Susan Combs Texas Comptroller of Public Accounts

Property Taxpayer Remedies

Property Tax Assistance • January 1, 2014

You are entitled to an explanation of the remedies available to you when you are not satisfied with the appraised value of your property. The Texas Comptroller of Public Accounts is required to publish an explanation of the remedies available to taxpayers and procedures to be followed in seeking remedial action. The Comptroller also must include advice on preparing and presenting a protest.

The Tax Code further directs that copies of this document be made readily available to taxpayers at no cost. The chief appraiser of an appraisal district may provide a copy with the *Notice of Appraised Value* mailed to property owners to explain the time and procedures used in protesting the value of their property. The chief appraiser must provide another copy to property owners initiating protests.

The first step in exercising your rights under the Tax Code is to protest your property's appraised value. The following remedies only address appraised values and related matters. Government spending and taxation are not the subjects of this publication and must be addressed by local taxing units.

How to Protest Property Value

If the appraisal district appraises your property at a higher amount than in the previous year, state law requires the appraisal district send a notice by May 1, or by April 1 if your property is a residential homestead, or as soon as practical thereafter. The notice must separate the appraised value of real and personal property and show an estimate of how much tax you would have to pay based on the same tax rate your city, county, school district and any special purpose district set the previous year.

The notice will also include the date and place the appraisal review board (ARB) will begin hearing protests and may tell you whether your appraisal district has an informal meeting process to resolve your concerns. If you are dissatisfied with your appraised value or if errors exist in the appraisal records regarding your property, you should file a *Notice of Protest* with the ARB.

If an appraisal district has an Internet website, it must permit electronic filing of a protest for excessive appraisal or unequal appraisal of property for which a residence homestead exemption has been granted, with certain exceptions. Counties with populations of 500,000 or more are required to do so and thus must have a website. Contact your local appraisal district for more details on filing a protest electronically.

What Can be Protested

The *Notice of Protest* may be filed using the model form on the Comptroller's website: **www.window.state.tx.us/taxinfo/taxforms/50-132.pdf**. The notice need not be on this form. Your notice of protest is sufficient if it identifies (1) the protesting person claiming an ownership interest in the property, (2) the property that is the subject of the protest and (3) dissatisfaction with a determination of the appraisal district.

You may request the ARB to schedule hearings on protests concerning up to 20 designated properties on the same day by using a special notice on the Comptroller's website: **www.window.state.tx.us/taxinfo/taxforms/50-131.pdf**.

You may protest the value on your property in the following situations:

- the value the appraisal district placed on your property is too high;
- your property is unequally appraised;
- the appraisal district denied a special appraisal, such as open-space land, or incorrectly denied your exemption application;
- the appraisal district failed to provide you with required notices; or
- other matters prescribed by Tax Code Section 41.41(a).

How to Complete the Protest Form

If using the protest form, these tips will help ensure that you can present your evidence and preserve your appeal rights.

- You should pay particular attention to the reason for protest section of the form.
- What you check as the reason for the protest influences the type of evidence you may present at your hearing.
- Your appeal options after the hearing are influenced by what you protest.

In the case of a typical residential property, checking both over market value and unequal appraisal will allow you to present the widest types of evidence and preserve your full appeal rights.

How to Resolve Concerns Informally

Many appraisal districts will informally review your concerns with you and try to resolve your objections. It is very important, however, that you preserve your right to protest to the ARB by filing your *Notice of Protest* before the deadline, even if you expect to resolve your concerns at the informal meeting with the appraisal district.

Find out the process your appraisal district follows. Try to discuss your protest issue with the appraisal office in advance. Ask one of the appraisal district's appraisers to explain how the district arrived at the value of your property. Be sure the property description is correct and that the measurements for your home or business and lot are accurate. Many appraisal districts have this information online.

What is an ARB?

The ARB is an independent, impartial group of citizens authorized to resolve disputes between taxpayers and the appraisal district. It is not controlled by the appraisal district. In counties with 120,000 or more population, the local administrative district judge appoints appraisal review board members. Otherwise, the appraisal district's board of directors appoints them.

The ARB must follow certain procedures that may be unfamiliar to you. It must base its decisions on facts it hears from you and the appraisal district to decide whether the appraisal district has acted properly in determining the value of your property.

ARB members cannot discuss your case with anyone outside of the hearing. Protest hearings, however, are open to the public and anyone can sit in and listen to the case. A closed hearing is allowed on the joint motion of the property owner and chief appraiser if either intends to disclose proprietary or confidential information at the hearing.

When are Protests Filed?

You should file your *Notice of Protest* with the ARB no later than 30 days after the appraisal district mailed the *Notice of Appraised Value*. You may request an evening or weekend hearing. The ARB will notify you at least 15 days in advance of the date, time and place of your hearing. Under certain circumstances, you may be entitled to a postponement of the hearing to a later date. The ARB begins hearings around May 15 and generally completes them by July 20. Start and end dates can vary from appraisal district to appraisal district.

At least 14 days before your protest hearing, the appraisal district will mail a copy of this pamphlet; a copy of the ARB procedures; and a statement that you may inspect and obtain a copy of the data, schedules, formulas and any other information the chief appraiser plans to introduce at your hearing. This information is not required to be delivered 14 days before a hearing; it only must be available for inspection and copying.

You can appear at the ARB hearing in person, by affidavit or through an agent.

