

SUMMARY OF PROPOSAL #6
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Ad Valorem Property Tax Assessment Guidelines

Summary of Proposal for Consideration

To amend Arkansas law to create uniform and transparent statewide guidelines for assessing property that is exempt from ad valorem taxation, effective for assessment years beginning January 1, 2019.

Fiscal Analysis

The Department of Finance and Administration is unable to provide a fiscal or administrative impact on this proposal.

Legal Analysis

Background

The Assessment Coordination Department (ACD) is the state department charged with supervising the valuation, assessment, and equalization of all property for ad valorem property tax purposes in Arkansas, except utility property. ACD is also charged with overseeing the assessors, equalization boards, and tax collectors to ensure that all assessments of property are conducted in substantial compliance with Arkansas law. Ark. Code Ann. §§ 26-24-101 et seq. and 26-26-1901 et seq. Accordingly, ACD is charged with the following duties, among others, related to ensuring a uniform assessment of property for ad valorem property tax in Arkansas:

- Prepare and furnish real and personal property assessment guidelines for use by assessors and equalization boards;
- Prescribe appraisal, assessment, and record forms for use by county assessors throughout Arkansas; and
- Confer with, advise, and assist county assessors and equalization boards.

Arkansas Constitution, Article 16, § 5, states that all property subject to taxation is to be taxed according to its value and that no species of property from which a tax is collected is to be taxed higher than another species of property of equal value. Arkansas Constitution, Article 16, § 5, also provides ad valorem property tax exemptions for the following types of property: property used exclusively for public purposes; churches used as such; cemeteries used exclusively as such; school buildings and apparatus; libraries and grounds used exclusively for school purposes; and buildings and grounds and materials used exclusively for public charity. There is also a limited exemption from ad valorem property tax on all capital invested in a textile mill for the manufacture of cotton and fiber goods under Arkansas Constitution, Amendment 12.

Arkansas Code § 26-3-301 et seq. – Property Exempt from Taxes

Arkansas Code § 26-3-301 clarifies which types of property are exempt from ad valorem property tax under Arkansas Constitution, Article 16, § 5, as follows:

- Public school buildings and buildings used exclusively for public worship and not leased or otherwise used with a view to profit;
- All public institutions of higher learning and all buildings;
- All lands used exclusively as graveyards or grounds for burying the dead, except those held by any person, company, or corporation with a view to profit;
- All property belonging exclusively to Arkansas, including property of Arkansas state agencies, institutions, boards, or commissions, or the United States;
- All property belonging exclusively to any county of this state;
- All lands, houses, and other buildings belonging to any county, city, or town used exclusively for the accommodation of the poor;
- All buildings belonging to institutions of purely public charity not leased or otherwise used with a view to profit;
- All fire engines and other implements used for the extinguishment of fires and the buildings used exclusively for the safekeeping of the fire engines and other implements used for the extinguishment of fires;
- All market houses, public squares, other public grounds, town and city houses or halls owned and used exclusively for public purposes, and all works, machinery, and fixtures belonging to any town and used exclusively for conveying water to the town;
- Public property that is being used exclusively for public purposes and may be reserved for use by any person or organization;
- All property owned by the Girls' 4-H house, Boys' 4-H house, and the Future Farmers of America houses when the houses are used for the sole purpose of occupancy and use and enjoyment by students on the property and not leased or otherwise used with a view to profit; and
- All dedicated church property, including the church building used as a place of worship, buildings used for administrative or missional purposes, the land upon which the church buildings are located, all church parsonages, any church educational building operated in connection with the church, including a family life or activity center, a recreation center, a youth center, a church association building, a day care center, a kindergarten, or a private church school is exempt from ad valorem property taxes. In the event any property is used partially for church purposes and partially for investments or other commercial or business purposes, the entire property is exempt from the ad valorem property tax.

ACT 114 of 1883 provided guidance relating to the list of property exemptions under Arkansas Constitution, Article 16, § 5, by stating that certain types of property are exempt from ad valorem property tax.

ACT 74 of 1929 codified Arkansas Constitution, Amendment 12 providing an ad valorem property exemption for property used exclusively in the business of manufacturing textile goods. This provision is codified under Arkansas Code § 26-3-304.

ACT 139 of 1945 added an exemption from all taxes on real property, except improvement district taxes, for parsonages owned by churches and used as homes for pastors. This provision is codified under Arkansas Code § 26-3-303.

