

## **How are property taxes in Florida calculated and how can I challenge or appeal property tax assessments?**

By: Charles B. Jimerson, Esq.

Every August Florida Property Appraisers will send out their TRIM notices, or Notice of Proposed Property Taxes, advising all tax payers of the proposed assessment on their properties. It is crucial for land owners to critically review this Notice and determine whether the assessment is fair and accurate, as the mailing of the notice commences a very short window in which a tax appeal must be filed. Very often these Notices are inflated to require payment of more taxes than should be assessed.

The county assessed value of your real estate should equal what the property would easily sell for in an arms-length transaction between a willing buyer and seller (Market Value). As often occurs, the true number that the local real estate market will bear is a lower number than what the county property appraisers value lists because properties are not impervious to natural variables that diminish value. If the property has been affected by a diminution in value caused by declining prices and market conditions, detrimental conditions (i.e. cracked slab, landslide, construction defects, condemnation, environmental problems), or other causes, the property owner should consider filing an appeal. Property tax appeals can be filed on any real estate including a home, ranch, vacant land, apartment building, commercial, industrial, or special use property.

Property owners are often shocked when receiving annual notices attempting to re-value their property because their property tax values often rise dramatically from a previous valuation (increases in value by 40% or more are not uncommon in some jurisdictions). This bLAWg post will attempt to answer two common questions we are often asked by Florida land owners: “How does the property tax process work and What can I do if I think my property has been over-valued by the tax man?”

### **I. Overview of Florida Property Taxation**

Florida’s Constitution requires property appraisers to establish the property tax base for their county annually. In doing so, property appraisers determine the just, or market, value of each parcel of property as of January 1 of each year. Then, they apply all valid exemptions, classifications and assessment limitations to determine each property’s taxable value, or relative tax burden. The property appraiser does not determine the property tax rate or the amount of property taxes levied.

The Florida Department of Revenue (“the Department”) reviews the property tax rolls of each county in July and August of every year. These reviews are conducted to ensure the tax base established by the property appraiser is equitable, uniform, and in compliance with Florida law. The Department also reviews and approves each property appraiser’s annual budget.

In August, the property appraiser sends each property owner a Notice of Proposed Property Taxes, or TRIM notice. This notice contains the property’s value on January 1, the millage rates proposed by each local government, and an estimate of the amount of property

taxes owed based on the proposed millage rates. The date, time, and location of each local government's budget hearing are also provided on the notice. This provides property owners the opportunity to attend the hearings and comment on the millage rates before approval.

Though this will be addressed in greater detail below, the proposed tax and the basis for that tax can be addressed through an administrative appeals process initially instituted at the local level. Each county has a five-member value adjustment board, which hears and rules on challenges to a property's assessment, classification, or exemptions. The value adjustment board is independent from the property appraiser and tax collector. Value adjustment boards cannot change the millage, or property tax, rates adopted by local governments. The Department provides annual training to value adjustment boards. The Department also issues mandatory procedures and forms in order to promote fair, impartial, and uniform hearings for all taxpayers.

Following the adoption of millage rates by local governments, county tax collectors send annual property tax bills, usually in late October or early November. Full payment is due by the following March 31. Discounts of up to four percent are given for early payment.

If a property tax bill is not paid by the following March 31, the tax collector sells a tax certificate on that property in order to collect the unpaid taxes. A tax deed may be sold if the property owner has not paid all back taxes, interest, and fees within two years. Tax collectors also process and issue refunds for overpayment of property taxes.

The tax collector distributes property taxes to the local governments and taxing authorities. Roughly, 50 percent of Florida's public education funding and 30 percent of its local government revenues come from property taxes.

#### A. Save Our Homes and Portability

After the first year a home receives a homestead exemption and the property appraiser assesses it at just value, the amount the assessment can increase for each following year cannot be more than 3% or the percent change in the Consumer Price Index (CPI), whichever is less. This is called the "Save Our Homes" (SOH) assessment limitation. The accumulated difference between your assessed value and the just (market) value is your SOH benefit. Amendment 10 to the Florida Constitution created this assessment limitation in 1995. Even if the value of a property owner's home goes down, his or her tax assessment may increase, but only by this limited amount. It will never be more than the just value of the home. Portability allows most Florida homestead owners to transfer (or "port") their SOH benefit from their old homestead to a new homestead, lowering the tax assessment (and consequently, the taxes) for the new homestead.

