

SECTION 12-60-90. Administrative tax process.

(A) For the purposes of this section, the administrative tax process includes matters connected with presentation to a state or local tax authority, or their officials or employees, relating to a client's rights, privileges, or liabilities pursuant to laws, regulations, or rules administered by state or local tax authorities. These presentations include the preparation and filing of necessary documents, correspondence with, and communications to, state and local tax authorities, and the representation of a client at conferences and meetings, including conferences with the county boards of assessment appeals. It does not include contested case hearings held by the Administrative Law Court or the courts.

(B) State and local government tax officials and state and local government employees may represent their offices, agencies, or both, during the administrative tax process.

(C) Taxpayers may be represented during the administrative tax process by:

(1) the same individuals who may represent them in administrative tax proceedings with the Internal Revenue Service pursuant to Section 10.3(a), (b), and (c), Section 10.7(a), (c)(1)(i) through (c)(1)(vi), and (c)(1)(viii), and Section 10.7(d) and (e) of United States Treasury Department Circular No. 230; and

(2) a real estate appraiser who is registered, licensed, or certified pursuant to Chapter 60, Title 40 during the administrative tax process in a matter limited to questions concerning the valuation of real property.

(D) The department may suspend or disbar from practice in the administrative tax process or censure any person authorized by these rules to represent taxpayers, if the person is shown to be incompetent, disreputable, or fails or refuses to comply with the rules in subsection (E), or in any manner, with intent to defraud, wilfully and knowingly deceives, misleads, or threatens any person or prospective person to be represented, by word, circular, letter, or by advertisement. The department may impose a monetary penalty on the representative, and if the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to the penalty, the department may impose a monetary penalty on the employer, firm, or entity if it knew, or reasonably should have known, of the conduct. The penalty may not exceed the gross income derived, or to be derived, from the conduct giving rise to the penalty and may be in addition to, or instead of, suspension, disbarment, or censure of the representative. For the purposes of this section, incompetence and disreputable conduct is defined in Section 10.51 of United States Treasury Department Circular No. 230. The department may review a petition for reinstatement as provided in Section 10.81.

(E) Representatives of taxpayers must comply with the duties and restrictions contained in Sections 10.20 through 10.24 and 10.27 through 10.34 of United States Treasury Department Circular No. 230.

(F) For purposes of this section the terms in United States Treasury Department Circular No. 230 must be given the meanings necessary to effectuate this section. For example, unless a different meaning is required:

(1) references to United States Treasury Department Circular No. 230 mean the United States Treasury Department Circular No. 230 as revised through the date provided for in the definition of the Internal Revenue Code in Section 12-6-40(A);

(2) references in United States Treasury Department Circular No. 230 to:

- (a) the United States or federal are deemed to include references to this State, any of its political subdivisions, or any two or more of them;
- (b) the Internal Revenue Service, the Department of Treasury, Examination Division, or District Director are deemed to include references to any state or local tax authority; and
- (c) the Director of Practice is deemed to mean the director or his designee.
- (3) references to tax return mean appropriate return, including property tax returns filed with the department;
- (4) references to federal tax obligations include all South Carolina taxes, including property taxes and property tax assessments, where administered by the department."

HISTORY: 1995 Act No. 60, Section 4A; 2001 Act No. 89, Section 40, eff July 20, 2001; 2003 Act No. 69, Section 3.CC, eff June 18, 2003; 2005 Act No. 161, Sections 13, 14, eff June 9, 2005; 2007 Act No. 110, Section 33, eff June 21, 2007; 2007 Act No. 116, Section 39, eff June 28, 2007, applicable for tax years beginning after 2007.

#### Subarticle 9

#### Appeals, Protests, and Refunds for Property Valued by County Assessors

SECTION 12-60-2510. Property tax assessment notice; contents; written notice of objection.

(A)(1) In the case of property tax assessments made by the county assessor, whenever the assessor increases the fair market value or special use value in making a property tax assessment by one thousand dollars or more, or whenever the first property tax assessment is made on the property by a county assessor, the assessor, by July first in the year in which the property tax assessment is made, or as soon after as is practical, shall send the taxpayer a property tax assessment notice. In years when real property is appraised and assessed under a countywide equalization program, substantially all property tax assessment notices must be mailed by October first of the implementation year. In these reassessment years, if substantially all of the tax assessment notices are not mailed by October first, the prior year's property tax assessment must be the basis for all property tax assessments for the current tax year. A property tax assessment notice under this subsection must be in writing and must include:

- (a) the fair market value;
- (b) value as limited by Article 25, Chapter 37, Title 12;
- (c) the special use value, if applicable;
- (d) the assessment ratio;
- (e) the property tax assessment;

- (f) the number of acres or lots;
- (g) the location of the property;
- (h) the tax map number; and
- (i) the appeal procedure.

