



County Technical Assistance Service

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Assessors of Property

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Assessor of Property

Reference Number: CTAS-43

The assessor of property was a statutory office for many decades before it became a constitutional office following the 1978 amendments to the Tennessee Constitution. The assessor of property is elected to a four-year term in the August general election in even numbered years in which there is not an election for governor. T.C.A. § 67-1-502. This places the election of the assessor in years different from the other county constitutional officers who are popularly elected.

Relationship to County Legislative Body and Other Officials-Assessor of Property

Reference Number: CTAS-49

The assessor must interact with the county mayor and/or a finance/budget director as well as the county legislative body regarding the assessor's budget and budget amendments. The exact procedures vary from county to county depending upon whether the county operates under a charter or optional general law regarding budgeting, or has a private act dealing with this subject. However, all assessors must submit budget requests in a timely manner in the first half of each calendar year for inclusion in the county's annual budget. Most counties have budget committees that may recommend appropriations for the assessor's budget that differ from that submitted by the assessor. The county legislative body determines the amount of the assessor's budget, subject to certain restrictions such as the requirement to fund a deputy for each 4500 parcels of land in the county over the first 4500 parcels.

The assessor has an important relationship with the county trustee. The assessor annually submits to the trustee the tax roll of the county, which includes the appraised and assessed valuation, including use value for "greenbelt" qualifying property; submits certification to the trustee for errors discovered in the tax rolls within specified time limits, as well as back assessments and reassessments of property; and certifies to the trustee changes in the classification of "greenbelt" property that requires the collection of rollback taxes.

The assessor also has an important relationship with the register of deeds in gathering information as each change of property ownership must be noted by the assessor as well as changes in value reflected in affidavits of value on deeds subject to the state transfer tax. Some county legislative bodies cause the offices of register and assessor to be located next to each other to facilitate the transfer of information. Other changes of ownership may be reflected in probated wills and divorce decrees; therefore, a good working relationship with the clerks of court also helps the assessor maintain up-to-date assessment rolls.

The assessor must also interact with county and state boards of equalization in determining the correct valuation of property when the taxpayer appeals the assessment.

The assessor receives assistance from the Division of Property Assessments, which has a major role in the periodic reassessment of property in the county. Certain utility property, such as that of telecommunications companies, railroad companies and pipeline companies, are centrally assessed by the Office of State Assessed Properties (OSAP), Comptroller of the Treasury. The state Board of Equalization reviews the assessments made by the comptroller and upon certification of these assessments, the comptroller certifies these valuations to the assessor and trustee of the county where the properties lie. T.C.A. §§ 67-5-1329, 67-5-1331. The assessor incorporates these central assessments into the county's tax roll.

Qualifications-Assessor of Property

Reference Number: CTAS-44

The office of assessor of property does not carry any election qualifications beyond the **general qualifications for county offices**. However, the state board of equalization is authorized to prescribe educational and training courses to be taken by assessors and their deputies and to specify qualification requirements for certification of anyone who is to be engaged to appraise and assess property for purpose of taxation and be deemed a "qualified local assessor of property." T.C.A. § 67-1-509.

Qualifications

Reference Number: CTAS-2152

General qualifications of officeholders are located in the Tennessee Code Annotated, which provides that all persons 18 years old and over, who are citizens of the United States and of Tennessee, and who meet certain residency requirements are qualified to hold office unless the person:

1. Has been convicted of offering or giving a bribe, of larceny, or, of any other offense declared infamous by law, unless the person has been restored to citizenship (except those who have been convicted of an infamous crime if the offense was committed in the person's official capacity or involved the duties of the person's office, in which case the person shall forever be disqualified from holding office);
2. Has not paid a judgment for money received in an official capacity, which is due to the United States, Tennessee, or any county;
3. Has defaulted to the treasury at the time of election (in which case the election is void);
4. Is a soldier, seaman, marine, or airman in the regular United States Army, Navy or Air Force; or
5. Is a member of Congress or holds any office of profit or trust under any foreign power, other state of the Union, or the United States.

T.C.A. § 8-18-101.

A crime declared infamous by law essentially means a felony, or a crime which is partially punishable by disenfranchisement (loss of the right to vote). Also, there are several criminal statutes related to an official's misconduct in office, such as official misconduct (T.C.A. § 39-16-402), official oppression (T.C.A. § 39-16-403), misuse of official information (T.C.A. § 39-16-404), and conflict of interest (T.C.A. § 12-4-101), which, upon conviction, will result in disqualification to hold office for a period of ten (10) years from the date of conviction (T.C.A. §§ 39-16-406, 12-4-102). Any disqualified person who takes office is guilty of a misdemeanor (T.C.A. § 8-18-102).

The principles for determination of residence for purposes of the election code are (T.C.A. § 2-2-122):

1. The residence of a person is that place in which the person's habitation is fixed, and to which, whenever the person is absent, the person has a definite intention to return.
2. A change of residence is generally made only by the act of removal joined with the intent to remain in another place. There can be only one residence.
3. A person does not become a resident of a place solely by intending to make it the person's residence. There must be appropriate action consistent with the intention.
4. A person does not lose residence if, with the definite intention of returning, the person leaves home and goes to another country, state, or place within this state for temporary purposes, even if of years duration.
5. The place where a married person's spouse and family have their habitation is presumed to be the person's place of residence, but a married person who takes up or continues abode with the intention of remaining at a place other than where the person's family resides is a resident where the person abides.
6. A person may be a resident of a place regardless of the nature of the person's habitation, whether house or apartment, mobile home or public institution, owned or rented.
7. A person does not gain or lose residence solely by reason of the person's presence or absence while employed in the service of the United States or of this state, or while a student at an institution of learning, or while kept in an institution at public expense, or while confined in a public prison or while living on a military reservation.
8. No member of the armed forces of the United States, or such member's spouse or dependent, is a resident of this state solely by reason of being stationed in this state.

The following factors, among other relevant factors, may be considered in the determination of where a person is a resident (T.C.A. § 2-2-122):

- The person's possession, acquisition or surrender of inhabitable property.
- Location of the person's occupation.
- Place of licensing or registration of the person's personal property.
- Place of payment of taxes which are governed by residence.
- Purpose of the person's presence in a particular place.
- Place of licensing activities, such as driving.

These same principles, basically the physical presence with intention to make a place your residence, are also used by the courts in determining residence for other purposes.

Additional statutory qualifications are required for certain county offices, such as sheriff, and are discussed in the individual county office section. The offices and duties may vary in counties with a metropolitan government charter or a county government charter.

Oath of Office and Bond-Assessor of Property

Reference Number: CTAS-45

Each assessor and deputy assessor must take and subscribe to a special oath of office. [Oaths of office](#) are covered under the [General Information tab](#) of the County Offices topic.

The oath, which is different from that of other county officials, is to be attached to and filed with the bond in the amount of \$ 50,000 in the county clerk's office. T.C.A. §§ 67-1-505, 67-1-507. [Bonds](#) are covered under the [General Information tab](#) of the County Offices topic.

Oaths

Reference Number: CTAS-30

Before taking office, the Tennessee Constitution, Article X, Section 1, provides that every person chosen to any office of trust must take an oath to "support the Constitution of this state and of the United States, and an oath of office." Review [Oaths of Office](#) for examples of different oaths.

There are various statutes throughout the Tennessee code providing for administering oaths to particular officials. There is also a general provision found at T.C.A. § 8-18-109(b), which provides that oaths of office for any elected or appointed official may be administered by the county mayor, the county clerk, a judge (current or retired) of any court of record in the county, or a current or retired judge of the general sessions court. In addition, under § T.C.A. 8-18-107, the governor, an active or retired supreme court justice, an active or retired inferior court judge, or an active or retired general sessions judge may administer the oath of office to an inferior court judge and, except as otherwise provided by law, to any other elected or appointed official. Notaries public are authorized to administer oaths pursuant to T.C.A. § 8-16-112. Members of the general assembly are also authorized to administer oaths to county officials. T.C.A. § 3-1-105. The oath of office for any county official required to file an oath may be administered at any time after the certification of the election returns by the appropriate legal authority in the case of elected officials, or after appointment in the case of appointed officials. However, even if the official files an oath before the scheduled start of a term of office, the official may not take office until the term officially begins. T.C.A. § 8-18-109.

The oath must be written and subscribed by the person taking it. Accompanying the oath must be a certificate executed by the officer administering the oath specifying the day and the year it was taken. T.C.A. § 8-18-107. The oath and the certificate are filed in the office of the county clerk, who endorses on them the day and year of filing, and signs the endorsement. T.C.A. §§ 8-18-109, 8-18-110. Any county official who fails to take and file the required oaths is guilty of a misdemeanor. T.C.A. § 8-18-113.

Bonds

Reference Number: CTAS-31

An official bond is an instrument that requires the party or parties designated as sureties to pay a specified sum of money if the official who executes the bond fails to perform certain acts or performs wrongful and injurious acts in the office. In other words, an official bond is a written promise, made by a public official (1) to perform all the duties of the office, (2) to pay over to authorized persons all funds received in an official capacity, (3) to keep all records required by law, (4) to turn over to his or her successor all records, money, and property, and (5) to refrain from anything that is illegal, improper, or harmful while acting in an official capacity. If the official fails to perform the duties, violates the law, or commits a harmful act, the person who is injured may collect damages from the sureties on the official bond. The sureties must be surety companies doing business in Tennessee unless the county commission by two-thirds majority vote authorizes two individuals to act as good sureties instead of a surety company. T.C.A. §§ 8-19-111, 8-19-101, 8-19-301.

The bond protects the state, the county, and the citizens in the event the county official fails to perform his or her duties properly. The bond does not protect county officials from liability. If a payment is made under the bond, the county official's sureties may have a right to recover the amount paid from the county official. This action against the county official by the sureties is known as subrogation. The following county constitutional officials must execute a surety bond: county clerk, court clerks, sheriff, register, property

assessor, and trustee. Also, bonds are required for the finance director, director of accounts and budgets, county auditor, constable, coroner, road commissioners, county surveyor, director of schools, purchasing agent, and notaries. A blanket bond is required for all county employees that are not otherwise covered. The specific bond amounts are set out in the table entitled [County Officials/Employees' Minimum Bond](#).

The form of official bonds is prescribed by the comptroller of the treasury, with the approval of the attorney general. T.C.A. § 8-19-101. Blank copies of official bonds, ready for use, are available from the comptroller, Division of Local Finance.

The official bond of every county public official must be conditioned in the following manner: T.C.A. § 8-19-111.

That if the _____ (principal) shall:

1. Faithfully perform the duties of the office of _____ of _____ County during such person's term of office or continuance therein; and
2. Pay over to the persons authorized by law to receive them, all moneys, properties, or things of value that may come into such principal's hands during such principal's term of office or continuance therein without fraud or delay, and shall faithfully and safely keep all records required in such principal's official capacity, and at the expiration of the term, or in case of resignation or removal from office, shall turn over to the successor all records and property which have come into such principal's hands, then this obligation shall be null and void; otherwise to remain in full force and effect.

Some counties also use "blanket bonds" for all of the county officeholders. T.C.A. § 8-19-101.

Official bonds of the sheriff, county trustee, county clerk, and register of deeds must be approved by the county legislative body, recorded in the office of the register of deeds and transmitted to the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of assessors of property and persons vested by law with the authority to administer county highway and bridge funds must be approved by the county legislative body, recorded in the office of the county register of deeds, and transmitted to the county clerk for safekeeping. T.C.A. §§ 67-1-505, 54-4-103(c). Official bonds of clerks of court must be approved and certified by the court, entered into the minutes of the court, recorded in the office of register of deeds and transmitted to the county clerk for safekeeping. T.C.A. § 18-2-205. The official bond of the director of schools must be approved by the county mayor, recorded in the office of the register of deeds and transmitted to the office of the county clerk for safekeeping. T.C.A. §§ 49-2-102, 9-3-301. The official bonds of other county officials, constables, and county employees required to have bonds shall be approved by the county legislative body, recorded in the office of the register of deeds and transmitted to the office of the county clerk for safekeeping. T.C.A. §§ 8-19-102, 8-19-103. Official bonds of officers which must be transmitted to the county clerk must be so transmitted for filing within forty days of election or twenty days after the term of office begins; all other bonds must be filed in the proper office within thirty (30) days after the election or within ten days after the term of office begins. T.C.A. § 8-19-115.

The register of deeds of each county must maintain a special record book in which each official bond is recorded unless the register is authorized to use a system of continuous recordings of all instruments. T.C.A. §§ 8-19-104, 8-13-108(d). The register of deeds must endorse on the bond the day and year on which it was recorded and sign the endorsement. Similarly, the county clerk, with respect to bonds filed for safekeeping in the office of county clerk, must endorse the filing date and sign the endorsement. Failure of the register or county clerk to endorse and sign the bond is a misdemeanor. T.C.A. § 8-19-116.

Any officer who is required by law to give bond and who fails to file it in the proper office within the time prescribed vacates the office. In such cases, the officer in whose office the bond is required to be filed must certify this failure to the appointing power. T.C.A. § 8-19-117. Upon the filing of a complaint alleging the failure of a county officer or constable to enter into an official bond as required by law, the circuit court clerk or the clerk and master having jurisdiction issues a summons that is served, together with a copy of the complaint, upon the county officer or constable in accordance with the Tennessee Rules of Civil Procedure. T.C.A. § 8-19-205. If the official fails or refuses to execute the required bond after receiving a copy of the complaint and a hearing, the court will enter a judgment declaring the office vacant, and the vacancy will be filled according to law. T.C.A. § 8-19-206. In addition, any officer required by law to give bond who performs any official act before the bond is approved and filed as required is guilty of a misdemeanor. T.C.A. § 8-19-119.

County officials must enter into a new bond at the beginning of each term. If the original of any bond is lost or destroyed, the record of the bond will be considered the original and suit may be instituted on the recorded bond. T.C.A. § 8-19-105. The county pays the premiums for official bonds and registration fees

of county officials and employees. T.C.A. § 8-19-106. The constable pays all of the costs of obtaining and recording the official bond for his or her office unless the county legislative body votes to pay the cost of obtaining and recording the bond. T.C.A. § 8-10-106.

Compensation-Assessor of Property

Reference Number: CTAS-46

The assessor of property is listed as one of the "general officers" who must receive at least the minimum salary amount determined by statute. The county legislative body may set a greater amount for the "general officers." T.C.A. § 8-24-102. Also, the county legislative body may set a greater amount just for the assessor if in the judgment of the county commissioners, additional compensation is necessary to attract and retain the service of assessors of professional competence, technical skills and needed administrative abilities. T.C.A. § 67-1-508. The state board of equalization prescribes educational and training courses to be taken by assessors and their deputies and provides certification to those who complete these courses. T.C.A. § 67-1-509. Assessors (and deputy assessors) may be additionally compensated by the state board if necessary course work and training has been completed and the assessor has been designated as a "Certified Assessment Evaluator" by the International Association of Assessing Officers. The additional compensation ranges from \$750 to \$1,500 annually. Also, any assessor (or deputy assessor) who has completed the necessary courses of study and training and has been designated a "Tennessee Certified Assessor" or a "Residential Evaluation Specialist" by the International Association of Assessing Officers will receive from the state an additional \$750 per year. T.C.A. § 67-1-508. Any assessor or deputy assessor who has been designated as a "Master Assessor" will receive from the state additional compensation of \$1,000 per year. T.C.A. § 67-1-508. Additionally, T.C.A. § 67-1-508(c)(1) provides that the State Board of Equalization may provide grants to counties to provide cash salary bonus supplements to property assessors and deputies meeting certain educational and training criteria.

More information on [Compensation](#) can be found under the [General Information](#) tab for County Offices.

Compensation

Reference Number: CTAS-32

There are specific statutes regarding compensation for each office. In general, though, statutes prescribe salaries according to county population classes for many officials. The General Assembly has established 17 population classes for the purpose of determining the compensation of county officers. T.C.A. § 8-24-102. This statute provides base minimum salary schedules for three categories of county officers: (1) "general officers," which include assessors of property, county clerks, clerks of court, trustees, and registers of deeds; (2) sheriffs and chief administrative officers of highway departments; and (3) county mayors. These specified minimum salaries cannot be raised or lowered except through subsequent legislation, but since they are minimum salaries, the actual salary may be increased by resolution of the county legislative body, but the class of general officers must all receive the same amount of any increase.

The minimum salaries are adjusted annually on July 1 by a dollar amount equal to the average annualized increase in state employees' compensation during the prior fiscal year multiplied by the compensation established for the county officials of the county with the median population of all counties. The adjustment cannot exceed 5 percent in any year; provided, however, the annual percentage increase in the minimum compensation of county officials shall not be less than the percentage increase established for county officials of the county with the median population of all counties. The average annualized general increase in state employees' compensation for purposes of calculating the adjustment in salary for county officials means the average increase in base salary plus the equivalent percentage increase represented by appropriated funds made available to address classification compensation issues, plus the equivalent percentage increase represented by recurring appropriation amounts provided to improve the level of retirement benefits, longevity benefits, deferred compensation benefits and other similar benefits not including health insurance benefits. These adjustments are calculated and certified by May 1 of each year by the commissioner of finance and administration. T.C.A. § 8-24-102.

Full-time county officials, not including general sessions judges, who complete the County Officials Certificate Training Program (COCTP) administered by the University of Tennessee's County Technical Assistance Service (CTAS) and become a "Certified Public Administrator" may receive an annual incentive payment up to a maximum of \$1,500 from state-appropriated funds. To continue receiving these payments, certified county officials must take additional training annually. If an official receives incentive pay from the state through other professional development programs, such amounts will be offset so that no

official receives more than \$1,500 of incentive pay from the state per year; provided, however, certified public administrator educational incentive payments to assessors shall not be offset by the compensation received by assessors for obtaining certain professional designations pursuant to T.C.A. §§ 67-1-508; 5-1-310(e). These amounts are subject to annual appropriations from the General Assembly and have not reached the maximum allowed by law.

County legislative bodies may appropriate additional amounts as incentive payments to county officials and employees who have become Certified Public Administrators in an amount not exceeding \$3,000 minus payments made by the state. Educational incentive pay received by an official does not affect the calculation of compensation for officials provided in other statutes. CTAS is required to submit a list to the state treasurer, by August 31 each year, of all county officers who have completed all requirements of the COCTP to attain or maintain the designation of Certified Public Administrator. This list replaces individual applications submitted by county officials for purposes of determining eligibility for the educational incentive payment. T.C.A. § 5-1-310.

Property Classification

Reference Number: CTAS-1469

Property is divided into three classes for taxation purposes: (1) real property; (2) tangible personal property; and (3) intangible personal property.¹

¹Tenn. Const., art. II, § 28; T.C.A. § 67-5-503.

Real Property

Reference Number: CTAS-1470

Real property, except vacant or unused property or property held for use, is classified according to use and assessed as a percentage of its value as follows:

1. Public Utility—55 percent
2. Industrial and Commercial—40 percent
3. Residential—25 percent
4. Farm Property—25 percent

If a parcel of real property is used for more than one purpose so that different assessment subclassifications and percentages apply, the tax is apportioned among the subclasses according to guidelines established by the State Board of Equalization.¹ If a parcel of real property is vacant, unused, or held for use, it is classified according to its immediate most suitable economic use, after considering several factors.² Real property not within any other definition and classification above is classified and assessed as farm or residential property.³ "For property tax purposes, value attaches to the property itself, not to the interest of the current party in possession."⁴ A leasehold is considered real property and is taxable as such.⁵ The interest of a lessee is distinct from the fee, and may, under certain circumstances, be taxed when the fee is exempt from taxation.⁶

Mobile homes used for commercial, industrial, or residential purposes are assessed as real property improvements to land.⁷ If the mobile home is on a rented lot, the owner of the mobile home is responsible for the additional property tax imposed because of the improvement. The owner of the land actually pays the tax and has a first lien against the mobile home to secure payment of the property tax from the mobile home owner.⁸ However, the county has a lien against the real property itself in case of delinquent taxes on the mobile home, and may include the real property in a tax sale to satisfy the delinquency.⁹

Perfection in the classification system for the ad valorem tax is rarely attainable. Indeed, taxing real property containing two or more rental units based on 40 percent of its value as industrial and commercial property while taxing real property containing one rental unit based on 25 percent of its value as residential property has been constitutionally upheld as a reasonable classification even though some discrimination exists.¹⁰ Even though the legislature has discretion in classifying property, a reasonable basis must be established which may not be arbitrary or capricious.¹¹

¹T.C.A. § 67-5-801(a), (b).

