Members Brief

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Author: Michael Hinel, Attorney
Reviewer: Sam Benham, Division Chief

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Property Tax: The Triennial Update

The Ohio Constitution generally requires all real property in Ohio to be valued for tax purposes according to its true value in money – the value for which the property would be sold on the open market between a willing buyer and a willing seller. To ensure that property values are periodically adjusted to reflect changes in the real estate market, county auditors are required to reappraise the value of each parcel once every six years. In the third year of that six-year reappraisal cycle, those valuations are updated to reflect market changes in each neighborhood since the reappraisal. This brief explores the standards and procedures used to conduct this "triennial update."

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Introduction

Real property in a county is appraised for property tax purposes once every six years to establish its true, or market, value, a process known as the "sexennial reappraisal." At the midpoint of the six-year reappraisal cycle, county auditors review and adjust the values established by the most recent sexennial reappraisal to reflect changes in market conditions since the reappraisal. This reassessment phase is known as the "triennial update." The Tax Commissioner is responsible for reviewing county auditors' valuations during the sexennial reappraisal and triennial update and correcting those valuations as necessary to ensure that property values reflect true market values.

The six-year reappraisal cycle and the Commissioner's review is intended to comply with the Ohio Constitution's uniform rule of taxation, which, as discussed below, generally requires real property to be valued for tax purposes at its true value. Every year, approximately one-sixth of Ohio counties conduct the sexennial reappraisal and another one-sixth of counties conduct the triennial update.[1]

Constitutional foundation

Article XII, Section 2 of the Ohio Constitution requires that real property, including land and any improvements, be taxed "by uniform rule according to value." Though at one time this constitutional requirement, known as the "uniform rule," was largely unenforced, a series of Ohio Supreme Court cases rendered in the 1960s and 1970s interpreted the uniform rule to require uniformity in the "mode" of assessing real property.

The uniform rule imposes two general requirements to valuing and assessing real property for tax purposes. First, nearly all real property in the state must be valued at its true value in money, which is the value for which the property would be sold between a willing buyer and a willing seller in an arm's length transaction; i.e., the buyer and seller were not compelled to buy or sell the property and each knew all relevant facts about the property.[2] Second, all real property in the state must be assessed on the basis of the same uniform percentage of that value.[3] The uniform rule has been used by courts to invalidate laws and practices that violate these two requirements.[4]

The Ohio Constitution does not specifically require counties to conduct sexennial reappraisals or triennial updates or specify the procedures or methods to value real property. Instead, the six-year reappraisal cycle is a statutory process designed to comply with the uniform rule.[5] The constitutionality of replacing the triennial update with a new process for all counties, repealing the triennial update entirely, or otherwise reforming the six-year reappraisal cycle depends on whether real property is still considered to be valued at its true value in compliance with the uniform rule.

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[1] For the six-year reappraisal cycle schedule for each county, see the Ohio Department of Taxation's Property Value Reappraisal and Update Schedule, which is available on the Department's website: tax.ohio.gov.

[2] The only exception to the Ohio Constitution's true value requirement is for agricultural property, which may be valued at its current agricultural use value (CAUV). Ohio Constitution, Article II, Section 36.

[3] The Revised Code authorizes the Tax Commissioner to determine the assessment rate up to an amount not exceeding 35%. By Department of Taxation rule, the assessment rate equals 35% for all real property. R.C. 5715.01(B) and Ohio Administrative Code (O.A.C.) 5703-25-05(B).

[4] See *State ex rel. Park Inv. Co. v. Bd. of Tax Appeals*, 175 Ohio St. 410 (1964) and *State ex rel. Park Inv. Co. v. Bd. of Tax Appeals*, 32 Ohio St.2d 28 (1972).

[5] R.C. 5713.01(B), 5713.03, 5715.24, and 5715.33; O.A.C. 5703-25-06(B) and (C).