ACT 252 of 1953 further clarified the exemptions under Arkansas Constitution, Article 16, § 5, by adding the provision concerning the Girls' 4-H house, Boys' 4-H house, and the Future Farmers of America houses. This provision is codified under Arkansas Code § 26-3-301(11).

ACT 332 of 1983 provided the ad valorem tax exemption for waterworks systems owned by nonprofit property owners associations as public property used for public purposes. This provision is codified under Arkansas Code § 26-3-305.

ACT 627 of 1987 clarified the ad valorem tax exemptions under Arkansas Code § 26-3-301 for public institutions of higher learning and property belonging exclusively to the state.

ACT 1040 of 1987 required churches to list for assessment and pay ad valorem property tax on all real or personal property used for business, commercial, investment, or purposes other than church purposes. This provision is codified under Arkansas Code § 26-3-206. The act also added the ad valorem tax exemption for dedicated church property under Arkansas Code § 26-3-301.

ACT 961 of 1991 added the ad valorem tax exemption for property owned by the State Highway Commission or the Arkansas Department of Transportation as public property used exclusively for public purposes. This provision is codified under Arkansas Code § 26-3-307.

ACT 669 of 1995 added the ad valorem tax exemption under Arkansas Code § 26-3-301(10) for public property that may be reserved for use by any person or organization and that is being used exclusively for public purposes.

ACT 1281 of 2005 added the ad valorem tax exemption under Arkansas Code § 26-3-301(5) for all property belonging exclusively to a county of Arkansas.

ACT 827 of 2007 provided a technical correction to Arkansas Code § 26-3-301(1) to provide that public school buildings and buildings, rather than public school houses, used exclusively for public worship are exempt from ad valorem property tax.

The provisions under Arkansas Code § 26-3-301 have not been amended since.

Arkansas Code § 26-26-1001 – List of Exempt Real Property

Arkansas Code § 26-26-1001 provides specific instructions to the county assessors as it relates to listing exempt property from ad valorem property taxation. Specifically, the law requires

that the county assessor, at the time of making the assessment of real property subject to taxation, create a list describing all exempt property and the circumstances by which property is exempt from ad valorem property tax. The law further provides that, if the property is held and used for other public purposes, the county assessor must state who holds the property or how the property is held.

This provision was created by ACT 114 of 1883, and ACT 336 of 1997 made a technical correction to the language of the law. This provision has not been amended since.

Arkansas Code § 26-26-1113 – Property Used for Other than Church Purposes

Arkansas Code § 26-26-1113 requires a church or its governing official or board to annually list for assessment all property that is not exempt from ad valorem property tax. ACD is required to promulgate reasonable rules, regulations, and guidelines (upon request) for the various county assessors when listing nonexempt property for assessment. These provisions were created by ACT 1404 of 1987 and have not been amended since.

Arkansas Code § 26-26-1901 et seq. – Uniform System of Property Assessment

ACT 1185 of 1999 was enacted to promote a uniform system of real property assessment within each county of the state. One of the act's objectives was to establish and promote a uniform system of real property assessment within each county. ACD was tasked with developing and implementing rules relating to reappraisal procedures to create a uniform system of property assessment. The provisions under this act have been periodically amended to create new provisions relating to the appraisal and reappraisal of property and was last amended in 2013.

Potential Legal Issues

There are a few provisions of the Arkansas Constitution that may be relevant to the establishment of guidelines and procedures for assessing exempt property. Arkansas Constitution, Amendment 59, amended Article 16, § 5, to authorize the General Assembly to establish methods and procedures to value property for taxation purposes by a three-fourths (3/4) vote of both houses. Article 16, § 6, states that exemptions from ad valorem property tax are void unless provided for under the Arkansas Constitution. If the General Assembly provides statutory guidelines that establish methods and procedures to value property, those guidelines would require a three-fourths (3/4) vote of both houses. Additionally, if the statutory guidelines create new property tax exemptions by going beyond the scope of the exemptions found in the constitution, such property tax exemptions will require a constitutional amendment.

Other States

- Iowa: In Iowa, every county in the state of Iowa has an office of assessor that performs the assessment and appraisal of property. (IA St. §§ 441.1 and 441.18). However, the Iowa Department of Revenue directly assists local governments in making property tax assessments fair and in compliance with the law. (IA St. § 421.17). The department does not collect property taxes. Instead, the role of the

department as it relates to the assessment of property tax includes without limitation issuing equalization orders, providing technical assistance and educational programs for assessors and members of the boards of review, issuing regulations, supervising assessor offices and the boards of review, and creating an appraisal manual that each county shall use to assess and value property. (IA St. § 421.17). Each county assessor is required to determine the assessment value that would be assigned to property that is exempt from property tax and provide a summary report to the department and the local board of review. (IA St. 427.1(18)). The department is required to notify the assessor and each member of the conference board if the department discovers that a city or county assessor is not in compliance with the rules and appraisal manual provided by the department for assessing property. (IA St. § 441.21(i)(1)).

