

# CHAPTER I

## LAW AND PROCEDURES

This section is not intended as a replacement for statutes and regulation. When questions regarding this section arise, reference should be made to the appropriate sections of *Code of Alabama 1975* and applicable regulations.

The first task faced by the taxing official is that of informing himself/herself on the assessment laws of Alabama and court decisions interpreting them, which, together, comprise the legal standard of property value for ad valorem taxation. He or she must have a working knowledge of what property is assessable and what is exempt; to whom it is to be assessed; the situs and status of property and date of assessment.

The third special session of the Alabama Legislature passed House Bill No. 59 (Acts 1971, 3rd session; No. 160, pg. 4404 §2) that was signed by Governor George C. Wallace on January 19, 1972. The Act became law on that date. Act 160 created the statewide property reappraisal program and made the Alabama Department of Revenue responsible for the supervision and implementation of the statewide reappraisal and the regulation of individual county-by-county reappraisal. Reference: *Code of Alabama 1975* §40-7-60.

The Department of Revenue was given the responsibility to set standards and prescribe procedures for implementing reappraisal and the authority to inspect and approve work performed. Reference: *Code of Alabama 1975* §40-7-61.

Fair and reasonable market value was established as the basis of assessments for ad valorem tax. Reference: *Code of Alabama 1975* §40-7-62.

Act 160 created a method of funding the equalization program by requiring that the cost of maintaining equalization be prorated by the county governing body to each agency based on the proportion of money received by each agency in the county. Reference: *Code of Alabama 1975* §40-7-68. County bonds were authorized for the purpose of paying for the initial cost of statewide reappraisal. Reference: *Code of Alabama 1975* §40-7-90 through §40-7-100.

Act 160 specifies that the Alabama Commissioner of Revenue is responsible for the administration of the statewide property reappraisal program and supervision by the Director of the Property Tax Division. Reference: *Code of Alabama 1975* §40-7-74.

## PROPERTY TAX EQUALIZATION PLAN

Based on the authority granted in Act 160, the Property Tax Division developed the Property Tax Equalization Plan for implementing the procedures, requirements, plans and programs necessary for the maintenance of a statewide property reappraisal program. The Commissioner of Revenue orders counties to appraise all properties at its fair and reasonable market value when the sales ratio statistics shows that the requirements of the plan for continuing equalization and maintenance have not been met. The requirements of this plan are as follows:

- a. Establish standards, guidelines and procedures manuals to accurately assign fair market values and to achieve property tax equalization.
- b. Maintain formal education and certification programs.
- c. Provide on-the-job training as necessary.
- d. Develop and set staffing standards for county mapping and appraisal functions.
- e. Set specifications for Property Tax Administration Computer Software including Computer Assisted Mass Appraisal (CAMA) and Geographic Information System (GIS).
- f. Advise, direct and assist counties with workload planning and task assignment as necessary.
- g. Advise, direct and assist counties with general data analysis and perform specialty or intricate and involved analyses.
- h. Advise, direct and assist counties with the development of the construction index and/or trending factors.
- i. Advise, direct and assist counties with the development and application of land valuation tables, schedules, etc.
- j. Advise, direct and assist counties with the development of factors and multipliers applicable to the income approach to value.
- k. Perform other duties, functions and responsibilities as determined by the Property Tax Division Director.

## REAL PROPERTY

Definitions:

Real Property: For the purposes of revenue and taxation, real property is defined by *Code of Alabama 1975 §40-1-1-(1)* as: Land, City, Town and Village lots and all things pertaining and all structures and all other things attached thereto as to pass to a vender by the conveyance of the land.

Equalization: Is defined by the International Association of Assessing Officers in Property Appraisal and Assessment Administration as the process by which an appropriate governmental body attempts to ensure that property under its jurisdiction is appraised equitably at market value or as otherwise required by law.

Market Value: For appraisal and assessment purposes, the words fair and reasonable market value are interpreted to mean market value as that term is usually defined. The most commonly used definition of market value is as follows: Market value is the highest price expressed in terms of money that a property will bring if exposed for sale in the open market, allowing a reasonable time to find a purchaser who buys with full knowledge of all the uses to which it can be put and for which it is capable of being used. Most court definitions of market value conform to the term as defined above. The price at which a property would change hands between an informed seller not under compulsion to sell and an informed buyer not under compulsion to buy is a short definition of market value.

Property is appraised using the appraisal techniques outlined in this manual, and becomes the value for assessment.

Mass Appraisal: Is defined by the International Association of Assessing Officers in Property Appraisal and Assessment Administration as the process of valuing a group of properties as of a given date, using standard methods, and allowing for statistical testing.

Appraisal Level: Refers to the overall, or typical, ratio at which properties are appraised. In mass appraisal, appraised values do not always equal their indicators of market value (sales prices or independent appraisals), but over appraisals should balance under appraisals so that the typical ratio is near 100 percent.

Appraisal Uniformity: Equity within groups or categories (classes, neighborhoods, etc.) and between groups. Although the goal is to achieve an overall level of appraisal equal to 100%, ensuring uniformity within and between groups is also important. The level of appraisal in each group should be within 5% of the overall level of appraisal of the jurisdiction.