(2) The notice must be served upon the taxpayer personally or by mailing it to the taxpayer at his last known place of residence which may be determined from the most recent listing in the applicable telephone directory, the Department of Motor Vehicles' motor vehicle registration list, county treasurer's records, or official notice from the property taxpayer.

(3) In years when there is a notice of property tax assessment, the property taxpayer, within ninety days after the assessor mails the property tax assessment notice, must give the assessor written notice of objection to one or more of the following: the fair market value, the special use value, the assessment ratio, and the property tax assessment.

(4) In years when there is no notice of property tax assessment, the property taxpayer may appeal the fair market value, the special use value, the assessment ratio, and the property tax assessment of a parcel of property at any time. The appeal must be submitted in writing to the assessor. An appeal submitted before the first penalty date applies for the property tax year for which that penalty would apply. An appeal submitted on or after the first penalty date applies for the succeeding property tax year.

(B) The department shall prescribe a standard property tax assessment notice designed to contain the information required in subsection (A) in a manner that may be easily understood.

HISTORY: 1995 Act No. 60, Section 4A; 1996 Act No. 431, Section 28; 1998 Act No. 298, Section 1; 2000 Act No. 283, Section 4(B), eff May 19, 2000; 2002 Act No. 271, Section 1, eff May 28, 2002; 2003 Act No. 69, Section 3.FF, eff June 18, 2003; 2006 Act No. 388, Pt IV, Section 2.B, eff upon ratification of amendment to Article X of the Constitution (ratified April 26, 2007); 2007 Act No. 57, Section 9, eff June 6, 2007.

SECTION 12-60-2520. Written request to meet with assessor constitutes notice of objection; written protest following conference; contents.

(A) A property taxpayer may object to a property tax assessment made by a county assessor by requesting in writing to meet with the assessor within the time limits provided in Section 12-60-2510. This written request is a notice of objection for purposes of this subarticle.

(B) If, upon examination of the property taxpayer's written objection, the county assessor agrees with the taxpayer, the county assessor must correct the error. If, upon the examination, the county assessor does not agree with the taxpayer, the assessor shall schedule a conference with the property taxpayer within thirty days of the date of the request for a meeting or as soon after that as practical. If the matter is not resolved at the conference, the assessor shall advise the property taxpayer of the right to protest

and provide the taxpayer a form on which to file the protest. The property taxpayer has thirty days after the date of the conference to file a written protest with the assessor. The protest must contain:

- (1) the name, address, and telephone number of the property taxpayer;
- (2) a description of the property in issue;
- (3) a statement of facts supporting the taxpayer's position;
- (4) a statement outlining the reasons for the appeal, including any law or other authority, upon which the taxpayer relies; and
- (5) the value and classification which the property taxpayer considers the fair market value, special use value, if applicable, and the proper classification.

The taxpayer may use the form prepared by the department, but use of the form is not mandatory.

(C) The assessor shall respond to the written protest and the response must:

- (1) be in writing;
- (2) be mailed to the property taxpayer by first class mail within thirty days of the date of receipt of the property taxpayer's protest or as soon thereafter as practical;
- (3) include a statement of the initial property tax assessment and the redetermined property tax assessment;
- (4) state that the redetermined property tax assessment will become final if the property taxpayer does not appeal the property tax assessment to the county board of assessment appeals; and
- (5) inform the taxpayer of procedures for all further appeals.

(D) The assessor may amend, modify, or rescind any property tax assessment, except claims relating to property tax exemptions.

(E) Each protest and each response must be filed and maintained at the office of the assessor for four years, and must be made available for examination and copying by any property taxpayer, at the taxpayer's expense pursuant to Chapter 4, Title 30, the Freedom of Information Act.

HISTORY: 1995 Act No. 60, Section 4A; 1998 Act No. 442, Section 4E.

SECTION 12-60-2530. County board of assessment appeals.

(A) Within thirty days after the date of the county assessor's response provided in Section 12-60-2520, a property taxpayer may appeal a real property tax assessment to the county board of assessment appeals. The board may rule on any timely appeal relating to the correctness of any of the elements of the property tax assessment, and also other relevant claims of a legal or factual nature, except claims relating to property tax exemptions. Conferences held by the board are subject to any rules prescribed for the county boards of assessment appeals by the Administrative Law Court. The assessor may extend

the time period for filing a taxpayer's appeal if the request for an extension is received by the assessor within thirty days of the date of the county assessor's response provided in Section 12-60-2520.

(B) An appeal to the board begins by giving written notice of intent to appeal to the assessor.

