

The seal of the Texas Comptroller of Public Accounts is a circular emblem. It features a central five-pointed star surrounded by a wreath of olive and oak branches. The words "THE COMPTROLLER" are inscribed along the top inner edge of the circle, and "TEXAS" is at the bottom. The entire seal is rendered in a light, semi-transparent blue color against the dark teal background.

**Glenn Hegar**

Texas Comptroller of Public Accounts

# Property Tax Basics

## Texas Property Tax

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# Introduction

**Texas has no state property tax.** Local governments set tax rates and collect property taxes that are used to provide local services including schools, streets, roads, police, fire protection and many other services.

Texas law requires property values used in determining taxes to be equal and uniform, and establishes the process to be followed by local officials in determining property values, setting tax rates and collecting taxes. **Exhibit 1** includes some basic property tax rules set out in the Texas Constitution.

## EXHIBIT 1

### Texas Constitution Basic Property Tax Rules

<b>Taxation must be equal and uniform.</b>
<ul style="list-style-type: none"> <li>All property must be taxed equally and uniformly.<sup>1</sup></li> <li>No single property or type of property should be taxed more than its fair market value.<sup>2</sup></li> </ul>
<b>Generally, all property is taxed in proportion to its value.</b>
<ul style="list-style-type: none"> <li>Unless constitutionally exempt, property must be taxed in proportion to its value.<sup>3</sup></li> <li>The Texas Constitution provides certain exceptions to market valuation, such as taxation based on productive capacity for agricultural and timberland.<sup>4</sup></li> <li>All exemptions from taxation must be constitutionally authorized.<sup>5</sup></li> </ul>
<b>Taxpayers must be given notice of an estimate of taxes they owe.</b>
<ul style="list-style-type: none"> <li>Notice must be given of the reasonable estimate of the taxes that will be imposed on a taxpayer's property.<sup>6</sup></li> <li>Notice must be given of intent to consider tax increases.<sup>7</sup></li> </ul>

Several types of local governments may tax property. Texas counties and local school districts tax all nonexempt property within their jurisdiction. Cities and special purpose districts such as hospitals, junior colleges or water districts, may also collect certain property taxes.

The Comptroller's office is committed to ensuring that taxpayers have the information needed to preserve their

rights and pursue appropriate remedies. In keeping with this commitment, the Comptroller's Property Tax Assistance Division (PTAD) created the summary of property tax rights in **Exhibit 2**.

## EXHIBIT 2

### Property Taxpayer Bill of Rights

- You have the right to equal and uniform taxation.<sup>8</sup>
- You have the right to ensure that your property is appraised uniformly with similar property in your county.
- You have the right to have your property appraised according to generally accepted appraisal methods and techniques and other requirements of law.<sup>9</sup>
- You have the right to receive exemptions or other tax relief for which you qualify and apply timely.<sup>10</sup>
- You have the right to notice of property value increases, exemption changes and estimated tax amounts.<sup>11</sup>
- You have the right to inspect non-confidential information used to appraise your property.<sup>12</sup>
- You have the right to protest your property's value and other appraisal matters to an appraisal review board composed of an impartial group of citizens in your community.<sup>13</sup>
- You have the right to appeal the appraisal review board's decision to district court in the county where the property is located.<sup>14</sup>
- You have the right to fair treatment by the appraisal district, the appraisal review board and the tax assessor-collector.
- You have the right to voice your opinions at open public meetings about proposed tax rates and to ask questions of the governing body responsible for setting tax rates.<sup>15</sup>
- You have the right to petition a local government to call an election to limit a tax increase in certain circumstances.<sup>16</sup>
- You have the right to receive a free copy of the pamphlet entitled Property Taxpayer Remedies published by the Texas Comptroller of Public Accounts prior to your protest before the appraisal review board.<sup>17</sup>

1 Tex. Const. art VIII, §1(a)  
 2 Tex. Const. art VIII, §20  
 3 Tex. Const. art VIII, §1(b)  
 4 Tex. Const. art VIII, §1-d-1  
 5 Tex. Const. art VIII, §1(b)  
 6 Tex. Const. art VIII, §21(c)  
 7 Tex. Const. art VIII, §21(a)

