

Board of Equalization

Standards of Practice

1

Utah State Tax Commission
Property Tax Division
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Section I.I

General Information

Purpose

These standards provide reference to accepted procedures and guidelines for county boards of equalization (BOE). They are intended to assist county officials in successful administration of the property tax equalization process.

Scope

This standard does not discuss exemptions and abatements since other standards are devoted exclusively to these topics. Additionally, this standard does not discuss the duties of the State Tax Commission acting in the capacity of a State BOE for centrally assessed properties.

Overview

The county auditor receives the assessment roll from the assessor and sends the “Notice of Property Valuation and Tax Changes” to property owners. This notice includes the due date for appeals to the county BOE. (§ 59-2-919.1)

Before the assessment roll is closed on May 22, any property owner can discuss valuation disparities with the county assessor on an informal basis. The assessor may make adjustments to the assessment roll or may instead elect to have the property owner wait until the “Notice of Property Valuation and Tax Changes” are delivered, at which time the appeal would be made directly to the county BOE.

The county BOE is the first step in the property valuation appeals process. The appellant first seeks redress before the county BOE and then the State Tax Commission, which sits as the State BOE, before seeking judicial remedies. An appellant must exhaust administrative remedies before requesting judicial review. The courts will not permit an appellant to bypass any step in the appeals process.

Appeals are filed for one of the following reasons:

- Objections to the value placed on the property;
- Objections to the classification of the property, including its qualification for exemption, primary residential status, and farm land assessment status; or
- Objection to a factual error in the county’s records.

Burden of Proof

A taxpayer appealing the assessor's valuation of locally assessed real property, prior to convening a county BOE hearing, must provide a value to the county BOE that states their opinion of what their property should be valued at. In these BOE hearings, there is no assumption of correctness for either the assessor's stated value or the taxpayer's asserted value. Not only must the appellant and the assessor provide a sound evidentiary basis to support the value that each party requests (or the county BOE if their decision is appealed to the Utah State Tax Commission), but each party must also demonstrate that there is substantial error in the other party's asserted value. After hearing both parties, the county BOE will make a determination on the appealed real property's value based solely on the evidence each party

provided to sustain their individual burdens of proof. A factual error, by definition, is agreed upon by the taxpayer and assessor, so the burden of proof is not relevant in these appeals.

If a property is **not a qualified real property**, and the county assessor or county BOE asserts a **greater** fair market value than the original assessed value, **the county assessor or BOE carries the burden of proof**, and the original assessed value will lose the presumption of correctness.

If the property **is a qualified real property**, the burden of proof lies with the **county BOE or county assessor** if they assert a fair market value **greater than the inflation adjusted value**. If the **taxpayer asserts a lower fair market value** than the inflation adjusted value, **the burden of proof lies with the taxpayer**. (§ 59-2-109)

Please see [Standard 1.14 “Inflation Adjusted Value”](#) for more information.

County Auditor as Clerk of County BOE

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.

The auditor must notify the State Tax Commission of taxpayers who are dissatisfied with the decisions of the county BOE and forward the taxpayer’s appeal of the decision to the State Tax Commission using [TC-194 Request for Redetermination of County BOE of Equalization Decision](#). The State Tax Commission conducts hearings after being notified by the county auditor’s office of an appeal of a county BOE’s decision.

The State Tax Commission’s decision, order, or assessment will be reported to the county auditor to make the necessary changes. The auditor will make all necessary changes as directed by the State Tax Commission. (§ 59-2-1006)

Legislative Authority

Article XIII, § 2 provides that “all tangible property in the State . . . shall be assessed at a uniform and equal rate in proportion to its fair market value. . .and taxed at a uniform and equal rate.”

Article XIII, § 7 of the Utah State Constitution states:

“In each county, there shall be a BOE consisting of elected county officials as provided by statute. Each BOE shall adjust and equalize the valuation and assessment of the real and personal property within its county, subject to the State Tax Commission’s regulation and control as provided by law. The county boards of equalization shall have other powers as may be provided by statute. Notwithstanding the powers granted to the State Tax Commission in this Constitution, the Legislature may by statute authorize any court established under Article VIII to adjudicate, review, reconsider, or redetermine any matter decided by a BOE relating to revenue and taxation.”

The majority of statute governing the county BOE is found in Title 56, Chapter 2, Part 10 of the Utah Code. Additional relevant Sections include:

§ 59-1-210 – Establishes the State Tax Commission as the state BOE with supervision over counties.

§ 59-2-109 – Governs who carries the burden of proof in a real property valuation appeal.

§ 59-2-306 – Governs signed statements, which establishes the appeal timeline for personal property.

§ 59-2-309 – The assessment of penalty for property willfully concealed may not be waived or reduced, unless a procedure exists in county ordinance or administrative rule.

§ 59-2-402 – Transitory personal property that is moved into a county without notifying the assessor shall be estimated.

§ 59-2-1102 – Additional notice requirements for county auditors, where a BOE decision changes the exempt status of a property.

§ 59-2-1804 – Allows property owners to appeal deferrals or abatements denied by the county to the State Tax Commission.

R861-1A-9 – Procedures for the State Tax Commission as BOE.

R884-24P-66 – Procedures to appeal to the county BOE.

Definitions

Comparables: “Recently sold properties that are similar in important respects to a property being appraised. The sale price and the physical, functional, and locational characteristics of each of the properties are compared to those of the property being appraised in order to arrive at an estimate of value. By extension, the term ‘comparables’ is sometimes used to refer to properties with rent or income patterns comparable to those of a property being appraised.” (Glossary for Property Appraisal and Assessment, 2nd Ed., IAAO, 2013, p. 33)

Factual Error: An error that is objectively verifiable without the exercise of discretion, opinion, or judgment, and demonstrated by clear and convincing evidence. It includes a mistake in the description, typos, errors in classification for exemptions, and double assessments. (R884-24P-66)

Fair Market Value: The amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts (including zoning and upcoming changes to zoning). (§ 59-2-102)

Final Assessed Value: For real property for which the taxpayer appealed the valuation or equalization to the county BOE, State Tax Commission, or court as part of a judicial review, the value given to the real property by the presiding body (§§ 59-2-109 and 59-2-1004).

Fee Simple: “...complete interest in a property subject only to government powers such as eminent domain.” (Glossary for Property Appraisal and Assessment, 2nd Ed., IAAO, 2013, p. 67)

Inflated Adjusted Value: The value of the real property in the previous year increased by the median value change of properties in the same county, class, and market area. (§59-2-1004)

Life Estate: “An interest in property that lasts only for a specified person’s lifetime; thus the owner of a life estate is unable to leave the property to heirs.” (Glossary for Property Appraisal and Assessment, 2nd Ed., IAAO, 2013, p. 92)

Qualified Change: Any change to the property that is solely attributed to a zoning change, a change in the legal description, or a physical improvement that exceeds the greater of 10% of the fair market value or \$20,000. (§59-2-109, 59-2-303.2 and 59-2-1004)

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. The assessed value of the property is higher than the inflated adjusted value and did not have a qualified change. (§§ 59-2-109 and 59-2-1004).

Qualifying Contract: A contract for the completed sale of a residential property that identifies the property's final sales price and has been executed within six months before or six months after the applicable January 1st lien date where a taxpayer has appealed the market value of it to the county board of equalization. (§59-2-1004(1)(h))

Tax Area: A geographical area created by the overlapping boundaries of one or more taxing entities.

Taxing Entity: Any county, city, town, school district, special taxing district, or any other political subdivision of the state with the authority to levy a tax on property.