#### B. Calculation of Property Taxes

Ad valorem tax is a tax which is based upon the assessed value of the property. The term "property tax" may be used interchangeably with the term "ad valorem tax." Taxable value and total tax liability is calculated by the following equation:

Just value (market value)  
 - Assessment differential (e.g. Save Our Homes)  
**Assessed Value**  
 - Exemptions (e.g. Homestead)  
**Taxable Value**  
 x Millage Rate  
 = **Total Tax Liability**

Putting numbers to that equation should look something like this: Assume a homestead has a just value of \$300,000, an accumulated \$40,000 in Save Our Homes (SOH) protections, and a homestead exemption of \$25,000 plus the additional \$25,000 on non-school taxes. The millage is 7 mills for county schools and 11 mills for all non-school taxing authorities combined (city, county, and special districts).

$$\begin{array}{r} \text{Just Value} \\ \$300,000 \end{array} - \begin{array}{r} \text{Accumulated SOH} \\ \$40,000 \end{array} = \begin{array}{r} \text{Assessed Value} \\ \$260,000 \end{array}$$

$$\begin{array}{r} \text{Assessed Value} \\ \$260,000 \end{array} - \begin{array}{r} \text{Exemption} \\ \$25,000 \end{array} = \begin{array}{r} \text{Taxable Value} \\ \$235,000 \end{array} \times \begin{array}{r} \text{School taxes} \\ \text{Millage} \\ .007 \end{array} = \begin{array}{r} \text{School Taxes} \\ \$1,645 \end{array}$$

$$\begin{array}{r} \text{Assessed Value} \\ \$260,000 \end{array} - \begin{array}{r} \text{Exemption} \\ \$50,000 \end{array} = \begin{array}{r} \text{Taxable Value} \\ \$210,000 \end{array} \times \begin{array}{r} \text{Non-school taxes} \\ \text{Millage} \\ .011 \end{array} = \begin{array}{r} \text{Non-school Taxes} \\ \$2,310 \end{array}$$

$$\begin{array}{r} \text{Total Taxes} \\ \$1,645 + \$2,310 = \$3,955 \end{array}$$

Generally, tax collectors send tax bills (Form DR-528) in November. If your property has a mortgage and the mortgagee is the trustee for a tax escrow account, the tax bill will be sent to the mortgagee and a copy sent to you. Your mortgagee will pay the taxes from the escrow account. If you pay your taxes early you will get a discount - 4% in November, 3% in December, 2% in January, and 1% in February. The amounts are calculated for you on your bill. At the discretion of the tax collector, he or she may accept one or more partial payments for current taxes and assessments on real property or tangible personal property, as long as the payment is made before the delinquency date, usually April 1. A partial payment is not eligible for an early payment discount. If you don't pay your taxes, they become delinquent on April 1 and tax sale certificates will be sold on all unpaid items by June 1. See Fla. Stat. §197.343.

## **II. Challenging the Value of your Property and the Property Tax Appeal Process**

As a property owner, you have the right to appeal:

- The property appraiser's assessment of your property's value;

- A denial of your application for an exemption such as homestead, veterans, or senior citizen;
- A denial of your application for property classification such as agricultural or historic; and/or
- A denial of your application for tax deferral.

If property tax assessments are unfair, there are three avenues that the property owner can take: (A) an informal meeting with the property appraiser; (B) petition the local Value Adjustment Board (VAB) to review the assessment; (C) file suit in the circuit court that the property is located in to review the assessment. Each avenue is explored in greater detail below.

#### A. Informal Meeting with the Property Appraiser

Each property owner has the right to have an informal conference with their property appraiser to discuss the value or application for a property exemption or classification. An informal conference may settle the issue without going to a hearing or court. For our readership in Jacksonville, the Duval County Property Appraiser is located at 231 E. Forsyth St., Room 270, Jacksonville, FL 32202. The contact information for the Duval County Property Appraiser is [paadmin@coj.net](mailto:paadmin@coj.net), (904) 630-2014 and the fax number is (904) 630-2922.

