

# **APPEAL GUIDELINES for REAL PROPERTY**

The SC Revenue Procedures Act, SC Code Title 12 Chapter 60 provides the appeal procedures for all tax matters, including property tax.

## **APPEAL TO THE COUNTY ASSESSOR**

SC Code 12-60-2510 and 12-60-2520 establish the initial steps necessary to appeal an assessment made by a county assessor;

(1) Whenever a property's value is increased by \$1,000, the Assessor must give written notice to the taxpayer by July first or as soon thereafter as practical.

(2) If the taxpayer objects to the fair market value, special use value, the assessment ratio or the property tax assessment, the taxpayer must give written notice, Informal Appeal, to the Assessor within 90 days of the **mailing** of the assessment notice. If the taxpayer fails to file a written objection within the 90 day period, they forfeit their right to appeal the valuation.

(3) In years when there is no notice of property tax assessment, the property taxpayer may appeal the market value in writing. Appeals submitted by January 15<sup>th</sup> apply for the current tax year. Appeals received after January 15<sup>th</sup> apply for the next tax year.

(4) For any given tax year, the property taxpayer is given a **single** opportunity to appeal, either on receipt of the tax notice or within 90 days of the notice of assessment or at any time as described in (2) above but not **BOTH**.

**NOTE: Under Section 12-60-1750, no refund of property taxes must be given for errors in valuation UNLESS the assessment was appealed in accordance with Section 12-60-2510 (assessments made by the county assessor)**

(5) After receiving the property taxpayer's Informal Appeal objection, if the Assessor agrees with the taxpayer, the county assessor must make corrections. If the county assessor does not agree with the taxpayer, the assessor must schedule a conference with the taxpayer within 30 days of the date of a request for a meeting or as soon thereafter as practical. The conference can be in person or via telephone.

(6) If the matter is not resolved at the conference and the taxpayer is still aggrieved, the taxpayer must file a Formal written protest with the assessor within 30 days after notification of the written result from the Assessor's office.

(7) The assessor must respond to the Formal protest in writing within 30 days of the date of receipt of the written protest or as soon thereafter as practical.

(8) The Assessor will send written result to the taxpayer. If the taxpayer still disagrees they are required within 30 days of the notification requesting an appeal to the County Board of Assessment Appeals.

## COUNTY BOARD OF ASSESSMENT

### APPEALS

SC Code 12-60-2530 establishes the procedures for administrative appeal of the Assessor's decision to the County Board of Assessment Appeals (**Tax Equalization Board**):

### PREHEARING MATTERS

**NOTE: The statute actually refers to the hearing as a "conference." For simplicity, we simply refer to it in this publication as a "hearing"**

- (1) The taxpayer may appeal the Assessor's decision by giving a written notice of intent to appeal to the Assessor within 30 days of the date of the Assessor's response. See 12-60-2530(A)
- (2) The appeal must be conducted by the County Board of Assessment Appeals (**Tax Equalization Board**)
- (3) Third parties may intervene under certain circumstances. See 12-60-253 (D)
- (4) At least 15 days before the Board Hearing, the taxpayer and the Assessor must exchange list of documents, witnesses and other evidence that they anticipate presenting to the County Board. The taxpayer and Assessor must mail or serve a copy of the same evidence to the Board of Assessment Appeals, 1512 Martin Street, PO Box 712, Newberry, S.C. 29108 The Assessor must provide send to the Board of Assessment Appeals the following:
  - A copy of the original property tax assessment for the subject property
  - The written response of the taxpayer
  - Written response to the taxpayer's protest; and
  - Copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented by the Assessor. Copies of the documents filed with the board must be mailed or delivered to the property taxpayer at the same time.

The board may waive the requirement that the taxpayer file the material with the board and mail or deliver it to the Assessor.

- (5) Seven (7) days before the hearing, the taxpayer or the Assessor may file a response with the County Board to exchange information. This response must also be mailed or served to the other party.

## QUORUM

All board members present at the Hearing must consider each appeal. The lesser of a majority of the members or three members of the board are a quorum, unless the Assessor and the taxpayer agree to a lesser number.