²T.C.A. § 67-5-801(c)(1).

³T.C.A. § 67-5-801(c)(2).

⁴*Hoover v. State Bd. of Equalization*, 579 S.W.2d 192, 195 (Tenn. Ct. App. 1978).

⁵*United States v. Metropolitan Gov't*, 808 F.2d 1205, 1208-1209 (6th Cir. 1987); T.C.A. § 67-5-502(d).

⁶*Jeston v. University of the South*, 208 U.S. 489, 500, 28 S.Ct. 375, 377 (1908); *University of the South v. Franklin Co.*, 506 S.W.2d 779, 784 (Tenn.Ct.App. 1973); T.C.A. § 67-5-605.

⁷Tenn. Const., art. II, § 28; T.C.A. § 67-5-802.

⁸*Belle-Aire Village, Inc. v. Ghorley*, 574 S.W.2d 723, 725 (Tenn. 1978); T.C.A. § 67-5-802.

⁹Op. Tenn. Atty Gen. 95-071 (July 5, 1995).

¹⁰*Snow v. City of Memphis*, 527 S.W.2d 55, 64-66 (Tenn. 1975), *appeal dismissed*, 423 U.S. 1083, *reh. den.*, 424 U. S. 979 (1976).

¹¹*General Am. Transp. Corp. v. State Bd. of Equalization*, 536 S.W.2d 212, 214 (Tenn. 1976).

Tangible Personal Property/Assessor

Reference Number: CTAS-1488

The assessor of property, not later than February 1 of each year, is to furnish a schedule on which business owners list in detail tangible personal property used or held for use in the business or profession of the taxpayer.¹ This schedule, the format of which is specified by statute, lists allowable depreciated costs for different categories of property, as well as general data of the particular taxpayer.² ([Sample Personal Property Depreciation Chart](#).) The taxpayer can use a value different from the standard depreciated cost if the different value more closely approximates fair market value; the assessor may request supportive information in such instances from the taxpayer.³ The depreciation tables set out in the *Tennessee Code Annotated* have given rise to a great deal of litigation. Recent decisions by the Tennessee Supreme Court and Court of Appeals have upheld the constitutionality of the application of the depreciation schedules set forth in T.C.A. § 67-5-903(f) to locally assessed tangible personal property;⁴ the constitutionality of the requirement to adjust the assessments of public utility property on the basis of ratio studies pursuant to T.C.A. § 67-5-1302(b)(1);⁵ and the constitutionality of the requirement that locally assessed commercial and industrial tangible personal property be adjusted by the appraisal ratio adopted for each county pursuant to T.C.A. § 67-5-1509(a).⁶ Due to these decisions, and other tax litigation cases, counties have experienced a significant reduction in the amount of revenue received from the taxation of tangible personal property.⁷ Since 1997, the Board of Equalization has ordered a 15 percent reduction in the assessed value of centrally assessed tangible personal property in order to bring it to the same level of assessment as locally assessed tangible personal property.⁸

It is the duty of the taxpayer to list fully the tangible personal property used, or held for use, in the taxpayer's business or profession on the schedule, including other information required by the assessor, place the property's correct value on the schedule, and to sign and return the schedule to the assessor on or before March 1 of each year. In lieu of detailing acquisition cost on the reporting schedule, the taxpayer may certify that the depreciated value of tangible personal property otherwise reportable on the schedule is \$1,000 or less. The assessor must accept the certification, subject to audit, and fix the value of tangible personal property assessable to the taxpayer pursuant to the schedule, at \$1000. This value is subject to equalization pursuant to T.C.A. § 67-5-1509. The certification stated on the schedule must warn the taxpayer that it is made subject to penalties for perjury and subject to statutory penalty and costs if proven false.⁹

A taxpayer who fails, refuses or neglects to complete, sign and file the schedule with the assessor, as provided in T.C.A. § 67-5-903(b), is deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in T.C.A. § 67-5-903(d). In determining a forced assessment, the assessor must consider available evidence indicative of the fair market value of property assessable to the taxpayer under T.C.A. § 67-5-903. After determining the assessable value of the property, the assessor must give the taxpayer notice of the assessment by United States mail, addressed to the last known address of the taxpayer or the taxpayer's agent at least five calendar days before the local board of equalization commences its annual session.¹⁰

The remedies of a taxpayer against whom a forced assessment is made are as follows:

1. The taxpayer may appeal to the county board of equalization pursuant to T.C.A. § 67-5-1407, but must present a completed schedule as otherwise provided in T.C.A. § 67-5-903;
2. If the deadline to appeal to the county board of equalization has expired, then the taxpayer may request the assessor to mitigate the forced assessment by reducing the forced assessment to the standard depreciated value of the taxpayer's assessable property plus twenty-five percent (25%), so long as the failure to file the schedule or failure to timely appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure, including appeal, prescribed for correction of error under T.C.A. § 67-5-509, but must be requested within the same deadline as provided for amendment of a schedule pursuant to subsection (e). Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the State Board of Equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor.

Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in T.C.A. § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own or lease tangible personal property used or held for use in a business as of the assessment date for the year at issue.¹¹

A taxpayer may amend a personal property schedule timely filed with the assessor at any time on or before September 1 following the tax year. If the assessor agrees with the amended schedule, the assessor will revise the assessment and certify the revised assessment to the trustee. If the assessor believes the assessment should be otherwise than claimed in the amended schedule, the assessor will adjust the assessment and give written notice to the taxpayer of the adjusted assessment. The taxpayer may appeal the assessor's adjustment of or refusal to accept an amended assessment schedule to the local and state boards of equalization in the manner otherwise provided by law. Additional taxes due as the result of an amended schedule are not deemed delinquent on or before 60 days after the date notice of the amended assessment was sent to the taxpayer. Amendment of a personal property schedule is not be permitted once suit has been filed to collect delinquent taxes related to the original assessment. The assessor must, within 60 days from receipt of the taxpayer's amended schedule, review and accept or reject the schedule. In any event, the taxpayer must be notified in writing of the results of the review. If the assessor has not notified the taxpayer that the amended schedule has been accepted or rejected within 60 days, the taxpayer's amended schedule will be deemed not accepted by the assessor.¹²

¹T.C.A. § 67-5-903(a).

²T.C.A. § 67-5-903(f).

³T.C.A. § 67-5-902.

⁴*In Re All Assessments 1999 & 2000*, 67 S.W.3d 805, 816-820 (Tenn.Ct.App. 2001) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1302(b)(1)).

⁵*In Re All Assessments 1999 & 2000*, 67 S.W.3d 805, 820-821 (Tenn.Ct.App. 2001) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1302(b)(1)).

⁶*Williamson County v. Tennessee State Board of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2002) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1509(a)).

⁷*See also In Re All Assessments 1998*, 58 S.W.3d 95, 102 (Tenn. 2000) (holding: "The Tennessee Board of Equalization is authorized to reduce (or increase) the appraised (and therefore corresponding assessed) value of centrally-assessed public utility tangible personal property as part of the equalization process, the purpose of which is to equalize the ratio of the appraised value to fair market value of public utility property in any particular county with the corresponding ratio for industrial and commercial property in that county.").

⁸*ANR Pipeline Co. v. Tennessee Board of Equalization*, 2002 WL 31840689, *1 (Tenn.Ct.App. 2002) *perm. app. denied* (Tenn. 2003).

⁹T.C.A. § 67-5-903(b).

¹⁰T.C.A. § 67-5-903(c).

¹¹T.C.A. § 67-5-903(d).

¹²T.C.A. § 67-5-903(e).

Assessment

Reference Number: CTAS-1474

County Assessor

Reference Number: CTAS-1475

The county assessor's duties include two basic functions: appraisal and assessment of taxable real and personal property in the county that is not appraised by the state.¹ For purposes of ad valorem taxation of property, the assessor of property places a value on commercial, industrial, residential, and farm land, including mineral rights and taxable leaseholds, but public utility property is valued by the state.² The assessor also appraises and assesses taxable tangible personal property.³ The assessor must assess and place a value on all property in the county by May 20 of the tax year. The date of valuation is as of January 1 (with the exception of adjustments due to improvements or damage to property discussed later). The assessment of property within a municipality is to be completed not less than 40 days prior to the beginning tax due date of the municipality.⁴ The validity of an assessment is generally not affected by any irregularity or omission unless the defect results in a denial of minimum constitutional guarantees.⁵

The county legislative body has the authority to enter into contracts with individuals, firms, or corporations to render advice or assistance to the local tax assessor and the local board of equalization in the assessment and equalization of taxes. However, the final decision as to the amount of an assessment or the equalization of assessments is to be made by the property assessor and the board of equalization. In addition, no such contract shall contain any provisions for payment for services on a percentage basis, or on any basis whereby the compensation under the contract is dependent or conditioned on increasing or reducing the aggregate assessment of property in the county.⁶

County assessors are responsible for city assessments except in cities lying in more than one county, which are entitled to retain a city assessor or to contract with the county assessor or State Board of Equalization for assessment services. Cities not using the county assessor are also required to establish a city board of equalization. Otherwise, review of city assessments is consolidated under the county board of equalization of the county in which the property is located.⁷

Assessors are required to keep current indexes of taxpayers, along with a description of the property on the tax books, and to maintain the property tax maps of the county.⁸ The obligation to pay taxes is not avoided by the failure of an assessor to make an assessment.⁹ The assessor is not required to search for an owner's address to send assessment notices; rather, the owner has a responsibility to register his or her name and address with the assessor.¹⁰ Previously owners who were not in possession of the property were required to file an annual statement with the assessor between December 1 and December 31 of each year, and the trustee was required to publish a notice of this requirement. However, this provision was deleted by a 1996 amendment; neither the form nor the published notice is now required by current law.

The assessor has the power and duty to examine any person he or she believes has any information relating to the property assessment of any taxpayer. Pursuant to this power, the assessor may administer oaths and compel any witness to appear and to answer oral or written questions. Any witness refusing to appear or to take an oath or answer questions, when called upon by the assessor to do so, commits a Class C misdemeanor. The assessor also has the authority to go upon land to obtain information for the assessment of property. Specifically, the assessor may enter a building which is under construction and not yet occupied or secured without obtaining the consent of the owner. After the building is occupied or secured, the assessor may enter with the owner's consent, or if consent is unreasonably denied, under a court order.¹¹

The assessor is to make a report of the assessor's assessments and make available to the local board of equalization all of the assessor's records pertaining to the area involved on or before the first day the board meets. Each assessor, when making the report of assessments to the local board of equalization shall accompany the report with the following oath:

I, _____, assessor of the county (city) of _____, State of Tennessee, do solemnly swear (or affirm) that I have assessed all taxable property, in the county (city) of _____, as far as ascertainable,

to the true owners thereof, and that I have determined the classification and assessed valuation of all taxable property as prescribed by law; and that I have faithfully discharged all my duties without fear, favor, or affection to the best of my knowledge and ability, so help me God.

The oath shall be taken and subscribed to before the county mayor, or in the county mayor's absence, before a notary public.¹²

In addition to the report to the local board of equalization, the assessor has a duty to compile a report listing the total of all assessments prepared by the assessor's office and file the report with the State Board of Equalization.¹³

An assessor of property or deputy assessor who willfully fails, refuses, or neglects to perform, obey, and observe his/her statutory duties is subject to sanctions as set out in T.C.A. § 67-5-305.

It is unlawful for an assessor of property or deputy assessor to willfully or knowingly assess property in the wrong name, omit property from assessment, assess property at lower than the proper percentage of value, or to fail to perform other duties required by law. A district attorney general who receives evidence of such an offense has the duty to investigate and prosecute that offense.¹⁴

¹T.C.A. §§ 67-5-101, 67-5-102, 67-5-301 *et seq.*, 67-5-502(1), 67-5-601 *et seq.*, 67-5-1301. T.C.A. § 67-1-501 *et seq.* deals with the qualifications and office of the assessor.

²T.C.A. §§ 67-5-502(d), 67-5-801 *et seq.*, 67-5-1001 *et seq.*, 67-5-1301.

³T.C.A. § 67-5-901 *et seq.*

⁴T.C.A. § 67-5-504.

⁵T.C.A. § 67-5-509(b); *see also State v. Delinquent Taxpayers*, 785 S.W.2d 819, 821 (Tenn. Ct. App. 1989).

⁶T.C.A. § 67-5-507.

⁷T.C.A. § 67-1-513.

⁸T.C.A. §§ 67-5-804 through 67-5-806. *See also 23 Tenn. Juris. "Taxation" § 32 (1998) for a discussion regarding "adequate description."*

⁹*State v. Nashville C. & St. L. Ry.*, 137 S.W.2d 297, 299 (Tenn. 1940).

¹⁰*Cook v. McCullough*, 735 S.W.2d 464 (Tenn.Ct.App. 1987); T.C.A. § 67-5-2502(b).

¹¹T.C.A. § 67-5-303.

¹²T.C.A. § 67-5-304.

¹³T.C.A. § 67-5-304(c)(1) and (2).

¹⁴T.C.A. 67-5-306; Op. Tenn. Atty Gen. 83-388 (November 11, 1983); *See also*: Op. Tenn. Atty Gen. 83-233 (June 27, 1983); Op. Tenn. Atty. Gen. 83-53 (February, 14 1983).

Records and Notice of Assessment

Reference Number: CTAS-1476

Prior to May 20th each year, the assessor is required to note upon his/her records the current classification and valuation of all taxable property in the county.¹ The assessor must hold these records open for public inspection at his/her office during normal business hours. In addition, the assessor is required to publish at least once in a newspaper of general circulation within the assessor's jurisdiction a notice of when and where these records may be inspected. The required notice must be published not later than 10 calendar days before the local board of equalization begins its annual session.² The notice must be set forth in the publication within distinct and prominent borders, and must have a width of not less than two regular columns of such newspaper and a depth of at least four inches. The notice is required to state the day the county board of equalization will convene and the last day appeals will be accepted by the county board and must contain a warning that failure to appeal the assessment to the county board of equalization may result in the assessment becoming final without further right of appeal.³ In addition, at least 10 calendar days before the local board of equalization begins its annual session, the assessor or the assessor's deputy must notify each taxpayer of any change in the classification or assessed valuation of the taxpayer's property. The notification must be sent by United States mail to the last known address of the taxpayer. The notification must show the previous year's assessment and classification and

the current year's assessment and classification. The notification is effective when mailed.⁴ The assessor is required to retain a notation of the date of any notification of a change in classification or assessed valuation, or a dated copy of such notification, in the records of the assessor. These records must be preserved by the assessor for not less than two years.⁵

An alternative notice is permissible for the year in which a reappraisal program is completed and the values to be used as the basis for making assessments are approved by the State Division of Property Assessments. In this instance any notice showing the appraised value of property sent to a property owner by a company employed to conduct the reappraisal program satisfies the notice requirement discussed above, provided that the assessor of property uses the appraised value as specified on the notice from the company and does not change the classification of the property from its former classification.⁶

Upon a consolidation of the municipal and other assessment offices within any county with the office of the county assessor of property (as provided in T.C.A. § 67-1-513), the county assessor of property is not required to notify each taxpayer within the municipality unless a change has been made by the county assessor of property from the former classification and assessed valuation which existed on the county tax roll for the preceding year. However, the assessor is required to hold his/her records open for public inspection at his/her office during normal business hours and must cause to be published at least once, in a newspaper of general circulation within the assessor's jurisdiction, a notice where and when such records may be inspected. The required notice must be published not later than 10 calendar days before the local board of equalization begins its annual session.⁷

If an assessor fails to complete and note upon the assessor's records the assessment of a taxpayer's property prior to the 20th day of May, or fails to notify a taxpayer, or the taxpayer's agent, of any change in the classification or assessed valuation of the taxpayer's property, the taxpayer has no legal basis for complaint, provided that the assessment against the property was completed, and a notice of any new or changed classification or assessed valuation was sent by United States mail to the last known address of the taxpayer at least 10 calendar days before the local board of equalization ends its annual session.⁸

In the event an assessor fails to complete any assessment, or notify a taxpayer of a change in the classification or assessed valuation of his or her property, at least 10 calendar days before the local board of equalization ends its annual session, this failure does not affect in any way the validity of the assessment, classification, or assessed valuation; however, an aggrieved property owner has the right to appeal directly to the State Board of Equalization at its next regular session, and no proceedings may be undertaken to collect any taxes based upon the assessment, and no penalty added, until 30 calendar days after the state board has rendered a final decision on the appeal or complaint. Upon written request of any party, or upon its own motion, the State Board of Equalization may remand any complaint or appeal to the local board of equalization.⁹

Any other irregularity or omission in the assessment procedure does not affect the validity of the assessment unless the defect results in a denial of minimum constitutional guarantees.¹⁰

¹T.C.A. § 67-5-508(a)(1).

²T.C.A. § 67-5-508(a)(2).

³T.C.A. §§ 67-5-508(a)(2), 67-5-1401.

⁴T.C.A. § 67-5-508(a)(3).

⁵T.C.A. § 67-5-508(a)(4).

⁶T.C.A. § 67-5-508(a)(5).

⁷T.C.A. § 67-5-508(a)(6).

⁸T.C.A. § 67-5-508(b)(1).

⁹T.C.A. § 67-5-508(b)(2).

¹⁰*State v. Delinquent Taxpayers*, 785 S.W.2d 819 (Tenn.Ct.App. 1989); T.C.A. § 67-5-509(b).

Assessing Improvements

Reference Number: CTAS-1477

Damaged or Destroyed

In ascertaining the value of properties, assessors take into consideration the status of improvements to property. If, after January 1 and before September 1 of any year, a building or improvement is moved, demolished, or destroyed, or substantially damaged by fire, flood, wind, or any other disaster, and is not restored or replaced by another improvement before September 1 of that year, the assessor makes the assessment or corrects the assessment of such property on the basis of its value after the move, destruction, or substantial damage, notwithstanding the status of the property as of the assessment date of January 1. For the year in which the improvement is moved, demolished, destroyed, or damaged, the assessment of the improvement is prorated for the portion of the year prior to the date of the move, destruction or damage.¹ This provision is not applicable to the movement of a mobile home or other "movable structure" as defined in T.C.A. § 67-5-501.² An improvement is deemed substantially damaged if it has been rendered unfit for use or occupancy, or if the damage has reduced the value of the improvement by more than 50 percent.³

Proration

Improvements to the property are similarly assessed to reflect their change in value during the year. If, after January 1 and before September 1, an improvement or new building is completed and ready for use or occupancy, or the property has been sold or leased, the assessor of property must make or correct the assessment of that property, based on the value of the improvement at the time of its completion, notwithstanding the status of the property as of the assessment date of January 1. For the year in which the improvement or building is completed, the assessment (or increase in assessment) of the improvement is prorated for the portion of the year following the date of its completion.⁴ An improvement or new building is deemed completed and ready for use or occupancy when the structural portion of the building or improvement is substantially completed, even though the interior finish or certain appointments may be left to the choice of a prospective buyer or tenant after consummation of a sale or lease.⁵ Any improvement or new building is deemed completed and to have a value for assessment purposes when the real property upon which such improvement or new building is located is sold to a bona fide purchaser, or when the new building or improvement has been occupied, used, or is suitable for occupancy or use, whichever occurs first. No improvement or new building is considered incomplete for valuation or assessment purposes for more than one calendar year immediately following the date on which construction was commenced.⁶ In the event an improvement or new building is considered incomplete for assessment purposes on January 1 of any year, the owner of the improvement or new building shall, not later than February 1 of that year, submit to the assessor, in writing, the total cost of all materials used in the incomplete structure as of January 1, and the assessor assesses the incomplete structure as real property, based on the fair market value of the materials used.⁷

Issuance of a building permit can alert the assessor to the fact that improvements to the property are being made. In counties where building permits are not issued, the state director of fire prevention is required to furnish the assessor of property with the names of property owners and the location of the property for which electrical inspections have been made. Similarly, in counties which do not require building permits, assessors are to receive copies of permits for subsurface sewage disposal systems.⁸

If the status of an improvement to a property has changed by September 1 of any year, an adjustment to the assessment of the property is mandatory.⁹ The adjustment can be made until the trustee relinquishes control of the tax roll after making the annual settlement of the trustee's accounts on the first Monday of September each year. For property on which delinquent taxes are owing, adjustment can be made until suit has been filed to collect the delinquent taxes.¹⁰ Provisions attempting to postpone inclusion of increased value in assessments by providing that no property shall be reassessed to include new improvements until such improvements have been completed or until 18 months have passed following commencement of construction violated the constitutional requirement that all property be taxed according to its value and that taxes be equal and uniform.¹¹

¹T.C.A. § 67-5-603(a)(1).

