

# Tax Advisory

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## Ruling on Base Year Real Estate Taxing System has Statewide Implications for Pennsylvania

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On June 6, 2007, the Court of Common Pleas of Allegheny County (Pittsburgh) issued a decision that is certain to have state-wide implications. In *Clifton v. Allegheny County*, the Allegheny County Court of Common Pleas held unconstitutional the provisions of the General County Assessment Law and the Second Class County Assessment Law that permit a county to assess real estate for real estate tax purposes using a "base year" system. Allegheny County currently uses a 2002 base year — that is, the assessed value of real estate for purposes of computing real estate tax is calculated using the value of the real estate as of 2002, rather than the fair market value during the current tax year. The use of a base year system in Pennsylvania has been statutorily permitted since 1982.

After an exhaustive review of statistical evidence, the court held that a base year real estate tax system was unconstitutional because it violated the requirement of the Uniformity Clause of the Pennsylvania Constitution that "[a]ll taxes shall be uniform, upon the same class of subjects." The court reached this conclusion for two reasons, one theoretical and one practical. First, it reasoned that a base year system was invalid on its face because it failed to account for differential rates of change that occur after the base year in the value of real estate in different areas of a county. Second, the empirical evidence confirmed that the anticipated disparities had in fact occurred.

The court ordered Allegheny County to perform a computer-assisted countywide reassessment by March 31, 2008, for use in 2009, and a second computer-assisted countywide reassessment by March 31, 2009, for use in 2010. Recognizing the virtual certainty that Allegheny County would file a direct appeal to the Pennsylvania Supreme Court, the court permitted Allegheny County to continue using its 2002 base year system until the 2009 tax year (though it provided a delay mechanism if the Pennsylvania Supreme Court had not entered a final order in this case by October 31, 2008).

While not controlling outside of Allegheny County, the decision has statewide implications, since most of Pennsylvania's 67 counties use a base year system for real estate taxation purposes. If the Pennsylvania Supreme Court affirms the decision, it could mean that Pennsylvania's General Assembly will be required to overhaul Pennsylvania's antiquated real estate tax assessment system.

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