Section I.II

Real Property Appeals

Standard 1.1 Members of the BOE

1.1.0 BOE Officers

The county legislative body is the BOE, and the county auditor is the clerk of the BOE. (§ 59-2-1001). The BOE is responsible for raising or lowering locally assessed property assessments that are proven incorrect. 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.

Standard 1.2 Decisions by a Quorum

1.2.0 BOE Quorum Required for Decisions

Formal adoption of decisions by the BOE requires a quorum of a majority of commissioners or councilors. (§§ 17-53-203 and 59-2-1001). For example, if the BOE consists of nine members, five must be present and available to vote to act on official board business. A simple majority of those present must concur in the decision. If the BOE consists of three members, two is a quorum. Both 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. For example, assume a three-member board and one member is out of town or otherwise unavailable; if the other two do not agree on a decision, they must wait for the third member to return and vote on the issue. If it is impossible to assemble a quorum (due to conflicts of interest or other circumstances), then the matter should be referred to the State Tax Commission to take original jurisdiction. For example, if one member of a three-member board has a conflict and the other two cannot reach agreement, the matter must be sent to the Tax Commission for resolution.

Standard 1.3 Conflict of Interest

1.3.0 Acknowledgment of Interest Conflict Required

Any member of the BOE, including hearing officers, must acknowledge in writing any potential conflict of interest in a property which is being heard.

1.3.1 Conflict of Interest Record

The county auditor will keep a record of conflict of interest statements with the appeal and in the official minutes of the BOE.

Guideline

Where a member of the BOE or hearing officer appears to have a conflict of interest, the member should be disqualified from hearing and deciding the appeal.

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; or*
- *Assume original jurisdiction in the matter and hear the appeal itself.*

Standard 1.4 BOE Rules

1.4.0 BOE Rules

“The [BOE] may make and enforce any rule which is consistent with statute or State Tax Commission rule, and necessary for the government of the [BOE], the preservation of order, and the transaction of business.” (§ 59-2-1001)

Guideline

The BOE should submit a copy of all proposed rules to the State Tax Commission for review, before adoption.

Standard 1.5 Hearing Officers

1.5.0 Hearing Officers

The BOE may appoint hearing officers to examine applicants and witnesses. Hearing officers must be licensed appraisers or competent in real estate, finance, economics, public administration, or law. The hearing officers shall transmit their findings to the BOE for final action. (§ 59-2-1001)

1.5.1 Individuals Disqualified from Serving

An employee of an assessor’s office may not be a hearing officers. (§ 59-2-1001)

Guideline

The county auditor, assessor, and treasurer or any of their appointed deputies should not serve as hearing officers for the BOE.

Standard 1.6 BOE Initiated Reviews

1.6.0 Annual Assessment Roll Review

The BOE is to adjust and equalize the valuation and assessment of real and personal property within the county, subject to regulation and control by the State Tax Commission as prescribed by law. The BOE is to meet and hold public hearings each year to examine the assessment roll and equalize the assessment of property in the county, including the assessment for general taxes of all taxing entities located in the county. (§ 59-2-1001). The BOE can equalize assessments within the county and can direct the assessor to:

- Increase or decrease any assessment;
- Assess any taxable property, which has escaped assessment;
- Add to the amount, number, or quantity of property when a false or incomplete list has been rendered; and
- Make and enter new assessments, at the same time canceling previous entries, when any assessment made by the assessor is considered by the BOE to be incomplete or incorrect. (§§ 59-2-1002 and 1003)

1.6.1 Notification to Property Owner

For appeals initiated by the BOE, the auditor must notify all affected property owners by letter when their assessments are being reviewed by the BOE. This letter must state the day, time, place, and nature of the review and must be deposited in the post office, postpaid, at least 30

days before the action is initiated. This does not include appeals initiated by taxpayers. (§ 59-2-1002)

Standard 1.7 Natural Disasters

1.7.0 Eligibility for Valuation Adjustment

Property may be eligible for a valuation reduction of taxable value (as a percentage of the remaining calendar year) as the result of a natural disaster. The damage caused must reduce the taxable value by at least 30%, and it must not be caused intentionally or negligently by the owner. (§ 59-2-1004.5)

Guideline

Emergency services can assist in determining culpability of an owner in damage caused to their property. Some actions such as arson obviously disqualify owners from receiving a valuation adjustment, but inaction may be difficult to determine.

For example, if a faulty appliance causes a fire, a judgment must be made on how reasonable it would be for an individual to be aware of any such fault. Questions to ask would include outstanding product recalls, age of appliance, and general condition of the surrounding property.

County guidelines or ordinances could be established to determine what level of responsibility could be reasonably expected in a disaster to ensure consistent application of the valuation reduction.

1.7.1 Defining Natural Disasters

Natural disasters include:

- An explosion;
- Fire;
- Flood;
- Storm;
- Tornado;
- Winds;
- Earthquake;
- Lightning; or
- Any adverse weather event. (§ 59-2-1004.5)

Subsequent natural disasters can occur in the same year or as a result of an initial disaster (e.g. a flood triggering a landslide). If this subsequent natural disaster occurs some days after the first, it should be treated as a separate natural disaster which would result in a reduction of value from a later date. See [Standard 1.7.7 “Amount of Adjustment”](#).

In some cases, a single property may be damaged by both natural disasters. The first adjustment should be calculated based on the original taxable value, then the second adjustment made to this adjusted value. This ensures equitable treatment of taxpayers affected by natural disasters that occur close together, and those that occur months apart.

Guideline

Counties have some discretion in determining what constitutes a natural disaster. There is no requirement that a certain number of properties be damaged or that the disaster be triggered by a specific event. A single house fire or county-wide wildfire could be considered eligible for this reduction. Once it has been established a “natural disaster” has occurred, then the 30% taxable value reduction threshold and action or inaction of the owner can be considered.

1.7.2 Application

It is the taxpayer's responsibility to apply for a valuation adjustment with the county BOE. The deadline for applications is the later of September 15 or 45 days after the natural disaster occurs. (§ 59-2-1004.5)

If the natural disaster occurred in January, the taxpayer has until September 15 to apply for the reduction, but if the natural disaster occurred after September 15, they would only have until the end of October to apply.

For real property, please see [Standard 1.9 "Application for Appeal"](#) and [PT-10 Request for Review – Real Property](#) for further information on form contents and application procedures. For personal Property, please see [PT-17 Request for Review – Personal Property](#).

[Standard 1.9.6 "County Consideration of Late Appeal"](#) contains information specific to late appeals. In particular, natural disasters should be considered "extraordinary and unanticipated circumstances" that would warrant an extension to the appeal deadline.

Guideline

Counties must consider the logistical challenges of responding to a disaster. Most taxpayers are not thinking about property taxes, much less how to reduce them, while dealing with personal safety, cataloguing destroyed belongings, and contacting their insurers. Counties should consider contacting taxpayers who have experienced natural disasters and proactively encourage them to apply.

Consider distributing application forms to emergency services, evacuation centers, and relief providers. These personnel may be educated to inform taxpayers of application deadlines and who to contact at the county for assistance in submitting applications.

Mail may be undeliverable to areas affected by a natural disaster. Applications and instructions should be displayed prominently on county websites, preferably on the homepage for the duration of a county-wide natural disaster.