If you fail to appear, you may lose the right to be heard by the ARB on the protest and the right to appeal. If you or your agent fails to appear at a hearing, you are entitled to a new hearing if you file with the ARB, not later than four days after your hearing date, a written statement showing good cause for failing to appear and request a new hearing. Good cause is defined as a reason that includes an error or mistake that was not intentional or was not the result of conscious indifference and will not cause undue delay or injury to the person authorized to extend the deadline or grant a rescheduling.

What Steps to Take to Prepare for Protest Hearing

You should consult with the appraisal district staff about your property's value. Ask questions about items you do not understand. The appraisal district is required to provide copies of documents that you request, at a cost not to exceed $25 total for all the copies it makes for each property you protest, or $15 for each residence. Many appraisal districts provide a great deal of information on their websites at no charge.

If you are protesting the appraisal of your home or small business, you can view videos on the topic on the Comptroller's website at **www.window.state.tx.us/taxinfo/proptax**.

Observing the following tips can also help in achieving a successful appeal:

- *Be on time and prepared for your hearing.* The ARB may place time limits on hearings.
- *Stick to the facts and avoid emotional pleas.* The ARB has no control over the appraisal district's operations or budget, tax rates for local taxing units, inflation or local politics; addressing these topics in your presentation wastes time and will not help your case.
- *Review the ARB hearing procedures*. After you receive the ARB hearing procedures, take time to become thoroughly familiar with them and be prepared to follow them.
- *Present your information in a simple and well-organized manner*. You and the appraisal district staff are required to exchange evidence at or before the hearing. Photographs and other documents are useful. You should take an appropriate number of copies so that each ARB member and the appraisal district representative receive one.

The date of your appraisal is Jan. 1, so you should make sure that changes made before that date are included in the appraisal. Improvements or damage to your property after Jan. 1 should not be part of the appraisal or the protest.

If you are protesting the value of business property or other appraisal matters, you should have evidence to support your opinion of value. Sales data may not be available or relevant, but income and expense information may be useful.

The appraisal district has the burden of proof in value and unequal appraisal disputes. An appraiser's job is to appraise property at its market value, equitably and uniformly.

What if you are Dissatisfied with the ARB's Decision

After the ARB rules on your protest, it will send a written order by certified mail. If you are dissatisfied with the ARB's findings, you have the right to appeal the decision. Depending on the facts and type of property, you may be able to appeal to the state district court in the county in which your property is located; to binding arbitration; or to the State Office of Administrative Hearings (SOAH).

You may appeal through binding arbitration if your property is valued at $1 million or less. You may also use binding arbitration for your residence homestead regardless of its appraised value. To request binding arbitration, you must file a *Request for Binding Arbitration* form with the appraisal district, along with a deposit check payable to the Comptroller of Public Accounts. The deposit is $500. All but 10 percent of your deposit will be refunded to you if the arbitrator sets your value at an amount closer to your opinion of value than to the ARB's value. If not, the deposit is used to pay the arbitrator's fee. You must exercise the arbitration option not later than 45 days after the date you receive the ARB's notice of its decision.

Property owners may also appeal ARB orders for real or personal properties with values of more than $1 million to SOAH. To appeal, you file a notice with the chief appraiser not later than 30 days after the date you receive the ARB's notice of its decision and file a $1,500 deposit not later than the 90th day after you receive the ARB's notice of the order. The administrative law judge will schedule the hearing in the municipality where the property is located unless SOAH does not have a remote hearing site in that municipality. In which case, the hearing will be scheduled in the municipality with a remote hearing site that is closest to the subject property.

Alternatively, you may appeal the decision to the state district court in which your property is located. You must file the appeal no later than 60 days after you receive the final ARB order.

In all types of appeals, you are required to pay taxes equal to the undisputed value of your property before the delinquency date.

What is the Comptroller's role in the protest process?

The Comptroller's office provides a survey for property owners to offer feedback on the ARB experience. Survey results are published in an annual report. The Comptroller's office does not, however, have oversight responsibility over the ARB and has no authority to investigate complaints about the ARB. Any complaints about the ARB or its members should be directed to the ARB itself, the appraisal district board of directors or the local administrative district judge in counties with 120,000 or more population. The Comptroller's office has no direct involvement in the protest process.

Further, this pamphlet is intended to provide customer assistance to taxpayers. It does not address all aspects of property tax law or the appraisal process. The Comptroller's office is not offering legal advice, and this information neither constitutes nor serves as a substitute for legal advice. Questions regarding the meaning or interpretation of statutes, notice requirements and other matters should be directed to an attorney or other appropriate counsel.

Where can you get more information?

This publication does not cover all aspects of the ARB protest process or property taxes. For more information, please see the following resources:

- *Taxpayer Bill of Rights;*
- *Valuing Property;*
- *Setting Tax Rates;*
- *How To Protest;*
- *Paying Your Taxes;*
- *Appraisal Review Board Manual;* and
- *Texas Property Tax Code.*

This information is found on the Comptroller's Property Tax Assistance website. It provides property owners a wealth of information on the appraisal and protest process at **www.window.state.tx.us/taxinfo/proptax/**. You may also contact the Comptroller's Information Services Team for assistance at **ptad.cpa@cpa.state.tx.us** or at 1-800-252-9121, enter "2" for the main menu, and then "1."

Property Tax Assistance Division Information Services

Texas Comptroller of Public Accounts

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www.window.state.tx.us/propertytax/local-protest/remedies/96-295.pdf

Call toll free in Texas **1-800-252-9121**.

In Austin, call **512-305-9999**.

For additional copies visit our website:

www.window.state.tx.us/taxinfo/proptax

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