## THE HEARING

### REPRESENTATION:

Only those persons permitted to practice before county boards by SC Code 12-60-90 may practice before the board of appeals, i.e., attorneys, CPA's, enrolled agents, licensed appraisers, and employees of the taxpayer (in-house counsel).

The attorney or representative is an advocate of the taxpayer's position. His or her arguments are not testimony and are therefore not given any evidentiary value. Administrative practice is also to allow attorneys licensed in any stat to represent a taxpayer before a county board.

### HEARING:

SC Code 12-60-2530 specifies the procedures of the Hearing. The Hearing must be held as follows:

- (1) The hearing is open to the public
- (2) The Board may meet in closed session to consider evidence which has been presented at the Hearing
- (3) The Assessor shall explain the property tax assessment and their response to the taxpayer's written protest.
- (4) The Assessor may provide the Board with evidence to support the property tax assessment.
- (5) The property taxpayer shall state their reasons for protesting the property tax assessment.

*The taxpayer's appraiser is a witness and it is his or her testimony which gives evidence of the taxpayer's assertion of the value of the property in question. It is incumbent upon the taxpayer to produce evidence to support his assertion of value. It is insufficient to merely challenge the appraisal as void or illegal. See **Newberry Mills, Inc. v. Dawkins**, 259 S.C. 7, 190 SE2d 503 (1972)*

*Where an appeal involving several parcels is heard and no evidence or testimony is offered concerning one of such parcels, there can be no change in the same. 1972 WL 26149 (S.C.A.G) June 7, 1972*

- (6) The property taxpayer may provide the Board with evidence to support amending, modifying, or rescinding the property tax assessment.
- (7) The Assessor may rebut information and arguments presented by the taxpayer or intervener.
- (8) The taxpayer may rebut information and arguments presented by the Assessor.

## **THE DECISION**

The Board may confirm, increase or decrease the assessment that is the subject of the appeal. The Board shall make its decision based upon the evidence before it. When any member of the Board has special knowledge or facts of the issue in question, such knowledge or facts shall not be considered by the Board unless the same are presented as sworn testimony in the open hearing with the right given to the owner or the Assessor to rebut such knowledge or facts. The board shall state the basis of its conclusions. The findings of facts shall be stated in such detail as is necessary to adequately reflect the same and to support the basis or grounds for the Board's conclusions.

The decision must be made by a majority vote of the board members present at the Hearing. However, see Quorum, above. In case of a tie, the Assessor's determination of value is upheld.

At the conclusion of the Hearing, the decision may be announced orally or it may be reserved for consideration. In either event, the Board shall mail a written decision to the parties within fifteen days after the date of the Hearing, or as soon thereafter as practical.

### **The written decision of the Board shall:**

- Explain the basis for the decision;
- State that if the decision is not appealed, it must be certified to the county auditor for entry upon the property tax assessments rolls or tax duplicate;
- Inform the parties of their right to request a contested case hearing before the Administrative Law Judge Division

## **APPEAL TO THE ADMINISTRATIVE LAW COURT DIVISION**

Within thirty (30) days after the date of the Board's written decision, a taxpayer or an Assessor may appeal a decision made by the Board by requesting a contested case hearing before the Administrative Law Judge (ALJ) Division in accordance with the rules of the ALJ Division. The County Board establishes no record. The ALJD hearing is an entirely new hearing. Further the ALJD is the finder of fact and its record becomes the record for appeals.

If the taxpayer requested a contested hearing with the ALJD without exhausting his prehearing remedies because he failed to file a protest or attend a Hearing with the County Board, the ALJD will dismiss the action without prejudice.

If the taxpayer failed to provide facts or law to support his position to the County Board and seeks to provide those facts or argue the legal position to the ALJD, the ALJD will return the case to the County Board to reconsider the case in light of the new facts or law.

If an appeal extends, or is expected to extend, beyond December 31, the taxpayer must pay a portion of the tax equal to 80% of the protested assessment and may agree, in writing, to pay a higher amount. See 12-60-2550.