²T.C.A. § 67-5-603(a)(1).

³T.C.A. § 67-5-603(a)(3).

⁴T.C.A. § 67-5-603(b)(1).

⁵T.C.A. § 67-5-603(b)(3).

⁶T.C.A. § 67-5-603(b)(4).

⁷T.C.A. § 67-5-603(b)(5).

⁸T.C.A. § 67-5-603(c).

⁹T.C.A. § 67-5-603(a)(1) and (b)(2).

¹⁰T.C.A. § 67-5-1902; Op. Tenn. Atty Gen. 88-46 (February 1988).

¹¹*Metropolitan Government v. Hillsboro Land Co.*, 436 S.W.2d 850 (Tenn. 1968).

Assessing Mobile Homes

Reference Number: CTAS-1478

Mobile homes used for commercial, industrial or residential purposes are assessed as real property improvements to land.¹ Any movable structure and appurtenance which is attached to real property by virtue of being on a foundation, or being underpinned, or connected with any one utility service, such as electricity, natural gas, water, or telephone, is assessed for tax purposes as real property as an improvement to the land where located.² Special provisions apply to mobile homes located in mobile home parks. In cases where the mobile home is attached to land occupied and used as trailer or mobile home parks where the owner of the land is renting spaces or lots for maintaining the mobile home, the owner of the mobile home is responsible for the additional tax imposed by reason of the improvement, and the owner of the land is granted a lien against the mobile home to secure the payment of municipal and county taxes.³ Before March 1 of each year, the assessor of property is required to furnish each owner of land used as a mobile home park with a schedule on which the owner is required to list all mobile homes in the park as of the assessment date.⁴ It is the duty of each owner of land upon which a mobile home is located to list each mobile home, its make, year, serial number, size, original cost, and such other pertinent information as may be required by the division of property assessments, sign the schedule and return it to the assessor of property on or before April 1 of each year.⁵ The assessor of property is required to furnish to each owner of land used as a mobile home park a schedule of the assessed value of each moveable structure on or before July 1 of each year.⁶ If taxes on a mobile home become delinquent, the land can be sold to satisfy the delinquency.⁷

¹Tenn. Const., art. II, § 28; T.C.A. § 67-5-802.

²T.C.A. § 67-5-802(a)(1). See also T.C.A. 67-5-502(a)(1).

³T.C.A. § 67-5-802(a)(1). See also *Belle-Aire Village, Inc. v. Ghorley*, 574 S.W.2d 723, 725 (Tenn. 1978).

⁴T.C.A. § 67-5-802(b)(1).

⁵T.C.A. § 67-5-802(b)(2).

⁶T.C.A. § 67-5-802(b)(2).

⁷T.C.A. § 67-5-802. See Op. Tenn. Atty. Gen 95-071 (July 5, 1995) for a discussion regarding the collection of delinquent property taxes due against mobile homes. See also *CMH Homes, Inc. V. Darrell Mceachron*, 2005 WL 2387153 (Tenn.Ct.App. 2005) (extent of property transferred at delinquent tax sale).

Assessment of Leasehold

Reference Number: CTAS-1479

A leasehold is considered real property and is taxable as such¹ under certain circumstances. The interest of a lessee is distinct from the fee, and may be taxed under certain circumstances when the fee is exempt from taxation.² Leasehold interests assessable under T.C.A. § 67-5-502 are valued by discounting to present value the excess, if any, of fair market rent over actual and imputed rent for the leased premises, for the projected term of the lease including renewal options. As an alternative in valuing an interest in residential property, the interests assessable under T.C.A. § 67-5-502(d) may be valued by the sales comparison approach using sales or transfers of similar interests in residential property. By virtue of the

speculative nature of valuation of options to purchase, any option which the lessee may be given to purchase the leased premises shall be deemed to have no value. The State Board of Equalization is authorized to promulgate rules governing the procedure for these valuations.³

Note: Although a county cannot tax an industrial development property owned by a city, county, or industrial development corporation organized under T.C.A. § 7-53-101 *et seq.*, if the private company lessee pays less in rent and in lieu of tax payments than the fair market value of the rent, the company has a leasehold interest that is taxable based upon the capitalized value of the difference between actual rent (and in lieu of tax payments) and fair market rent.⁴

¹*United States v. Metropolitan Gov't*, 808 F.2d 1205, 1208-1209 (6th Cir. 1987); T.C.A. § 67-5-502(d).

²*Jeston v. University of the South*, 208 U.S. 489, 500, 28 S.Ct. 375, 377 (1908); *University of the South v. Franklin Co.*, 506 S.W.2d 779, 784 (Tenn.Ct.App. 1973).

³T.C.A. § 67-5-605.

⁴See Op. Tenn. Atty. Gen. 88-154 (August 29, 1988), Op. Tenn. Atty. Gen. 79-375 (August 20, 1979), Op. Tenn. Atty. Gen. 79-61 (February 14, 1979) and Op. Tenn. Atty. Gen. 78-251 (June 19, 1978) explaining the taxation of this type of interest in real property.

Mineral Interests

Reference Number: CTAS-1480

The owner of a mineral interest is required to register that interest with the assessor of property in the county in which the mineral interest is located by providing a deed reference number for the mineral interest and specifying where it lies, citing tax maps and parcel number of the surface owners. The State Board of Equalization provides assessors with forms for mineral interest owners to use. All property registered and identified sufficiently to the assessor on July 1, 1987, and on which taxes have been paid through that time, does not require a subsequent registration.¹

Back Assessment or Reassessment of Mineral Interests

Mineral interest owners are subject to back assessment if the property has previously escaped taxation. If the mineral interest is dormant, and the collector of taxes has not previously provided notice to the owner of the assessment of taxes, there shall be no back assessment of taxes, except that the owner of the mineral interest shall be liable for taxes accruing after July 1, 1987.

Failure to register a mineral interest with the property assessor by July 1, 1990, subjects the property to back assessment or reassessment and to a penalty of 25 percent of the assessment or back assessment of taxes. Failure to identify the location of a mineral interest pursuant to T.C.A. § 67-5-804 subjects the mineral interest owner who is currently paying taxes to penalty and interest. The penalty is 10 percent of the current assessment of the mineral interest. In addition, failure to identify the location of a mineral interest will render the owner unable to claim payment of taxes as use of a mineral interest against a surface owner's claim of abandonment under T.C.A. § 66-5-108.²

¹T.C.A. § 67-5-804(b).

²T.C.A. § 67-5-809.

Greenbelt

Reference Number: CTAS-1481

Under the Agricultural, Forest, and Open Space Land Act of 1976, also known as the Greenbelt Law, owners of property qualifying as agricultural, forest, or open space property may have it specially valued. The act was promulgated to allow for assessment of the land based on current use, not its potential for conversion to another, higher value use.¹

No person may place more than 1,500 acres of land within any one taxing jurisdiction under the provisions of the Act.² To be eligible as agricultural land, the property must meet minimum size requirements. The property must consist either of a single tract of at least 15 acres, including woodlands and waste-

lands, or two noncontiguous tracts within the same county, including woodlands and wastelands, one of which is at least 15 acres and the other being at least 10 acres and together constituting a farm unit.³To be eligible as forest land, the property must constitute a forest unit engaged in the growing of trees under a sound program of sustained yield management that is at least fifteen (15) acres and that has tree growth in such quantity and quality and so managed as to constitute a forest.⁴Open space land is any area of land, of not less than three acres, characterized principally by open or natural conditions which is not currently in agricultural or forest use. Open space land includes greenbelt lands or lands primarily devoted to recreational use.⁵The Tennessee Court of Appeals has held that it is constitutionally permissible for the General Assembly to create sub-classes of real property, such as Greenbelt property, provided a constitutional valuation method is used for the sub-class.⁶The formula for determining the special value is set forth in T.C.A. § 67-5-1008.

¹T.C.A. § 67-5-1001 *et seq.*

²T.C.A. §§ 67-5-1003(3), 67-5-1008(g). *See also* Op. Tenn. Atty. Gen. 88-81 (April 7, 1988).

³T.C.A. § 67-5-1004(1)(B).

⁴T.C.A. § 67-5-1004(3).

⁵T.C.A. § 67-5-1004(7).

⁶*Marion County v. State Bd. of Equalization*, 710 S.W.2d 521 (Tenn.Ct.App. 1986).

Classification of Agricultural Land

Reference Number: CTAS-1482

Any owner of land may apply for its classification as agricultural land by filing a written application with the assessor of property. The application must be filed by March 1. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as agricultural the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee of \$50.¹

The assessor must determine whether the land is agricultural land, and if such a determination is made, the assessor will classify and include it as such on the county tax roll. In determining whether the land is agricultural land, the tax assessor must take into account, among other things, the acreage of the land, the productivity of the land, and the portion thereof in actual use for farming or held for farming or agricultural operation. The assessor may presume that a tract of land is used as agricultural land if the land produces gross agricultural income averaging at least \$1,500 per year over any three-year period in which the land is so classified. The presumption may be rebutted, notwithstanding the level of agricultural income by evidence indicating whether the property is used as "agricultural land" as defined in the statute.²The assessor must verify actual agricultural uses claimed for the property during the on-site review provided under T.C.A. § 67-5-1601. The assessor may at any time require other proof of use or ownership necessary to verify compliance with the statute.³

Any person aggrieved by the denial of any application for the classification of land as agricultural land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization.⁴

¹T.C.A. § 67-5-1005(a)(1).

²T.C.A. § 67-5-1005(a)(2) and (3);

³T.C.A. § 67-5-1005(c).

⁴T.C.A. § 67-5-1005(d).

Classification of Forest Land

Reference Number: CTAS-1483

Any owner of land may apply for its classification as forest land by filing a written application with the assessor of property. The application must be filed by March 1. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as forest land the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee of \$50.¹

The assessor shall determine whether the land is forest land, and if such a determination is made, the assessor shall classify and include it as such on the county tax roll.² In determining whether the land is forest land, the assessor must take into account, among other things, the acreage of the land, the amount and type of timber on the land, the actual and potential growth rate of the timber, and the management practices being applied to the land and to the timber on it. The assessor may request the advice of the state forester in determining whether the land should be classified as forest land.³

An application for classification of land as forest land shall be made upon a form prescribed by the state board of equalization, in consultation with the state forester, and shall include a description of the land, a general description of the uses to which it is being put, aerial photographs, if available, and such other information as the assessor of property or state forester may require to aid the assessor of property in determining whether the land qualifies for designation as forest land..⁴

Any person aggrieved by the denial of an application for the classification of land as forest land has the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors of property or boards of equalization..⁵

¹T.C.A. § 67-5-1006(a)(1).

²T.C.A. § 67-5-1006(a)(2).

³T.C.A. § 67-5-1006(b)(1) and (2).

⁴T.C.A. § 67-5-1006(c).

⁵T.C.A. § 67-5-1006(d)

Classification of Open Space

Reference Number: CTAS-1484

The planning commission, in preparing a land use or comprehensive plan for the municipality or county, may designate in the plan areas which it recommends for preservation as areas of open space land, other than lands currently in agricultural and forestry uses. Land included in any area so designated in the plan, as finally adopted, may be classified as open space land for purposes of property taxation provided there has been no change in the use of the area which has adversely affected its essential character as an area of open space land between the date of the adoption of the plan and the date of classification.¹

Any owner of land may apply for its classification as open space land by filing a written application with the assessor of property. The application must be filed by March 1. Reapplication thereafter is not required so long as the ownership as of the assessment date remains unchanged. Property that qualified as open space land the year before under different ownership is disqualified if the new owner does not timely apply. The assessor must send a notice of disqualification to these owners, but must accept a late application if filed within 30 days of the notice of disqualification and accompanied by a late application fee \$50.²

The assessor must determine whether there has been any change in the area designated as an area of open space land in the county (or municipality) plan and, if the assessor determines that there has been no change, the assessor will classify the land as open space land and include it as such upon the tax rolls of the county.³

Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the actions of assessors or boards of equalization.⁴

¹T.C.A. § 67-5-1007(a)(1) and (2).

²T.C.A. § 67-5-1007(b)(1).

³T.C.A. § 67-5-1007(b)(2).

⁴T.C.A. § 67-5-1007(c).

Present Use Valuation

Reference Number: CTAS-1485

When a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under the provisions of T.C.A. § 67-5-1001 *et seq.*, it shall be subsequently considered that its current use for agricultural or timber purposes or as open space is its immediate most suitable economic use, and assessment shall be based upon its value in that current use, rather than on value for some other use as may be determined in accordance with T.C.A. § 67-5-601 *et seq.* It is the responsibility of the applicant to promptly notify the assessor of any change in the use or ownership of the property which might affect its eligibility under the Greenbelt Law.¹

After a parcel of land has been classified by the assessor of property as agricultural, forest, or open space land under the provisions of T.C.A. § 67-5-1001 *et seq.*, the assessor shall record it on a separate list for such classified property, and the assessor shall record with the register of deeds the application for such classification of the property. Any fees which may be required are paid by the property owner.²

The assessor must appraise the land and compute the taxes each year based upon both the 25 percent of appraised value applicable to property in the farm classification and present use value; and farm classification and value as determined pursuant to T.C.A. § 67-5-601 *et seq.*, but taxes shall be assessed and paid only on the basis of farm classification and present use value under the provisions of T.C.A. § 67-5-1001 *et seq.* The taxes computed pursuant to T.C.A. § 67-5-601 *et seq.* shall be used to compute the rollback taxes as defined in T.C.A. § 67-5-1004 and as provided for in T.C.A. § 67-5-1008(d).³

¹T.C.A. § 67-5-1008(a).

²T.C.A. § 67-5-1008(b)(1).

³T.C.A. § 67-5-1008(b)(2) and (3).

Rollback Taxes

Reference Number: CTAS-1486

The assessor of property will compute the amount of taxes saved by the difference in present use value assessment and value assessment pursuant to T.C.A. § 67-5-601 *et seq.*, for each of the preceding three years for agricultural and forest land, and for the preceding five years for open space land, and the assessor shall notify the trustee that such amount is payable, if (1) the land no longer qualifies as agricultural land, forest land, or open space land as defined in T.C.A. § 67-5-1004; (2) the owner of the land requests in writing that the classification as agricultural land, forest land, or open space land be withdrawn; (3) the land is covered by a duly recorded subdivision plat or an unrecorded plan of development and any portion is being developed; except that, where a recorded plat or an unrecorded plan of development contains phases or sections, only the phases or sections being developed are disqualified; (4) an owner fails to file an application as required by this part; (5) the land exceeds the acreage limitations of T.C.A. § 67-5-1003(3); or (6) the land is conveyed or transferred and the conveyance or transfer would render the status of the land exempt.¹

If, under the provisions of T.C.A. § 67-5-1008(d)(1), only a portion of a parcel is subject to rollback taxes, the assessor must apportion the assessment of the parcel on the first tax roll prepared after the taxes become payable, and enter the apportioned amount attributable to that portion as a separately assessed parcel on the tax roll. Apportionment will be made for each of the years to which the rollback taxes apply.²

The rollback taxes due as the result of disqualification or withdrawal of the land from classification are the tax savings calculated under T.C.A. § 67-5-1008(d). When the assessor determines that there is liability for rollback taxes, the assessor gives written notice to the county trustee identifying the basis of the rollback taxes and the person the assessor finds to be responsible for payment. The assessor must also provide a copy of the notice to the responsible person. Rollback taxes are payable from the date written

notice is provided by the assessor, but are not delinquent until March 1 of the following year. Rollback taxes are a first lien on the disqualified property in the same manner as other property taxes, and are also a personal responsibility of the current owner or seller of the land. Liability for rollback taxes may be appealed to the state board of equalization by March 1 of the year following the notice by the assessor. Property values fixing the amount of rollback taxes may only be appealed as otherwise provided by law.³

If land that is classified under the Greenbelt Law as agricultural, forest, or open space land (or any portion thereof) is converted to a use other than those stipulated in the statute by virtue of a taking by eminent domain or other involuntary proceeding, except a tax sale, the land (or any portion thereof) involuntarily converted to another use is not subject to rollback taxes by the landowner, and the agency or body doing the taking will be liable for the rollback taxes. Property transferred and converted to an exempt or non-qualifying use shall be considered to have been converted involuntarily if the transferee or an agent for the transferee sought the transfer and had power of eminent domain.⁴

In the event that the land involuntarily converted to another use constitutes only a portion of a classified parcel on the assessment rolls, the assessor must apportion the assessment and enter the portion involuntarily converted as a separately assessed parcel on the appropriate portion of the assessment roll. Furthermore, for as long as the landowner continues to own the remaining portion of such parcel and for as long as the landowner's lineal descendants collectively own at least 50 percent of the remaining portion of such parcel, the remaining portion will not be disqualified from use value classification under the Green belt Law solely because it is made too small to qualify as the result of the involuntary proceeding.⁵

If the sale of agricultural, forest or open space land results in the property being disqualified due to conversion to an ineligible use or otherwise, the seller is liable for rollback taxes unless otherwise provided by in a written contract. If the buyer declares in writing at the time of sale an intention to continue the greenbelt classification but fails to file any form necessary to continue the classification within 90 days from the sale date, the rollback taxes become the sole responsibility of the buyer.⁶

Property passing to a lineal descendant of a deceased greenbelt owner, by reason of the death of the greenbelt owner, are not subject to rollback solely because the total greenbelt acreage of the new owner exceeds the maximum under T.C.A. § 67-5-1003, or will exceed the maximum following the transfer. Property exceeding the limit in these circumstances will be disqualified from greenbelt classification, but will not be assessable for rollback unless other disqualifying circumstances occur before the property has been assessed at market value three years.⁷

If an assessor fails to carry out his or her duties in accordance with the provisions of the Greenbelt Law, all compensation to the assessor will be discontinued pursuant to the provisions of T.C.A. § 67-5-305.⁸

¹T.C.A. § 67-5-1008(d)(1).

²T.C.A. § 67-5-1008(d)(4)(A) and (B).

³T.C.A. § 67-5-1008(d)(3). *See also* Op. Tenn. Atty. Gen. 79-517 (December 7, 1979).

⁴T.C.A. § 67-5-1008(e)(1). *See also* Op. Tenn. Atty. Gen. 85-035 (February 13, 1985).

⁵T.C.A. § 67-5-1008(e)(2).