1.7.3 Hearings

The county BOE shall hold a hearing within 30 days after the application is submitted. The county BOE has an additional 30 days after the hearing concludes to notify the applicant in writing of their decision. It should be conducted in the same manner as a regular valuation appeal. (§§ 59-2-1004.5 and 59-2-1001)

1.7.4 Burden of Proof and Evidence

The applicant has the burden of proof and must specifically establish:

- The damage was caused by a natural disaster;
- At least 30% of the taxable was reduced as a result of the disaster; and
- They were not at fault, either through action or inaction.

Guideline

County-wide disasters present challenges to county BOE workloads. Late applications would push back the 30-day hearing and 30-day decision deadlines in those instances.

Applications should ideally be accompanied by emergency department and insurance reports.

County-wide natural disasters may delay these types of evidence becoming available. The county may wish to share aerial photography of applicant properties and post-natural disaster valuations to expedite the process. Please see [Standard 1.7.5 “Mass Adjustments”](#) for further information.

This information sharing is useful in situations where the county and applicant agree that the three eligibility criteria have likely been met.

1.7.5 Limited Access to Area

Certain types of natural disasters may result in limited access to properties or even large sections of counties. This can present challenges to both taxpayers and counties in verifying that the 30% of taxable value damage threshold has been met, and the timely filing of applications.

It is possible that the only method of assessment in these cases is by air.

Consider information sharing as discussed in [Standard 1.7.3 “Hearings and Evidence”](#) to assist applicants unable to access their property within 45 days of a disaster.

Guideline

Although the burden of proof lies with the applicant, it is up to the county to determine what level of evidence is sufficient. If the county BOE and county assessor agree to a minimum standard of evidence (e.g. aerial photographs supplied by the assessor’s office), lenient minimum evidence requirements can be adopted.

A county ordinance or handbook could be considered to formalize these minimum evidence levels in natural disasters of certain scale or levels of severity.

1.7.6 Mass Adjustments

CAMA systems should allow for the mass adjustment of properties damaged in a county-wide natural disaster. Factors should be developed that could reduce property values by percentage based on characteristics destroyed or damaged in county-wide disasters, when mass quantities of properties must be adjusted.

Properties can be flagged, Region District Neighborhood (RDN), Land Economic Areas (LEAs), special handling codes can be set, etc. to apply these factors to affected land and improvements.

High quality aerial picture may be determinative in assessing damage. Counties may consider contracting a service to provide aerial photography, pictometry, and/or LIDAR (3D mapping) if trained staff and equipment is not available.

Existing business personal property signed statements can be cross referenced against losses reported to insurance companies to determine which items of personal property should not be taxed.

Larger pieces of personal property (e.g. industrial machinery) may only be partially damaged and/or obscured by housing structures. If a reasonable assessment of damage cannot be made during the application and hearing process in the current calendar year, a discretionary abatement may be considered when the property becomes accessible (see [Standard 1.7.8 “Discretionary Adjustments”](#))

Emergency services and insurance companies may be able to provide on the ground photography and damage reports that can assist in appraisal and developing factors in the CAMA system.

Please see the [Real Property Valuation Standards of Practice](#) for further information on mass appraisal.

Guideline

The area affected by the disaster should be subjected to a detailed review the following year. Depending on the scale and severity of the disaster, detailed reviews may be necessary for several years afterwards. This process will help develop factors in CAMA systems applicable to reappraisals in natural disaster areas, which would lay outside the scope of existing factors until an area fully recovers.

1.7.7 Amount of Adjustment

Once the percentage of damage has been established, the county BOE shall multiply the decrease in taxable value by the percentage of the calendar year remaining after the natural disaster occurred to determine the final valuation adjustment. (§ 59-2-1004.5)

Example

A natural disaster occurred on July 27 (157 days remaining in the year). An applicant has successfully established that 54% of their property with a taxable value of \$180,000 was damaged by the natural disaster.

- $180,000 \times 0.54 = \$97,200$ “base” adjustment.
- $157 / 365 = 43\%$ of the year remaining.
- $97,200 \times 0.43 = \$41,796$ final adjustment.

This taxpayer would have their taxable value reduced by \$41,796 for the calendar year in which the natural disaster occurred.

1.7.8 Discretionary Abatements

There may be instances where a county may wish to provide a valuation adjustment but the criteria (see [Standard 1.7.4 “Burden of Proof and Evidence”](#)) cannot be met, even when applying the most lenient standards.

For example, the damage caused may fall below the 30% of taxable value threshold, the natural disaster may have been caused by accidental negligence (inaction), or the area cannot be accessed until well after the calendar year ends. Although late appeals can be accepted in the next year, the deadline is March 31, before the county treasurer makes the final annual settlement with taxing entities (R884-24P-66 and § 59-2-1365). See [Standard 1.9.6 “County Consideration of Late Appeal”](#) for further information.

In these cases, the county may consider granting a discretionary abatement of taxes. (§ 59-2-1347). The [Tax Relief and Abatement Standards of Practice](#) has detailed information on this process. Such discretionary abatements can be granted for any prior year.

It is important to remain consistent in any such discretionary abatements, and counties may consider an ordinance specifically addressing discretionary abatements in the wake of a natural disaster. If the only criteria not met is the extended application deadline of March 31, the same eligibility criteria outlined in [Standards 1.7.0 “Eligibility for Valuation Adjustment”](#) and [1.7.4 “Burden of Proof and Evidence”](#) should be used.

Guideline

Consider potential criteria when drafting a natural disaster discretionary abatement ordinance. Example questions include:

- *What is the lowest percentage of damage that would have a proportionate economic impact on taxpayers in the county, based on an applicant’s income/ability to pay taxes?*

- *What mitigating circumstances would be justified in the case of accidental owner negligence contributing to a natural disaster?*

In severe disasters, certain taxpayers may be facing economic consequences for years afterwards. If these taxpayers do not qualify for circuit Breaker or the indigent abatement in later years (see the [Tax Relief and Abatement Standards of Practice](#)), the county may choose to introduce a discretionary abatement to assist these taxpayers.

Again, the parameters of such discretionary abatements should be consistent and established by ordinance.

1.7.9 Appeals

Should an applicant be dissatisfied with a county BOE decision, they may appeal to the State Tax Commission. (§ 59-2-0114.5). Please see [Standard 1.22.1 “Appeals to the State Tax Commission”](#) for further information.

Standard 1.8 Mailing of Notice of Property Valuation and Tax Changes

1.8.0 Notice of Property Valuation and Tax Changes

The county auditor must send a Notice of Property Valuation and Tax Changes or valuation notice to all owners of real property. (§ 59-2-919)

1.8.1 Notice Format

The auditor’s valuation notice must be on a form approved by the Tax Commission (R884-24P-24), with the date, time, and place the BOE will meet.

The [Certified Tax Rates Standard](#) provides detailed information on the valuation notice content.

1.8.2 Notice Mailing Deadline

The valuation notice should be mailed postpaid on or before July 22 of each year, at least 10 days before the BOE meets. (§ 59-2-919)

Standard 1.9 Application for Appeal

1.9.0 Application Form

The BOE by rule, prescribes the contents for the application. (§ 59-2-1004) The BOE’s rule must agree with governing statutes and administrative rules. For an approved form, see sample form [PT-10 Request for Review—Real Property](#) (see also [Standard 1.9.2 “Contents of Suggested Application Form”](#)). The BOE’s rules may also allow for appeal applications by telephone or other electronic means.

The BOE will provide forms and instructions outlining the appeal procedures to the appellant. (§ 59-2-1004)

1.9.1 Auditor’s Duty with Appeal Forms

The auditor shall date and sign the appeal and give a copy to the appellant.