Basics of real estate valuation

To better understand the procedures and methods used to conduct the triennial update, it is helpful to first explore the basics of real estate valuation. For tax purposes, the Revised Code requires county auditors to determine the true value of the fee simple estate, taking into account the effects on value from government's exercise of police powers or other actions, e.g., zoning restrictions, but excluding any encumbrances on the property, e.g., deed restrictions.[6]

The Ohio Supreme Court held that the best evidence of true value is the actual sale price of the property sold on the open market.[7] In fact, Ohio law expressly authorizes county auditors to consider the actual sale price of the property within a reasonable amount of time before or after the tax lien date, i.e., the January 1 date upon which value is determined for tax purposes, unless additional improvements were constructed on the parcel or the property suffered a casualty since the sale.[8]

In the absence of an actual sale, county auditors must instead rely on appraisals or other methods of determining true value. To that end, the Tax Commissioner is required to prescribe rules of determining true value.[9] Those rules include a variety of methods, the most notable of which authorizes county auditors to rely on three widely used approaches of calculating value – the cost approach, the market data approach, and the income approach.[10]

The cost approach estimates the value of buildings or other improvements based on their construction or replacements costs, less depreciation and obsolescence. The market data approach estimates value based on recent sales of comparable property, allowing for adjustments for differences between the to-be-valued property and the recently sold comparable properties. Lastly, the income approach estimates value based on the income generated by the property, e.g., market rents.[11]

The approach or approaches most appropriate for calculating a property's true value may depend on the nature of that property, market characteristics, and available data. For example, the market data approach is typically used to value single-family homes due to the prevalence of comparable sales in most markets, whereas the income approach may be most appropriate to value commercial property or apartment buildings, which are not as often bought and sold, due to the prevalence of lease data.

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[6] R.C. 5713.03.

[7] *State ex rel. Park Inv. Co. v. Bd. of Tax Appeals*, 175 Ohio St. 410, 412 (1964).

[8] Ohio law authorizes, but does not require, county auditors to adjust a property's value for a tax year that does not coincide with a sexennial reappraisal or triennial update if the auditor determines that the property is incorrectly valued, such as for a recent sale of the property. R.C. 5713.01(B) and 5713.03; O.A.C. 5703-25-06(F).

[9] R.C. 5715.01(A).

[10] O.A.C. 5703-25-11 and 5703-25-12.

[11] O.A.C. 5703-25-05(D), (F), and (G) and 5703-25-07(D).

The triennial update

In the year of sexennial reappraisal, county auditors adjust property values based on an examination of each parcel and application of the valuation approaches described above. In contrast, county auditors make valuation adjustments for the triennial update on a statistical basis. A property's value for tax purposes is generally adjusted by multiplying it by the percentage change in the aggregate value of that class of property within the neighborhood or taxing district in which it is located since the most recent sexennial reappraisal.[12] The factors used to estimate the change in the aggregate value for each class of property, which are detailed below, are directly related to the real estate valuation approaches discussed above.

The triennial update assumes that property values within a class and within a neighborhood or taxing district move in tandem. Any idiosyncrasies of a particular parcel that may warrant a higher or lower value should be reflected when the property is reappraised during the sexennial reappraisal.

Procedural requirements

After determining the true value of all real property in the county, the county auditor must annually present those values to the county board of revision – a board comprised of the county auditor, the county prosecuting attorney, and a county commissioner. The board may make any corrections to ensure all properties are correctly valued, including during the year of a triennial update.[13] Then, the county auditor must annually file with the Tax Commissioner an abstract of the real property in the county, which includes the aggregate valuation of each class of property in the county.[14]

Before presenting that information to the county board of revision or the Commissioner during a triennial update year, the Department of Taxation must inform the county auditor of the Department's preliminary estimate of changes in real property tax values needed for that triennial update. If the county auditor disagrees with the preliminary estimate based on the auditor's own studies, the auditor may request a conference with the Commissioner within 30 days after receiving that estimate.[15]

During the process of reviewing county auditors' proposed triennial update valuation adjustments, if the Commissioner determines that the taxable value of any class of property in any taxing district in the county is incorrect, the Commissioner must order the auditor to increase or decrease the aggregate true value so that the class of property is correctly valued.[16] The Commissioner must send notice of any such correction to the county auditor, who must then carry out the Commissioner's order and refile an adjusted abstract within 90 days.[17]

[12] R.C. 5713.01(B); O.A.C. 5703-25-06(E).

[13] R.C. 5715.16.

[14] R.C. 5715.23.

[15] O.A.C. 5703-25-16(B) and (C).

[16] R.C. 5715.24.

[17] R.C. 5715.25 and 5715.26(A)(3).

