

## EDUCATION LAW ALERT

2/2/16

### Tax Exemption of Board-Owned Real Estate

On December 30, 2015, the Ohio Supreme Court issued a decision that signals a departure from how the Tax Commissioner of Ohio will treat real estate owned by a board of education regarding tax exemption applications. Previously, board-owned real estate was considered subject to real estate taxes and not exempt if the property was used for a purpose other than for the school district. Such purposes were commonly for agricultural, commercial, or business use under a lease arrangement. Real estate tax exemption for board-owned property was granted only if the real estate was used for school purposes.

In the case of *Talawanda City School District Board of Education v. Testa*, Slip Opinion No. 2015-Ohio-5450 (12/30/15), the Ohio Supreme Court considered the appeal of the Talawanda City School District Board of Education ("School") from a decision of the Board of Tax Appeals ("BTA") that upheld the Tax Commissioner's denial of an application for a tax exemption filed by the School. Approximately 20% of the board-owned real estate in the application was farmed under a rental agreement and the Tax Commissioner did not grant an exemption for that portion of real estate on the grounds that the farmed property did not have a school purpose. On appeal, the BTA upheld the decision of the Tax Commissioner based upon previous holdings of the BTA.

After a thorough analysis of the modifications made to the statutes regarding real estate tax exemption (R.C. §3313.44), the Supreme Court determined that modifications to the law that went into effect September 13, 2010, changed the focus of whether real estate owned by a board of education, but used for non-school purposes, could be exempt from real estate taxes. The Court found that prior to the 2010 amendment the use of the real estate was a factor in approving an application for exemption. However, after the amendment in 2010, use of the real estate is irrelevant and the mere ownership of the real estate by a board of education is enough to entitle the board of education to a tax exemption for the real estate it owns under R.C. §3313.44.

If your Board of Education owns real estate on which the Board is paying real estate taxes, this case is relevant. If real estate taxes are being paid, you should consult with counsel to begin the process of applying for a tax exemption from the Tax Commissioner. The real estate tax exemption is not automatic; it must be applied for by the Board of Education.

Please contact any of the following Roetzel attorneys for additional information.

**Helen Carroll**  
330.849.6710 | [hcarroll@ralaw.com](mailto:hcarroll@ralaw.com)

**Amanda Gordon**  
330.849.6609 | [agordon@ralaw.com](mailto:agordon@ralaw.com)

**Fred Compton**  
330.849.6610 | [fcompton@ralaw.com](mailto:fcompton@ralaw.com)

**Justin Markey**  
330.849.6632 | [jmarkey@ralaw.com](mailto:jmarkey@ralaw.com)

**Chris Cotter**  
330.849.6756 | [ccotter@ralaw.com](mailto:ccotter@ralaw.com)