8 Tex. Const. art. VIII, §1(a)  
 9 Tex. Tax Code Chapter 23 and §23.01(b)  
 10 Tex. Const. art. VIII, §1(b), (1-b); Tex. Tax Code Chapter 11  
 11 Tex. Const. art. VIII, §21 and Tex. Tax Code §§11.43 and 25.19  
 12 Tex. Tax Code §25.195  
 13 Tex. Tax Code §41.41(a)  
 14 Tex. Tax Code §§42.01 and 42.21(a)  
 15 Tex. Edu. Code §44.004, Tex. Gov't Code Chapter 551 and Tex. Tax Code §26.06  
 16 Tex. Tax Code §§26.07 and 26.08 and Tex. Water Code §49.236  
 17 Tex. Tax Code §41.461

## Property Tax Administration

Many parties play a role in administering the property tax system, including property owners, appraisal districts, appraisal review boards, local taxing units, tax assessor-collectors and the Comptroller’s office.

The **property owner**, whether residential or business, is responsible for paying taxes and has a reasonable expectation that the taxing process will be fairly administered. The property owner is also referred to as the taxpayer.

The **appraisal district** in each county appraises the value of property each year.<sup>18</sup> The appraisal district is administered by a **chief appraiser** hired by the **appraisal district board of directors**.<sup>19</sup> Local taxing units elect the appraisal district board of directors based on the amount of taxes levied in each taxing unit.<sup>20</sup> The appraisal district can answer questions about local appraisal processes, exemption administration, agricultural appraisal and protests.

The **appraisal review board (ARB)** is a board of local citizens that hears disagreements between property owners and the appraisal district about the taxability and value of property.<sup>21</sup> In counties with a population of 120,000 or more, members of the ARB are appointed by the local administrative district judge in the county in which the appraisal district is located.<sup>22</sup> In all other counties, the appraisal district board of directors appoints ARB members.<sup>23</sup> For questions about how an appraisal district operates or who serves on an ARB, contact the appraisal district board of directors.

**Local taxing units**, including school districts, counties, cities, junior colleges and special purpose districts, decide how much money they will need to be able to pay for providing public services. Property tax rates are set according to taxing unit budgets. Some taxing units have access to other revenue sources, such as a local sales tax. School districts must rely on the local property tax in addition to state and federal funds. Taxing units can answer questions about tax rates and tax bills.

In many counties, taxing units contract with the **county tax assessor-collector** to collect property taxes for other taxing units in that county.<sup>24</sup> The assessor-collector then transfers the appropriate amounts of the collected levy to each taxing unit.<sup>25</sup> Although some taxing units may contract with an appraisal district to collect their taxes, the appraisal district does not levy a property tax.<sup>26</sup>

**PTAD’s** role is primarily limited to monitoring services. PTAD conducts a biennial Property Value Study (PVS) for

each school district for school funding purposes. The PVS is an independent estimate mandated by the Texas Legislature of property values within a school district.<sup>27</sup> The Comptroller’s values do not directly affect local values or property taxes, which are determined locally.

PTAD also performs Methods and Assistance Program (MAP) reviews of all appraisal districts every two years. The reviews address four issues: governance, taxpayer assistance, operating standards and appraisal standards, procedures and methodologies.<sup>28</sup> PTAD reviews approximately half of all appraisal districts each year. School districts located in counties that do not receive a MAP review in a year will be subject to a PVS in that year.

General information about the Texas property tax system can be found on the Comptroller’s website at [comptroller.texas.gov/taxinfo/proptax/](http://comptroller.texas.gov/taxinfo/proptax/) or by calling PTAD’s Information Services Team at 800-252-9121 (press 2). Legal questions should be directed to an attorney.

## Property Tax Cycle

The Texas property tax system has four main phases or sets of functions that occur within certain dates: appraisal, equalization, assessment and collection. **Exhibit 3** indicates the dates and activities that typically occur within each phase.

