

# COUNTY BOARD OF EQUALIZATION (BOE)

Utah State Tax Commission—USTC

Property Tax Division—Tax Rates

# Valuation Notices

- Taxpayers receive valuation notices from county stating property values and listing tax areas/districts
  - Sent out by July 22

- Taxpayer has the later of 45 days or September 15<sup>th</sup> to file application to appeal property values
  - September 1<sup>st</sup> relief deadline (with exceptions)

## County BOE

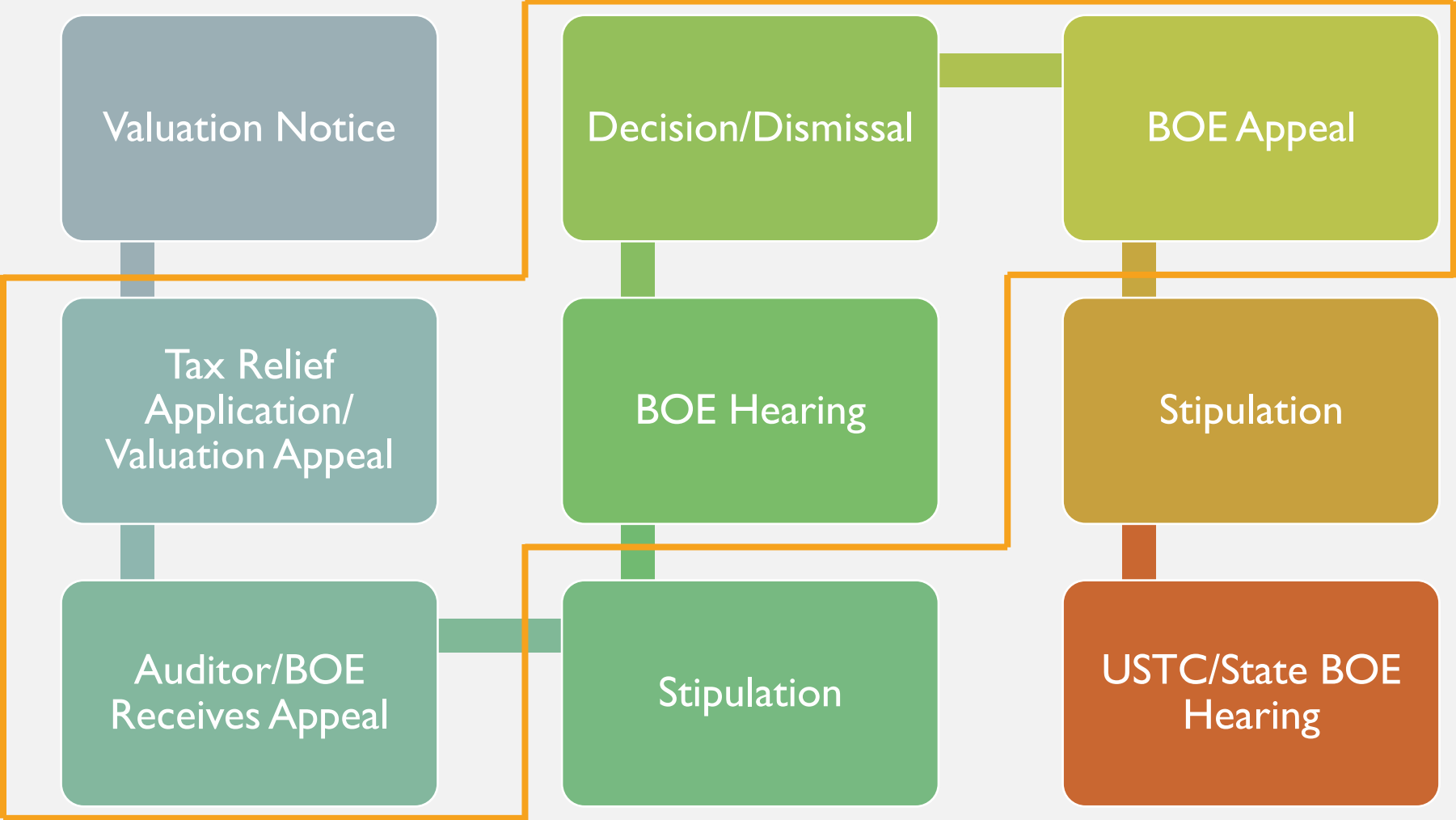
- The appeal to the Tax Commission must be filed with the county auditor within 30 days of the final action of the BOE. The notice of appeal must specify the grounds for the appeal.