Forms and instructions should include notice of the consequences for misrepresenting, concealing, or falsifying information. (§§ 59-2-309, 76-8-501 through 76-8-504)

All documentation submitted with the appeal should include the property identification number, address of property, and the owner’s name.

1.9.2 Contents of Suggested Application Form

Any appeal submitted to the BOE should have the following information:

- Name and address of the owner (including mailing address if different from the property address);
- Daytime phone number of appellant and/or authorized representative, if applicable;
- Property location;
- Property identification number;
- Market value shown on the valuation notice;
- Appellant's determination of market value;
- Type of property (residential, commercial, agricultural, etc.);
- Basis used to determine appellant's market value (cost, income, sales);
- Date and signature of the appellant;
- Explanation of burden of proof for qualified real properties, and process to determine inflation adjusted value;
- Relationship of the person filing the appeal to the owner; i.e., the owner, paid representative, guardian, trustee, etc.; and
- Acknowledgment by the appellant attesting to the accuracy of the information submitted and testimony to be given.

See sample form [PT-10 Request for Review – Real Property](#).

1.9.3 Ownership Signatures Required

An application for appeal must have the written authorization of the property owner or be filed by a member of the immediate family. A corporate officer must sign an appeal for a corporation. If the appeal is submitted as a written application, the same qualifications apply. Homeowner associations may not appeal for all owners without written permission or documents authorizing representation.

When an appellant claims to be an owner of property and the official records of the county do not clearly confirm this, the county should accept the appeal with a requirement that the appellant submit legal proof supporting the ownership claim. A hearing may be scheduled after ownership disputes are resolved.

1.9.4 Deadline for Application

A taxpayer wishing to appeal a real property valuation must file an application with the BOE of Equalization on or before the later of September 15 of the current year, or the last day of a 45-day period beginning on the day the county auditor mails the valuation notice. (§ 59-2-1004). The county auditor shall notify applicants of acceptance or denial of appeal and allow 10 days to provide additional evidence if the initial application is insufficient to gain standing with the BOE. (R884-24P-66)

1.9.5 Late Appeal Petition

Property owners may petition the county BOE to hear a real property appeal after the filing deadline. Late-filed appeal applications will only be accepted until March 31 following the due

date for filing appeals. This is the deadline by which county treasurers make a final annual settlement with each entity of property taxes charged. (§ 59-2-1365 and R884-24P-66)

1.9.6 County Consideration of Late Appeal

Late applications shall be accepted in the event of medical emergency or death of the owner or an immediate family member, the county failed to comply with notice requirements, or extraordinary and unanticipated circumstances arose between the mailing of the valuation notice and deadline for appeal.

The county auditor will notify the owner by letter indicating the BOE's acceptance or denial of the application as soon as possible. If the BOE refuses the appeal application, the county auditor must specify the reasons for refusal, and allow the applicant to supply any missing evidence within 10 days. If the BOE accepts the appeal application, the county auditor's letter will indicate the date, time and place of the hearing.

A property owner who claims a valuation notice was never received should not be granted a hearing if the county's record shows that the notice was sent to the last known address. Evidence supporting a valid excuse for late filing should also be submitted. (R884-24P-66).

1.9.7 Tax Commission Approval to Extend Time for BOE Decision

The BOE is to make a decision on each real property appeal within a 60-day period after the day the application is filed. The State Tax Commission may approve an extension of time for the BOE to make a decision on a real property appeal. (§ 59-2-1004)

1.9.8 Appeal Withdrawal by Property Owner

An appellant may withdraw an appeal with the permission of the BOE. The appellant must give notice in writing to the BOE requesting the withdrawal. The assessor may give input to the BOE before the withdrawal is permitted.

Standard 1.10 Evidence

1.10.0 Minimum Evidence Requirements

To achieve standing with the BOE and have a decision rendered on the merits of the case, the taxpayer shall provide the following minimum information to the BOE:

- Name and address of the property owner;
- Identification number, location, and description of the property;
- Value placed on the property by the assessor;
- Taxpayer's estimate of the fair market value of the property; and
- Signed affidavit providing evidence or documentation that supports the taxpayer's claim for relief. (R884-24P-66)

The taxpayer need only pass a very low hurdle to get to a hearing. If the taxpayer presents any evidence that addresses value (or exemption or other issues), the county has an obligation to defend its value (or position) in light of that evidence. It is the BOE itself, or the hearing officer, and not office staff, who actually evaluates the evidence to determine its weight and credibility.

The signed affidavit should include a summary or an indication of the evidence or documentation that will be presented at the BOE hearing.

The taxpayer does not have to have a “winning” case to get a hearing before the BOE or hearing officer. Whether the taxpayer’s case is a “winning” case is a matter to be determined through the hearing process and not by a “screening process” which is outside the hearing process.

1.10.1 No Evidence or Documentation

If the taxpayer appears before the BOE and fails to produce the evidence or documentation required under [Standard 1.10.0 “Minimum Evidence Requirements”](#), the county shall send the taxpayer a notice of intent to dismiss, and permit the taxpayer at least 10 calendar days to supply the evidence or documentation. If the taxpayer fails to provide the evidence or documentation within 10 days, the BOE may dismiss the matter for lack of evidence to support a claim for relief. (R884-24P-66)

See sample form [PT-12 Notice of Intent to Dismiss the Appeal](#).

1.10.2 Submitting Evidence

When submitting evidence, both the appellant and the assessor have must submit their evidence supporting their values at least 5 days before the day on which the county BOE holds a public hearing on an appeal. If either party presents evidence not previously provided to the other party at the public hearing, the county board of equalization shall allow the party that had not received the evidence in a timely manner to respond to the evidence in writing within 10 days after the day on which the public hearing occurs. (§59-2-1004(7)).

1.10.3 Weighing the Evidence

When the taxpayer presents evidence in support of his claim, he is entitled to a hearing and an opportunity to respond to any evidence the county has in support of the county value. Any evidence provided by the taxpayer or the assessor is to be evaluated by the BOE or hearing officer and measured against all other available evidence. All evidence offered by either party is to be evaluated as a whole, and the evidence that is determined to be more convincing or credible should guide the decision.

The BOE is not obligated to accept a party’s evidence wholesale or to choose strictly between the positions offered by the parties. For example, if each party presents one good comparable and the two taken together give the best indication of value, those two comparables should guide the decision—even if they lead to a value that has not been suggested by either party.

Evidence should not be pre-weighted. For example, a computer-generated value should not automatically carry more or less weight than other evidence. Rather, it is the hearing officer’s responsibility to evaluate the evidence offered and make a determination of value based on that evidence.

Where other sold properties are offered as evidence, each property used should be considered and weighted according to generally accepted appraisal principles and the definition of “fair market value.”

If an appellant submits a qualifying contract as evidence in an appeal, the county BOE may only consider evidence to determine that the final sales price identified in the qualifying contract does not provide an accurate or reliable indication of the fair market value of the residential property (§59-2-1004(6)). The evidence that is submitted to rebut the qualifying contract must prove one of three things:

- 1.) Is the nature of the qualifying contract an arms-length transaction?
- 2.) Have changes in market conditions prompted a change in value between the day which the qualifying contract was executed and January 1st (the applicable lien date)?
- 3.) Did the residential property have a qualifying change that affected its market value?

1.10.4 Decision on the Merits of the Case

If minimum evidence or information is supplied and the taxpayer produces the evidence or documentation described in the taxpayer's signed statement, the BOE shall render a decision on the merits of the case.