⁶T.C.A. § 67-5-1008(f). *See also* Op. Tenn. Atty. Gen. 87-27 (February 19, 1987); Op. Tenn. Atty. Gen. 86-015 (January 23, 1986).

⁷T.C.A. § 67-5-1008(h).

⁸T.C.A. § 67-5-1010.

Present Use Valuation for Certain Residential Property

Reference Number: CTAS-1487

The concept of taxation based on present use valuation has been extended to certain residential property: property which is used solely for residential purposes, which is occupied by the owner for a period of at least 25 years, and which is zoned for commercial use shall be assessed based on its value for residential purposes. The owner must occupy the residence at least nine months out of the year. This protection also applies to a lineal descent of the original owner who resides on the property.¹

An owner of a residential house may apply to the assessor of property of the county in which the property is located for its classification under T.C.A. § 67-5-601(c), as described above. Property which has been determined by the assessor of property to qualify under subsection (c) will be valued for ad valorem tax purposes at its market value for residential purposes. The assessment on the property shall include the entire year in which the land is classified under subsection (c). Any person who is denied such classification has the same rights and remedies for appeal and relief as are provided taxpayers for any action of assessors of property.²

When the use or ownership of the property changes so that it no longer qualifies under T.C.A. § 67-5-601(c), the property owner has the duty of informing the assessor of property. Upon discovering that a property no longer qualifies for classification under subsection (c), the assessor must reclassify the property and value it according to its current market value for subsequent tax years. In the event a change in the use or ownership does not timely come to the attention of the assessor, and upon the assessor discovering that the property no longer qualifies, reclassification will affect each year that the property has failed to qualify, and the taxpayer will be liable for the difference in taxes, including penalty and interest.³

¹T.C.A. § 67-5-601(c)(1) - (3).

²T.C.A. § 67-5-601(c)(4).

³T.C.A. § 67-5-601(c)(5).

Tangible Personal Property

Reference Number: CTAS-1472

Tangible personal property is classified according to its use and assessed as a percentage of its value as follows:

1. Public Utility—55 percent
2. Industrial and Commercial—30 percent
3. All Other Tangible Personal Property—5 percent

Tangible personal property not in use is classified according to its immediate most suitable economic use, which is determined after considering the following factors: immediate past use, if any; nature of the property; classification of the real property upon which it is located; normal use of the property; ownership; and any other factors relevant to a determination of the immediate most suitable economic use of the property.¹

All property is subject to taxation.² However, the legislature has determined that non-business tangible personal property is assumed to have no value, and a tax is not imposed on this property.³ The no-value presumption for non-business personal property has been upheld, based on the fact that the tax produces little revenue in relation to its administration costs, as well as the long-standing rule that the legislature may choose the method of valuation as well as whether the tax itself has any practical value.⁴

Most industrial and commercial tangible personal property is valued and assessed by the county taxing authorities in the counties where the owners of such property do business.⁵ Pursuant to T.C.A. § 67-5-901, *et seq.*, industrial and commercial taxpayers must annually file a schedule on which they list the tangible personal property they use in their businesses. Section 67-5-903(f) contains a schedule of allowable rates of depreciation for commercial and industrial tangible personal property.⁶ The constitutionality of § 67-5-903(f) has been upheld.⁷ Pursuant to T.C.A. § 67-5-1509(a), the State Board of Equalization must, by order or rule, direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the state board for each county. However, such equalization is available only to taxpayers who have filed the reporting schedule required by law. The constitutionality of T.C.A. § 67-5-1509(a) has also been upheld.⁸

Public utility and common carrier property is centrally assessed annually by the Comptroller of the Treasury.⁹ Pursuant to T.C.A. § 67-5-1302(b)(1), the assessments of public utility property shall be adjusted, where necessary, to equalize the values of public utility property to the prevailing level of value of property in each jurisdiction. The constitutionality of § 67-5-1302(b)(1) has been upheld.¹⁰ The authority to adjust the appraised values of public utility property to achieve equalization with industrial and commercial

property is found in § 67-5-1509(b). This statute provides: (b) Equalization may be made by the board or commission, as the case may be, by reducing or increasing the appraised values of properties within any taxing jurisdiction, or any part thereof, in such manner as is determined by the state board of equalization will enable the board or commission to justly and equitably equalize assessments in accordance with law.¹¹ Since 1997, the Board of Equalization has ordered a 15 percent reduction in the assessed value of centrally assessed tangible personal property in order to bring it to the same level of assessment as locally assessed tangible personal property.¹²

¹T.C.A. § 67-5-901(a).

²Tenn. Const., art. II, § 28.

³T.C.A. § 67-5-901(a)(3)(A).

⁴*Sherwood v. Clary*, 734 S.W.2d 318, 320-21 (Tenn. 1987); *citing*, *Lehnhausen v. Lake Shore Auto Parts*, 410 U.S. 356 (1973). For prior law, see Op. Tenn. Atty. Gen. 86-80 (April 3, 1986); Op. Tenn. Atty. Gen. 84-273 (September 27, 1984).

⁵T.C.A. §§ 67-5-102, 67-5-103.

⁶*In re All Assessments*, 58 S.W.3d 95, 96 (Tenn. 2000).

⁷*In re All Assessments*, 67 S.W.3d 805, 816-820 (Tenn.Ct.App. 2001), *perm. appeal denied*, (Tenn. 2002).

⁸*Williamson County v. Tennessee State Board of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2002).

⁹T.C.A. § 67-5-1301.

¹⁰*In re All Assessments*, 67 S.W.3d 805, 820-821 (Tenn.Ct.App. 2001), *perm. appeal denied*, (Tenn. 2002).

¹¹*In re All Assessments*, 58 S.W.3d 95, 101 (Tenn. 2000). *See also* *Louisville & N.R.R. v. Public Serv. Comm'n*, 249 F.Supp. 894 (M.D. Tenn. 1966), *aff'd*, 389 F.2d 247 (6th Cir. 1968) ("L & N I"); *Louisville & N.R.R. v. Public Serv. Comm'n*, 493 F.Supp. 162 (M.D. Tenn. 1978), *aff'd*, 631 F.2d 426 (6th Cir. 1980), *cert. denied*, 450 U.S. 959, 101 S.Ct. 1418 (1981) ("L & N II").

¹²*ANR Pipeline Co. v. Tennessee Board of Equalization*, 2002 WL 31840689, *1 (Tenn.Ct.App. 2002) *perm. app. denied* (Tenn. 2003).

Leased Personal Property

Reference Number: CTAS-1489

Leased personal property is classified according to the lessee's use and assessed to the lessee, unless the property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes.¹ For the purpose of assessing leased property, it is the duty of the taxpayer to list fully on a schedule provided by the assessor all tangible personal property which is leased by the taxpayer for the conduct of the taxpayer's business.² Leased property shall include equipment, machinery and all tangible personal property used in the conduct of, or as a part of, the taxpayer's business.³ The lessor, or owner of leased tangible personal property, must provide such information as the assessor may request regarding the location, valuation or use of such property.⁴

¹T.C.A. § 67-5-502(c).

²T.C.A. § 67-5-904(a)(1).

³T.C.A. § 67-5-904(a)(2).

⁴T.C.A. § 67-5-904(b).

Pilot Program for Assessing Leased Tangible Personal Property

Reference Number: CTAS-1490

Notwithstanding contrary provisions of law, the Comptroller of the Treasury may establish a pilot program for assessing leased tangible personal property to the owner/lessor rather than the lessee. Participation in the program is voluntary, at the election of owner/lessors who are selected by the comptroller to participate based on criteria that optimize savings in the cost of assessment compliance and administration.

The comptroller may impose a fee to defray the cost of administration. Participants will be permitted to report leased property centrally in lieu of the schedules otherwise required under T.C.A. § 67-5-903 or T.C.A. § 67-5-904, and the comptroller will be responsible for distributing centrally reported assessments based on situs. Participants may be permitted to claim the business tax credit provided in T.C.A. § 67-4-713 for property taxes paid pursuant to a central assessment, and the credit may be taken at the participant's option either on the return due in the jurisdiction of situs or the jurisdiction from which the lease originated.¹

¹T.C.A. § 67-5-502(e). See 2004 Public Chapter 667.

Correction of Erroneous Assessments

Reference Number: CTAS-1491

The assessor of property must certify in writing a corrected or revised assessment to the trustee, or city tax collector in the case of city taxes, whenever the assessor discovers, or it has been called to the assessor's attention, that there has been an error or omission in the listing, description, classification or assessed value of property or any other error or omission in the tax rolls held by the trustee or city tax collector.¹ The assessor must certify to the trustee or city tax collector the facts and the reasons for the change in the assessment, and the tax must be collected upon the revised assessment.² The State Board of Equalization may request a copy of the assessor's certification.³ If the tax computed on an erroneous basis of valuation or assessment has been paid prior to the assessor's certification of the corrected assessment, the trustee or city tax collector must, within 60 days after receipt of the certification from the assessor, refund to the taxpayer that portion of such tax paid which resulted from the erroneous assessment. The refund is to be made without the necessity of payment under protest or such other requirements as usually pertain to refunds of taxes unjustly or illegally collected.⁴

Correction of assessments must be requested by the taxpayer, or initiated by the assessor, prior to March 1, no more than the second year following the tax year for which the correction is to be made.⁵ For example, correction of an erroneous assessment for the 2010 tax year would have to be initiated before March 1 of 2012. If additional taxes are due as a result of the corrected assessment, they are not delinquent until 60 days after the date notice of the corrected assessment is sent to the taxpayer. Once a suit has been filed to collect delinquent taxes pursuant to T.C.A. § 67-5-2405, the assessment and levy are deemed valid and are not subject to correction.⁶ If the assessor does not correct an error in an assessment within 30 days after the request, or if the correction results in an increase in an assessment, the aggrieved taxpayer may appeal directly to the State Board of Equalization;⁷ alternatively, the taxpayer may go through the regular process by appealing to the county board of equalization.⁸ A defect in assessment, levy, or tax procedure will not affect the validity of a decision unless it results in a denial of minimum constitutional guarantees.⁹

It is important to note that the only errors or omissions which may be corrected under this provision are those involving obvious clerical mistakes, ascertainable from the face of the official tax and assessment records and involving no judgment or discretion by the assessor. Examples of correctable mistakes include the name or address of an owner, the location or physical description of the property, misplacement of a decimal point or mathematical miscalculation, errors of classification, and duplicate assessments. Matters of opinion by the assessor and clerical mistakes in tax reports or schedules filed by a taxpayer are not correctable under this procedure.¹⁰

¹T.C.A. § 67-5-509(c)(1).

²T.C.A. § 67-5-509(c)(2).

³T.C.A. § 67-5-509(c)(3).

⁴T.C.A. § 67-5-509(a).

⁵T.C.A. § 67-5-509(d).

⁶T.C.A. § 67-5-509(d).

⁷T.C.A. § 67-5-509(e).

⁸Op. Tenn. Atty. Gen. 96-077 (April 24, 1996).

⁹*State v. Delinquent Taxpayers*, 785 S.W.2d 819 (Tenn.Ct.App. 1989); T.C.A. § 67-5-509(b).

¹⁰T.C.A. § 67-5-509(f). For prior law, see Op. Tenn. Atty. Gen. 76-07 (June 25, 1976) and Op. Tenn. Atty. Gen. 87-90 (May 14, 1987).

Back Assessment or Reassessment

Reference Number: CTAS-1492

"Back assessment" means the assessment of property, including land or improvements not identified or included in the valuation of the property, which has been omitted from or totally escaped taxation.¹"Re-assessment" means the assessment of property which has been assessed at less than its actual cash value by reason of connivance, fraud, deception, misrepresentation, misstatement, or omission of the property owner or his/her agent.²

"Connivance" means some conscious conduct by the taxpayer, similar to but short of actual fraud, which caused or induced the low assessment. However, where property has been assessed below its actual cash value by the regularly constituted assessing authorities, failure of the taxpayer to report the underassessment even though grossly underassessed does not constitute connivance nor afford a basis for reassessment. If the taxpayer simply acquiesces in the underassessment by paying the low amount and failing to report it, the taxpayer's actions do not constitute fraud.³ Moreover, when property has been properly listed and has not been omitted from assessment, there can be no back assessment, unless frauds of the nature indicated in T.C.A. § 67-1-1002(a)(2) and (3) is shown. Furthermore, the presumption of fraud, declared by the statute to arise from a grossly inadequate assessment, is not conclusive, but rebuttable.⁴ Failure of the property owner to obtain a required building permit or to file a required written report would be grounds for reassessment, if such failure caused the property to be underassessed.⁵

A back assessment or reassessment must be initiated on or before September 1 of the year following the tax year for which the original assessment was made.⁶ However, if the omission or underassessment resulted from the failure of the taxpayer to file the reporting schedule required by law, from actual fraud or fraudulent misrepresentation of the property owner or the property owner's agent, or from collusion between the property owner or the property owner's agent and the assessor, a back assessment or reassessment must be initiated prior to three years from September 1 of the tax year for which the original assessment was made.⁷

With respect to tangible personal property, if a taxpayer would be liable for additional tax due to back assessment of property omitted from a reporting schedule, or due to reassessment of property included in the schedule, the taxpayer may offset this liability by showing that other property listed on the schedule was over reported, or by providing information that the reassessed property or other property listed on the schedule should be valued using a nonstandard method that more closely approximates fair market value.⁸

Additional taxes due as the result of a back assessment or reassessment shall not be deemed delinquent until 60 days after the date notice of taxes resulting from the back assessment or reassessment is sent to the taxpayer. However, if the back assessment or reassessment resulted from the failure of the taxpayer to file the reporting schedule required by law, from actual fraud or fraudulent misrepresentation of the property owner or the property owner's agent, or from collusion between the property owner or the property owner's agent and the assessor, the additional taxes shall become delinquent as of the date of delinquency of the original assessment.⁹

A back assessment or reassessment may be initiated by certification of the assessor of property to the appropriate collecting officials identifying the property and stating the basis of the back assessment or reassessment and the tax year(s) and amount of any additional assessment for which the owner or taxpayer is responsible. The assessor shall send a copy of the certification to the owner or taxpayer. The collecting official shall thereupon send a notice of taxes due based on the back assessment and reassessment. Any taxpayer aggrieved by a back assessment or reassessment may appeal directly to the State Board of Equalization within 60 days from the date that a copy of the certification is sent to the taxpayer, in the manner provided in T.C.A. § 67-5-1412, and such person may be assisted or represented in the appeal as provided in T.C.A. § 67-5-1514. The accrual of delinquency penalty and interest otherwise applicable

is suspended while the appeal is pending, however, simple interest will accrue during the appeal period in the amount provided in T.C.A. § 67-5-1512.¹⁰

A back assessment or reassessment for merchants' taxes and delinquent privilege taxes may be initiated by a chief administrative officer of a tax jurisdiction to which the tax is payable, any citizen of such jurisdiction, or by the department of revenue. The back assessment or reassessment shall be initiated by the filing of a sworn, written complaint to the county clerk stating the basis of the complaint. The county clerk may require a complainant, other than a public official acting in the official's capacity, to post a reasonable bond for payment of costs of the proceeding if the back assessment or reassessment is unsuccessful. An aggrieved party may appeal the clerk's disposition of the complaint to the department of revenue.¹¹

Those officials having the power to back assess or reassess property are vested with full authority to administer oaths, send for and examine witnesses, and take such steps as may be deemed necessary or material to obtain information and evidence as to the value of the property.¹² Witnesses, when properly summoned, are subject to existing laws for non-attendance or failure to give evidence which is in their knowledge.¹³

If the back assessment or reassessment is upheld, the costs of the proceeding are added to the amount of taxes owed. If the back assessment or reassessment is set aside, the taxing jurisdiction must pay costs. However, if the board determines the complaint was filed or prosecuted by the complainant without good cause, then the complainant pays the cost. If the board finds connivance, fraud, deception, misrepresentation, or failure to file a personal property schedule, it may impose a penalty of up to 15 percent of the tax due.¹⁴

Innocent purchasers are protected from a reassessment of inadequately assessed real property by a bona fide sale, although this provision does not apply to a back assessment of property that has wholly escaped taxation. The taxes are a liability against the person owning the real property at the time of the inadequate assessment. The burden of proving a bona fide sale is on the person owning the real property at the time of back assessment or reassessment.¹⁵

¹T.C.A. § 67-1-1001(a)(1).

²T.C.A. § 67-1-1001(a)(2).

³*Garner v. Rhea Realty Corp.*, 494 S.W.2d 783, 787 (Tenn.Ct.App. 1971).

⁴*Eastland v. Sneed*, 185 S.W. 717, 718 (Tenn. 1916).

⁵Op. Tenn. Atty. Gen. 87-32 (Mar. 6, 1987).

⁶T.C.A. § 67-1-1005(a).

⁷T.C.A. § 67-1-1005(a).

⁸T.C.A. § 67-5-902(b).

⁹T.C.A. § 67-1-1005(a). For prior law, see Op. Tenn. Atty. Gen. 86-136 (August 8, 1986).

¹⁰T.C.A. § 67-1-1005(b).

¹¹T.C.A. § 67-1-1005(c).

¹²T.C.A. §§ 67-1-1006(a), 67-5-1404.

¹³T.C.A. §§ 67-1-1006(b), 67-5-1404.

¹⁴T.C.A. § 67-1-1008.

¹⁵T.C.A. § 67-1-1004.

State Division of Property Assessments

Reference Number: CTAS-1493

The State Division of Property Assessments has the duty to develop methods and procedures to assist local assessors and boards of equalization in administering the annual assessment process and in maintaining assessments through a process of updating valuations, property ownership records, and other information and records.¹ The Division of Property Assessments has developed manuals, rules, and regulations which relate to the duties of assessors of property and to reappraisal programs.² These manuals provide for consideration of the following factors in determining property values:

1. Location;

2. Current use;
3. Whether income bearing or non-income bearing;
4. Zoning restrictions on use;
5. Legal restrictions on use;
6. Availability of water, electricity, gas, sewers, street lighting, and other municipal services;
7. Inundated wetlands;
8. Natural productivity of the soil, except that the value of growing crops shall not be added to the value of the land ("crops" include trees); and
9. All other factors and evidences of values generally recognized by appraisers as bearing on the sound, intrinsic and immediate economic value at the time of assessment.

For determining the value of industrial, commercial, farm machinery and other personal property, these manuals provide for consideration of the following factors:

1. Current use;
2. Depreciated value;
3. Actual value after allowance for obsolescence; and
4. All other factors and evidences of values generally recognized by appraisers as bearing on the sound, intrinsic and immediate economic value at the time of assessment.

For determining the value of forestland, the State Division of Property Assessments consults with the U.S. Forest Service and the state forester to establish guidelines to be used in the manual.³

¹T.C.A. § 67-1-205(a).

²T.C.A. §§ 67-1-205(a); 67-5-505; 67-5-602.

³T.C.A. § 67-5-602.

Reappraisal

Reference Number: CTAS-1494

Pursuant to T.C.A. § 67-5-1601 *et seq.*, reappraisal must be completed either in four, five, or six year cycles. In counties on a six year cycle, the first five years are used for on-site review, followed by a revaluation in the sixth year. In the third year, there must be an updating of all real property values if the overall level of appraisal for the jurisdiction is less than 90 percent of fair market value. Even if the jurisdiction as a whole meets the 90 percent level, there must be an update of subgroups which do not fall within 10 percent of the jurisdictional appraisal level.

