

# Should Maryland Commercial Property Owners Complete Tax Questionnaires?

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Every year, the Maryland Department of Assessments and Taxation (SDAT) is tasked with reassessing one-third of all commercial properties in the state. In the year prior to the reassessment, SDAT is required to obtain income and expense information from the property owner. The information allows the assessor to determine the value of the property using an income approach.

This approach determines value by taking gross income (e.g., rent, CAM reimbursements and other income), applying a vacancy rate and deducting property-related expenses such as maintenance, repairs, utilities, insurance, professional fees (attorney or accountant) and management fees. The resulting net operating income (NOI) is then divided by an appropriate capitalization rate to reach a final value.

## Types of SDAT Property Questionnaires

There are several different types of questionnaires issued by SDAT, each tailored to the type of property being reassessed. These include apartments, hotels, assisted living facilities, nursing homes, cemeteries, garages and parking lots, mobile home parks, marinas, golf courses and commercial/industrial properties. The owner is asked to complete the questionnaire and return it to the local Assessment Office by May 15.

## Are Property Tax Questionnaire Submissions Mandatory?

Property owners often inquire whether the submission of the questionnaire is mandatory, and what happens if the questionnaire is not returned. The answer depends upon the value of the property. For income-producing property that has a value in excess of \$5,000,000, as listed on the assessment roll, the owner is subject to a statutory penalty for failing to produce the information. The penalty is \$100 per day up to a maximum equal to 0.1% of the value of the property. For instance, a property assessed at \$6,000,000 would be subject to a penalty up to \$6,000 for the failure to submit the completed questionnaire.

Despite the statutory mandate, there can be instances where the property owner would rather incur a penalty than submit income and expense information to SDAT. A classic example is where the property is under-assessed by a large margin and submission of the income information would likely cause a significant increase in the assessment. Conversely, a property owner who is not required to submit a questionnaire might want to do so in certain situations. In this instance, the property may be over-assessed and the income and expense information will educate the assessor and likely lead to a reduction in the assessment.

## What Should Owner-Occupied Properties Submit?

For properties that are owner-occupied, there is no stream of rental income to report to SDAT. In this situation, the owner should return the questionnaire without inserting the income and expense data and simply note: "Owner-Occupied." The Assessment Office will then estimate market rent and expenses in order to conduct an income approach to value. Occasionally, an owner will have a "friendly lease" with itself or a

closely related entity that holds title to the property. Since this is not an arms-length lease, the rental income should not be reported on the questionnaire because it is unlikely to reflect fair market rent.

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