Standard 1.11 Appellant Right to Counsel

1.11.0 Appellant Representation Allowed

The appellant has the right to be represented by legal counsel or other representatives at any stage of the equalization process. While legal representation and assistance is the option of the appellant, failure to use this assistance is not grounds for complaint at a later stage in the process.

1.11.1 Paid Representative

Any representative of the owner who receives compensation for appealing the owner's property value must include with the appeal a written authorization to represent and appear on behalf of the owner of record. The authorization should include the following information:

- Name of representative;
- Business name and address;
- Copy of Utah Appraiser Registration or Certification Number;
- Daytime phone number; and
- Property identification number(s)

When a person appears on behalf of the property owner and is paid a fee contingent upon the concluded value, this is considered as a "consultation service", which means "an engagement to provide a real estate valuation service analysis, opinion, conclusion, or other service that does not fall within the definition of appraisal.

Consultation service does not mean a valuation appraisal, analysis assignment, or review assignment." (§ 61-2b-2) The county or the State Tax Commission "may not contract with a private individual under a contingency fee arrangement to assess property or prosecute or defend an appeal." (§ 59-2-703).

See sample form [PT-11 Authorization to Represent Record Fee Owner](#).

1.11.2 Power of Attorney

Any conservator, trustee, or person who holds power of attorney to act on behalf of minors, the mentally or physically disabled or another property owner must file legal authorization to act in such capacity with the appeal. The legal capacity of children entering into agreements or contracts is defined in Title 15 Chapter 2 of the Utah Code.

Standard 1.12 Appeals Involving Multiple Owners

1.12.0 Total Parcel Property Value under Multiple Ownership

An appeal on property with divided or undivided interests will be heard regardless of the other owners' participation. The market value of all interests is subject to change by the BOE.

1.12.1 Time Share Units

Time share complexes must be appealed as an entire unit. Individual percentage ownerships of timeshare units may not be appealed.

Guideline

If there are multiple appeals in the same multiple-unit complex, all appeals should be heard simultaneously.

If two or more appeals are filed for the same property, the BOE should hear all the appeals at the same time, when possible.

Standard 1.13 Assessor-Initiated Appeals

1.13.0 Assessor-Initiated Appeals

When the assessor initiates appeals to the BOE after the assessment roll has been delivered to the auditor, the assessor must, in writing, notify the auditor of recommended changes and the bases for the changes. The auditor must then notify the taxpayer of any change to the valuation notice and provide an explanation of or basis for the change and allow the taxpayer the following options:

- Sign the notification document indicating agreement with the change(s) and return to the auditor; or
- Allow the taxpayer the later of 45 days or September 15th in which to appeal the change(s) to the BOE.

In either case, the information is presented to the BOE.

Standard 1.14 Inflation Adjusted Value

1.14.0 Eligibility as Qualified Real Property

Real property subject to appeal shall be considered qualified real property if:

- The real property subject to appeal had its value lowered as the result of an appeal in the previous year; and
- The real property has a value that is greater than the inflated adjusted value.
- The real property had no qualifying changes. ([see definition above](#))

If the real property in question satisfies these conditions, the county assessor shall calculate the inflation adjusted value, which may shift the burden of proof to the county assessor or county BOE.

Guideline

Once a parcel becomes a qualified real property, the county assessor should pay close scrutiny to the original assessment. A site visit is recommended, as is discussing property characteristics with the taxpayer, and reevaluating the approaches to value discussed in the [Real Property Valuation Standards of Practice](#).

This process may present an opportunity to stipulate before appeal, or gauge the accuracy of assumptions made during mass appraisal.

1.14.1 Calculation of Inflation Adjusted Value

The inflation adjusted value is calculated by changing the final assessed value for the previous taxable year by the median value property change.

Example

A property subject to appeal meets the conditions to be considered a qualified real property. The previous year, the final assessed value was reduced to \$180,000 by the county BOE.

The median property value change for properties of the same class in the same market area is 10%.

$$\$180,000 \times 0.10 = \$18,000$$

$$\$180,000 + \$18,000 = \$198,000$$

\$198,000 is the inflation adjusted value.

The county assessor shall notify the county BOE of the qualified real property's inflation adjusted value within 15 business days after the county assessor receives notice that the taxpayer has filed an appeal.

If the appeal proceeds to the State Tax Commission, the county assessor shall notify the State Tax Commission within 15 business days of that taxpayer filing with the State Tax Commission.

1.14.2 Burden of Proof

For an appeal involving qualified real property, the inflation adjusted value is presumed to be most correct. The county assessor or county BOE shall carry the burden of proof if they assert a value greater than the inflation adjusted value. The taxpayer will still carry the burden of proof if they assert a value lower than the inflation adjusted value.

Please see also ["Burden of Proof"](#) in General Information.

Guideline 1

Consider the example for [Standard 1.14.1 "Calculation of Inflation Adjusted Value"](#). If that particular property has an original assessed value below the inflation adjusted value (\$198,000) the taxpayer would still carry the burden of proof.

If the county assessor had assessed the property at, for example, \$220,000 for the current year, or (the county assessor or BOE asserted a value above \$198,000 at appeal), the county assessor (or county BOE) would assume the burden of proof.

Please see [Appendix 1B](#) for a flowchart explaining eligibility and burden of proof for a qualified real property.

Guideline 2

*When a property is appealed, evidence and arguments, including direct comparables, which support the opinion of value for that **particular** property is more relevant than a defense of CAMA system modelling. Taxpayers will argue the specific characteristics of their parcel; the county should as well.*

Standard 1.15 Dismissal by the BOE

1.15.0 Dismissal by the County BOE

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 the following:

- Dismissal for lack of jurisdiction;
- Dismissal for lack of timeliness; or

- Dismissal for lack of evidence to support a claim for relief.

See sample form [PT-12 Notice of Intent to Dismiss the Appeal](#).

1.15.1 State Tax Commission Hearing BOE Dismissed Cases

On appeal from a dismissal by a BOE for the exceptions described in [Standard 1.15.0 “Dismissal by the County BOE”](#), the only matter that will be reviewed by the State Tax Commission is the dismissal itself, not the merits of the appeal. (R861-1A-9) If the State Tax Commission finds that the dismissal was inappropriate, they will remand the case to the county with instructions to hear the case and issue a decision. That decision is then appealable to the State Tax Commission within 30 days of the date of the decision.

1.15.2 Dismissed for Lack of Jurisdiction

An appeal may be dismissed for lack of jurisdiction if the claimant limits arguments to issues not under the jurisdiction of the BOE, or if the assessment is made by the State Tax Commission.

1.15.3 Cases Remanded to the County BOE

A case may be remanded to the BOE from the State Tax Commission for further proceedings if the Tax Commission determines that:

- Dismissal described in [Standard 1.15.0 “Dismissal by the County BOE”](#) was improper;
- Taxpayer failed to exhaust all administrative remedies at the county level; or
- In the interest of administrative efficiency, the matter can best be resolved by the BOE.

Standard 1.16 Appeal Records

1.16.0 Use of Appeal Documentation

All documentation submitted with an appeal becomes the property of the county. The BOE may use the information submitted to support its conclusions as to the value of any property for equalization purposes. (§ 59-2-1002 and § 59-2-1004)

1.16.1 BOE of Equalization Minutes

The minutes of the board of equalization document the equalization decisions made by the BOE. This may include the name of the person, a legal description of the property affected, the amount of decrease or increase, and the total assessed value of the property before and after the BOE. These records are permanent but may be transferred to the State Archives. (See [State Archives Schedule, County Auditor Records](#)).