Instead of the six-year cycle, a county may opt for either a four or five-year reappraisal schedule. Although few counties have chosen the four-year option, it is available with the approval of the State Board of Equalization. Under this plan, on-site review is to be accomplished in the first three years, followed by a revaluation in the fourth year. A third option was passed in 1997, which allows the assessor, with approval of the county legislative body, to choose a continuous five-year cycle comprised of an on-site review of each parcel over a four-year period, followed by revaluation in the fifth year. Counties adopting either of these latter alternatives are not required to update or index values as must be done on the six-year cycle. These statutes also contain requirements for planning, public notice and hearings, and noncompliance sanctions.¹

In a year of reappraisal, if the number of foreclosures is of a significant number in any area or neighborhood, the assessor of property may recognize the effects of the foreclosures on the values of other properties located within the affected area or neighborhood.²

In the event that in the year a reappraisal program is completed, the values established in such reappraisal program are turned over to the county after October 1 of such year, no penalty and interest shall be added until five (5) months following the tax roll completion date as evidenced by written notification from the assessor of property to the trustee, specifically stating the date the tax roll was delivered to the trustee.³

¹T.C.A. §§ 67-5-1601 *et seq.* See Op. Tenn. Atty. Gen. 92-61 (October 8, 1992) for a discussion of requirements for changing a reappraisal schedule.

²T.C.A. §§ 67-5-1603(d).

³T.C.A. § 67-5-1608.

Appealing an Assessment

Reference Number: CTAS-1495

The County Board of Equalization and the State Board of Equalization deliberate complaints regarding property assessments.

County Board of Equalization

Reference Number: CTAS-1496

The county board of equalization is the first level of administrative appeal for all complaints regarding the assessment, classification and valuation of property for tax purposes. Board duties include examining and equalizing county assessments, assuring that all taxable properties are included on the assessment lists, eliminating exempt properties from taxation, hearing complaints of aggrieved taxpayers, decreasing over-assessed property, increasing under-assessed property and correcting clerical mistakes. T.C.A. §§ 67-1-401 *et seq.*, 67-5-1401 *et seq.*

Composition of the Board

At the April session in each even year, the county legislative body elects five “freeholders and taxpayers” from the different sections of the county to serve as the county board of equalization.¹ (Note: T.C.A. § 67-1-401 contains numerous exceptions for counties and cities specified through population class.) Members of the board of equalization serve two year terms. If the county legislative body fails to elect these members, then the county mayor makes the appointments and fills the vacancies as they occur.² Magistrates along with state, municipal or county legislative and executive officials, as well as their employees, are ineligible to serve, except in some circumstances in Shelby County.³

¹T.C.A. § 67-1-401(a).

²T.C.A. § 67-1-401(b).

³T.C.A. § 67-1-401(c). See Op. Tenn. Atty. Gen. 90-106 (December 27, 1990) which states that it is a prohibited conflict of interest for a county trustee, a municipal tax collector, or an employee of either to sit on a county board of equalization. See *also* Op. Tenn. Atty. Gen. U92-82 (June 30, 1992) which opines that this provision regarding Shelby County is constitutionally suspect.

Oath of Office

Reference Number: CTAS-1497

Before entering the office, each member of the county board of equalization must take and subscribe to the following oath before the county mayor:

State of Tennessee

County of _____

I, _____, member of the board of equalization of such county, do hereby solemnly swear (or affirm) that I will carefully examine, compare and equalize the assessments of such county in accordance with the Constitution and the laws of the state of Tennessee; and that to the best of my knowledge and ability I will faithfully, honestly and impartially perform all duties imposed upon me as a member of the board by the laws of the state of Tennessee.

Signed _____Board member

Sworn to before me, this _____ day of _____, _____.

This oath must be filed with the county clerk who, upon request, shall make a certified copy of the oath and forward it to the State Board of Equalization.¹

¹T.C.A. § 67-1-402.

Officers and Compensation

Reference Number: CTAS-1498

Each county board of equalization elects one member to serve as chairperson and one member to serve as secretary. A majority of the county board constitutes a quorum for the transaction of business. The board must keep a daily record of its transactions, and sign the record. Board members are paid by the county for their services. The compensation of the chair and other members is established by a resolution of the county legislative body. The county mayor may require board members to complete training on duties and responsibilities of their office as a condition of appointment or continued service.¹

¹T.C.A. § 67-1-403.

Sessions

Reference Number: CTAS-1499

The county board of equalization meets on June 1 of each year and sits in regular session as necessity may require until the equalization has been completed (or for the maximum number of days as set out below). Note: In any county having a population of not less than 26,000 nor more than 26,100 according to the 1970 federal census or any subsequent federal census, the county legislative body may by resolution or ordinance set an earlier date for the board's initial meeting.¹ Any county board of equalization, having jurisdiction over a municipality with a beginning tax due date different from that of the county, shall meet as required by the county legislative body, but at least one month prior to the applicable beginning tax due date.²

The county board shall not sit longer than six days in counties having a population of 10,000 or under; 10 days in counties having a population of over 10,000 and under 20,000; and 15 days in counties having a population of over 20,000 and under 35,000. In counties having a population of over 35,000, the county legislative body may fix the number of meeting days not to exceed 30 days.³ When the county legislative body cannot act, the county mayor may extend the time or may call the board in special session at any time if in the county mayor's judgment, the public welfare requires it.⁴

¹T.C.A. § 65-1-404(a).

²T.C.A. § 65-1-404(c).

³T.C.A. § 65-1-404(b)(1).

⁴T.C.A. § 67-1-404(b)(2).

Duties and Powers

Reference Number: CTAS-1500

The county board of equalization is the first level of administrative appeal for all complaints regarding the assessment, classification, and valuation of property for tax purposes. The county board's duties include examining and equalizing the county assessments, assuring that all taxable properties are included on the assessment lists, eliminating exempt properties from taxation, hearing complaints of aggrieved taxpayers, decreasing over-assessed property, increasing under-assessed property, and correcting clerical mistakes.¹ The county board of equalization has the power to obtain evidence concerning the classification, value, or assessment of any property by examining witnesses, hearing proof, and sending for persons and papers.² Board members have the power to administer an oath, and any person who willfully or corruptly swears falsely to any material fact before the board commits perjury and is indictable for such offense.³ The county board may also examine assessors in order to ascertain the manner in which the classification, value, or assessment of property was determined.⁴ When a member of the county board knows or reasonably suspects that an assessor of property or deputy assessor has knowingly or willfully classified, valued or assessed any property in violation of the requirements of law, that member has a duty to report the violation to the district attorney general or other proper officer of the state for further proceedings.⁵

¹T.C.A. § 67-5-1402. Note Op. Tenn. Atty. Gen. 85-083 (March 20, 1985) opining that T.C.A. § 5-5-124, providing authority for the county legislative body to correct errors in property assessments, is obsolete since other remedies are provided for pursuant to T.C.A. § 67-5-1401 *et seq.*

²T.C.A. § 67-5-1404(a) and (b).

³T.C.A. § 67-5-1404(c).

⁴T.C.A. § 67-5-1405.

⁵T.C.A. § 67-5-1415.

Assessor of Property—Assistance and Recommendations to the Board

Reference Number: CTAS-1501

The assessor of property or deputy assessor is required to meet with the county board of equalization on the first day of its session and to sit with the board in an advisory capacity during each and every day of the board's session, and to render assistance to the board in the performance of its official duties in equalizing assessments. In addition to other assistance, the assessor of property or deputy assessor may recommend to the board that changes of assessment or classification be made from those certified in the report of assessments required under T.C.A. § 67-5-304, but such recommended changes may not be so numerous as to amount to the general reappraisal of a class or type of property.¹

¹T.C.A. § 67-5-1403.

Complaints to the County Board of Equalization

Reference Number: CTAS-1502

An owner of property or liable taxpayer has the right to appear personally before the county board, to authorize in writing an agent to appear, or to authorize an attorney to appear, in order to make a complaint on one or more of the following grounds: (1) property owned by the taxpayer was erroneously classified or subclassified; (2) property owned by the taxpayer was assessed on the basis of an appraised value that is more than the basis of value provided for in T.C.A. § 67-5-601 *et seq.*; and (3) property other than the taxpayer's was assessed on the basis of appraised values which are less than the basis of value provided for in T.C.A. § 67-5-601 *et seq.*¹ The county board must hear any complaint that is filed while the board is in session and that relates to the current year under review. The board may not refuse to hear a complaint for the current year on the grounds that an appeal was filed with the State Board of Equalization for a prior year.² When a complaint is made before the county board, it may hear any evidence or witness offered by the complainant, or may take such steps as it may deem material to the investigation of the complaint.³ If an owner, or the owner's duly authorized agent, upon request, fails, refuses, or neglects to supply the assessor or the county board with information regarding the property not readily available through public records but which is necessary to make an accurate appraisal of the property, the owner forfeits the right to introduce the requested information upon appeal to the State Board of Equalization.⁴

Local governmental entities have the right to make a complaint before the assessor of property and the county board of equalization on the value of property within the local governmental entity on one or more of the following grounds: (1) the property has been erroneously classified or subclassified for purposes of taxation; (2) the property has not been included on the assessment lists; and (3) the property has been assessed on the basis of appraised values which are less than the basis of value provided for in T.C.A. § 67-5-601 *et seq.*⁵ After the local governmental entity has filed a complaint, the county board must give the property owner at least five days notice of a hearing to be held before the board. The notice must be sent by U.S. mail to the last known address of the property owner.⁶ The county board may hear any evidence or witnesses offered by the local governmental entity or owner or may take such steps as it may deem material to the investigation of the complaint.⁷

¹T.C.A. § 67-5-1407(a)(1).

²Op. Tenn. Atty. Gen. 92-60 (October 8, 1992).

³T.C.A. § 67-5-1407(a)(2).

⁴T.C.A. § 67-5-1407(d).

⁵T.C.A. § 67-5-1407(b)(1).

⁶T.C.A. § 67-5-1407(b)(2).

⁷T.C.A. § 67-5-1407(c).

Hearing Officers

Reference Number: CTAS-1503

In the event the county commission determines that the number of complaints made to any county board of equalization is sufficiently numerous to justify such action, the county board of equalization may appoint one or more hearing officers to conduct preliminary hearings and to make investigations regarding complaints before the board. Hearing officers must be approved by the county commission. The hearing officers assist the county board and prepare proposed findings of fact and conclusions for recommendation to the county board. The county board may adopt any recommendation of a hearing officer as its final decision, however, any property owner who desires to be heard directly by the county board must be given the opportunity to be heard by the board.¹

¹T.C.A. § 67-5-1406.

Disposition of Complaints

Reference Number: CTAS-1504

Upon consideration of any complaint, or any other information available, the county board of equalization may make changes, increasing or decreasing assessments, appraised values, or changes in classifications or subclassifications, as in its judgment are proper, just and equitable. The property owner or owners must be notified by the board of any increase of assessment or change in classification and given an opportunity to be heard. The notice must be sent by U.S. mail to the last known address of the taxpayer at least five days before the adjournment of the county board. The notice must include the tax year for which any increase of assessment or change in classification is made.¹ If the taxpayer fails, neglects or refuses to appear before the county board prior to its final adjournment, the assessment as determined by the assessor shall be conclusive against the taxpayer, and the taxpayer will be required to pay the taxes on such amount.²

¹T.C.A. § 67-5-1408.

²T.C.A. § 67-5-1401.

Time for Completion of Board Action and Certificate of Completion

Reference Number: CTAS-1505

Actions by the county board during its regular sessions, except for complaints brought pursuant to T.C.A. § 67-5-1407 (the regular complaint procedure for property owners), are to be completed and the notice of decision and appeal procedure sent no later than five days prior to the date taxes are due. This deadline does not apply to special sessions, extraordinary actions, or to years in which a county completes reappraisal.¹ Upon completion of its duties, the county board prepares a certificate signed by each member.

We, the undersigned members of the board of equalization of _____ County, do hereby certify that we have examined the assessments and classifications of taxable property within the county; we have heard and considered all appeals of such taxpayers as have duly made complaint to the county board of equalization; we have made only such changes in assessments and classifications as in our judgment are proper, just and equitable and are prescribed by law; and we have faithfully discharged all our duties without fear, favor, or affection to the best of our knowledge and ability in accordance with the laws of the state of Tennessee.

Witness our hand this _____ day of _____, _____.

The certificate of completion is filed in the office of the county clerk.²

¹T.C.A. § 67-5-1409.

²T.C.A. § 67-5-1410.

Final Action and Notice to Taxpayer

Reference Number: CTAS-1506

Actions of the county board are final except for revisions or changes by the State Board of Equalization. The county board of equalization must give notice to each property owner heard of its final decision and the procedure of appeal to the State Board of Equalization.¹

¹T.C.A. § 67-5-1411.

Appeal to the State Board of Equalization

Reference Number: CTAS-1507

Any taxpayer or property owner who is aggrieved by any action taken by the county board of equalization has the right to a hearing and determination by the State Board of Equalization of any complaint made on any of the grounds set forth in T.C.A. § 67-5-1407.¹ The assessor of property or taxing jurisdiction also has the right to appeal from any action of the local board of equalization to the State Board of Equalization.²

Before filing an appeal with the State Board of Equalization, the taxpayer or owner must first make a complaint and appeal to the local board of equalization unless the taxpayer or owner has not been duly notified by the assessor of property of an increase in the taxpayer's or owner's assessment or change in classification as provided for in T.C.A. § 67-5-508.³

In all but 35 counties,⁴ a taxpayer or owner of industrial and commercial real and tangible personal property may, with the written consent of the assessor, appeal the valuation of industrial and commercial real and tangible personal property to the local board of equalization, or directly to the State Board of Equalization. A direct appeal to the State Board of Equalization must be filed before August 1 of the tax year. The taxpayer or owner must request, in writing via certified mail, return receipt requested, such concurrence from the assessor within 10 days after the date the assessment notice for the property is sent, or by June 1 of the tax year, or such other date as may be prescribed by the assessor, but no later than the adjournment date for the regular annual session of the county board of equalization. The request must state, at a minimum, the name in which the property is assessed, the parcel identification number, the value sought, the basis for the appeal and the name, address, telephone number and fax number of the person requesting the direct appeal. The assessor must provide such concurrence at least 10 days before the adjournment of the county board. If the assessor does not concur with a direct appeal to the state board, and so states in writing at least 10 days before the adjournment of the county board of equalization, then the taxpayer or owner must appeal first to the local board of equalization. If the assessor fails to act upon the taxpayer's or owner's request at least 10 days before the adjournment of the county board, then the State Board of Equalization must accept the direct appeal of the taxpayer or owner. A taxpayer or owner filing a direct appeal must attach a copy of the assessor's concurrence to the appeal form filed with the state board, or, if the assessor failed to act timely on a request for a direct appeal, a taxpayer or owner filing a direct appeal shall attach a copy of the written request for the concurrence and a statement that the assessor failed to provide a timely response to the request.⁵

Complaints and appeals to the state board of equalization shall be filed in such format as the board may require by rule, and the board may permit the use of electronic filing including electronic verification and signatures. The taxpayer or owner has the right to withdraw any complaint and appeal at any time before the final order has been entered on the primary issue of the complaint and appeal.⁶

Appeals to the State Board of Equalization from action of a local board of equalization must be filed on or before August 1 of the tax year, or within 45 days of the date notice of the local board action was sent, whichever is later. If notice of an assessment or classification change pursuant to T.C.A. § 67-5-508 was sent to the taxpayer's last known address later than 10 days before the adjournment of the local board of equalization, the taxpayer may appeal directly to the state board at any time within 45 days after the

notice was sent. If notice was not sent, the taxpayer may appeal directly to the state board at any time within 45 days after the tax billing date for the assessment. The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in T.C.A. § 67-5-1412 and, upon demonstrating reasonable cause, the board must accept the appeal from the taxpayer up to March 1 of the year subsequent to the year in which the time for appeal to the state board began to run.⁷

¹T.C.A. § 67-5-1412(a)(1).

²T.C.A. § 67-5-1412(d).

³T.C.A. § 67-5-1412(b)(1).

⁴T.C.A. § 67-5-1412(b)(3).

⁵T.C.A. § 67-5-1412(b)(2).

⁶T.C.A. § 67-5-1412(c).

⁷T.C.A. § 67-5-1412(e).

Record of Board's Action and Report to State Board

Reference Number: CTAS-1508

Upon the completion of the duties of the board, the records and papers of the board are turned over to the assessor of property for preservation for a period of at least 10 years. The individual property records maintained in the office of each assessor of property must show all actions taken by the county board which change the classification, value or assessment of any parcel of property.¹ It is the duty of the assessor of property to make a complete record of each and every change made in the assessment by the county board of equalization and forward a report to the State Board of Equalization, showing the increase or decrease made in each assessment and the reason or reasons for the change.²

¹T.C.A. § 67-5-1414.

²T.C.A. § 67-5-1413.

Remand of Complaints to the County Board of Equalization

Reference Number: CTAS-1509

In the event the complaints filed with the State Board of Equalization from any county are sufficiently numerous to justify such action, the state board may reconvene the county board of equalization and remand the complaints to the county board with directions that the county board reconvene on a certain date and hear and act upon the complaints and certify its action in each case to the State Board of Equalization.¹

¹T.C.A. § 67-5-1504.

State Board of Equalization

Reference Number: CTAS-1510

Jurisdiction and Duties

The State Board of Equalization has jurisdiction over the valuation, classification and assessment of all properties in the state. The state board is responsible for performing the following duties: (1) receive, hear, consider and act upon complaints and appeals made to the board; (2) hear and determine complaints and appeals made to the board concerning exemption of property from taxation; (3) take whatever steps it deems are necessary to effect the equalization of assessments, in any taxing jurisdiction within the state in accordance with the laws of the state; (4) carry out such other duties as are required by law; and (5) provide assistance and information on request to members and committees of the General Assembly relative to the taxation, classification and evaluation of property.¹ In addition to its responsibil-

ity to hear complaints and appeals from actions of local boards of equalization, the state board reviews public utility and common carrier assessments made by the Comptroller of the Treasury.²

¹T.C.A. § 67-5-1501(a) and (b).

²T.C.A. § 67-5-1328.

Appeal to the State Board of Equalization

Reference Number: CTAS-1511

Any taxpayer or property owner who is aggrieved by any action taken by the county board of equalization has the right to a hearing and determination by the State Board of Equalization of any complaint made on any of the grounds set forth in T.C.A. § 67-5-1407.¹ It is a condition for appeal that before the delinquency date the taxpayer either pays the full tax due or the amount the taxpayer would owe based on the taxpayer's good faith claim for relief. On motion of the city or county to whom the tax is owed, the State Board of Equalization will dismiss the appeal of any taxpayer who fails to pay delinquent taxes that have accrued on property that is the subject of the appeal, or who fails to pay at least the undisputed tax related to a properly appealed assessment.²

The Division of Property Assessments has the unconditional right to intervene in any contested case before the State Board of Equalization. This unconditional right to intervene is to be liberally construed in favor of the Division of Property Assessments and the intervention and participation in any contested case before the State Board of Equalization will not be limited in any manner except as otherwise agreed to by the Division of Property Assessments.³

Complaints and appeals to the state board of equalization shall be filed in such format as the board may require by rule, and the board may permit the use of electronic filing including electronic verification and signatures. The taxpayer or owner has the right to withdraw any complaint and appeal at any time before the final order has been entered on the primary issue of the complaint and appeal.⁴ The assessor of property or taxing jurisdiction also has the right to appeal from any action of the local board of equalization to the State Board of Equalization.⁵

Appeals to the State Board of Equalization from action of a local board of equalization must be filed before August 1 of the tax year, or within 45 days of the date notice of the local board action was sent, whichever is later. If notice of an assessment or classification change pursuant to T.C.A. § 67-5-508 was sent to the taxpayer's last known address later than 10 days before the adjournment of the local board of equalization, the taxpayer may appeal directly to the state board at any time within 45 days after the notice was sent. If notice was not sent, the taxpayer may appeal directly to the state board at any time within 45 days after the tax billing date for the assessment. The taxpayer has the right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in T.C.A. § 67-5-1412 and, upon demonstrating reasonable cause, the state board must accept the appeal from the taxpayer up to March 1 of the year following the year in which the assessment was made.⁶

Appeals to the State Board of Equalization from initial determinations in exemption and tax relief cases must be filed within 90 days from the date notice of the determination was sent. Appeals from initial decisions of administrative judges or hearing examiners for the State Board of Equalization must be filed within 30 days from the date the initial decision is sent.⁷

Any taxpayer aggrieved by a back assessment or reassessment may appeal directly to the State Board of Equalization within 60 days from the date that a copy of the certification is sent to the taxpayer, in the manner provided in T.C.A. § 67-5-1412, and such person may be assisted or represented in the appeal as provided in T.C.A. § 67-5-1514. The accrual of delinquency penalty and interest otherwise applicable is suspended while the appeal is pending, however, simple interest will accrue during the appeal period in the amount provided in T.C.A. § 67-5-1512.⁸

¹T.C.A. § 67-5-1412(a)(1).