By having an informal conference, property owners may be able to settle the issue without going to a hearing or going to court. At this informal conference, property owners may:

- Bring any documentation that may support a change in the assessment amount or eligibility for an exemption or property classification.
- Ask the property appraiser to present facts that support his or her assessment of the property or the denial of an application for an exemption or classification.

The informal meeting is not required in order to appeal the property tax assessment. Although informal meetings may be helpful, the informal meeting does not extend the deadline to file a petition with the Value Adjustment Board (VAB). In this scenario, it is better for the property owner to file a petition with the VAB board and then withdraw the petition if the discussion at the informal conference is favorable.

#### B. Petitioning the Local Value Adjustment Board

Property owners can also petition the VAB to appeal their property value or denial of an exemption, classification, or tax deferral. The VAB can be contacted through the Clerk of Court's office in the respective county. This petition must be filed with the VAB within twenty-five (25) days after the property appraiser mails the property owner's Notice of Proposed Property Taxes (TRIM notice). Again, the TRIM notice is usually mailed in mid-August, so September of each year is a vital time for Florida property owners to be checking their mail and taking immediate action to address taxes assessed. Jimerson & Cobb is able to handle all of the filings and the appearance for any aggrieved property owner petitioning their property tax assessment.

After the petition is filed, the VAB will send the property owner a notice with the date, time, and location of their hearing at least twenty-five (25) days before the hearing date. The

taxpayer can reschedule the hearing at least five (5) days before their hearing. However, this hearing can only be rescheduled once.

At least fifteen (15) days before the hearing, the property owner must give the tax appraiser a list and a summary of the evidence with copies of documentation that will be presented at the hearing. In order to receive a list and summary of the evidence with copies of documentation from the property appraiser, the tax payer must request the information in writing. If requested, the property appraiser will provide this information to the tax payer within seven (7) days of the hearing. If is not provided, the hearing can be rescheduled.

If a special magistrate heard the petition, the magistrate will provide a written recommendation to the clerk and the clerk will send copies to the taxpayer and the property appraiser. If the VAB heard the tax payer's petition, the clerk will provide the tax payer with the date, time, and place that the VAB will meet to determine the final decision. These meetings are open to the public. After the VAB makes the determination, the clerk will notify the tax payer in writing. The notice will note if any changes were made, the information considered, and the legal basis for the decision. The VAB must issue all final decisions within twenty (20) calendar days of the last day that the VAB was in session.

If the taxpayer disagrees with the decision of the VAB, the tax payer may appeal the decision in the Circuit Court of the County where the property is located.

### C. Filing Suit in Circuit Court to Challenge the Property Tax Assessment

Under Florida law, any taxpayer may bring an action to contest a tax assessment pursuant to Fla. Stat. § 194.171; Fla. Stat. § 194.036(2). The Circuit Court proceeding is *de novo*, and the burden of proof is on the party initiating the suit. Fla. Stat. § 194.036(3). At any point after the assessment, the tax payer can go directly to the Circuit Court; and does not need to have an informal meeting with the property appraiser or petition the Value Assessment Board. Venue is proper in the Circuit Court where the property is located, except that venue shall be in Leon County when the property is assessed pursuant to Fla. Stat. § 193.085(4) (railroads and freight lines). Fla. Stat. § 194.171(1). The Circuit Courts have original jurisdiction at law of all matters relating to property taxation. Fla. Stat. § 194.171(1).

Filing in circuit court is proper within: (1) sixty (60) days from the date that the assessment is being contested is certified for collection under Fla. Stat. § 193.122(2); or (2) sixty (60) days from the date a decision is rendered concerning such assessment by the VAB if a petition contesting the assessment had not received the final VAB prior to extension of the roll under 197.323; Fla. Stat. § 194.171(2).

The taxpayer must pay the amount claimed by tax collector to be due when a bona fide controversy exists between the tax collector and the tax payer regarding the liability of the taxpayer for the payment of the tax claimed to be due. Fla. Stat. § 197.182(1)(a)(3). If the court determines that the taxpayer was not liable for the payment of the tax, then the payment, or a portion thereof, will be refunded to the tax payer. Fla. Stat. § 197.182(1)(a)(3).