### EXHIBIT 3 Tax Calendar Phases

<b>Appraisal Phase (Jan. 1 through May 15)</b>	
Jan. 1 – April 30	Property is appraised and exemption applications are processed <sup>29</sup>
April – May 1	Notices of appraised value are sent <sup>30</sup>
May 15	Appraisal record prepared and submitted to the ARB <sup>31</sup>
<b>Equalization Phase (May 15 through July 25)</b>	
May 15 – July 20	Protests and challenges are heard and determined <sup>32</sup>
July 20	Appraisal records are approved <sup>33</sup>
July 25	Appraisal roll is certified <sup>34</sup>
<b>Assessment Phase (July 25 through Oct. 1)</b>	
July 25	Appraisal roll received by taxing units <sup>35</sup>
July 25 – Sept. 30	Tax rates are adopted and taxes are levied (calculated) <sup>36</sup>
Oct. 1	Tax bills begin to be sent to taxpayers <sup>37</sup>
<b>Collection Phase (Oct. 1 through Jan. 31)</b>	
Oct. 1 – Jan. 31	Current taxes are collected <sup>38</sup>
Feb. 1	Penalties and interest begin to accrue <sup>39</sup>
July 1	Additional penalties may be added for legal costs <sup>40</sup>

27 Tex. Gov’t Code §403.302 and Tex. Tax Code §5.10(a)

28 Tex. Tax Code §5.102(a)

29 Tex. Tax Code §§11.43 and 23.01

30 Tex. Tax Code §25.19

31 Tex. Tax Code §25.22

32 Tex. Tax Code §§41.01 and 41.12

33 Tex. Tax Code §41.12

34 Tex. Tax Code §26.01

35 Tex. Tax Code §26.01

36 Tex. Tax Code §§26.01 and 26.05

37 Tex. Tax Code §31.01(a)

38 Tex. Tax Code §31.01(a)

39 Tex. Tax Code §§31.02 and 33.01

40 Tex. Tax Code §33.07

18 Tex. Tax Code §6.01(a) and (b)

19 Tex. Tax Code §6.05(c)

20 Tex. Tax Code §6.03(d)

21 Tex. Tax Code §41.01(a)(1)

22 Tex. Tax Code §6.41(d-1)

23 Tex. Tax Code §6.41(d)

24 Tex. Tax Code §6.23

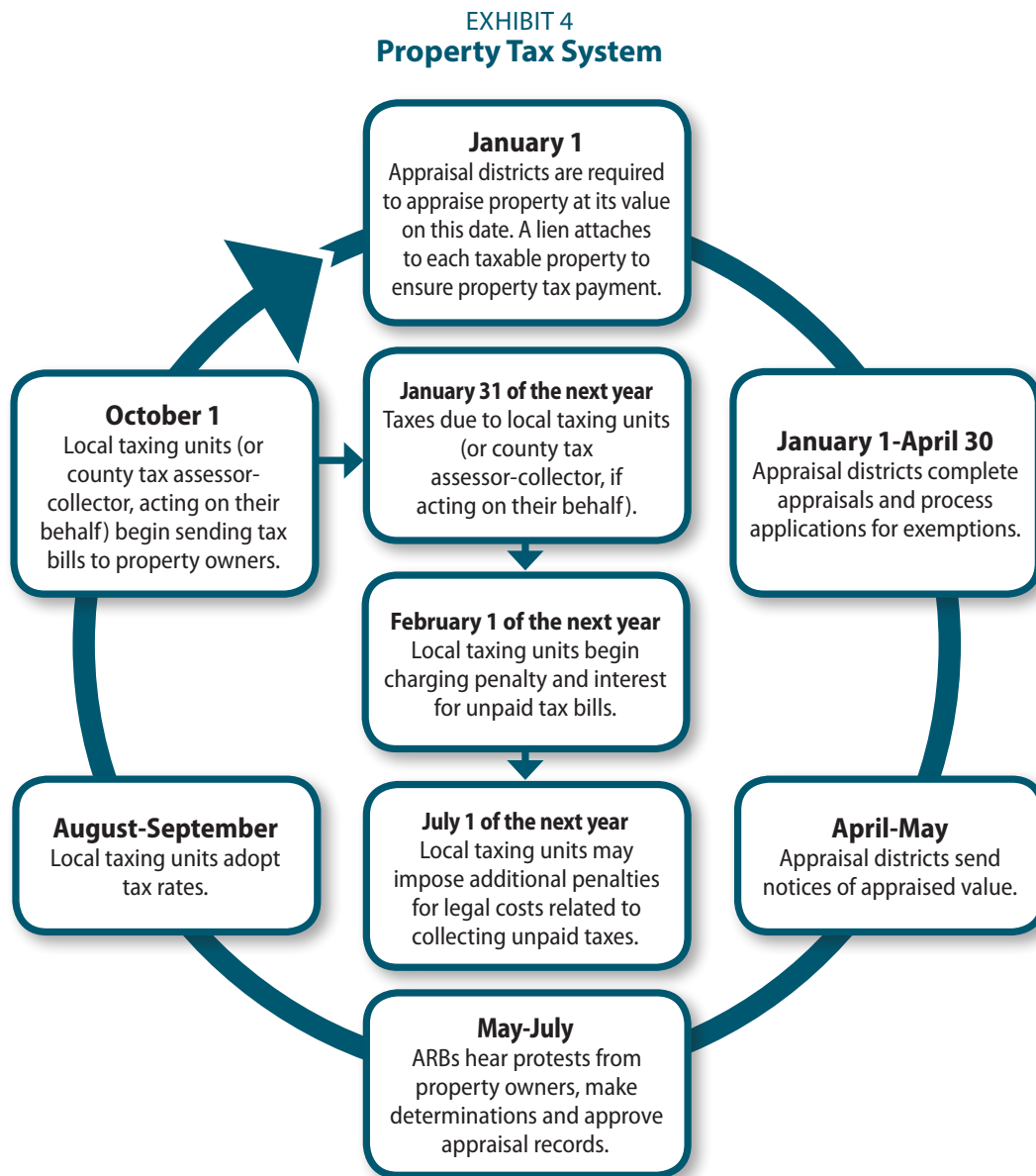
25 Tex. Tax Code §31.10

26 Tex. Tax Code §6.24(a)

The tax calendar is a schedule of property tax activities with either legal deadlines or deadlines based on the occurrence of other events. If the last day for performing an act falls on a Saturday, Sunday or legal holiday, the deadline is the next regular business day.<sup>41</sup> The Comptroller’s office publishes a calendar of specific deadlines established by Texas property tax laws on its website at [comptroller.texas.gov/taxinfo/proptax/taxcalendar/index.html](http://comptroller.texas.gov/taxinfo/proptax/taxcalendar/index.html).