Assessment: All real property subject to taxation must be assessed by the property owner on October 1 each year. Reference: *Code of Alabama 1975 §40-7-1*. The taxpayer convenience act of 1983 allows for assessment from January 1 to September 30 each year. Reference: *Code of Alabama 1975 §40-7-2.1*.

Approaches to Value: The Alabama Appraisal Manual uses the cost approach to value to determine the replacement cost new for buildings and other improvements. The assessor or appraisal staff should have the skills to correctly identify depreciation and estimate land values as well as to correctly use the market approach and income approach to value. These three approaches to value must be correlated to arrive at a fair and reasonable market value. Reference: *Code of Alabama 1975 §40-7-64*.

## APPRAISAL AND MAPPING

Mapping: Section 40-7-27 of *Code of Alabama* 1975 requires that the assessing official complete the assessment of property not later than the last Monday in February. In order to meet this schedule the following mapping and appraisal schedule must be complied with:

- a. Deeds and other vesting instruments, including wills and recorded subdivision plats filed in the probate office should be completely mapped and ready for field review within 30 days after the date the instrument was filed in the probate office.
- b. Mapping for instruments executed between October 1 and September 30 will therefore be completed by November 15. In most cases inking can be done in conjunction with the mapping, but in the worst case not later than December 31.

Appraisal: Field review and appraisal should begin as soon as the mapping of each vesting instrument is completed. All fieldwork and appraisal should be completed by January 15 for mapping of vesting instruments through the previous September 30.

### Duties of the Appraiser:

- a. Appraise Land
  1. Record land characteristics that affect market value.
  2. Site features
  3. Road access
  4. Adverse easements and influences
  5. Utilities
- b. Measure new structures and additions.
  1. Sketch improvement on property record card.
  2. List construction features.
  3. Class and depreciate buildings.
  4. Appraise manufactured homes.

Publication of Notice: The assessing official shall give notice by publication once a week for two consecutive weeks in a newspaper published in the county that the assessed valuations of all property listed for taxation have been fixed as provided by law. Any taxpayer not satisfied with the valuation of property may file objections in writing to such assessed valuations with the secretary of the Board of Equalization within 10 days of the date of final publication of said notice. Reference: *Code of Alabama* 1975 §40-3-20.

Valuation Notice: Property owners are to be notified of market values attributed to property. Reference: *Code of Alabama 1975 §40-7-71*. An example of a standard appraised value notice is shown as Exhibit 1-1.

Exhibit 1-1  
Front of Postcard

Back of Postcard

## BOARD OF EQUALIZATION

Appeal from Assessor's Valuation: Any property owner may appeal a value to the county board of equalization. Such appeal must be in writing and filed with the taxing official as secretary to the board of equalization. The written appeal must be filed within 10 days of the date the reappraisal notice or publication of notice by the tax official. County boards of equalization are no longer charged with the responsibility of inspecting, reviewing and fixing values. The value fixed by the tax assessor is prima facie correct. The primary duty of the boards now focuses on reviewing appraised values. Only when a protest of appraised value is filed do the boards concern themselves with fixing value. Reference: *Code of Alabama 1975* §40-7-71.

When letters are received protesting appraised values, the secretary of the board of equalization makes a list of protests. A hearing docket is made up from the list of protests as nearly as possible in the order that the protests are received and are heard by the board in substantially the same order. Reference: *Code of Alabama 1975* §40-3-16.

The Board of Equalization will give due notice of a hearing to the Department of Revenue and the county governing body, one or both of which will be represented at the hearing. Reference: *Code of Alabama 1975* §40-7-71. The secretary of the board of equalization writes the director of the Property Tax Division requesting authority to convene the board and encloses a docket list.

The board convenes when notified in writing by the Commissioner of Revenue and remains in session to hear all appropriate protests. Reference: *Code of Alabama 1975* sections 40-3-7, 40-3-19, 40-7-60 and 40-7-71. The assessor informs the taxpayer when to appear before the board and requests that the taxpayer provides the following information at the hearing:

1. The date that the property was purchased.
2. The amount of any mortgages that have been placed upon the property.
3. The amount of insurance now carried on the property.
4. The cost of any improvements added to the land since it was acquired.
5. Sales data for the property protested and similar property in the same neighborhood.
6. Completed earning capacity statement (for appeals based on the income approach to value.)

At the hearing, the board shall give each protesting taxpayer a reasonable amount of time to be heard, considering the total time available to hear protests, the number of protests pending, the amount and nature of the property involved, and all other relevant circumstances.

The property owner may appear in person, or by agent or attorney, in order to produce evidence to support his objections. It is the responsibility of the board to examine all evidence presented and to question any

property owner and witnesses to determine if the value placed on the property was the fair and reasonable market value. The responsible taxing official and the county's chief appraiser represent the county to explain and defend the value that was reached.

