

**Legal Issues  
Involving the Valuation  
of Golf Courses and Country  
Clubs for  
Ad Valorem Taxation**

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**New Jersey Institute of Continuing Legal Education**

**To Anne**

**For Love, Friendship, Counsel and Sacrifice, But Most Of All For Sharing Those Things  
Of No Price Which Make Life A Worthwhile Adventure.**

THE VALUATION OF GOLF COURSES  
FOR AD VALOREM TAX PURPOSES

BY  
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## INTRODUCTION

Value estimates are based on use. It is the selected highest and best use of a property that provides the foundation on which an estimate of value rests.<sup>1</sup>

Highest and best use has been defined as:

The reasonably probable and legal use of . . . an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value.<sup>2</sup>

As noted in *The Appraisal of Real Estate* in order for a particular use to be considered the highest and best that use must be both financially feasible and capable of producing the highest return consistent with market risks.<sup>3</sup>

This Article assumes that the property's existing use as a golf course is its highest and best use. It addresses how daily fee, semi-private golf courses and not-for-profit country clubs are and should be appraised for *ad valorem* Tax Purposes. The article divides golf courses into two broad categories, Not-for-Profit and For Profit. It includes a list of relevant golf courses definitions. Also, due to the strong similarity between daily fee and semiprivate courses they will be discussed under the penumbra of daily fee courses.

This discourse presents what I trust, is a strategy for the successful appraisal and trial of daily fee for profit golf courses and country clubs golf courses by means of the income approach using the income and expenses of the subject golf course. The legal issues involving the valuation of not-for-profit country clubs are also analyzed.

A suggested model for the trial of these cases is presented.

### Preliminary Statement

This discourse presents the following thesis which is relevant to the valuation of golf courses for *ad valorem* assessment and taxation. The income approach is a viable method for the valuation of both for profit golf courses and country clubs. Not-for-profit country clubs should be valued on a for profit basis. In the absence of convincing evidence to the contrary the presumption of

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<sup>1</sup> Value estimates are based on use. It is the selected highest and best use of a property that provides the foundation on which an estimate of value rests. The American Institute of Real Estate Appraisers, *The Appraisal of Real Estate* (9<sup>th</sup> ed. 1987) at 269-270 *The Appraisal of Real Estate* (13<sup>th</sup> ed. 2008) at 284.

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*Id.* at 269, Appraisal institute, *The Dictionary of Real Estate Appraisal* (5<sup>th</sup> ed. 2010).

As noted in the 9<sup>th</sup> ed. of *The Appraisal of Real Estate* in order for a particular use to be considered the highest and best use that use must be both financial v. feasible and capable of producing the highest return consistent with risk. *Id.* at 274-277.

<sup>2</sup> *Id.* at 269. Appraisal Institute, *The Dictionary of Real Estate Appraisal*, 5<sup>th</sup> ed. 2010.

<sup>3</sup> *Id.* at 274-277.

competent management should apply to for profit golf courses; and the income and expenses of the courses are prima facie market income and market expenses; however, neither the Tax Court nor the Appellate Courts have extended the presumption to these entities and recent unreported tax court opinions are not helpful. The *Rushmore Method* for valuing hotels is applicable to for profit golf courses and country clubs; The cost approach is generally not a viable method for the appraisal of either daily fee courses or private country clubs; The comparable sales approach is generally not a viable method for the valuation of either daily fee courses or private country clubs; The income from private non-profit country clubs is not usable in the valuation of private not-for-profit country clubs by means of the income approach; The concept of imparted value is a fallacy; It is improper to appraise private non-profit country clubs in reference to income and expense from tax exempt private not-for-profit country clubs and municipal golf courses; *Marina Dist. Dev. v. Atlantic City*, 27 N.J. Tax 469 (Tax 2013) is not only the seminal case on casino hotels it is the most important case for the valuation of for profit golf courses and country clubs in New Jersey and perhaps the entire country. *Gale & Kitson Fredon Golf, L.L.C. v. Township of Fredon*, 26 N.J. Tax 268 (Tax 2011) is flawed on many levels.

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**APPENDIX**

1. The right of an assessor to refuse to give expert opinion on questioning by petitioner’s attorney who called the assessor as a witness.



This discourse on the law and related strategies governing real estate tax appeals and inferentially commendation trials includes an overlay a discussion of the state of golf in the United States.

“Golf, and addictive but frustrating sport invented by the devil to accelerate humankind’s descent into madness, is full of weird rules and traditions.”<sup>4</sup>

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<sup>4</sup> Jason Gay, *that crazy golf ruling: fair or too much?*, the Wall Street Journal, A16, Tuesday, April 4, 2017.