## State BOE

- 20 days after the date of an order to file a Request for Reconsideration with the Tax Commission Appeals Unit
- 30 days after the date of an order to pursue judicial review

## Court Action

# Main Focus



# RECENT LEGISLATION (2023)

## H.B. 58—TAX MODIFICATIONS

- County Assessor & County BOE no longer have the burden of proof if the change in value on a property is equal to the inflation adjusted value
- Removes the requirement to show percent/value changes in state basic rate and multicounty assessment & collection rate on valuation notices



## H.B. 257—GREENBELT PROPERTY AMENDMENTS

- If a greenbelt (FAA) property decreases below the minimum 5 acres due to a government entity or public utility company exercising eminent domain, the county BOE/commissioners may waive the acreage requirement once the owner appeals and submits proof of the eminent domain (or threat thereof)
  - This exemption/exception continues if entire property is sold to new owner (i.e., not voluntarily split up before sale)



**BOARD OF EQUALIZATION  
MEMBERS**

# BOARD OF EQUALIZATION (BOE)

## [§59-2-1001](#)

- (1) The county legislative body is the county board of equalization, and **the county auditor is the clerk of the county board of equalization.**

## [Standard 1](#)

- “The BOE is responsible for raising or lowering locally assessed property assessments that are proven incorrect. It accepts the assessor’s assessment as correct unless there is evidence proving otherwise. It is not an assessing body, but a quasi-judicial body. As an appeal body, the BOE hears and reviews oral and written testimony regarding property valuation and assessment.”



# BOE CLERK

## [§59-2-1001](#)

- (4) The clerk of the board of equalization shall notify to the taxpayer, in writing, of any decision of the board. The decision shall include any adjustment in the amount of taxes due on the property resulting from a change in the taxable value and shall be considered the corrected tax notice.

## [§59-2-1002](#)

- (3) The clerk of the board of equalization shall give written notice:
  - (a) to all interested persons of the day fixed for the investigation of any assessment under consideration by the board at least 30 days before action is taken; and
  - (b) to the assessor of a valuation adjustment made in accordance with Subsection 59-2-301.4(2) or another adjustment under this section.

# HEARING OFFICERS

## §59-2-1001

- A county board of equalization may appoint a hearing officer for the purpose of examining an applicant or witness if the individual has completed a course the commission has approved who is:
  - a licensed appraiser
  - an individual who is not [a licensed appraiser] if the county board of equalization determines that the individual has competency relevant to the work of a hearing officer
    - Competency is in real estate, finance, economics, public administration, or law
- Commission-approved courses include:
  - The Tax Commission's 4-hour *Course 43, County Board of Equalization Hearing Officer Training*
  - Salt Lake County's 10-hour *Hearing Officer Training Course*
- A hearing officer shall transmit the hearing officer's findings to the board, where a quorum shall be required for final action upon any application for exemption, deferral, reduction, or abatement.

# COUNTY ASSESSOR

## §59-2-1001

- (5) During the session of the board, the assessor or any deputy whose testimony is needed shall be present and may make any statement or introduce and examine witnesses on questions before the board.
- (3)(d) A county board of equalization may not appoint a person employed by an assessor's office as a hearing officer.
  - The county auditor, assessor, and treasurer or any of their appointed deputies should not serve as hearing officers for the BOE

# KEY DEFINITIONS

# CONFLICT OF INTEREST

## [§20A-11-1602\(1\)](#)

- An action that is taken by a regulated officeholder that the officeholder reasonably believes may cause direct financial benefit or detriment to the officeholder, a member of the officeholder's immediate family, or an individual or entity that the officeholder is required to...if that benefit or detriment is distinguishable from the effects of that action on the public or on the officeholder's profession, occupation, or association generally.

## Standard I

- The county auditor will keep a record of conflict of interest statements with the appeal and in the official minutes of the BOE.
- Failure to comply with this standard may constitute grounds for the State Tax Commission to reopen the appeal. The State Tax Commission may:
  - Order the BOE to reconsider the appeal
  - Assume original jurisdiction in the matter and hear the appeal itself.

