NJ Division of Taxation Provides Guidance on the Classification of Mixed-Use Properties

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The New Jersey Tax Court's ("Tax Court") recent decision in *One Main St. Edgewater, LLC v. Edgewater Borough*, 34 N.J. Tax 1 (2026), clarifies the framework for classifying mixed-use properties for local property tax-assessment purposes. In that case, the taxpayer challenged the classification of two six-story mixed-use buildings containing ground-floor retail space and residential apartments. Edgewater Borough's tax assessor classified the properties as Class 4A commercial properties, but the taxpayer argued that they should instead be classified as Class 4C apartments because the properties were predominantly multifamily residential apartments, with the retail component comprising less than 15% of both the total square footage and total rental income of the properties.

The distinction is significant because Class 4A commercial properties may be subject to the Graduated Percent Fee under N.J.S.A. 46:15-7.2, commonly referred to as the "mansion tax," while Class 4C apartment properties are not. The mansion tax imposes a graduated fee ranging from 1% to 3.5% of the purchase price against sellers on transfers of subject properties. In the absence of a statute or regulation specifically addressing mixed-use property classifications, the Tax Court adopted a "predominant use" test, and held that the assessor should consider both the square footage devoted to each use and the income generated by each use in determining the appropriate classification.

Following the decision, the New Jersey Division of Taxation ("Division") issued guidance directing local tax assessors to align their classifications on the 2027 Tax Lists with the *One Main St.* holding in pending appeals and to ensure that classifications on the 2027 Tax Lists conform to that decision. Specifically, tax assessors are to look at both the income generated and the square footage breakdown of the property in determining the classification of a certain property. The Division also established a process for taxpayers involved in pending transactions to request pre-closing review of mixed-use property classifications before deed recording. Taxpayers may submit Form RTF-3 to the Division (Taxation.RTFrefunds@treas.nj.gov) at least 45 days prior to closing. If a reclassification request is not submitted in a timely manner, the taxpayer may be required to pay the Graduated Percent Fee at closing and then request a refund within 90 days after payment (*see* N.J.S.A. 46:15-7.2(c)).

The Division's guidance provides a useful planning tool for parties selling and buying mixed-use properties, particularly where a property currently classified as Class 4A may be predominantly residential under the Tax Court's analysis. However, questions remain, including whether similar relief will be available outside the context of a pending transfer. Until further clarification is issued, property owners, purchasers, and sellers should evaluate classification issues early in the transaction process and consider whether the property's current tax classification accurately reflects its predominant use. Property classifications may still be challenged through the local property tax appeal process, either by filing with the County Board of Taxation or directly with the Tax Court for assessments exceeding $1 million, generally by April 1 or within 45 days of the mailing of the assessment notice.

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