



COOK COUNTY PARKING LOT AND GARAGE OPERATIONS TAX

A recent attempt by the County to reinterpret the parking lot tax and collect new revenue is in direct violation of its own ordinance and must be remedied.

Background

- The Cook County Parking Lot and Garage Operations Tax (Section 74.510 – 74-549) allows for a tax imposed upon the use and privilege of parking a motor vehicle in or upon any parking lot or garage in the County.
- The tax shall be collected from any person who seeks the privilege of occupying space in or upon any parking lot or garage. The ultimate incidence of and liability for payment of the tax is on the person who seeks the privilege of occupying space. (Section 74-512)
- The ordinance requires "...every operator...to keep accurate and complete books and records to which the Director of Revenue shall, at all times, have full access.... (1) The number of motor vehicles parked in or on each lot or garage; (2) the actual parking lot or garage tax receipts collected from all parking transactions; (3) any other original source documents and books. (Section 74.514).
- The County recently began auditing private parking companies, potentially to collect millions in back taxes, as reported in a January 2, 2019, *Chicago Sun-Times* article, "Preckwinkle Pursues Back Taxes from Parking Lot Operators." Over 20 audits have been completed; anecdotally, two BOMA/Suburban Chicago members who have been audited have received bills for back taxes, interest and penalties totaling in excess of \$6,000,000.

Concerns

- Suburban property owners and managers generally oversee parking lots where most parking is free and spots turn over throughout the day. There is no reason to believe that this ordinance applies to landlords and property management firms, nor did the County provide notice at any time until now that any taxes were due. Per Section 74.512.2(e), the ultimate incidence of and liability for payment of the tax is on the person who parks in the spot.
- As evidenced by the properties that have been audited, a value has been inappropriately assigned to these suburban lots, apparently based on highly-questionable market comparables and highly-questionable extrapolation of any parking rent that is received by tenants. This does not even take into consideration any vacancy in the building, which may constitute a considerable percentage.
- If the tax is assessed to the property, most office leases prohibit the recovery of sales taxes from tenants and therefore this tax would need to be paid by the landlord, which, again, is not the intent of the ordinance.
- A review of the Cook County Annual Appropriation Bill, Volume I, refers to \$50 million in revenue anticipated from audit compliance associated with this tax, creating the unfortunate appearance – given the clear language of the ordinance -- that this is little more than an inventive attempt to identify a new revenue stream.

Action Requested

The application of this tax in the suburban office market -- on parking spaces where no revenue is received -- is both discriminatory and a clear and direct violation of the ordinance as written. The County should immediately reconsider its interpretation of this ordinance. BOMA/Suburban Chicago would welcome the opportunity to work with the County on this and provide any further information.

Building Owners and Managers Association of Suburban Chicago

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