## QUALIFIED REAL PROPERTY

- Locally assessed real property for which the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county BOE or State Tax Commission, and **had the value reduced**
- The taxpayer must appeal the property in the current year while the assessed value of the property is **higher** than the inflated adjusted value and **did not have a qualifying change**.

# QUALIFYING CHANGE

- §59-2-109
  - (d) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:
    - (i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or \$20,000;
    - (ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or
    - (iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

# FACTUAL ERROR

([R884-24P-66](#))

## Definition

- Objectively verifiable without the exercise of discretion, opinion, or judgment and is demonstrated by clear and convincing evidence

## Includes:

- Mistakes in the description of the size, use, or ownership of a property
- Clerical/typographical errors in the data used to establish valuation or equalization
- Misclassification of a property that is eligible for a property tax exemption, deferral, reduction, or abatement
- Valuation of a property that is not in existence on the lien date
- Valuation of a property assessed more than once, or by the wrong assessing authority.

## Does not include:

- Alternative approaches to value
- Change in a factor or variable used in an approach to value
- Any other adjustment to a valuation methodology

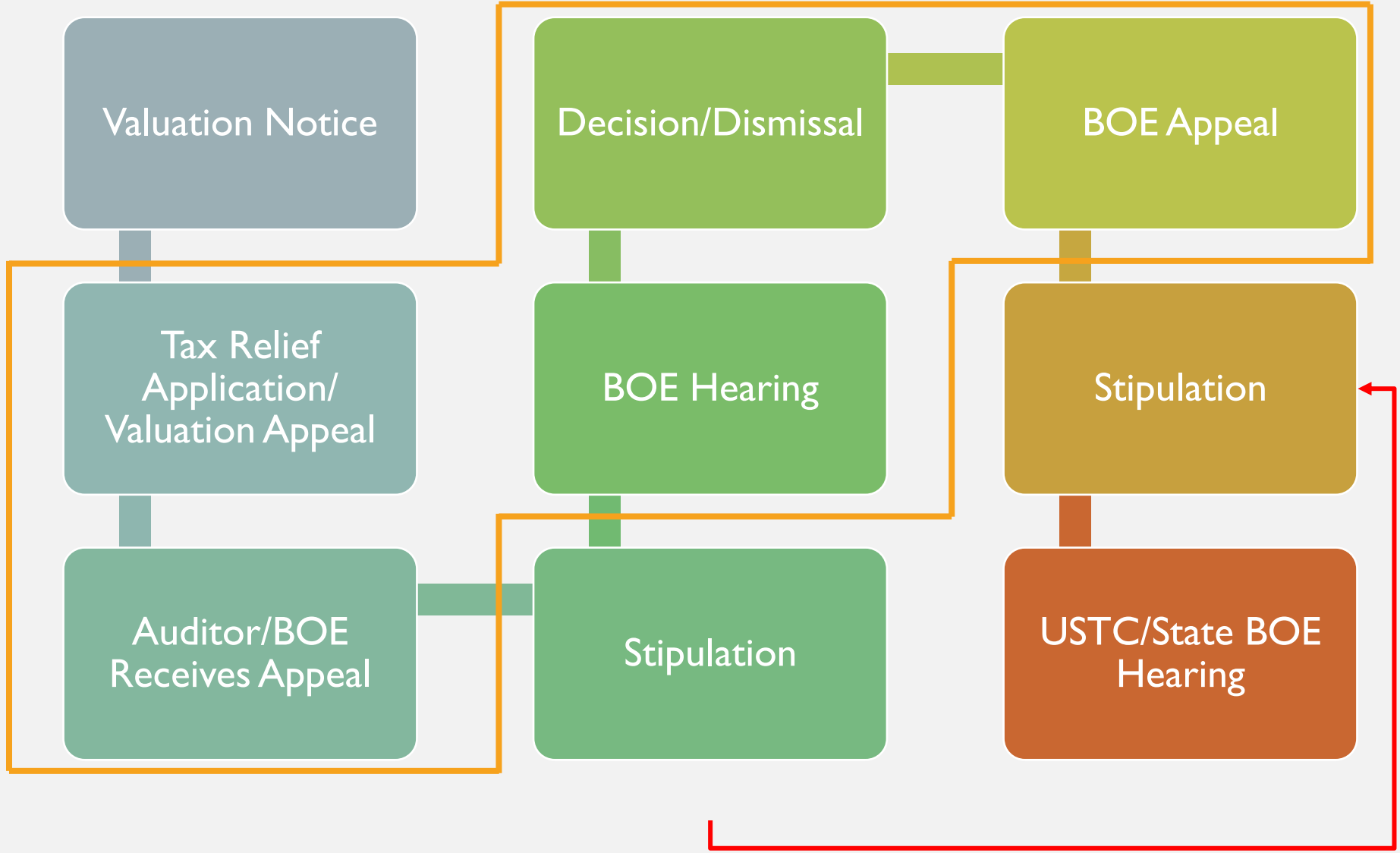


# BURDEN OF PROOF

- In most cases, the property owner carries the burden of proof when appealing property value and must present evidence to the BOE that the market value determined by the assessor is incorrect.
  - Qualified Real Property
    - Burden of proof lies with the **county BOE or county assessor** if they assert a fair market value greater than the inflation adjusted value
    - Burden of proof lies with the **taxpayer** if they assert a fair market value lower than the inflation adjusted value
  - Not Qualified Real Property
    - Burden of proof lies with the **county assessor or BOE** if they assert a fair market value greater than the original assessed value
      - Original assessed value loses the presumption of correctness
- A factual error is agreed upon by the taxpayer and assessor, so the burden of proof is not relevant in these appeals.

# BOE PROCEDURES

# Main Focus



Can reach stipulated agreement at any time which may stop appeal process

# COUNTY BOARD OF EQUALIZATION PROCEDURES AND APPEALS ([R884-24P-66](#))

- To achieve standing with the county board of equalization and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the county board of equalization:
  - Name and address of the property owner
  - Identification number, location, and description of the property
  - Value placed on the property by the county assessor
  - Taxpayer's estimate of the fair market value of the property
  - Evidence or documentation that supports the taxpayer's claim for relief