Guidelines for county auditors

In conducting the triennial update, the Department of Taxation's rules require that county auditors be guided by certain information or factors, each of which is directly related to the previously discussed approaches of calculating value (see "**Basics of real estate valuation**," above). The information or factors county auditors should use to conduct the triennial update are comparable sales occurring in the preceding three years (i.e., since the county's last sexennial reappraisal); sales ratio and other related studies compiled by the Commissioner; the increase or decrease in building costs; the increase or decrease in the net rental income, expenses, and services for comparable property; and any other pertinent information, including sample appraisals.[18]

Guidelines for the Tax Commissioner

With some exceptions, the Department of Taxation's rules do not prescribe the methods or information the Commissioner must rely on in reviewing an auditor's triennial update. The rules do require the Commissioner to base the estimate of property values on sales trends in the county since the county's last sexennial reappraisal and any other relevant information, as long as any information relied on by the Commissioner is comparable to information available to the auditor.[19]

Current law does require the Commissioner, in calculating how much the value of a particular class of property has changed, to consider only existing property values by disregarding the value of new construction and to deduct the value of any damaged or destroyed property.[20] Current law also requires the Commissioner to conduct sales-assessment ratio studies for each county for the purpose of determining a common level of assessment of real property within a county, which, as noted above, may be utilized by county auditors in completing the triennial update, and which the Commissioner may rely on when conducting the Commissioner's review. (A sales-assessment ratio is the ratio of appraised value of property in a particular year to transaction value of property sold in that year.)[21]

Other than these guidelines and requirements, the Commissioner may use any method or information the Commissioner considers necessary to calculate the true value of real property in a county.

Discretion to determine best methods

Since Ohio law does not require the use of specified formulas or methods, county auditors and the Commissioner generally maintain discretion to determine the best means to calculate property values for the triennial update. The methods may vary among county auditors, thereby making the Commissioner's review necessary to ensure real property is accurately and uniformly valued throughout the state, as required by the Ohio Constitution. The methods may also vary in

[18] O.A.C. 5703-25-06(D).

[19] O.A.C. 5703-25-16(B).

[20] R.C. 5715.24(A).

[21] R.C. 5715.012.

subsequent triennial updates based on market conditions, available information, or new or improved methods to calculate true value. Although a county auditor and the Commissioner are generally required to use comparable data in computing property values for any one update, the use of or greater emphasis on certain methods or information may result in different valuations.

Appealing a triennial update adjustment

If a county auditor disagrees with a correction order from the Commissioner following the Commissioner's review of a triennial update, the auditor may appeal it to the Board of Tax Appeals (BTA) within 30 days after receiving that order. The auditor may request, and the Commissioner must provide to the BTA within 30 days of the request, a certified transcript of the proceedings of the determination and any evidence the Commissioner relied upon in estimating and ordering the corrections. If the BTA finds that the Commissioner acted unlawfully, or that the Commissioner acted lawfully, but unreasonably, in computing the valuation corrections, the BTA may either reverse the Commissioner's order or modify those corrections.[22] The party that does not prevail before the BTA may appeal its decision to the court of appeals of the auditor's county or to the Ohio Supreme Court.[23]

If a county auditor does not appeal a determination of the Commissioner and does not submit to the Commissioner an adjusted abstract within 90 days after receiving the Commissioner's order, the Commissioner must withhold 50% of Local Government Fund (LGF) distributions to that county and must instruct the Department of Education to withhold 50% of state revenue distributions to school districts in that county.[24] The Commissioner may also bring civil and criminal actions against an auditor who fails to obey an order of the Commissioner.[25]

Ohio law additionally offers valuation appeal rights to property owners. If, after the triennial update is complete, a property owner believes the owner's property is overvalued, the owner may file a claim with the county board of revision, which has jurisdiction to hear valuation disputes. The board's quasi-judicial process allows it to correct valuations during any tax year, including the tax year for which a triennial update is conducted.[26]

[22] R.C. 5715.251.

[23] R.C. 5717.04.

[24] R.C. 5715.26(A)(3).

[25] R.C. 5715.31.

[26] R.C. 5715.02 and 5715.19. Such adjustments do not conflict with Ohio Constitution's uniform rule or the Equal Protection Clause of the U.S. Constitution. See *Meyer v. Cuyahoga County Board of Revision*, 58 Ohio St. 2d 328, 335 (1979).