



May 2008

EDUCATION LAW ALERT

HOMESTEAD EXCLUSION IMPLEMENTATION/ COUNTY ASSESSMENT OFFICE HOMESTEAD APPROVAL LIST

We have heard from business managers in many different counties that they are finding a significant number of obvious errors in the county assessment office homestead list delivered to them to calculate and award the homestead and farmstead exclusions. One of the most notable errors is that lists showed many different individuals with ownership of and approval for two (and sometimes more) homesteads. Obviously, this is wrong in that an individual is entitled to only one homestead approval. Moreover, in some cases the number of such errors was quite large.

One assessment office director explained that duplicates occurred for a number of reasons, including:

- property transfers without purge

- individuals who received original approval for one property and later bought and applied for approval of a new home while retaining ownership of but no longer living in the first property
- individuals applied for multiple approvals in the same year

The assessment office director explained that scrutinizing tens of thousands of applications and assembling lists with tens of thousands of individuals was a very difficult process. In any event, the county did not have a cross check system in place.

With this background, we are concerned that school districts will be forced to deal with errors after tax bills are sent, including errors of providing tax reductions that are not warranted, and also denying tax reduction in some cases where tax reduction is owed. Although the school district can place responsibility on the county assessment office, I suspect this will not be well accepted by taxpayers.

In order to address these issues, we suggest the following:

- Although you are not required to do so, it is a good idea for the school district to review the county list and advise the county of obvious errors and questions. As part of the review, among other

things, it is a good idea to do a computer sort by name in order to identify possible duplicate approvals.

- Please recall that the law requires the county to give you an official list and certify the accuracy of that list. As part of helping to ensure accurate and reliable lists and having the county fulfill its statutory responsibility, we suggest that you ask the county assessment office to attach to the final list of approved homesteads and farmsteads a certificate signed by an official from the assessment office stating essentially the following:

“I hereby certify that the attached represents an accurate list of the information required from this office under 53 Pa. C.S.A. § 8584(i). This information accurately reflects homesteads and farmsteads as defined in 53 Pa. C.S.A. §§ 8401 and 8582, within your school district based on homestead applications filed with this office on or before March 1, 2008, with deletion or correction of owner names based on information received by the assessment office after March 1, 2008 and prior to the date of this certification.”

- We believe it is important that the assessment office make corrections to the homestead list, rather than relying on school districts to correct the county lists. The responsibility under the statute for establishing the lists of properties entitled to tax reduction is placed on the

county. If school districts make corrections to the list unilaterally, there is some risk the wrong property will be eliminated, and there might be some circumstances where the school district might be forced later to grant a homestead exclusion for a property that was eliminated. It is still possible this might occur if the assessment office provides you with a new list that proves to be inaccurate. However, you have a much stronger position in denying the later claim if you are relying on a certified list from the assessment office.

- School districts making corrections on their own to the county list should be a last resort. If you do this, you might want to “keep a reserve” by estimating a number of “extra” or “uncertain” homesteads. This reserve would give you the funds with which to fund a claim asserted after you mail tax bills by someone who is wrongfully denied the homestead exclusion because of problems with the county list. Of course, if you keep a reserve and do not end up using the reserve for homestead or farmstead tax reduction, the money from the reserve would need to be applied to homestead tax reduction in 2009. Another alternative would be to fund any such wrongful exclusions from school district general funds, then offset from 2009 slot money the 2008 excess tax reduction granted to taxpayers.
- As to providing tax reduction to someone who is not granted tax reduction on the initial tax bill but claims entitlement, you will need to assess the specific facts of each case

before making a decision on granting or denying the tax reduction claim.

- For future years, it is probably a good idea to have dialogue with the assessment office concerning the steps undertaken to ensure accuracy of lists. Steps that should be considered if not already in place include:
 - The county creating a computer program that will flag duplicates.
 - The county undertaking manual review of lists for apparent errors.
 - School district review of preliminary lists of approved homesteads and farmsteads and comment to the county assessment office before the county prepares the final list.
 - The county could add a statement to the homestead application form signed by the homeowner (or require signature of a separate piece of paper as part of each application) to the following effect: “I am not the owner of any other property approved as a homestead except the following property which should no longer be shown as an approved homestead owned by the undersigned: _____.”
 - The County and/or school districts should also undertake an effort to publicize the consequences of filing a false application and of failing to notify the assessment office when a property no longer qualifies. Under 53 Pa. C.S.A. § 8584(h), monetary and criminal

penalties are imposed for filing a false application. In addition, 53 Pa. C.S.A. § 8584(j)(1) provides:

“(1) A property owner whose property is approved as a homestead property or farmstead property and which property no longer qualifies as homestead property or farmstead property shall notify the assessor within 45 days of the date the property no longer qualifies as homestead property or farmstead property. Failure to notify the assessor as required by this subsection shall be treated in the same manner as a false application under subsection (g).”

Under this section, a property owner who fails to notify the assessment office that a property no longer qualifies is also subject to monetary and criminal penalties.

- Under § 8584(h), the penalties for false applications or failures to notify are: (1) pay any tax reduction amount improperly granted due to the violation, plus simple interest computed at a rate published by the State; (2) pay a penalty equal to 10% of the tax reduction amount; and (3) upon conviction for knowing violation, the individual is guilty of a misdemeanor of the third degree and can be sentenced to pay a fine not exceeding \$2,500.
- Possible options for publicizing include:

~ School district notice inserted with tax bill concerning the obligations and potential criminal penalty.

This first year of homestead exclusion implementation will have a number of bumps in the road. Hopefully, the process will go more smoothly in future years.

~ County public statement release and advertisements of this fundamental responsibility and potential criminal penalty.

We hope you find this KKAG Information Alert helpful and informative. Please understand that it is designed to provide information about current developments and required actions. It does not constitute legal advice, and school districts should consult a lawyer knowledgeable in this area of the law prior to taking specific actions on the issues addressed.

If you have any questions regarding any education law matter, including the issues discussed in this Information Alert, please do not hesitate to contact us as 717/392-1100, or e-mail us at the following addresses:

<p>KEGEL KELIN ALMY & GRIMM LLP Education Law Group (717) 392-1100</p>	
Clarence C. Kegel, Jr.	kegel@kkaglaw.com
Howard L. Kelin	kelin@kkaglaw.com
Jeffrey D. Litts	litts@kkaglaw.com
Eric N. Athey	athey@kkaglaw.com
Rhonda F. Lord	lord@kkaglaw.com
Amy G. Macinanti	macinanti@kkaglaw.com
Denise E. Elliott	elliott@kkaglaw.com

KKAG is solicitor and general counsel to 14 school districts and career and technology centers – and bond counsel, finance counsel, or special counsel to many others in Central and Eastern Pennsylvania. In addition KKAG frequently serves Pennsylvania school districts for unusual and challenging problems, projects, or litigation. Together with our education law practice, we also have a substantial labor and employment law practice, including labor negotiations and all other areas of labor and employment law.