²T.C.A. § 67-5-1512(b). See T.C.A. § 67-5-1512(b)(1)(C) for the special rule for Shelby County.

³T.C.A. § 67-1-202(c).

⁴T.C.A. § 67-5-1412(c).

⁵T.C.A. § 67-5-1412(d).

⁶T.C.A. § 67-5-1412(e). See also Op. Tenn. Atty. Gen. 92-62 (October 8, 1992); Op. Tenn. Atty. Gen. 92-59 (October 8, 1992).

⁷T.C.A. § 67-5-1501(c).

⁸T.C.A. § 67-1-1005(b).

Assistance of Agents

Reference Number: CTAS-1512

Taxpayers and assessors of property are entitled to the assistance of a qualified agent at any conference or hearing held pursuant to T.C.A. § 67-5-1501 *et seq.*, or § 67-5-1401 *et seq.* Furthermore, taxpayers and assessors of property may appear in person, by qualified agent, or, in the case of taxpayers, by a member of the taxpayer's immediate family.¹ All conferences or hearings will be conducted in an informal manner where the primary issue of the complaint, protest or appeal pertains to the grounds set forth in T.C.A. § 67-5-1407.²

The agent must register with the State Board of Equalization, pay a biennial fee of \$200, and qualify on the basis of the following criteria: (1) four years of experience in real property appraisal and/or assessment valuation; (2) successful completion of at least 120 classroom hours of academic instruction in subjects related to property appraisal or assessment of property from a college or university, or from a nationally recognized appraisal or assessment organization approved by the board; and (3) passed the examination for Tennessee certified assessor as administered by the board. No person will be required to meet the additional registration qualifications required by T.C.A. § 67-5-1514 if the person registered or applied for registration prior to June 30, 2002. The board may, in lieu of the evidence required in T.C.A. § 67-5-1514(c)(2), recognize and accept certain professional designations which are awarded by appraisal and/or assessment organizations on the basis of qualifications at least equal to those set forth in the statute.³ Additional registration requirements are set forth in T.C.A. § 67-5-1514(k). Agent disciplinary rules, renewal procedures and advertising disclaimers are set forth in T.C.A. §§ 67-5-1514(f) and (g).

The following persons are permitted to act, appear and participate as an agent for the taxpayer: (1) attorneys; (2) the regular officers, directors or employees of a corporation or other artificial entity; (3) a certified public accountant where the only issue of an appeal is the valuation of tangible personal property; and (4) any person who holds a valid registration issued by the board of equalization where the primary issue of the complaint, protest or appeal pertains to the grounds set forth in T.C.A. § 67-5-1407.⁴ The provisions of T.C.A. § 67-5-1514 regarding registered agents do not apply in any manner to the representation of a taxpayer by an attorney. Furthermore, no provision in T.C.A. § 67-5-1514 is intended to require that a person must be an attorney, certified public accountant, registered agent with the state board, or otherwise in order to act as an agent for a taxpayer before a county board of equalization.⁵

¹T.C.A. § 67-5-1514(a) and (b). See T.C.A. § 67-5-1514(e) for list of persons who are permitted to represent the assessor of property before the State Board of Equalization.

²T.C.A. § 67-5-1514(d).

³T.C.A. § 67-5-1514(c)(2) and (3).

⁴T.C.A. § 67-5-1514(c)(1).

⁵T.C.A. § 67-5-1514(i) and (j).

Assessment Appeals Commission

Reference Number: CTAS-1513

In addition to the powers and duties conferred upon the State Board of Equalization by T.C.A. § 67-5-1501, the State Board of Equalization may by resolution create an Assessment Appeals Commission consisting of not less than three nor more than six members, three members of which shall constitute a quorum for the transaction of business. The State Board of Equalization may delegate to the Assessment Appeals Commission the jurisdiction and duties conferred by law upon the State Board of Equalization to hear and act upon all complaints and appeals regarding the assessment, classification

and value of property for purposes of taxation, including, but not limited to, complaints and appeals from assessments made by the Comptroller of the Treasury, complaints and appeals from actions of local boards of equalization, complaints and appeals concerning exemption of property from taxation, complaints and appeals from assessments made by the Division of Property Assessments, and complaints in inheritance tax cases that concern only the valuation of property in the estate.¹

Actions taken by the Assessment Appeals Commission are final. However, within 45 days of any final action taken by the Assessment Appeals Commission, the State Board of Equalization may enter an order upon its own motion requiring a review of the action. In such an instance, the action taken by the Assessment Appeals Commission does not become final until the State Board of Equalization has rendered its final decision in the matter. A party desiring the State Board of Equalization to review an action of the Assessment Appeals Commission must file a written petition with the Executive Secretary to the state board within 15 days of the action of the Assessment Appeals Commission. In the event that the State Board of Equalization exercises its discretion to review any action of the Assessment Appeals Commission, review may be upon the record before the Assessment Appeals Commission or in such manner as the state board shall direct.² If the State Board of Equalization does not exercise its discretion to review a matter heard by the Assessment Appeals Commission, the Assessment Appeals Commission will issue a certificate of assessment or other final certificate of its actions. The certificate is subject to judicial review in the same manner as are final actions of the State Board of Equalization.³

The Assessment Appeals Commission must prepare and maintain records of its proceedings in the form of minutes. The minutes, together with all other papers and records of the Assessment Appeals Commission, are kept and maintained in the office of the Executive Secretary to the State Board of Equalization.⁴

¹T.C.A. § 67-5-1502(a).

²T.C.A. § 67-5-1502(j).

³T.C.A. § 67-5-1502(k). *See also* T.C.A. § 67-5-1511.

⁴T.C.A. § 67-5-1502(l).

Hearing Examiners

Reference Number: CTAS-1514

The State Board of Equalization is authorized to appoint members of the staff of the Division of Property Assessments to serve as hearing examiners. Hearing examiners conduct preliminary hearings and investigations for the board or the Assessment Appeals Commission regarding complaints and appeals from assessments and classifications, or regarding any other matter for which the board has responsibility by law. Based upon the evidence presented in a preliminary hearing or facts gained in an investigation, the hearing examiner prepares proposed findings of fact and conclusions for the state board or the Assessment Appeals Commission and notifies each property owner who may be affected by the hearing examiner's recommendation. Unless a party to the appeal objects in writing, the hearing examiner may render a proposed decision. The proposed decision is limited to words and/or figures reflecting conclusions as to the proper classification or valuation of the subject property.¹ Appeals from initial decisions of hearing examiners for the state board must be filed within 30 days from the date the initial decision is sent.² In the absence of an exception to the recommendation of the hearing examiner by either the property owner or the property owner's agent, the county assessor of property or the taxing jurisdiction, the State Board of Equalization or the Assessment Appeals Commission may adopt the recommendation of its hearing examiner as its final decision without the necessity of a hearing before the board or commission. If an exception to the recommendation of the hearing examiner is taken by any of the parties or the State Board of Equalization or the Assessment Appeals Commission does not adopt the recommendation of the hearing examiner, a hearing shall be scheduled before the state board or commission before final action is taken.³

¹T.C.A. § 67-5-1505.

²T.C.A. § 67-5-1501(c).

³T.C.A. § 67-5-1506.

Collection of Evidence and Information

Reference Number: CTAS-1515

The State Board of Equalization and the Assessment Appeals Commission have the power to send any of its members or such other person as it may designate to any portion of the state to obtain information and evidence deemed material to the duties of equalization, and to hear questions, and report to the board or commission as the case may be.¹ The board and the commission also have the power to require the Director of Property Assessments and any member of the Director's staff to submit such facts and reports as may be deemed necessary to enable the board or commission to equalize assessments of property of the various classes and in the different localities of the state.²

¹T.C.A. § 67-5-1507.

²T.C.A. § 67-5-1508.

Equalization Action by the State Board of Equalization

Reference Number: CTAS-1516

The State Board of Equalization or the Assessment Appeals Commission, on the basis of reports, evidence, or other available information, takes whatever steps it deems are necessary to effect the assessment of property in accordance with the constitution of Tennessee and the laws of this state. The state board by order or rule must direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the board in each jurisdiction. However, such equalization is available only to taxpayers who have timely filed the reporting schedule required by law.¹

Equalization may be made by the State Board of Equalization or the Assessment Appeals Commission, as the case may be, by reducing or increasing the appraised values of properties within any taxing jurisdiction, or any part thereof. In the event that the state board or the commission deems it necessary to increase or decrease appraised values of properties of any taxing jurisdiction, or any part thereof, in any manner whereby its action affects properties in general rather than individual properties, it is not necessary that the state board or commission notify each individual property owner as provided for in T.C.A. § 67-5-1510. However, notice of the action of the state board or the commission must be published at least once in a newspaper of general circulation within the affected taxing jurisdiction.²

¹T.C.A. § 67-5-1509(a). Note: The constitutionality of T.C.A. § 67-5-1509(a) has been upheld; see *Williamson County v. Tennessee State Board of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2002).

²T.C.A. § 67-5-1509(b) and (c).

Changes of Individual Classification or Assessment

Reference Number: CTAS-1517

Whenever the State Board of Equalization or the Assessment Appeals Commission, after a county or local board has acted, has reason to believe that an individual assessment of real property or personal property is inadequate, or the classification of such property is erroneous, it has the authority to command the person to whom the property is assessed to appear before the board or commission to show cause why the assessment should not be increased or the classification should not be changed. The taxpayer is entitled to 10 days written notice of the right to appear before the board.¹ The taxpayer is entitled to be heard either personally or by counsel and has the privilege of introducing any competent evidence touching upon the question of the adequacy of the assessment or change of the classification.² Thereafter, the board or commission will determine the amount, if any, that the assessment will be increased or determine the proper classification of the property. The board or commission will reduce its judgment to writing and certify its findings to the proper county officials.³

¹T.C.A. § 67-5-1510(a).

²T.C.A. § 67-5-1510(b).

³T.C.A. § 67-5-1510(c).

Certification of Board Action

Reference Number: CTAS-1518

After the State Board of Equalization or the Assessment Appeals Commission has made its determination of the assessment of the property that was the subject of the appeal and complaint, the Executive Secretary to the state board will sign and keep the original copy of the official certificate on file in the Executive Secretary's office. The official certificate will show the description of the property and the assessment as determined by the state board or the commission, as the case may be. The board shall provide written notice of its final actions on appeals and complaints to the parties and to others upon request. Written notice includes notification by electronic means, and the record of actions or notice may be preserved in digital or electronic format.¹

¹T.C.A. § 67-5-1512(a)(1) - (3).

Record of Board Actions

Reference Number: CTAS-1519

The records of all actions of the State Board of Equalization and the Assessment Appeals Commission are maintained for at least 10 years in the office of the Executive Secretary of the board. The records are open to public inspection during regular business hours and any state citizen may request copies. Requested copies of records or documents are sent by first class mail or, upon request, by telecopier. The person requesting the records or documents is required to pay the board the reasonable costs of reproducing and transmitting the copies.¹

¹T.C.A. § 67-5-1513.

Finality of Board Action—Collection of Taxes

Reference Number: CTAS-1520

The action of the State Board of Equalization is final and conclusive as to all matters passed upon by the board, subject to judicial review, and taxes will be collected upon the assessments determined and fixed by the board. Judicial review is not available as to exemptions requiring application to the State Board of Equalization under Chapter 5, Part 2, or as to the proper value, assessment or classification of property, unless the petitioner has first obtained a ruling on the merits from the board or an administrative judge sitting for the board concerning the exempt status, proper value, assessment or classification of the property.¹

¹T.C.A. § 67-5-1511(a).

Penalties and Interest

Reference Number: CTAS-1521

Penalty and interest otherwise due on delinquent property taxes shall not accrue while an appeal of the assessment is pending before the county or state boards of equalization; provided, that the taxpayer, before the delinquency date, either pays the full tax due or the amount the taxpayer would owe based on the taxpayer's good faith claim for relief. The city or county collecting official may decline to accept the disputed portion of tax. Any tax later found to be refundable, or any additional tax due following the appeal, will accrue interest from the delinquency date at the composite prime rate published by the federal reserve board as of the delinquency date, minus two (2) points. On motion of the city or county to whom the tax is owed, the state board of equalization will dismiss the appeal of any taxpayer who fails to pay delinquent taxes that have accrued on property that is the subject of the appeal, or who fails to pay at least the undisputed tax related to a properly appealed assessment. Taxes related to a properly appealed

assessment before the county and state boards of equalization, shall not be deemed delinquent if the taxpayer has paid at least the undisputed portion of tax while the appeal is pending. Delinquency penalty and interest postponed under this section shall begin to accrue thirty (30) days after issuance of the final assessment certificate of the state board of equalization and until the tax is paid. T.C.A. § 67-5-1512(b).

Refund of Property Taxes after Final Action

Reference Number: CTAS-1522

When a county has been ordered to make a refund of property taxes pursuant to the final action of a court or the State Board of Equalization or Assessment Appeals Commission, no specific appropriation is required to authorize the county trustee to make the refund. The trustee may make the ordered refund and any interest owing the taxpayer as otherwise provided from any taxes collected for the year or years to which the refund relates prior to the allocation to the various county funds. If the trustee does not have funds collected from the year to which the refund relates, the trustee may make the refund and pay any interest owing the taxpayer from current collections prior to the allocation of revenue to the various county funds. Where a refund plus accrued interest exceeds 1 percent of all property taxes levied for the year in which the refund is due, the trustee may defer the refund for a period of up to three years in equal annual installments, and the deferred amounts shall accrue interest in the manner set forth in T.C.A. § 67-5-1512(c).¹ Pursuant to T.C.A. § 67-5-1512(c), the interest rate on a deferred refund shall increase two points from the date of the deferral 60 days after the board of equalization decision is rendered until the refund is finally paid.

¹T.C.A. § 67-5-1809.

Judicial Review

Reference Number: CTAS-1523

The judicial review provided in T.C.A. § 67-5-1511(a) from final actions of the State Board of Equalization or Assessment Appeals Commission consists of a new hearing in the chancery court based upon the administrative record and any additional or supplemental evidence which either party wishes to adduce relevant to any issue. The petition for review may be filed in the chancery court of the county where the disputed assessment was made or in the chancery court of Davidson, Washington, Knox, Hamilton, Madison or Shelby county, whichever county is closest in mileage to the situs of such property. If the situs of the property is in Knox, Hamilton or Shelby county, then the petition for review may alternatively be filed in Davidson County at the election of the petitioner.¹

¹T.C.A. § 67-5-1511(b).

Tax Relief

Reference Number: CTAS-1559

The legislature has provided authority for tax relief programs in which the state pays a portion of the county property taxes due on residences of qualified taxpayers. The program authorizes payment, or reimbursement of taxes already paid, to the following taxpayers: (1) elderly low-income homeowners, (2) disabled homeowners, and (3) disabled veterans.¹

Counties may not provide tax relief by setting a lower tax rate, or by reducing penalty and interest, for particular classes of residents. Such provisions violate the uniformity provisions of Tenn. Const. art. II, § 28.² However, in 2006, the legislature amended T.C.A. § 67-5-701(j) to allow all counties to appropriate funds for tax relief for elderly low income homeowners, disabled homeowners and disabled veterans. 2006 Public Chapter 739. The total tax relief from the state and local appropriations cannot exceed the total taxes actually paid. Only the taxpayers eligible for the state program are eligible for tax relief from a county appropriation.³

¹T.C.A. § 67-5-701 *et seq.*

²Ops. Tenn. Atty. Gen. 96-044 (March 13, 1996) and 89-111 (September 5, 1989).

³T.C.A. § 67-5-701(j)

Administrative Provisions

Reference Number: CTAS-1560

The State Board of Equalization, through the Division of Property Assessments, is charged with the implementation of T.C.A. §§ 67-5-702 - 67-5-704, and promulgates all the necessary rules, regulations and procedures for their implementation.¹

Property tax relief is obtainable by submitting an application to the collecting official (i.e., county trustee) using a form approved by the State Board of Equalization. The collecting official will make a preliminary determination of eligibility and forwards the application to the state for final approval. The collecting official may allow the applicant a credit for the projected amount of property tax relief if the applicant appears from the application to be eligible and submits the balance of the property taxes due at the time the credit is given. The collecting official may present evidence of the credit to the director of the Division of Property Assessments, who then authorizes the payment to the tax jurisdiction of the amount for which the applicant was credited in taxes. If later processing of the application indicates that the applicant was ineligible or the credit was otherwise issued in error, the state notifies the applicant and the collecting official and may recover the erroneous payment from the tax jurisdiction. The amount represented by the erroneous payment then becomes due and payable by the applicant as property taxes, but the taxes do not accrue delinquency penalty or interest until 60 days from the date of the notification to the applicant.²

A county trustee may enter into a contract with a city collecting official to process tax relief applications received by the city collecting official.³

Any person who received tax relief payments in error for any tax year or years must repay the state the amount received in error. There is a bar against collection of repayments unless demand is made within two years following the due date for the tax year to which the erroneous payments relate. Any person who received tax relief payments in error may reapply and may obtain tax relief for a subsequent tax year; provided that eligibility is established and the person either pays the full amount of repayment due or applies one half of the tax relief amount for which the person may be eligible to repay the state for amounts received in error until no further repayment is due. The limited liability and right to reapply afforded under the statute is not be available to persons who willfully provide false information concerning eligibility. Any taxpayer who willfully provides false information concerning the taxpayer's income or other information relative to eligibility for tax relief will be required to immediately repay to the state the full amount of any tax relief received as a result of such false information, plus an amount equal to the penalty and interest calculated according to the rates specified in former T.C.A. § 67-1-801(b).⁴

All taxpayers otherwise eligible for tax relief under T.C.A. §§ 67-5-702 - 67-5-704, but who fail to apply for a refund or present a credit voucher for credit on their taxes within 35 days from the date taxes in the jurisdiction become delinquent for that year, are deemed ineligible for tax relief for that tax year. The payment of the full amount of taxes by the delinquency date is not a condition of eligibility for tax relief.⁵

Tax relief will be provided to only one recipient for a given property for any tax year and under no condition will any taxpayer receive tax relief for property taxes paid on more than one place of residence for any tax year.⁶

If a taxpayer eligible for tax relief pursuant to T.C.A. § 67-5-702 (elderly low-income homeowners) or T.C.A. § 67-5-703 (disabled homeowners) dies after applying for tax relief or after receiving a voucher, the surviving spouse, and only the surviving spouse, is qualified to present to the collecting official the tax relief voucher selected for the deceased and to receive a final payment for the tax year for which the voucher was selected, unless the taxes were paid prior to the taxpayer's death. If the taxes were paid at the time application was made and prior to the taxpayer's death, either the surviving spouse or any duly appointed personal representative of the decedent may receive the payment.⁷

¹T.C.A. § 67-5-701(a).

²T.C.A. § 67-5-701(c).

³T.C.A. § 67-5-701(l). 2010 Public Chapter 932.

⁴T.C.A. § 67-5-701(g).

⁵T.C.A. § 67-5-701(d)(1).

⁶T.C.A. § 67-5-701(f).

⁷T.C.A. § 67-5-701(h).

