

Chapter 49

ASSESSMENT REVIEW

§ 49-1. Income and expense statements.

[HISTORY: Adopted by the Board of Trustees of the Village of Kensington 9-28-88 as L.L. No. 6-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 137.

§ 49-1. Income and expense statements.

- A. Where real property is income-producing property, the owner shall be required to submit annually to the Assessor, not later than the first day of September, a statement of all income derived from and all expenses attributable to the operation of such property as follows:
- (1) Where the owner's books and records reflecting the operation of the property are maintained on a calendar year basis, the statement shall be for the calendar year preceding the date the statement shall be filed.
 - (2) Where the owner's books and records reflecting the operation of the property are maintained on a fiscal year basis for federal income tax purposes, the statement shall be for the last fiscal year concluded as of the first day of August preceding the date the statement shall be filed.
 - (3) Notwithstanding the provisions of Assessment Review Subsection A(1) and (2), where the owner of the property has not operated the property and is without knowledge of the income and expenses of the operation of the property for a consecutive twelve-month period concluded

as of the first day of August preceding the date the statement shall be filed, then the statement shall be for the period of ownership.

- (4) The Assessor may, for good cause shown, extend the time for filing an income and expense statement by a period not to exceed thirty (30) days.
- B. Such statements shall contain the following declaration: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and will render this statement null and void."
 - C. The form on which such statement shall be submitted may be prepared by the Assessor and copies of such form shall be made available at the Village Office.
 - D. Failure to file statement within required time.
 - (1) In the event that an owner of income-producing property fails to file an income and expense statement within the time prescribed in Subsection A of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed three percent (3%) of the assessed value of such income-producing property determined for the current fiscal year; provided, however, that if such statement is not filed by the 31st day of December, the penalty shall be in an amount not to exceed four percent (4%) of such assessed value. If, in the year immediately following the year in which an owner fails to file by the 31st of December, the owner again fails to file an income and expense statement within the time prescribed in Subsection A of this section (determined with regard to any extension of time for filing), such owner shall be subject to a penalty in an amount not to exceed five percent (5%) of the assessed value of such property determined for the current fiscal year. Such owner shall also be subject to a penalty of up to five percent (5%) of such assessed value in any year immediately succeeding a year in which a

penalty of up to five percent (5%) could have been imposed, if in such succeeding year the owner fails to file an income and expense statement within the time prescribed in Subsection A of this section (determined with regard to any extension of time for filing). The penalties prescribed in this Subsection shall be determined by the Assessor after notice and an opportunity to be heard.

- (2) The Assessor and any body which reviews assessments shall deny a hearing on any objection to the assessment of property for which an income and expense statement is required and has not been timely filed.
 - (3) Where an income and expense statement required under the provisions of this section has not been timely filed, the Assessor may compel by subpoena the production of the books and records of the owner relevant to the income and expenses of the property and may also make application to any court of competent jurisdiction for an order compelling the owner to furnish the required income and expense statement.
- E. As used in this section, the term "income-producing property" means property owned for the purpose of securing an income from the property itself and residential properties owned by cooperative corporations or condominium associations, but shall not include property with an assessed value of forty thousand dollars (\$40,000.) or less.
- F. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Assessor, any officer or employee of the village or any person engaged or retained by the village on an independent contract basis, or any person who, pursuant to this section, is permitted to inspect any income and expense statement or to whom a copy, an abstract or a portion of any such statement is furnished, to divulge or make known in any manner the amount of income and/or expense or any particulars set forth or disclosed in any such statement required under this section. The Assessor or officer or employee of the village charged with the custody of such statements shall not be required to produce

any income and expense statement or evidence of any information contained in them in any action or proceeding in any court, except on behalf of the village. Nothing herein shall be construed to prohibit the delivery to an owner or his or her duly authorized representative of a copy of any statement filed by such owner pursuant to this section, or to prohibit the publication of statistics so classified as to prevent the identification of particular statements and the items thereof, or the inspection by the legal representatives of the village of the statement of any owner who shall bring an action to correct the assessment. Any violation of the provisions of this subsection shall be punished by a fine not exceeding one thousand dollars (\$1,000.) or by imprisonment not exceeding one (1) year, or both, at the discretion of the court, and if the offender shall be an officer or employee of the village, the offender also shall be dismissed from office.