See sample form [PT-13 Record of Appearance and Minute Entry](#).

1.16.2 Equalization Files

The equalization files of the BOE includes copies of agenda, valuation notices, appraisal reports, notices of adjustment, and lists of appeals. These records must be kept for 4 years. See [State Archives Schedule, County Auditor Records](#).

Standard 1.17 Disclosure of Information Prior to the Hearing

1.17.0 Disclosure of Information at the BOE of Equalization

County auditor records, including the BOE agenda, valuation notice, “CAMA” system appraisal reports, notices of adjustment, and lists of appeals, are classified as public information. ([Utah](#)

[State Archives Classification and Retention Schedules, "County Schedule 13, County Auditor Records"\)](#).

Accordingly, the appellant has the right to full disclosure of all available public information prior to the hearing. Information that has been classified confidential according to accepted archiving procedures should only be shared in a closed hearing after the parties agree to keep the information confidential. The appellant and the assessor both have a right to see and respond to any evidence that the hearing officer will use in the decision.

Careful attention is necessary when addressing commercial information. Meetings must be closed when commercial information is discussed. State and local government officials are prohibited from disclosing certain types of property tax commercial information. (§ 59-1-404)

1.17.1 Exchange of information at the State Tax Commission

For initial hearings or formal hearings at the State Tax Commission level, the State Tax Commission may require that parties share all information that will be presented as evidence in the hearing. The hearing schedule requires that this evidence is shared 10 days in advance of the hearing.

Standard 1.18 Stipulated Agreement

1.18.0 Stipulation Requirements

The county assessor and the appellant may enter into a stipulated agreement before the hearing if both parties agree to a final determination of value. The assessor and the appellant must sign the agreement. The assessor and the appellant must submit to the BOE, in addition to the stipulation agreement, written evidence to support the concluded value.

See sample form [PT-14 Stipulated Agreement for Real Property Valuation](#).

1.18.1 BOE Approves Stipulations

The BOE must review and approve all stipulated agreements. The parties can stipulate on some issues and dispose of them but leave other issues pending on appeal. The stipulated agreement should spell out whether it disposes of all outstanding or pending issues; if not, it should specify which issues are disposed of by stipulation and which issues are still pending on appeal. If all issues are disposed of, the stipulated agreement is not appealable to the State Tax Commission.

Standard 1.19 BOE Decision

1.19.0 Decision Based on Evidence

The BOE must base its decision on the evidence and testimony presented in the appeal in accordance with generally accepted rules of evidence. See Standard [1.10 "Minimum Evidence"](#).

1.19.1 Whole Property Value Considered

The BOE must consider the whole property value, not its individual parts. For example, if the appeal claims an incorrect land value due to market comparisons of lot sales, and the property is improved, the whole property value must be considered.

1.19.2 Decision Deadline

The BOE shall make a decision in writing on each appeal within a sixty-day period after the day on which the application is made. Any extension beyond the sixty days must first be approved in writing by the State Tax Commission. (§ 59-2-1004)

1.19.3 Decisions after November 30

If the BOE decides an appeal after the date taxes become due, the owner is responsible for paying the taxes by November 30 to avoid penalties and interest. When the BOE makes its decision, any reimbursement of taxes by the county treasurer will be made including interest. The BOE should notify the taxpayer of the duty to pay taxes by November 30 to avoid penalties and interest if the appeal is not successful. (§ 59-2-1330)

Standard 1.20 Notification of BOE Decision

1.20.0 Taxpayer Notification of Decision

The county auditor shall notify the taxpayer and the taxpayer's representative in writing of any decision of the BOE. (§ 59-2-1001). The taxpayer is entitled to a copy of the hearing officer's decision.

See sample form [PT-15 Record of Final Decision – Real Property](#).

1.20.1 Contents of the Notice

The auditor shall include in the decision notice:

- Market value before and after the decision;
- The date of the BOE's decision; and procedures for appealing to the Tax Commission, if applicable; and
- Reasons or an explanation to support the BOE's final decision.

Standard 1.21 Maintaining Equalization Adjustments

1.21.0 Factual Errors

Factual Errors discovered by the taxpayer and corrected by the BOE or State Tax Commission shall be corrected on current and subsequent year assessment rolls.

1.21.1 Ordered Equalization Adjustments

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; or
- The property's equalized value is examined on an individual basis by the county assessor and the determination is made that, to fulfill the requirements of the Uniform Standards of Professional Appraisal Practice, the value must be adjusted to achieve market value for subsequent assessment rolls.

1.21.2 Significant Adjustments

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. (§ 59-2-1004)

Standard 1.22 Auditor's Statement of Authorized Changes

1.22.0 Changes to the Assessment Roll

All changes to the assessment roll made after the county assessor turns the roll over to the county auditor on May 22 must be accompanied by written authorization from the BOE or State Tax Commission.

1.22.1 Auditor's Statement

Before October 15, the county auditor must attach a signed statement to the records of the board of equalization attesting that all changes authorized by the board of equalization have been posted to the assessment roll, (§ 59-2-1011). See sample form [PT-16 Auditor's Statement of Authorized Changes](#).

Standard 1.23 Appeal to the State Tax Commission

1.23.0 BOE Appeals to the State Tax Commission

For purposes of this standard, the appeals process beyond the local board will not be detailed. An outline of the responsibilities of local administrators and the sequence of actions that can be taken by interested parties will be noted to provide an understanding of the process. For a complete reference to the State Tax Commission's appeal process, refer to the Tax Commission's Administrative Rule, R861-1A-9.

1.23.1 Appeals to the State Tax Commission

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. (§ 59-2-1006). See Form [TC-194 Before the Tax Commission Request for Redetermination of County BOE of Equalization Decision Taxpayer Information](#).

Although the State Tax Commission may receive faxed items, they are not equipped to handle appeals by other electronic means. Also, the Tax Commission requires that all documentation be included with the submitted record.

1.23.2 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; 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. (§§ 59-2-1006 and 59-2-1102).

1.23.3 Late Appeal Requirements

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.

1.23.4 Consistency in Appeals

The appellant may not raise different issues in the state appeal than were raised in the county appeal. However, every effort should be made to ensure that any additional information being presented by either party be exchanged prior to the hearing. (R861-1A-9)

Valuation cases occasionally become valuation and uniformity cases when they arrive at the State Tax Commission level. The county would have to raise an objection to any new argument raised and let the judge make a determination.

The county may make a motion to dismiss an appeal before the State Tax Commission. For example, the county can and should move for dismissal if the case is untimely.

1.23.5 Representation and Procedures on Assessor Appeal

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.

1.23.6 Tax Relief Appeals to the State Tax Commission

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. The county must inform the applicant in writing (R884-24P-5) that they have 30 days to appeal to the State Tax Commission on their notice of decision. (§§ 59-2-1102, 59-2-1217)

As with valuation appeals, the notice of appeal to the State Tax Commission must be submitted to the county auditor first, who then signs and submits the appeal to the State Tax Commission Appeals Division. (§ 59-2-1006). See [Standard 1.23.1 "Appeals to the State Tax Commission"](#) and the [Tax Relief Standards of Practice](#) for further information.

Standard 1.24 Appeals of the BOE Decision Misfiled with the State Tax Commission

1.24.0 State Tax Commission to Forward to County BOE

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.

1.24.1 Timeliness of Misfiled County BOE of Equalization Appeals

If the original appeal was received by the State Tax Commission before the BOE's appeal deadline, it will be deemed timely when received by the county auditor from the State Tax Commission.

