tax to pay the expenses of the district. Likewise, chapter 70.44 RCW provides commissioners of a public hospital district with the authority to levy property tax. Taxing district officials must follow specific procedures in order to levy.

In addition to statutory provisions related to specific types of taxing districts, the Legislature has adopted certain requirements for any taxing district imposing a regular property tax levy.

RCW 84.55.120 requires all local taxing districts that collect regular levies to hold public hearings on sources of revenue to fund the current expense budget.

According to RCW 84.52.020, taxing districts that are "required by law to certify to the county legislative authority...budgets or estimates of the amounts to be raised by taxation" must certify such budgets to the county legislative authority by November 30.

Under RCW 84.52.070, the county legislative authority is required to certify the amounts to be levied for each taxing district to the county assessor by November 30. Unless the assessor failed to certify assessed values to taxing districts at least twelve working days prior to November 30, the taxing district may levy no more than was certified in the previous year if no levy amount is certified to the county assessor by November 30.²

In AGO 1981 No. 11, the Attorney General responded to questions regarding the ability of port districts to certify levy amounts after the second Monday in October (now the 30th day of November) as required in RCW 84.52.070. The Attorney General found that port districts could statutorily hold budget hearings on the first Monday in December and could certify budgets to the county legislative authority at that time, even though the certification would be later than the date specified in RCW 84.52.070. The Attorney General also concluded that RCW 84.52.070 is a "directory rather than a mandatory statute; i.e., a statute that directs a given act to be performed at a particular time but does not divest the officer or agency which is required to perform of the authority to do so later." Furthermore, the Attorney General felt that it was implicit in the law that taxing districts' levies are to be set only after the districts' budgets have been adopted.

Conclusion: A taxing district that intends to levy a property tax must certify an amount to levy. The amount to be levied should be as follows:

If a taxing district certifies a levy amount prior to November 30th, the assessor should levy the amount certified (within all statutory and constitutional limitations).

¹ However, RCW 84.68.040 requires the proper county officials to levy a property tax on taxable properties of taxing districts in order to fund court-ordered refunds. Therefore, a levy may be made on behalf of a taxing district specifically to fund court-ordered refunds even if the district has not certified an amount to levy.

² Taxing districts that are statutorily authorized to hold budget meetings after November 30 may certify their levy amount to the county legislative authority after the budget meeting is held.

If a taxing district certifies a levy amount after November 30th, the assessor should levy no more than the district received in the prior year unless the assessor has not certified assessed values to the taxing districts at least 12 working days prior to November 30th. In the case when the assessor has not timely certified assessed values to the taxing district, the assessor should levy the amount certified by the district as long as that amount is within statutory and constitutional limits.

If no certification is made, the assessor should not levy for the district.

Questions: If you have questions or need additional information, please contact Kathy Beith at (360) 570-5868 or kathyb@dor.wa.gov or Diann Locke at (360) 570-5885 or diannl@dor.wa.gov.