Elderly Low-Income Homeowners

Reference Number: CTAS-1561

Low-income taxpayers 65 years of age or older who owned and used a principal residence may qualify for tax relief for all or part of the local property taxes paid for a given year on that property.¹ Such reimbursement shall be paid on the first twenty-seven thousand dollars (\$27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property. Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid under subdivision T.C.A. § 67-5-702(a)(3)(A) shall be increased annually to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars (\$100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision (a)(3)(B) and post the information in a readily identifiable location on the comptroller's website. The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%).²

For tax year 2007 and thereafter, the taxpayer's annual income from all sources can not exceed \$24,000, or such other amount as set forth in the general appropriations act. For subsequent years, the annual income limit is adjusted to reflect the cost of living adjustment for social security recipients as determined by the social security administration and is rounded to the nearest \$10. The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant's spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person's legal residence at any time during the year for which tax relief is claimed.³ Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations is not considered income to an owner who relocates to a nursing home.⁴

Taxpayers who become 65 years of age on or before December 31 of the year for which an application for property tax relief is made and are otherwise eligible will be qualified as elderly low-income homeowners.⁵

¹T.C.A. § 67-5-702(a)(1).

²T.C.A. § 67-5-702(a)(3).

³T.C.A. § 67-5-702(a)(2).

⁴T.C.A. § 67-5-702(a)(2).

⁵T.C.A. § 67-5-702(c).

Disabled Homeowners

Reference Number: CTAS-1562

Taxpayers who are totally and permanently disabled who owned and used a principal residence may qualify for tax relief for all or part of the local property taxes paid for a given year on that property. Disability is determined by rules and regulations of the State Board of Equalization.¹ Such reimbursement shall be paid on the first twenty seven thousand dollars (\$27,000), or such other amount as set forth in the general appropriations act or as adjusted pursuant to subdivision (a)(3)(B), of the full market value of such property. Beginning for tax year 2018, and each subsequent tax year, the amount on which reimbursement shall be paid shall be increased annually to reflect inflation, as measured by the United States bureau of labor statistics consumer price index for all urban consumers and shall be rounded to the nearest one hundred dollars (\$100). The comptroller of the treasury shall notify taxpayers of any change in dollar amounts made pursuant to this subdivision T.C.A. § 67-5-703 (a)(3)(B) and post the information in a readily identifiable location on the comptroller's website. The annual percentage changes used in this calculation shall be no less than zero percent (0%) and no more than three percent (3%).²

For tax year 2007 and thereafter, the taxpayer's annual income from all sources shall not exceed \$24,000, or such other amount as set in the general appropriations act. For subsequent years, the annual income limit is adjusted to reflect the cost of living adjustment for social security recipients as determined by the social security administration and is rounded to the nearest \$10. The income attributable to the applicant for tax relief shall be the income of all owners of the property, the income of applicant's spouse and the income of any owner of a remainder or reversion in the property if the property constituted the person's legal residence at any time during the year for which tax relief is claimed.³ Any portion of social security income, social security equivalent railroad retirement benefits, and veterans entitlements required to be paid to a nursing home for nursing home care by federal regulations is not considered income to an owner who relocates to a nursing home.⁴

Taxpayers who become totally and permanently disabled on or before December 31 of the year for which application is made for property tax relief and are otherwise eligible will be qualified as disabled homeowners.⁵

¹T.C.A. § 67-5-703(a)(1).

²T.C.A. § 67-5-703(a)(3).

³T.C.A. § 67-5-703(a)(2).

⁴T.C.A. § 67-5-703(a)(2).

⁵T.C.A. § 67-5-703(c).

Disabled Veterans

Reference Number: CTAS-1563

Disabled veterans who owned and used a principal residence may qualify for tax relief for all or part of the local property taxes paid for a given tax year on that property.¹ Reimbursement is paid on the first \$175,000 of the full market value of the property.² Property tax relief will not be extended to any person who was dishonorably discharged from any branch of the armed services.³

For the purposes of T.C.A. § 67-5-704, a "disabled veteran" means a person who has served in the armed forces of the United States, and who has

1. acquired in connection with his or her military service a disability from paraplegia or permanent paralysis of both legs and lower part of the body resulting from traumatic injury or disease to the spinal cord or brain, or from legal blindness, or from loss or loss of use of two or more limbs from any service-connected cause;
2. acquired 100 percent permanent total disability, as determined by the United States Veterans' Administration, and the disability resulted from having served as a prisoner of war; or
3. acquired service-connected permanent and total disability or disabilities, as determined by the United States Department of Veterans' Affairs.⁴

The determination of the United States Veterans' Administration concerning the disability status of a veteran is conclusive for purposes of this statute.⁵

Property tax relief will also be extended to the surviving spouse of a disabled veteran who at the time of the disabled veteran's death was eligible for disabled veterans' property tax relief. If a subsequent amendment to the law concerning eligibility as a disabled veteran would have made the deceased veteran eligible for disabled veterans' property tax relief, then property tax relief shall also be extended to the surviving spouse. A surviving spouse shall continue to qualify for disabled veterans' property tax relief as long as the surviving spouse does not remarry, solely or jointly owns the property for which tax relief is claimed, and uses the property for which tax relief is claimed exclusively as a home.⁶

Property tax relief will also be extended to the surviving spouse of a veteran whose death results from a service-connected, combat-related cause, as determined by the United States Veterans' Administration; provided that the surviving spouse does not remarry and the property for which tax relief is claimed is owned by and used exclusively by the surviving spouse as a home.⁷

Property tax relief will also be extended to the surviving spouse of a soldier whose death results from being deployed, away from any home base of training and in support of combat or peace operations; provided, that the surviving spouse does not remarry, solely or jointly owns the property for which tax re-

lief is claimed, and uses the property for which tax relief is claimed exclusively as a home. T.C.A. § 67-5-704(g).

¹T.C.A. § 67-5-704(a)(1).

²T.C.A. § 67-5-704(3).

³T.C.A. § 67-5-704(c).

⁴T.C.A. § 67-5-704(b). See *also* Op. Tenn. Atty. Gen. 86-66 (March 17, 1986) (addressing the issue of combat-related injury).

⁵T.C.A. § 67-5-704(d).

⁶T.C.A. § 67-5-704(e).

⁷T.C.A. § 67-5-704(f).

Additional Tax Relief

Reference Number: CTAS-1564

The county legislative body may provide for the appropriation of funds for tax relief for elderly low-income homeowners as described in T.C.A. § 67-5-702, for disabled homeowners as described in T.C.A. § 67-5-703, and for disabled veterans as described in T.C.A. § 67-5-704. However, in no event may the total relief allowed by the state and county exceed the total taxes actually paid.¹ Only those taxpayers who qualify under T.C.A. §§ 67-5-702 - 67-5-704 are eligible for this additional tax relief, and the eligible taxpayers must have previously applied for and obtained the relief authorized by T.C.A. § 67-5-702, T.C.A. § 67-5-703 or T.C.A. § 67-5-704.²

¹T.C.A. § 67-5-701(j)(1).

²T.C.A. § 67-5-701(j)(2).

Property Tax Freeze Act

Reference Number: CTAS-1565

In 2007, the General Assembly enacted the Property Tax Freeze Act, T.C.A. § 67-5-705. The act authorizes the county legislative body, by resolution, to adopt the property tax freeze program according to the statute. The county legislative body is also authorized to terminate the tax freeze program by resolution, but the resolution terminating the program cannot have the effect of terminating the program until the following tax year.

In counties that have adopted the property tax freeze, taxpayers apply annually to the collecting official (county trustee) by the deadline established in the program rules, and applicants must qualify on the basis of age, income and ownership of eligible property. The trustee determines whether requirements for eligibility have been met, and the trustee's determination is final, subject to audit and recovery of taxes, including penalty and interest at the rates provided for delinquent taxes under T.C.A. § 67-5-2010, if the applicant is later determined to have not been eligible. Any taxpayer who knowingly provides false information concerning the taxpayer's income or other information relative to eligibility for such program commits a Class A misdemeanor.

Once the trustee approves the application, property taxes due upon the applicant's principal residence shall be the lesser of: (1) the actual tax due; or (2) the base tax, provided the base tax shall be adjusted to reflect any percentage increase in the value of the property determined by the assessor to be attributed to improvements made or discovered after the time the base tax was established. The base tax shall be recalculated in any year in which the actual tax due is less than the previously established base tax for the property, and the recalculated base tax shall apply until further recalculated. "Base tax" is defined as the property tax due on the principal residence of a qualifying taxpayer at the time the jurisdiction levying the tax adopts a resolution approving the property tax freeze; provided, however, if the taxpayer did not qualify or did not own an eligible residence when the freeze was adopted, "base tax" means the maximum property tax due on the taxpayer's eligible residence for the year in which the taxpayer became eligible on the basis of an approved application. If a taxpayer reapplies after acquiring a new residence or after a period of ineligibility, the base tax shall be recalculated for the year of reapplication and reestablishment of eligibility.

To qualify for the property tax freeze, the applicant must be sixty-five (65) years of age by the end of the year in which the application is filed. The applicant must own and use the property as the applicant's principal residence for which the tax freeze is sought in the year of application or reapplication and through the deadline date for application or reapplication. The tax freeze only applies to the principal residence and no more than the maximum limit for land established by state rules. The state rules establish the maximum size limits for land which may qualify as a taxpayer's principal residence. The rules are to take into consideration lot size requirements under applicable zoning as well as property actually used to support residential structures; provided, however, the size limit cannot exceed five acres.

In addition to the qualifications stated in above, the applicant's income, combined with the income of any other owners of the property, the income of the applicant's spouse, and the income of any owners of a remainder or reversion in the property who used the property as their principal place of residence at any time during the year may not exceed the income limit set forth in the act. Income for purposes of qualification means income from all sources as defined by the program rules. The act provides that the income limit for the property tax freeze program shall be the greater of weighted average of the median household income for age groups sixty-five to seventy-four, and seventy-five or over, who resided within the county as determined in the most recent federal decennial census, or the applicable state tax relief income limit established under T.C.A. § 67-5-702. This limit is to be adjusted by the comptroller to reflect the cost of living adjustment for social security recipients as determined by the social security administration and shall be rounded to the nearest ten dollars. The adjusted weighted average median household income level for each county shall be published annually by the comptroller. The comptroller is authorized to perform income verification or other related services or assistance at the request of a county or municipality if the county or municipality agrees to pay fees sufficient to reimburse the actual costs of the comptroller in providing such services or assistance, unless or to the extent not appropriated by the General Assembly. Financial records filed for purposes of income verification are declared to be confidential and not subject to inspection under the Tennessee public records act, but are to be made available to local or state officials who administer or enforce the provisions of the law.

The property tax freeze program is subject to any uniform definitions, application forms and requirements, income verification procedures and other necessary or desirable rules, regulations, policies and procedures, not in conflict with the terms of the act, as may be adopted by the State Board of Equalization through the Division of Property Assessments.

Certified Tax Rate

Reference Number: CTAS-1570

Upon a general reappraisal of property as determined by the State Board of Equalization, the county assessor of property shall certify to the governing bodies of the county and of each municipality within the county the total assessed value of taxable property within the jurisdiction of each governing body. The assessor shall also furnish each governing body an estimate of the total assessed value of all new construction and improvements not included on the previous assessment roll and the assessed value of deletions from the previous assessment roll. Exclusive of such new construction, improvements and deletions, each governing body, in the event of a general reappraisal as determined by the state board, shall determine and certify a tax rate which will provide the same ad valorem revenue for that jurisdiction as was levied during the previous year.¹

For the purpose of calculating the certified rate, the governing body shall use the taxable value appearing on the roll exclusive of taxable value of properties appearing for the first time on the assessment roll. In calculating the certified tax rate, the governing body of the county or municipality may adjust the calculation, according to a method approved by the State Board of Equalization, to reflect extraordinary assessment changes anticipated from appeals to the state or local boards of equalization. The State Board of Equalization shall order recapture of an excessive adjustment in the following year if the certified tax rate is found to have been overstated due to overestimation of the appeals adjustment, and in these cases the jurisdiction may exceed the recapture rate only after public hearing..²

The State Board of Equalization is authorized to establish policies providing a procedure or formula for calculating the certified tax rate. Prior to final determination of the certified tax rate by the county legislative body, a proposed certified tax rate, including supporting calculations, must be submitted to the executive secretary of the State Board of Equalization for review. The executive secretary has fifteen days to report on the rate, and after this period passes, the county legislative body must determine the certified tax rate, which may be adjusted in accordance with the executive secretary's report, if one has been provided.³

¹T.C.A. § 67-5-1701(a)(1) - (3).

²T.C.A. § 67-5-1701(a)(4) - (5).

³T.C.A. § 67-5-1701(b)(1) - (5); Op. Tenn. Atty. Gen. 83-006 (January 7, 1983).

Levy in Excess of the Certified Rate

Reference Number: CTAS-1571

No tax rate in excess of the certified tax rate may be levied by the county legislative body until a resolution or ordinance has been approved by county legislative body according to the following procedure: (1) the county legislative body must advertise its intent to exceed the certified tax rate in a newspaper of general circulation in the county (See [Sample newspaper advertisement of Notice of Intent to Exceed Certified Tax Rate](#)), (2) the county mayor must, within 30 days after publication, furnish to the State Board of Equalization an affidavit of publication; (3) a public hearing must be held on the issue, and (4) the county legislative body, after the public hearing, may adopt a resolution or ordinance levying a tax rate in excess of the certified tax rate.¹

If the resolution or ordinance is approved it must be forwarded to the county board of equalization and the State Board of Equalization. The county board or the state board, as appropriate, must notify each taxing authority of any change in the assessment roll which results from action by either board. An increase in the tax rate above that certified or adopted by resolution or ordinance of the county legislative body, which is required solely by a reduction of the assessment roll by the state or county boards, may be adopted without further notice. A levy of tax found to be based on an erroneous calculation may be revised prior to tax billing on certification of a revised calculation by the state board of equalization accepted by act or resolution of the governing body of the affected taxing authority without further notice. If the error is certified after tax billing, the revised rate will take effect as of the next general ad valorem levy by the governing body of the affected taxing authority.²

¹T.C.A. § 67-5-1702; Op. Tenn. Atty. Gen. U87-43 (April 13, 1987).

²T.C.A. § 67-5-1703.

Special School Districts

Reference Number: CTAS-1572

Notwithstanding the provisions of the general law or a private act to the contrary which creates a special school district, upon a general reappraisal of property as determined by the State Board of Equalization, the tax rate as established in any general law or private act must be adjusted to provide the same ad valorem revenue for the special school district as was levied during the previous year prior to the general reappraisal. The county assessor of property must certify to the appropriate county trustee the total assessed value of taxable property within the jurisdiction of the special school district. The assessor must also furnish the county trustee an estimate of the total assessed value of all new construction and improvements not included on the previous assessment roll and the assessed value of deletions from the previous assessment roll.¹

In the event of a general reappraisal as determined by the State Board of Equalization, the county trustee must determine and certify the adjusted tax rate exclusive of such new construction, improvements and deletions. For the purpose of calculating the adjusted rate, the county trustee must use the taxable value appearing on the roll exclusive of taxable value of properties appearing for the first time on the assessment roll. The procedure or formula for calculating the certified adjusted tax rate must be in accordance with policies as established by the state board of equalization pursuant to T.C.A. § 67-5-1701(b). A levy of tax found to be based on an erroneous calculation may be revised prior to tax billing on certification of a revised calculation by the state board of equalization accepted by act or resolution of the board of education of the special school district without further notice. If the error is certified after tax billing, the revised rate shall take effect as of the next general ad valorem levy for the special school district.²

The county trustee must certify the adjusted tax rate to the school board of the special school district within a reasonable time following the general reappraisal, and in addition, must post the adjusted tax rate at each school within the special school district, at the appropriate courthouse, and at one other

public building within the appropriate county.³ If additional revenue is required in a special school district following the general reappraisal and the adjustment to the tax rate, the General Assembly must by general law or private act set the tax rate for the special school district at a level to generate the ad valorem revenue necessary for the special school district. Before the board of education of the special school district requests legislation to exceed the certified rate, it shall first publish notice of its intent to exceed the certified rate in the manner required of cities and counties pursuant to 67-5-1702.⁴

¹T.C.A. § 67-5-1704(a)(1) - (3).

²T.C.A. § 67-5-1704(a)(4) - (6).

³T.C.A. § 67-5-1704(b).

⁴T.C.A. § 67-5-1704(c).

Collection of Property Taxes

Reference Number: CTAS-1573

The trustee collects all property taxes levied by the county and the municipalities within the county, unless a municipality collects its own taxes.¹ However, owners of land are presumed to know taxes are due without demand or personal notice,² and assessed taxes become a personal debt of the person whose property is assessed.³ The whole proceeding for collection of taxes, from the assessment to the sale for delinquency, is a proceeding in rem; even if the land were listed or assessed for taxation to the wrong owner or to an unknown owner, the process is not invalidated. All interested persons are made parties to the proceedings by virtue of the seizure of the parcel occurring upon the filing of a complaint for the purpose of enforcement of the first lien provided for in T.C.A. § 67-5-2101. The filing of a complaint for the purpose of enforcement of the first lien provided for in T.C.A. § 67-5-2101, creates a lien *lis pendens* as to each parcel which is included in the proceeding, during the pendency of the proceeding, affecting all subsequent owners, without the recording of any copy or abstract thereof in the office of the register of deeds.⁴

¹T.C.A. § 67-5-1801. See T.C.A. § 67-5-1901 for the trustee's bond and oath.

²*M'Carroll's Lessee v. Weeks*, 6 Tenn. (5 Hayw.) 246 (1814).

³*White v. Kelly*, 387 S.W.2d 821 (Tenn. 1965).

⁴T.C.A. § 67-5-2103.

Zoning Regulation

Reference Number: CTAS-610

The county legislative body is authorized to regulate land areas outside incorporated municipalities in such matters as the location and size of buildings; the percentage of a lot that may be occupied; the size of yards, courts, and other open spaces; the density and distribution of population; and the uses of buildings and land. T.C.A. § 13-7-101. To carry out this authority the county legislative body may implement the zoning plans created by the regional planning commission.

After a planning commission certifies a zoning plan, including both the text of a zoning ordinance and a zoning map, then the county legislative body must hold a public hearing on the plan. Statutory requirements regarding notice, publication, and amendment procedures must be observed before the zoning ordinance can take effect. T.C.A. §§ 13-7-104, 13-3-105.

In formulating a zoning scheme, the regional planning commission may develop a single plan or successive plans for parts of the county it deems appropriate for development. These plans divide the territory of a county lying outside incorporated municipalities into zoning districts. All regulations must be uniform for each class of building throughout the district, but the regulations in one district may differ from those in another. The zoning plan may also provide for the transfer of development rights. T.C.A. § 13-7-101(a)(2). If the county legislative body chooses to enact the zoning plan for more or less territory than that encompassed in the plan certified by the planning commission, then it must resubmit the plan to the commission for approval. If the revised plan is disapproved by the commission, then at least two-

thirds (2/3) of the entire county legislative body membership must vote for its approval for the revision to pass. T.C.A. § 13-7-102.

Amendments

Reference Number: CTAS-611

The county legislative body is authorized to amend zoning regulations, although any amendment must first be submitted to the regional planning commission, which has thirty (30) days to pass the amendment or to offer suggestions. If the planning commission disapproves, the amendment becomes effective only through a subsequent majority vote of the county legislative body. Before final adoption, the county legislative body must hold a public hearing, giving at least fifteen (15) days notice (thirty (30) days in Shelby County) in a newspaper of general circulation in the county and including a summary of the proposed amendment. T.C.A. § 13-7-105.