If the board finds the assessor's value to be the fair and reasonable market value or the value specified by law, the value stands. On the other hand, if the board finds from the evidence presented that the valuation of the property is not reasonable market value, whether more or less; the valuation or assessment shall be corrected so that it is the value specified by law. Reference: *Code of Alabama 1975* §40-3-19.

In equalizing assessments the county board of equalization must prepare a written record of all proceedings and actions taken. Reference: *Code of Alabama 1975* §40-3-16. See Board of Equalization Form ADV: BE14, Exhibit 1-2.

The following information should be included on each form:

1. Parcel number of each parcel protested.
2. Summary of evidence presented at the hearing.
3. Recommendation of the appraiser.
4. Final value.
5. Date of decision.

Each member of the board that favors the action must sign each report. The secretary of the Board of Equalization retains a copy of the report and a copy is returned to the Property Tax Division of the Alabama Department of Revenue.

Errors: An appraisal error occurs where there is a calculation error, an erroneous measurement of an improvement or land area or an inaccurate listing of building components. The assessing official may correct an appraisal error. Reference: *Code of Alabama 1975* §40-7-9. Appraisal errors do not include alleged errors in appraisal judgment. Protest over valuation judgments need to be resolved in a formal hearing before the Board of Equalization.

Appeal from the County Board of Equalization: Decisions of the county Board of Equalization may be appealed to circuit court within 30 days of the board's decision. The taxpayer shall file notice of appeal with the secretary of the Board of Equalization and with the clerk of the circuit court and shall file a bond with the clerk to cover all cost. The taxpayer and state have the right to demand a trial by jury. Taxpayer must pay taxes due for the previous year or post a bond with sufficient sureties to be approved by the circuit court in double the amount of taxes, payable to the State of Alabama, along with all taxes, interest and cost due the state, county or any other agency. Either the state or taxpayer may appeal judgements of the circuit court directly to the Supreme Court of Alabama. Reference: *Code of Alabama 1975* §40-3-25.

Exhibit 1-2

A separate Form ADV BE-14 should be completed for each parcel appealed to the County Board of Equalization.

Exhibit 1-3

A completed Earning Capacity Statement should support protest of value based on the earning capacity of a property

## CURRENT USE VALUATION

### 1. APPLICATION:

The property owner must file application for current use valuation of Class III property with the county assessing official between October 1 and January 1 in any taxable year. The application form should include a description of the property, the use of the property and aerial photographs if the land is classified as forestry property. If the current use is granted upon application, the owners of such property shall not be required to file subsequent application for the applicable property. Upon determination of the current use value, the county assessing official will notify the property owner of such valuation. The property owner will have 30 days to file a request for review with the county assessing official for purpose of submitting any evidence to show an error in the determination by the county assessing official. See current use application form, Exhibit 1-4.

### 2. METHODS AND PROCEDURES FOR DETERMINING CURRENT USE VALUATION:

The county assessing official will use the following procedures in determining the current use valuation of the qualifying property where a timely request has been filed.

- a. Residential Property - Comparative fair and reasonable market value will be used for a single-family owner-occupied dwelling where such property's location makes its "highest and best use" something other than residential property (e.g. commercial or industrial). The land will be valued according to comparable residential land value of property, excluding that part of its value that is attributable to its possible use other than owner occupied dwelling. Improvement will be valued as a residential improvement.
- b. Cropland, Pasture Land and Timber Land - These properties will be utilizing the productivity ratings and soil groupings as listed on the following schedule:

Soil Group Rating	Agricultural Productivity Rating	Forest Productivity
1	Good	Good
2	Good	Good
3	Average	Average
4	Average	Average
5	Average	Average
6	Poor	Average
7	Non-productive	Poor
8	Good	Good
9	Poor	Average
10	Non-productive	Non-productive

The groups and productivity ratings will be determined in accordance with the soil group definitions as contained in *Code of Alabama 1975* §40-7-25.1.

The Department of Revenue, Property Tax Division, will determine the current use values each year for each soil group. A division directive will be sent not later than November 15, notifying all tax assessors of current use values.

- c. Historical Buildings and Sites - Historical buildings and sites which are listed in the National Register of Historic Places, in accordance with The *Code of Alabama* 1975, §40-7-25.1 paragraph 3, will be valued using the following procedure:

The improvement will be valued according to replacement method of similar residential or commercial properties not including architectural features that make it a significant landmark. The land will be valued according to similar residential property or commercial property depending on the use of the historical building site as other similar property within the neighborhood, i.e., if being used for residential use, the land will be valued according to similar residential lots in the neighborhood or if being used for commercial purposes, the land will be valued according to land that is being used for commercial use within the same neighborhood.

### 3. CONVERSION:

If any property for which a current use valuation has been approved is converted to any use other than that for which the application was filed, the tax assessor shall revalue the property according to current market value as provided by *Code of Alabama* 1975, Section §40-7-25.3. The tax assessor shall then base his appraisal on the then current market value assessing such property accordingly for purpose of collecting any additional taxes due thereon. After conversion, taxes will be due based on the sales price or the fair and reasonable market value of such property at the time of its conversion, whichever is greater, for the preceding three (3) property tax years.

EXHIBIT 1-4

CURRENT USE APPLICATION