1.24.2 State Tax Commission to Process Appeal through County Auditor

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. (§ 59-2-1006). When an appellant files directly with the state, the State Tax Commission will retain the original appeal documents and forward a copy of these documents to the appropriate county. The county auditor will subsequently review the appeal for timely filing, and send the official record of the BOE's action to the State Tax Commission.

1.24.3 Timeliness of Misdirected Appeals to the Tax Commission

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.

Standard 1.25 State Tax Commission Stipulated Agreement

1.25.0 Stipulated Agreements on State Tax Commission Appeals

A representative of the board of equalization and the appellant may enter into a stipulated agreement before the State Tax Commission hearing. If both parties agree to the final determination of value, the parties must submit to the State Tax Commission written analysis supporting the stipulated value.

Both parties must sign the agreement. If there are other issues pending, those issues are identified in the agreement and the State Tax Commission issues an order approving the issues settled by stipulation. The State Tax Commission may issue a "Partial Order of Approval."

The State Tax Commission must review and approve all stipulated agreements.

Standard 1.26 State Tax Commission Decision

1.26.0 Notification to County Auditor

The county auditor will be notified of the decision, order, or assessment and will make the necessary changes to county records. (§ 59-2-1006) Any refunds initiated by order of the State Tax Commission must be in compliance with § 59-2-1330.

1.26.1 County Auditor to Notify Assessor and Treasurer

When the county auditor is notified of a State Tax Commission decision, order or assessment, the auditor is to notify both the county assessor and treasurer of that decision, order or assessment.

Section I.III

Personal Property Appeals

Standard 1.26 Personal Property Estimates and Depreciation Schedules Not Appealable

1.26.0 Assessor Value Estimate

If any taxpayer neglects to submit a signed statement or a list of personal property to the assessor, the assessor shall, after sending a subsequent mail request for a signed statement, make a record of the failure to file, and shall estimate the reasonable value of the personal property owned by the taxpayer based on known facts and circumstances. The value fixed by the assessor is not appealable and may not be reduced by the county BOE or the State Tax Commission. (§§ 59-2-307 and 59-2-402). See the [Personal Property Valuation Standard](#) for further information.

1.26.1 Personal Property Depreciation Schedules

The State Tax Commission's [Personal Property Valuation Guides and Schedules](#), published annually, may not be appealed to or adjusted by the BOE. (R884-24P-33). While the personal property valuation schedules are not subject to challenge, a challenge to the application of the schedules to a particular piece of personal property is appropriate if the taxpayer can demonstrate that using the schedules does not yield fair market value.

Standard 1.27 Appeal to the County Legislative Body

1.27.0 Appeal Procedure Notification

The county assessor or State Tax Commission should include a notice of procedures for appeal with each personal property bill, combined signed statement/bill, fee in lieu of tax notice, or personal property audit notice. (§ 59-2-1005)

1.27.1 Personal Property Appeal Application and Deadline

Any taxpayer dissatisfied with the taxable value of personal property assessed by the county assessor may appeal to the county legislative body by filing an application within 60 days of the personal property bill or the combined signed statement/bill mailing. See sample form [PT-17 Request for Review – Personal Property](#). The [Personal Property Billing Standard](#) has further information on billing timelines and requirements.

1.27.2 Information Documenting Value

Appellants must establish the value of personal property as of the lien date, January 1.

No adjustment of value should be made unless the appellant supplies information documenting market value, which may include:

- Market surveys or published guides;
- Sales invoices for verification when dealer appraisals are used;
- Independent appraisals;
- Value in use;
- Value in exchange (wholesale, retail, etc.);

- Physical and/or technological obsolescence;
- Unit in place costs specifying special features; and
- Installation costs.

Guideline

In some instances, a lessee of personal property may appeal its value when a lease functions as a security agreement for the sale of personal property. Factors to consider when determining standing to appeal are:

- *The lessee may not terminate the lease;*
- *The lease lasts as long or exceeds the remaining economic life of the property;*
- *The lease will automatically renew for the remaining economic life of the property, or the lessee will become the owner of the property at the end of the lease;*
- *The lessee has the option to renew or become the owner without additional consideration - usually additional monetary payments.*

(BOARD OF EQUALIZATION OF SALT LAKE COUNTY, State of Utah v. FIRST SECURITY LEASING COMPANY and Utah State Tax Commission 881 P.2d 877 (1994) and State Tax Commission Advisory Opinion 96-125. See also the [Personal Property Valuation Standard](#))

1.27.3 County Legislative Body Decision

After hearing a personal property appeal, the county legislative body is to make a decision no later than 60 days after receipt of the appeal. The taxpayer may further appeal, within 30 days from the decision and through the county auditor, to the State Tax Commission if dissatisfied with the county legislative body decision. (§ 59-2-1005)

1.27.4 Deadline for County Legislative Body Decision

After giving reasonable notice, the county legislative body will hear the appeal and render a written decision. The decision shall be made no later than 60 days after receipt of the appeal. (59-2-1005)

1.27.5 Contents of Written Decision

The auditor shall include the following information in the written decision:

- Market value before and after the decision,
- Taxes, penalties and interest due before and after the decision,
- The date of the county legislative body's decision; and
- Procedures for appealing to the Tax Commission.

The auditor should include the reason(s) for or an explanation of the county legislative body's decision. See sample form [PT-18 Record of Final Decision](#).

Standard 1.28 Appeal to the Tax Commission

1.28.0 Tax Commission Appeal Procedures

Appeal procedures to the Tax Commission are the same as [Standard 1.23 "Appeal to the State Tax Commission"](#) through [Standard 1.24 "State Tax Commission Decision"](#).

1.28.1 Deadline for Tax Commission Appeal Decision

The State Tax Commission shall make its decisions on all appeals of personal property within 90 days. (§ 59-2-1006)

1.28.2 Notification of County Auditor

The county auditor will be notified of the decision, order, or assessment and will make the necessary changes to county records. (§ 59-2-1006)

When the county auditor is notified of a State Tax Commission decision, order or assessment, the auditor is to notify both the county assessor and treasurer of that decision, order or assessment.

1.28.3 Vehicle Appeals to the State Tax Commission

If personal property is subject to a value based uniform fee, the basis of the value may be appealed directly to the State Tax Commission. (§ 59-2-1005)

Appendix 1A

Suggested Documentation and Evidence

Suggested Documentation and Evidence to support an appeal adjustment will vary depending on the basis of the appeal. All information must be provided or adjusted for the lien date, which is January 1.

Factual Error

A statement describing the nature of the factual error (reference definition of “factual error” at the beginning of this standard) and how it affects the value of the property. Examples are: incorrect legal description, descriptive measurements, exemption status, property classification, etc.

Cost to Construct

- Number of structures
- Type of structure
- Type of construction
- Total floor area
- Percent finished/unfinished
- Building shape
- Number of stories and story height
- Actual and effective age
- Condition
- Description of the heating/cooling system
- Elevators
- Sprinklers
- Basement
- Special features
- Site improvements
- Computations and reasons for any physical depreciation
- Functional or economic obsolescence
- Lot size, shape, cost, and current value
- Source of cost estimates

In addition for commercial or industrial buildings, physical features designed for a specific use with costs given as a unit in place can be used. For special use and industrial properties, an analysis of property value in use and value in exchange can be used.

A letter from a contractor stating how much the structure cost to build or will cost to build should not be considered acceptable evidence.