(C) A conference on the appeal must be conducted by the board within thirty days after the date of receiving a notice of appeal, or as soon thereafter as practical. The board shall:

(1) set the place, date, and time for the conference;

(2) give the assessor and the property taxpayer at least thirty days' written notice of the conference;

(3) advise the property taxpayer that all evidence must be presented at the conference; and

(4) have the authority and jurisdiction to enter a default decision if either the property taxpayer or the assessor fails to appear at the conference, if proper notice of the conference was given. If a default decision is entered against the property taxpayer for failure to appear at the conference, the property tax assessment becomes a final property tax assessment. A default order entered against the assessor for failure to appear at the conference results in a final property tax assessment based on the value stated in the property taxpayer's written protest. However, the board may grant a continuance and refrain from entering a default order upon good cause shown by any party.

(D) The intervention by an interested person not a party to the action is allowed where:

(1) the intervenor has a legal or equitable interest in the property which is the subject of the property tax assessment;

(2) the intervention is not prevented by any applicable statute of limitations and the intervenor has exhausted his prehearing remedies;

(3) the disposition of the action could, as a practical matter, impede protection of that interest; and

(4) the intervenor's interest is not being adequately represented by the existing parties, and could be impeded, as a practical matter, if intervention is denied.

(E) Each appeal must be considered by all board members present at a meeting. The lesser of a majority of the members or three members of the board is a quorum, unless the parties agree to a lesser number.

(F) At least fifteen days before the date of the conference, the assessor shall file with the board:

(1) a copy of the original property tax assessment for the subject property;

(2) the written protest of the property taxpayer;

(3) a written response to the taxpayer's protest; and

(4) copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented by him. Copies of the documents filed with the board must be mailed or delivered to the property taxpayer at the same time.

(G) At least fifteen days before the date of the conference, the property taxpayer shall file with the board copies of documents, including appraisals, property sales, and a brief description of other evidence to be presented. Copies of the documents and lists must be mailed or delivered to the assessor at the same time. The requirement that the property taxpayer file the material with the board and mail or deliver it to the assessor may be waived by the board.

(H) At least seven days before the date of the conference, the parties may file with the board any response each may have to the information filed by the other. This material must be mailed or delivered to the other party at the same time.

(I) The conference must be held as follows:

(1) Conferences are open to the public.

(2) The board may meet in closed session to consider evidence presented at the conference.

(3) The assessor shall explain the property tax assessment and his 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 his reasons for protesting the property tax assessment.

(6) The property taxpayer may provide the board with evidence to support amending, modifying, or rescinding the property tax assessment.

(7) A person intervening as a party in the appeal may state his position and present evidence in support of his position.

(8) The assessor may rebut information and arguments presented by the taxpayer or intervenor.

(9) The property taxpayer and intervenors, if any, may rebut information and arguments presented by the assessor.

(10) Any member of the board may question the property taxpayer, the assessor, and anyone else providing information at the conference. Any member of the board may request additional information.

(J) After the conference, the board shall issue a decision based upon the evidence before it as follows:

(1) The decision must be made by a majority vote of the board members present at the conference. In case of a tie, the assessor's determination is upheld.

(2) At the conclusion of the conference, 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 conference, or as soon thereafter as practical.

(3) The written decision of the board shall:

(a) explain the basis for the decision;

(b) state that if the decision is not appealed, it must be certified to the county auditor for entry upon the property tax assessment rolls or tax duplicate; and

(c) inform the parties of their right to request a contested case hearing before the Administrative Law Court.

HISTORY: 1995 Act No. 60, Section 4A.

SECTION 12-60-2540. Contested case hearing; time for requesting following board's decision.

(A) Within thirty days after the date of the board's written decision, a property taxpayer or county assessor may appeal a property tax assessment made by the board by requesting a contested case hearing before the Administrative Law Court in accordance with the rules of the Administrative Law Court.

(B) If a taxpayer requests a contested case hearing before the Administrative Law Court without exhausting his prehearing remedy because he failed to file a protest or attend the conference with the county board of assessment appeals, the administrative law judge shall dismiss the action without prejudice. If the taxpayer failed to provide the county board with the facts, law, and other authority supporting his position, he shall provide the representative of the county at the hearing with the facts, law, and other authority he failed to present to the county board earlier. The administrative law judge shall then remand the case to the county board for reconsideration in light of the new facts or issues unless the representative of the county at the hearing elects to forego the remand.

Upon remand the county board has thirty days, or a longer period ordered by the administrative law judge, to consider the new facts and issues and amend its decision. The county board shall issue its amended decision in the same manner as the original. The taxpayer has thirty days after the date the county board's decision was mailed or delivered to the taxpayer to again request a contested case hearing. Requests for a hearing before the Administrative Law Court must be made in accordance with its rules. If the county board fails to issue its amended decision within thirty days of the date of the remand, or a longer period ordered by the administrative law judge, the taxpayer can again request a contested case hearing. At the new hearing the facts, law, and other authority presented at the original hearing must be deemed to have been presented in a timely manner for purposes of exhausting the taxpayer's prehearing remedy. The statute of limitations remains suspended by Section 12-54-85(G) during this process.

HISTORY: 1995 Act No. 60, Section 4A.