During the appraisal phase, property is appraised; determinations are made on exemption applications; appraisal notices are sent to property owners; and the appraisal records are submitted to the ARB. The ARB hears and determines property owner protests and taxing unit challenges and approves the appraisal record during the equalization phase. The assessment phase begins when the appraisal roll is received by the taxing units from the chief appraiser. During the assessment phase, tax rates are adopted, levies are calculated and tax bills are sent. Taxes are collected and penalties and interest are applied on delinquent taxes during the collections phase.

**Exhibit 4** depicts the general cycle of the property tax system including the overlap from one year to the next, indicating activities performed by appraisal districts, ARBs and tax offices.



41 Tex. Tax Code §1.06

# Appraisal

Each Texas county is served by an appraisal district that determines the value of all taxable property in the county.<sup>42</sup> A board of directors appointed by the member taxing units presides over the appraisal district.<sup>43</sup> Generally, a taxing unit that imposes property taxes, such as a county, city or school district, is a member of the appraisal district.<sup>44</sup>

The appraisal district is a political subdivision and must follow applicable laws, including the Open Meetings Act and the Public Information Act.<sup>45</sup> Meetings are generally open to the public and information generated by the appraisal district is, in most cases, also available to the public.<sup>46</sup>

The appraisal district board of directors hires a chief appraiser, approves contracts, sets policy, appoints ARB members in counties with populations of less than 120,000 and confirms members of the agricultural advisory board.<sup>47</sup> In larger counties, it also names a taxpayer liaison officer who works directly under the board of directors and fields taxpayer questions.<sup>48</sup>

Each year the appraisal district compiles a list of taxable property in the county.<sup>49</sup> The listing for each property must contain a property description and the owner's name and address.<sup>50</sup> The appraisal district must repeat its appraisal process for property at least once every three years.<sup>51</sup>

## Rendering Property

A rendition is a form property owners may use to report taxable property owned on Jan. 1 to the appraisal district.<sup>52</sup> Both real and personal property may be rendered. The rendition identifies, describes and gives the location of the taxable property. Business owners must report a rendition of their personal property.<sup>53</sup> Other property owners may choose to submit a rendition.