Iowa also provides detailed statutory definitions of property that are exempt from ad valorem property tax in Iowa. (IA ST. § 427.1).

- Louisiana: In Louisiana, the Louisiana Tax Commission is charged with administering and enforcing all laws related to the state supervision of local property tax assessments and the assessment of public service properties. (LA St. § 47:1831). The commission is also charged with measuring the level of appraisals and the degree of uniformity of assessments for each major class and type of property in each parish in the state. (LA St. § 47:1837(B)).

In order to promote compliance with the requirements of the laws of Louisiana, the commission is charged with issuing, amending, and revising rules and regulations containing minimum standards of assessment and appraisal. The commission is also charged with creating and requiring the use of all forms necessary for the effective administration of property tax laws, creating guidebooks for use by local assessors that describe the rules and regulations related to property assessment, creating appraisal manuals, reference bulletins, and digests of property tax laws, and developing, maintaining, and enforcing a uniform statewide system for the preparation of assessment lists, tax rolls, and all other necessary forms. (LA St. § 47:1837(D)). The commission may also conduct or sponsor in-service, pre-entry, and intern training programs in conjunction with the Louisiana Assessors' Association on the technical, legal, and administrative aspects of the assessment process. (LA St. § 47:1837(F)).

Louisiana has created a statewide ad valorem tax assessment database, and all parishes are required to participate in the database program. Among other information, the database includes the location of the assessed property, the assessed valuation of land, the amount of homestead exemption on a property, and the classification of the assessed property. Additionally, the database includes information concerning whether the property is exempt from ad valorem property tax. (LA St. § 47:1837.1).

Finally, Louisiana provides a detailed list of property exemptions under both its constitution and by statute. (LA Const. art. 7, § 21, and LA St. §§ 47:1701 – 47:1708).

- Mississippi: In Mississippi, the Department of Revenue is responsible for conferring with and advising assessing officers, boards of supervisors, and other county officers as to their duties relative to ad valorem tax assessment and advising assessors and county boards regarding the collection, filing, and preservation of data relative to matters of assessment. (MS St. § 27-3-31(k)). The department is charged with investigating and ascertaining what property, if any, is escaping taxation or assessment. (MS St. § 27-3-39). The department is also required under Mississippi law to visit each county and to become familiar with the character and values of the classes of property within each county of the state. When visiting each county, the department must investigate the work and methods adopted by the board of supervisors and county tax assessors and determine whether existing laws are defective or improperly or negligently administered. (MS St. § 27-3-51). The department is also tasked with investigating all matters of taxation and making recommendations to the legislature at each regular session regarding what changes and alterations to the tax laws would create a better, equitable, adequate, just, and thorough system of taxation and valuation of property. (MS St. § 27-3-49).

Mississippi also provides a detailed list of property exemptions by statute, which provides a more detailed explanation of what types of property are exempt under Mississippi law. (MS. St. §§ 27-31-1 – 27-31-50).

- Missouri: In Missouri, each county assessor's work is subject to review by the County Board of Equalization and the State Tax Commission. The commission is the state agency charged with general supervision of the assessors and with enforcing property tax laws. (MO St. § 138.410). The commission is also charged with creating forms and providing instructions to each county clerk regarding the assessment of property and providing opinions and advice on questions related to the assessment of property. (MO St. § 138.320). At least once a year, a member of the commission is required to visit each county and inquire about the methods of assessment and taxation used by the county to ensure compliance with the law. (MO St. § 138.415). The commission has the authority to investigate the tax laws of other states and countries, to formulate and submit to the legislature such recommendations as the commission may deem expedient to prevent evasions of property tax assessment and Missouri property tax laws, to promote equal and uniform taxes, and improve the system of assessment and taxation. (MO St. § 138.380(4)). The Director of Revenue has no authority over the commission. (MO St. § 138.190).

The Missouri Constitution provides for several types of property that are exempt from ad valorem property tax. (MO Const. art. 10, § 6). Missouri also provides a detailed list of property exemptions by statute. (MO St. §§ 137.100 – § 137.101).