Income Approach

1) Direct Capitalization of Income Method

- Annual potential gross income (usually a lease or rent roll)
- Actual vacancy
- Actual expenses (outlined in operating statement)
- Economic income and expenses (preferably from at least 3 comparables)
- Sources of information
- Capitalization rate and method of developing

2) Gross Rent Multiplier Method

- Should submit at least 3 comparables with:
- Address
- Number of units
- Number of bedrooms/baths
- Effective age
- Special features
- Rents
- Sales price
- Expense/income ratio
- Source of information (manager, owner)
- Differences between the subject and the comparables should be fully described. Examples are fireplaces, swimming pools, patios, etc.
- Gross rent multiplier and documentation as to how obtained.

3) Discounted Cash Flow Method

- Current and subsequent years' estimated income
- Current and subsequent years' estimated vacancy
- Current and subsequent years' estimated expenses
- Calculation of the discount rate
- Identify the sources of information that provided the basis for determining the factors used in the discount rate.

4) Mortgage Equity Capitalization Method

Must submit the six variables in the Ellwood/Akerson formula prevailing in the market as of the lien date.

- Investor's holding period
- Mortgage interest rate
- Mortgage principal to total value ratio

- Length of time of amortization of those mortgages
- An estimation of the percentage of appreciation or depreciation of property value over the holding period based on comparables.
- Investors anticipated equity yield based on prevailing published market rates for the specified type of property.

Market Approach

1) Recent sale of subject property

- Earnest money receipt and offer to purchase with proof of transfer
- Closing statement
- Terms of the sale
- Conditions of Sale
- Special circumstances surrounding the sale such as bankruptcy, trades, etc., that would affect the sales price.
- Sources of data and methods of computation.

2) Appraisal

The appraisal must use at least three comparables to support the estimated value of the subject property. Adjustments to the comparables must be shown, where appropriate. The appraisal should be no older than one year. Letters from a realtor or cover sheets of FHA appraisals may not be used in lieu of appraisals.

3) Sales Comparison

The owner should submit at least three comparable properties that have sold within a year of January 1 of the year in appeal.

Where there have not been three comparable sales in the past year, older sales may be acceptable. The following data must be provided for each comparable:

- Address/location
- Date sold
- Sales price
- Current use of property
- Square footage
- Type of construction
- Age
- Condition
- Lot size
- Special features
- Zoning
- Garage/carport

- Basement and percent finished
- Rent or lease per unit or square foot
- Sources from which the information was obtained
- Adjustments to the comparables must be shown to estimate the value of the subject property.

Submission of Multiple Listing Source Printouts may be acceptable for residential appeals up to 4-plexes.

Property Partially or Totally Destroyed

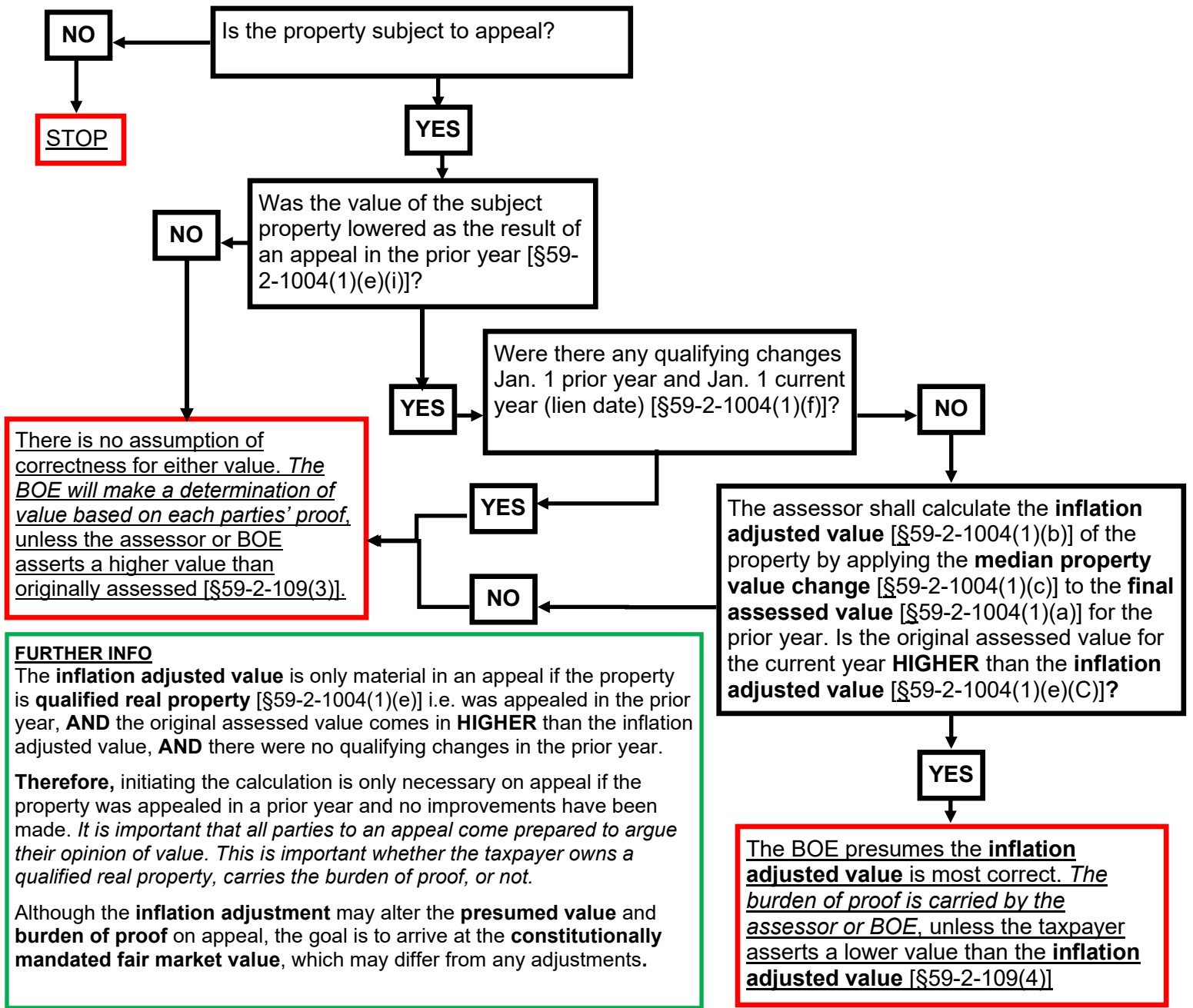
A fire department's report, demolition permit, or other evidence must provide proof that the destruction occurred before the lien date of the tax year in question.

Inequity of Assessment

An appeal of assessment equity may be accepted where the appellant provides proof of a higher assessed value than similar properties in the same value area.

Appendix 1B

Qualified Real Property Inflation Adjusted Value and Burden of Proof Flowchart



FURTHER INFO

The **inflation adjusted value** is only material in an appeal if the property is **qualified real property** [§59-2-1004(1)(e)] i.e. was appealed in the prior year, **AND** the original assessed value comes in **HIGHER** than the inflation adjusted value, **AND** there were no qualifying changes in the prior year.

Therefore, initiating the calculation is only necessary on appeal if the property was appealed in a prior year and no improvements have been made. *It is important that all parties to an appeal come prepared to argue their opinion of value. This is important whether the taxpayer owns a qualified real property, carries the burden of proof, or not.*

Although the **inflation adjustment** may alter the **presumed value** and **burden of proof** on appeal, the goal is to arrive at the **constitutionally mandated fair market value**, which may differ from any adjustments.