Board of Zoning Appeals

Reference Number: CTAS-612

The county legislative body is also authorized to create a board of zoning appeals to make special exceptions to zoning regulations, assist in settling boundary line disputes, interpret zoning maps, and consider similar questions. T.C.A. §§ 13-7-106 through 13-7-109. The county legislative body appoints three, five, seven or nine regular members of the appeals board, along with one or more associate members who can sit for regular members under some temporary disability. A joint board of zoning appeals may be appointed by two or more counties. Compensation and length of terms are determined by the county legislative body within certain statutory guidelines. Vacancies are filled for the unexpired term and in the same manner as the original appointments. The county legislative body may remove any member for cause upon written charges and after a public hearing, and may specify rules governing organization, procedure, and jurisdiction of the board. T.C.A. § 13-7-106. The board of zoning appeals may also adopt supplemental rules of procedure if these are consistent with state statutes and rules adopted by the county legislative body. T.C.A. § 13-7-107. Land use decisions made by the board of zoning appeals, other than variances, must be consistent with the regional plan if the county legislative body adopts the general regional plan in the form of a resolution. T.C.A. § 13-3-304.

County Building Commissioner

Reference Number: CTAS-522

The county is authorized to establish the position of county building commissioner, who is appointed by the county mayor and confirmed by the county legislative body. The building commissioner considers building permit applications and issues permits to those who comply with zoning regulations. Before any structure within the region is built, altered, or used, it must fully conform to all zoning regulations, and this compliance must be evidenced by a building permit. T.C.A. § 13-7-110. Building permit rules may also be enacted by private act. Any grant or refusal of a permit, or any other decision of the building commissioner, may be appealed to the board of zoning appeals. T.C.A. § 13-7-108. In the event any building official is denied permission to make an inspection, the official may obtain an administrative search warrant from a person authorized by law to issue warrants or from any court of record in the county where the official works. T.C.A. § 68-120-117.

Special Zoning Provisions

Reference Number: CTAS-613

The county legislative body is also authorized to establish a historic zoning commission (T.C.A. § 13-7-401 *et seq.*), as well as special zones for flood control and solar energy systems. T.C.A. § 13-7-102. These special zoning statutes, as well as the general zoning statutes, do not apply to land used for agricultural purposes as long as any structures on the land (including residences of farmers and farm workers) are incidental to the agricultural purpose unless the property is near state federal-aid highways, public airports, or public parks. T.C.A. § 13-7-114. However, counties participating in the national flood insurance program are required to regulate buildings and development (including those related to agriculture) located within a special flood hazard area (one hundred-year floodplain) to the extent required to comply with the national flood insurance program. T.C.A. § 13-7-114(c).

Counties are also authorized to include provisions in their zoning ordinances allowing for temporary family healthcare structures as a permitted accessory use in any single-family detached dwellings. Persons seeking to install such structures are required to obtain a permit from the county and the county is autho-

alized to charge a permit fee of up to \$100. The structures would have to comply with all applicable local codes and ordinances. No advertising would be allowed on the structure or the property. Structures would have to be removed within 30 days after their use ceases to be necessary. Local governments are authorized to charge a fine of up to \$50/day for failure to timely remove the structure. Local governments are also authorized to revoke permits and/or seek injunctive relief for noncompliance with the statute. T.C.A. §§ 13-7-501 through 505.

Enforcement and Application

Reference Number: CTAS-614

Any person or company who violates zoning regulations is guilty of a misdemeanor, and each day the violation continues constitutes a separate offense. In addition, the county legislative body, attorney general, district attorney general, county building commissioner, or neighboring property owner (who would be specially damaged) may initiate appropriate action to prevent or remove the unlawful construction or use. T.C.A. § 13-7-111. Also, under the 1995 County Powers Act, the county legislative body has the authority to establish monetary penalties for violation of lawful county regulations, including zoning regulations. T.C.A. § 5-1-121.

The provisions of T.C.A. § 13-7-101 *et seq.* specify that these zoning provisions do not repeal or modify any private act enacted before 1935 that relates to zoning regulations. T.C.A. § 13-7-115. However, whenever a private act imposes more rigorous standards than those required by statute, then the private act will govern. Conversely, whenever the statute is more stringent, then the provisions of the statute prevail over those of the private act. T.C.A. § 13-7-112.

Counties may not regulate, which includes the requirement of building permits, buildings or other structures that are incidental to the agricultural enterprise and are located on agricultural land, unless such buildings or structures are located on agricultural lands adjacent or in proximity to state federal-aid highways, public airports or public parks. Buildings used as residences by farmers and farm workers are considered to be "incidental to the agricultural enterprise". T.C.A. § 13-7-114. However, counties participating in the national flood insurance program are required to regulate buildings and development (including those related to agriculture) located within a special flood hazard area (one hundred-year floodplain) to the extent required to comply with the national flood insurance program. T.C.A. § 13-7-114(c).

Counties also may not mandate the allocation of affordable or workforce housing units in existing or newly constructed developments through zoning regulations or other land use regulations or decisions. T.C.A. § 66-35-102.

Municipal Zoning Outside City Limits

Reference Number: CTAS-615

A municipality has statutory authority to enact zoning regulations for territory adjacent to but outside of its boundaries if that area has no zoning already in force. T.C.A. § 13-7-302. In order to enact zoning outside its municipal boundaries, the municipal planning commission must also be designated as the regional planning commission (T.C.A. § 13-3-102), and the municipality must file notice of intent with the county mayor at least six (6) months before the final enactment of the ordinance. T.C.A. § 13-7-303. If the county subsequently adopts zoning covering that territory, the municipal zoning is automatically superseded and repealed. T.C.A. § 13-7-306. According to the comprehensive growth planning law, a city may not zone outside its urban growth boundary once this boundary is in place. T.C.A. § 6-58-106(d).

Retention Schedules

Reference Number: CTAS-202

The County Technical Assistance Service, in cooperation with the Tennessee State Library and Archives and the Division of Records Management, is authorized to publish schedules which are to be used as guides by all county public records commissions, county offices, and judges of courts of record in determining which records should, can, and may not be destroyed. T.C.A. § 10-7-404. Those schedules are called the Retention Schedules. The retention schedules describe more than 650 different records series for multiple county offices. This material is organized by county office and by subject. Obviously CTAS recommends that all county public record commissions adopt these schedules as the basis for determining the disposition of county records in their county. When the schedules were developed, they were reviewed and revised by the legal and technical staff of CTAS, by the Division of County Audit in the office of the comptroller, by representatives of the Tennessee State Library and Archives and the Division

of Records Management in the State Department of General Services, and by committees and groups of numerous county officials. The language of the statute says that county officials and records commissions shall use these schedules as "guides" in determining whether a record should be kept or destroyed. This does not mean that a County Public Records Commission can never deviate from the CTAS schedules. However, any decision to use a different retention period should be thoughtfully considered and the reasons well documented by the records commission. Any decision to destroy a record sooner than is recommended by the schedules certainly needs to be taken seriously. If your records commission decides that there is a significant reason why a record should be destroyed before the recommended retention period has elapsed, contact CTAS first to discuss the retention period and see if there is a reason why the recommended retention period in the manual should be shortened.

For additional information, see [Appraisal and Disposition of Records](#), Tennessee Archives Management Advisory.

Current Retention Schedules

Reference Number: CTAS-2068

Policy Statement

The Tennessee State Library and Archives (TSLA) is given authority by T.C.A. § 10-7-413 to review proposed destruction of county records and to take into the state archives such records proposed for destruction as may have historical research value. TSLA has reviewed and approved these retention guidelines prepared by the County Technical Assistance Service (CTAS).

Permanent Records.

With respect to records designated in these guidelines as "permanent," TSLA-

1. Concurs entirely with all guidelines herein that appraise records series to be of permanent value;
2. Reminds local governments that they are obliged by the provisions of T.C.A. § 10-7-503 to make such records permanently and consistently available for public inspection;
3. Advises that a county archives, which is an integral office of local government and responsible to the local county mayor through the public records commission, is the most effective and economical means of doing this; and
4. Encourages local governments to establish, support, and maintain such archives.

In cooperation with CTAS and other agencies, TSLA has designated certain records as permanent based on their value as legal and historical evidence to document the collective experience of the citizens of the community. Such records should be retained and made available to the public in public archives in accordance with T.C.A. § 10-7-503.

Temporary Records.

TSLA has appraised for historical value the descriptions of temporary records series that are herein recommended for destruction at the ends of their retention terms. Because of the confidence we have in this review and in the guidelines, TSLA certifies that-

- Destruction of records in accordance with these guidelines may be authorized by local public records commissions;
- Public records commissions may issue continuing records disposition authorizations for routine disposals, so that local offices do not have to present repeated requests to the public records commission; and that
- Disposal may then proceed without further review by TSLA; *provided that*
 - (1) Local officials report all such disposals to the local public records commission;
 - (2) The local public records commission certifies to the county mayor that destruction has been authorized in accordance with these guidelines;
 - (3) The certification cites the specific applicable guideline in each case of authorized destruction; and that
 - (4) Local public records commissions consider carefully the needs of local historical and genealogical societies, consult with them, and upon their advice or request use the provisions of T.C.A. § 10-7-414(a) to authorize transfer of records otherwise scheduled for destruction (e.g. marriage bonds or court case files) to the local historical society for retention and historical research.

In the interest of building and maintaining a strong sense of community history, TSLA further encourages local public records commissions, executives, and legislative bodies to provide material and financial support for the local preservation and public inspection of such transferred records in accordance with T.C.A. § 10-7-414(c).

Questions about the possible disposition of county records and the establishment of a county archives and records program for the preservation of permanent value records can be referred to-

Tennessee State Library and Archives
 403 7th Avenue North
 Nashville, Tennessee 37243
 (615) 741-2764

Assessor of Property Records

Reference Number: CTAS-2049

Assessor of Property Records. The records included in this schedule are only those specific to the office of the assessor of property. Records that may be kept in the same format by several county offices (such as employment records, purchasing records, etc.) will be found listed under topical retention schedules in this manual. Included in this table is a listing of “obsolete” records. Your office should no longer be generating these records. They are still included in the disposition schedule so that anyone discovering those materials in older records of the office will know how to deal with them. To a certain extent, the records kept by county offices vary from county to county in either the format of record kept, the name given to the record, or the frequency of its occurrence. The fact that a certain record is listed in this schedule does not necessarily indicate that you should have it in your office. It may be a format for record-keeping that was never utilized in your county, or you may keep the record under a different name. If you have records in your office that are not listed in this schedule by name, check the descriptions of the records to see if we may have called it by a different term. If you still cannot locate any entry relative to the record, contact us at the County Technical Assistance Service for guidance in determining the disposition of the record and so we can make note of that record’s existence to include it in future revisions of this manual.

| Retention Schedule for Assessor of Property | | |
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| Description of Record | Retention Period | Legal Authority/Rationale |
| 01-001 Aerial Photographs —Aerial photographs of flyovers. Negatives may be available at the State Department of Transportation’s photographic lab. | Retain in office for one year after replacement by a newer, more current aerial photograph and one year after next re-appraisal. Older generations of photographs may be removed from the office and transferred to an archives or library within the discretion of the County Public Records Commission but should not be destroyed. | Keep for operational purposes through correction period and greenbelt recertification to cover appeal period. This record series has a high historical and archival value and should be preserved for those reasons, although it is not necessary to maintain the older records in the assessor’s office. |
| 01-002 Appeals and Reports to the State Board of Equalization and Court Appeals —These records consist of notice of hearing, name of property owner, appeal from county board of equalization, assessment, address, and time and place of hearing. Also included in this group of documents are documents involving appeal to the courts. | Retain two years after final disposition of case, then destroy. NOTE: A copy of all appeals should be kept by the State Board of Equalization also. | Keep to make certain the ruling is properly applied and that all parties understand the final determination of the issue. |

| Retention Schedule for Assessor of Property | | |
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| Description of Record | Retention Period | Legal Authority/Rationale |
| 01-003 Application for Classification of Real Property under the Agricultural Forest and Open Space Land Act (Greenbelt) —Prior to May 1999, this record series also includes re-certifications on farmland (Approved application are also retained in the register of deed's office). | Retain four years, then destroy. | Retention period based on three year period of liability for rollback taxes. |
| 01-004 Assessment Exemptions, Applications for —Copy of applications showing property owner's name, address, ward or district, date acquired, lot size or acreage, value, how property used, other purposes to be used for, signature of applicant, and notarization. | Retain copy of approved applications until two years after exemption expires, then destroy. Retain rejected applications for two years, then destroy. | Keep for audit purposes of the State Board of Equalization. |
| 01-005 Assessment Rolls —Record of all assessments on real and personal property, showing name of taxpayer, civil district or ward, location and description of property, assessed valuation, date of assessments, acreage of farm land, and number of town lots. | Retain three years, then destroy. | Retention based on time period for corrections and rollback issues. This record is stored for a longer term with the trustee. |
| 01-006 Board of Equalization Minutes and Reports —Daily record of proceedings of the board in regular session, showing date of meeting, names of members present, and petitions for adjustment of tax assessments of personal and real property, showing the name of petitioner, amount of original assessment, recommendations of the board, and date of adjustment, if made. | Retain 12 years. | T.C.A. § 67-5-1414 states that these records shall be kept for at least 10 years. It is recommended that the records be kept 12 to cover the 2 year period before taxes become delinquent and the 10 year statute of limitations. |
| 01-007 Building Permits, copies of —Show name of owner, amount of money to be expended, type of structure, location, date, and name of contractor. | Retain one year after assessment, then destroy. | These are used to find new construction. Once improvement is assessed, the record has no use. |
| 01-008 CAAS Cards (Computer Assisted Appraisal System) —Property record cards for rural, residential, industrial, commercial, and exempt property, giving information on ownership, assessment records, use or occupancy, construction date, age and condition, land description, sales and rental information, street improvements, utilities and services, topography, accessory buildings, improvements, valuations, notations, etc. | Retain most current card until a change is required to each parcel. Destroy obsolete cards when no longer of use to the office in accordance with regulations of the Public Records Commission. | Working paper. T.C.A. § 10-7-406(b). Property record cards are now a permanently retained type of record along with implementation of the state's online data base system. |
| 01-009 Certificates of Public Utilities Tax Valuations by Office of State Assessed Properties, copy of —Tax roll listing total assessment of public utilities in the county by the office of state assessed properties. | Retain annual assessments one 1 year, then destroy. Original is filed with trustee and state office maintains the record. | This record is like a tax roll for public utilities that are assessed by the state. |

| Retention Schedule for Assessor of Property | | |
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| Description of Record | Retention Period | Legal Authority/Rationale |
| 01-010 Correctional Book or File (Also includes proration book) —Files of copies of letters of corrections sent to the Trustee wherein corrections are made on the tax roll and corrections where property has been transferred and a proration of tax between the transferor and the transferee is made. This documentation includes the reason for the correction, the nature of the error. | Retain three years, then destroy. Original is on record in the trustee's office. | Retention period based on correction period for property taxes. |
| 01-011 Deeds, Copies of —Copies of warranty deeds used by assessor in determining ownership, property boundaries, location, etc., of property. | Destroy when obsolete or when purpose of retention has been served. | Working paper used only for deed transfers. T.C.A. § 10-7-406(b). Also filed permanently with register. |
| 01-012 Field Books (a.k.a. Mini-maps, Mapping) Plats and notes used for location of property to be assessed, showing owner's name and assessed valuation. | Destroy when obsolete or when purpose of retention has been served in accordance with rules of the Public Records Commission. | Working paper. T.C.A. § 10-7-406(b). |
| 01-013 Income Expense Records | Keep until next re-appraisal. | Term of retention based on appraisal cycle for the county. |
| 01-014 Maintenance Log of All Property Transfers —Form CT-007 used to record all transfers and sales. This form should be in continuous use. | Retain for five years, then destroy. | Valuable record for checking property transfers. |
| 01-015 Maps, Soil Delineation and Land Value — Land grade maps. | Retain in office until newer, more current information is available, and until next re-appraisal. Older generations of maps may be removed from the office and transferred to an archives or library within the discretion of the county public records commission but should not be destroyed. | In-office retention period based on re-appraisal cycle for the county. This record series has a high historical and archival value and should be preserved for those reasons, although it is not necessary to maintain the older records in the assessor's office. |
| 01-016 Ownership Maps and Index, Rural and Urban —These maps reflect the status of real property as of January 1 of each year. | Retain only current and one previous generation of ownership maps and indexes. Older generations of photographs may be removed from the office and transferred to an archives or library within the discretion of the county public records commission but should not be destroyed. | Useful in office for tracking property changes and as evidence in challenges to tax sales. This record series has a high historical and archival value and should be preserved for those reasons, although it is not necessary to maintain the older records in the assessor's office. |

| Retention Schedule for Assessor of Property | | |
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| Description of Record | Retention Period | Legal Authority/Rationale |
| <p>01-017 Personal Property—Audit Records</p> <p>Supporting information and documentation for audit. Note: Except for the return schedule and assessment, the rest of this record series must be kept confidential and should be stored separately.</p> | <p>Retain for four years after assessment roll is complete, unless tax is subject of appeal to board of equalization or courts. Do not destroy until any such appeal is exhausted.</p> | <p>Retain in case of forced assessments.</p> |
| <p>01-018 Personal Property— Record Cards and Tax Schedule Forms—Cards show business name, property location, type of business, map, group and parcel number, business code, mailing address, tax year, date schedule furnished, date schedule returned, date audited and assessed, assessment ratio, property value and type of assessment.</p> <p>Tax schedules show firm or trade name, business location, owner(s) of business, tax billing address, map, group and parcel number, assessment date, due date, property description, year, cost and value, leased property data, and assessor's calculations.</p> | <p>Retain for four years after assessment roll is complete, unless tax is subject of appeal to board of equalization or courts. Do not destroy until any such appeal is exhausted.</p> | <p>Retain in case of forced assessments.</p> |
| <p>01-019 Property Transfers, Record of (Ledgers)—Show date, grantee, grantor, description of property, district, acreage, assessed valuation, consideration, deed book and page number. Similar to maintenance log.</p> | <p>Retain five years, then destroy.</p> | <p>Valuable record for checking property transfers.</p> |
| <p>01-020 Sales Verification Forms—Form shows owner's name, address, location of property, lot size or acreage, subdivision name, date, etc.</p> | <p>Keep till next re-appraisal.</p> | <p>Retention period based on re-appraisal cycle for that county.</p> |
| OBSOLETE RECORDS | | |
| <p>01-021 Data Processing Tapes—File record of all the essential assessment information in the county. Information kept in different format now.</p> | | <p>Destroy (obsolete record).</p> |
| <p>01-022 Date Take Off Forms, for Comparable Sales—Form shows date, location, subdivision, date acquired, sale price, type or use, zoning, number of rooms or units, annual income from, square footage, land, improvements, and total appraisal.</p> | | <p>Retain three years, then destroy (obsolete record).</p> |
| <p>01-023 Date Take Off Forms, for Updating —Form shows owner's name, address, location of property, lot size or acreage, subdivision name, date, whether new parcel or update, etc.</p> | | <p>Destroy (obsolete record).</p> |
| <p>01-024 Merchant's Ad Valorem Tax Ledgers—Show firm name, business address, assessed value, amount of tax, penalty, total, date due, delinquent date, date paid, and bill number.</p> | | <p>Destroy (obsolete record).</p> |

| Retention Schedule for Assessor of Property | | |
|--|------------------|---|
| Description of Record | Retention Period | Legal Authority/Rationale |
| 01-025 N.A.L. Cards (Name, Address, Legal Description Cards) —These data processing cards contain information such as property owner's name, address, acreage, lot size and number, zone, acquisition date, appraisal, subdivision name, house number, etc. | | Record is eligible for destruction, however, the information in this record series can be useful (obsolete record). |
| 01-026 Petitions for Review of Assessment —Petitions for assessment review showing date, owner's name, address, phone, type of property, residential data, income information, date on apartments, agricultural lands, reasons why assessor is in error, etc. | | Destroy (obsolete record). |

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