- Oklahoma: In Oklahoma, the Ad Valorem Division of the Oklahoma Tax Commission has the authority and duty to:
 - Confer with and assist county assessors and county boards of equalization in the performance of their duties so that all assessments of property are just and uniform and real property and tangible personal property is assessed at its fair cash value;
 - Conduct training schools, institutes, conferences, and meetings for the purpose of improving the qualifications of county assessors and their deputies;
 - Prescribe forms for the county assessors to use during the assessment procedure, including property classification and appraisal forms;
 - Prepare and furnish to county assessors an assessors' manual, which includes information relating to the valuation methodologies for property;
 - Recommend rules to the commission establishing uniform procedures and standards for the appraisal of real property by county assessors; and
 - Promptly notify county assessors, county treasurers and members of county excise and equalization boards of any changes to the laws relating to ad valorem property tax.
 (68 OK St. § 2875).

Any county assessor may request special assistance from the commission when valuing property that requires specialized knowledge that is not available to the assessor's staff. (68 OK St. § 2824). Additionally, the commission is required to create rules, regulations, and guidelines for the general guidance and assistance of county assessors. Each assessor is required to value property according to the standards established by the commission or by law. (68 OK St. § 2825). Each county assessor must use only the forms prescribed or approved by the division and comply with the rules and guidelines adopted by the commission. (68 OK St. § 2875). Finally, the commission is required to monitor the progress of valuation in each county and establish guidelines for determining when an assessment is out of compliance with the law or rules governing the valuation of taxable property. (68 OK St. § 2830).

The Oklahoma Constitution provides property tax exemptions for certain types of property. (OK Const. art. 10, § 6). Oklahoma also provides a detailed statutory list of property that is exempt from ad valorem property tax. (68 OK St. § 2887).

- Tennessee: In Tennessee there is a Division of Property Assessments in the Office of the Comptroller of the Treasury that oversees ad valorem property tax assessment. (TN St. § 67-1-201). The division, subject to the policies, rules, and regulations adopted by the Board of Equalization, has the following duties:
 - Supervise and direct all reappraisals and revaluation programs;
 - Prescribe rules and regulations that relate to the administration of the duties of assessors of property;

- Prepare and furnish forms that are required to be used by the assessors;
- Assist the board in the preparation of an assessment manual or manuals for the appraisal, classification, and assessment of property for use by local assessors in making their assessments of particular classes or parcels of property;
- Assist the board in conducting the educational and training courses for state and local assessing officials;
- Effect the assessment of all property in the state in accordance with the state constitution and all statutory provisions; and
- Require that counties and other taxing jurisdictions take the steps necessary to assure that reappraisal and revaluation programs are maintained and updated in accordance with the instructions, policies, rules, and regulations adopted by the board.

(TN St. § 67-1-202).

The division, under the direction and supervision of the board, develops methods and procedures to assist and guide local assessors of property in officially administering the annual assessment process. (TN St. § 67-1-205).

Tennessee also provides detailed statutory descriptions of properties that are exempt from ad valorem property tax. (TN St. §§ 67-5-201 – 67-5-227).

- Texas: In Texas, the Comptroller is required to adopt rules establishing minimum standards for the administration and operation of an appraisal district, including the minimum standards and the kinds of property the district is responsible for appraising. (TX St. Tax Code § 5.03). The comptroller is responsible for setting standards for and approving curricula and materials for use in training and educating appraisers and assessor-collectors. (TX St. Tax Code § 5.04). The comptroller may prepare and issue publications relating to the appraisal of property and the administration of taxes, or he or she may approve other publications relating to those matters for use in the administration of property taxes, including appraisal manuals, an annotated version of the laws regarding property tax, and a handbook containing select laws and rules promulgated by the comptroller relating to property tax and its administration. (TX St. Tax Code § 5.05).

The comptroller is also responsible for prescribing the contents of all forms necessary for the administration of the property tax system and furnishing copies of model forms to the appropriate local officials upon request. (TX St. Tax Code § 5.07). Further, at least once every two (2) years, the comptroller must review the governance of each appraisal district and the operating and appraisal standards, procedures, and methodology used by each appraisal district to determine whether the appraisal district is complying with generally accepted standards, procedures, and methodology under Texas law. (TX St. Tax Code § 5.102(a)).

Texas requires that each appraisal district compile a list of taxable property in the state. (TX St. Tax Code § 25.01).

Texas also provides detailed statutory guidance relating to property that is exempt from ad valorem property tax. (TX St. Tax Code §§ 11.11 – 11.48).