  - Taxpayer's signature

# COUNTY BOARD OF EQUALIZATION PROCEDURES AND APPEALS ([R884-24P-66](#)) (CONT.)

- If the evidence or documentation is not attached, the county will notify the taxpayer in writing of the defect in the claim and permit at least ten calendar days to cure the defect before dismissing the matter for lack of sufficient evidence to support the claim for relief.
- If the taxpayer appears before the county board of equalization and fails to produce the evidence or documentation and the county has notified the taxpayer, the county may dismiss the matter for lack of evidence to support a claim for relief.
- If the information is supplied, the county board of equalization shall render a decision on the merits of the case.
- The county board of equalization may dismiss an appeal for lack of jurisdiction when the claimant limits arguments to issues not under the jurisdiction of the county board of equalization.
- If a decision affects the exempt status of a property, the county board of equalization shall prepare its decision in writing, stating the reasons and statutory basis for the decision.
- Decisions by the county board of equalization are final orders on the merits.

## BOE RECORDS/NOTES

- The county auditor maintains records of testimony, evidence, and minutes of all hearings for the BOE.
- The county auditor will keep a record of conflict of interest statements with the appeal and in the official minutes of the BOE.
- The county auditor must file the notice of appeal with the State Tax Commission. The county auditor will certify and send to the State Tax Commission:
  - The minutes of the proceedings of the BOE for the matter appealed;
  - All documentary evidence received in that proceeding; and
  - A transcript of any testimony taken at that proceeding that was preserved.
- If the appeal is from a hearing where an exemption was granted or denied, the county auditor must certify and transmit to the State Tax Commission the written decision of the board of equalization.

## BOE RECORDS/NOTES (CONT.)

([R884-24P-66](#))

- The county board of equalization shall prepare and maintain a record of the appeal.
- For appeals concerning property value, the record shall include:
  - Name and address of the property owner
  - Identification number, location, and description of the property
  - Value placed on the property by the county assessor
  - Basis for appeal stated in the taxpayer's appeal
  - Facts and issues raised in the hearing before the county board that are not clear from the county assessor's records; and
  - Decision of the county board of equalization and the reasons for the decision.
- The record may be included in the minutes of the hearing before the county board of equalization.
- The county auditor maintains records of testimony, evidence, and minutes of all hearings for the BOE. The BOE must authorize all corrections to the assessment roll. Upon correcting the assessment roll, the auditor delivers the assessment roll to the county treasurer.