All taxes assessed must be paid and must not be delinquent. Fla. Stat. § 194.171(5). The taxpayer must pay all assessments before filing in the Circuit Court must pay to the tax collector not less than the amount of the tax which the taxpayer admits in good faith to owing. Fla. Stat. § 194.171(3). Additionally, the tax collector must issue a receipt of the paid taxes, which must be attached to the Complaint. Fla. Stat. § 194.171(3). The payment of the tax is not deemed to be an admission that the tax was due and shall not prejudice the right to bring a timely action as provided in Fla. Stat. § 194.171(2) to challenge the tax and receive a refund. Fla. Stat. § 194.171(4). In order for the court to have jurisdiction, the complaint must be filed timely and the assessments must be paid. Fla. Stat. § 194.171(6). If the assessments are delinquent, then the court will lose jurisdiction. Fla. Stat. § 194.171(6).

In the complaint filed by the tax payer, the Defendants must be the Property Appraiser (Fla. Stat. § 194.181(2)); the Tax Collector (Fla. Stat. § 194.181(3)); and the Director of the Department of Revenue (Fla. Stat. § 194.181(5)).

### **III. Important Annual Dates regarding Property Taxes in Florida**

January 1- Date of assessment.

March 1-Deadline for property owners to file with the county property appraiser for exemptions or agricultural or other classifications.

April 1-Deadline for owners of tangible personal property to file a Form DR-405 return with the county property appraiser.

June to July- Property owners who want to appeal a denial of exemption, classification, portability, or tax deferral, must file a petition with the value adjustment board 30 days after the denial letter was mailed.

August- The property appraiser mails the Notice of Proposed Property Taxes/TRIM form.

September- Property owners who want to appeal their property value to the value adjustment board must file a petition with the clerk of the court within 25 days of the Notice of Proposed Property Taxes.

September/ October- Property owners may provide input at taxing authorities' public hearings to adopt a tentative budget and millage rate.

October/ November- Taxing authorities hold hearings to adopt final budgets and millage rates.

November- The tax collector sends final property tax bills. Arrangement for tax payment should be made if they have not been.

Detailed calendars are available for respective Florida [property appraisers](#), [tax collectors](#), [value adjustment boards](#), and [the tax year \(Ad Valorem and Non-Ad Valorem Calendar\)](#).

#### **IV. Jimerson & Cobb representation on Property Tax Appeals**

First of all, property owners need to act quickly as soon as they discover a potential problem with their assessed value. Time is of the essence as appeals are only heard for a limited time each year and Circuit Court challenges have limitations time frames. If there is any doubt whether your property has been over assessed, we encourage you to contact us to evaluate your rights on appeal, either through filing a petition with the VAB or a lawsuit in a Florida Circuit Court. Remember, the VAB petition is not a condition precedent to filing a lawsuit to contest the value, so even if the taxpayer misses the VAB filing deadline, the taxpayer can still file a lawsuit later. Only in high dollar cases where the assessment exceeds fair market value (a commonplace in this market) would a taxpayer want to skip the VAB and proceed directly to a lawsuit.

As a taxpayer, it is prudent for you to always make it an annual practice of comparing your assessed value with the fair market value of your property. Reducing your property tax assessment through appeal is not an easy task though. After all, the taxing authorities are hungrier for revenue each year and consequently tax assessors are under increasing pressure to keep the tax rolls at the highest possible level to keep the funds rolling in. However, if you feel strongly that your property has been over-assessed, you can do something about it rather than simply accepting it as part of the downside of property ownership. It is possible to put together a winning case for a tax appeal and the key is presenting all the information in a manner that supports your position. Please note that in any proceeding the burden is on the tax paying property owner to show that the property appraiser erred in valuation, so any evidence presented will be focused on proper market valuation and not merely a vacant complaint that the neighboring properties are assessed lower.

If the property appraiser's value is incorrect, we will find a way to provide meaningful data to properly validate the market value of the property while at the same time exposing inaccuracies in the property appraiser's proposed assessed value. It is very important to have skilled legal counsel to assist you in an attempt to obtain a reduction of your tax assessment. The property appraiser will present facts, which they believe substantiate their appraisal. We can often anticipate these arguments and assist you with presenting evidence negating the appraisal.

Source: Florida Department of Revenue

Tags: Real Estate Law