# COUNTY BOE DECISIONS

- The county BOE shall notify the taxpayer in writing of its decision.
  - The required notice shall include:
    - Name and address of the property owner
    - Identification number of the property
    - Date the notice was sent
    - Notice of appeal rights to the commission
    - Statement of the decision of the county BOE or copy of the decision of the county BOE
- A county shall maintain a copy of the required notice sent to a taxpayer.
- The county **must** inform the applicant in writing that they have 30 days to appeal **to the Utah State Tax Commission** on their notice of decision.



# COUNTY BOE DECISIONS (CONT.)

## Standard I

- Formal adoption of decisions by the BOE requires a quorum. A simple majority of those present must concur in the decision. If the BOE is unable to assemble a quorum, the decision must be held until a quorum is available to vote.
  - If a BOE consists of three members, two is a quorum. Both must concur in the decision for a simple majority.
  - If it is impossible to assemble a quorum due to conflicts of interest or other circumstances, the matter should be referred to the State Tax Commission to take original jurisdiction.
  - **Example:** If two members of a three-member board do not agree on a decision, they must wait for the third member to vote on the issue or send it up to the Tax Commission for resolution if that member has a conflict of interest.

# TAXPAYER-SUCCESSFUL APPEALS

- Where equalization is ordered by the BOE or the State Tax Commission, the assessor shall maintain the equalized value on current and subsequent year assessment rolls, unless:
  - The neighborhood, class, or area receives a market factor adjustment ordered by the State Tax Commission or initiated by the assessor
  - There is a change in the physical characteristics of the property
  - The market values in the area are declining
- The property's equalized value is examined on an individual basis by the county assessor and the determination is made that the value must be adjusted to achieve market value for subsequent assessment rolls.
- Any adjustment to value that differs from the original assessment by 20% and \$1 million must be listed as a separate agenda item at the public hearing where the adjustment is made. A property description must also be listed on the agenda.

# DISMISSALS

- Decisions by the BOE are final orders on the merits of the case, and appeals to the State Tax Commission shall be on the merits of the case except for
  - Dismissal for lack of jurisdiction
  - Dismissal for lack of timeliness
  - Dismissal for lack of evidence to support a claim for relief
- On appeal from a dismissal by a BOE for the exceptions, the only matter that will be reviewed by the State Tax Commission is the dismissal itself, not the merits of the appeal.
  - If the State Tax Commission finds that the dismissal was inappropriate, they will remand the case to the county

# APPEALING THE COUNTY BOE'S DECISION

# FILING AN APPEAL WITH THE USTC

- Any person dissatisfied with the decision of the BOE concerning the assessment of any property in which the person has an interest may appeal that decision to the State Tax Commission. The appeal to the Tax Commission must be filed with the county auditor within 30 days of the final action of the BOE. The notice of appeal must specify the grounds for the appeal.
  - A property owner may appeal the decision of an indigent abatement or deferral, veterans exemption, blind exemption, or homeowner's credit by a county to the State Tax Commission.
- When the assessor is dissatisfied with the decision of the county BOE, they may elect to appeal to the State Tax Commission. In such appeals, the assessor is the petitioner vs. the county BOE, ex. rel. the property owner, respondents. All parties should be represented before the State Tax Commission regarding their own interests.

## FILING AN APPEAL WITH THE USTC (CONT.)

- An appeal of a BOE decision may not be filed by the appellant directly with the State Tax Commission. The appellant must appeal a BOE decision to the State Tax Commission by filing the appeal notice with the county auditor within 30 days after the BOE's final action.
  - When an appeal is filed with the State Tax Commission without first being filed with the county BOE, the State Tax Commission will forward the appeal to the appropriate BOE.
  - If the taxpayer misdirected an appeal to the State Tax Commission within 30 days of the BOE's decision, the appeal will be deemed timely by the county auditor when received from the State Tax Commission.

# COUNTY AUDITOR FILING REQUIREMENTS

- The county auditor must file the notice of appeal with the State Tax Commission. The county auditor will certify and send to the State Tax Commission:
  - The minutes of the proceedings of the BOE for the matter appealed
  - All documentary evidence received in that proceeding
  - A transcript of any testimony taken at that proceeding that was preserved.
- If the appeal is from a hearing where an exemption was granted or denied, the county auditor must certify and transmit to the State Tax Commission the written decision of the board of equalization.
- If the appeal to the State Tax Commission is late, the evidence to support why the appeal is late should be included with the appeal.