By rendering property, the property owner ensures the appraisal district has the property owner's correct mailing

address for tax bills and places the owner's opinion of the property's value on record with the appraisal district.<sup>54</sup> The chief appraiser must send a *Notice of Appraised Value* if he or she places a higher value on the property than the value the property owner lists on the rendition form.<sup>55</sup>

Renditions generally must be filed with the appraisal district after Jan. 1 and no later than April 15.<sup>56</sup> Different deadlines apply in certain appraisal districts. A property owner may apply in writing for a mandatory extension to May 15. The chief appraiser may extend the deadline another 15 days beyond May 15 if the property owner can show good cause for needing an extension.<sup>57</sup>

Rendition statements and property reports for property located in an appraisal district in which one or more taxing units exempt freeport property under Tax Code Section 11.251 must be filed with the appraisal district no later than April 1. A property owner may apply in writing for a mandatory extension to May 1. The chief appraiser may extend the deadline another 15 days if the property owner can show good cause for needing an extension.<sup>58</sup>

Other rendition deadlines apply to property regulated by the Public Utility Commission of Texas, the Railroad Commission of Texas, the federal Surface Transportation Board or the Federal Energy Regulatory Commission.<sup>59</sup>

Significant penalties are imposed for delinquent or fraudulent renditions.<sup>60</sup> Check with the appraisal district for rendition forms and more information about rendering business personal property.<sup>61</sup> If the taxable value of business personal property is less than \$500 in any one taxing unit, the property is exempt in that taxing unit.<sup>62</sup> No special application is required to receive the under-\$500 exemption.<sup>63</sup>

Appraisal district staff may enter and inspect business premises to determine what taxable personal property is owned and

42 Tex. Tax Code §6.01(a) and (b)

43 Tex. Tax Code §6.03(a)

44 Tex. Tax Code §6.03(c)

45 Tex. Tax Code §6.01(c) and Tex. Gov't Code Chapters 551 and 552

46 Tex. Gov't Code Chapters 551 and 552

47 Tex. Tax Code §§6.05(c) and (h), 6.11(a), 6.12(a), 6.41(d), 25.01(b) and Tex. Loc. Gov't Code §252.043(f)

48 Tex. Tax Code §6.052(a)

49 Tex. Tax Code §25.01

50 Tex. Tax Code §25.02(a)

51 Tex. Tax Code §25.18(b)

52 Tex. Tax Code §§22.01 and 22.24

53 Tex. Tax Code §22.01(a) and (f)

54 Tex. Tax Code §22.01(a)

55 Tex. Tax Code §25.19(a)(2)

56 Tex. Tax Code §22.23(a)

57 Tex. Tax Code §22.23(b)

58 Tex. Tax Code §22.23(c)

59 Tex. Tax Code §22.23(d)

60 Tex. Tax Code §§22.28 and 22.29

61 Tex. Tax Code §22.25

62 Tex. Tax Code §11.145

63 Tex. Tax Code §§11.43(a)



its value.<sup>64</sup> They must make such inspections during normal business hours or at a time agreeable to the business owner.<sup>65</sup>

Except in certain specific circumstances, renditions and income and expense information filed with an appraisal district is confidential.<sup>66</sup> Confidential information may be disclosed to:

- the person who filed the statement or report and their authorized representative;<sup>67</sup>
- the property owner and their authorized representative;<sup>68</sup>
- the Comptroller's office and authorized Comptroller employees;<sup>69</sup>
- a taxing unit and its legal representative for delinquent tax collection purposes;<sup>70</sup>
- an agent or employee of a taxing unit responsible for auditing, monitoring or reviewing the operations of an appraisal district;<sup>71</sup>
- the employee or agent of a school district involved in preparing a protest of the Comptroller's property value study;<sup>72</sup> and
- other specified persons.

## Appraisal Methods

Before appraisals begin, the appraisal district compiles a list of taxable property. The list contains a description and the name and address of the owner for each property. Appraisal districts determine the value of all taxable property within the county boundaries and are required to reappraise all property at least once every three years.<sup>73</sup>

Most taxable property is to be appraised at market value as of Jan. 1.<sup>74</sup> Market value is the price at which a property would transfer for cash or its equivalent under prevailing market conditions if:

- it is exposed for sale in the open market with a reasonable time for the seller to find a purchaser;
- both the seller and the purchaser know of all the uses and purposes to which the property is adapted and for which it is capable of being used and of the enforceable restrictions on its use; and
- both the seller and purchaser seek to maximize their gains and neither is in a position to take advantage of the exigencies of the other.<sup>75</sup>

Three common approaches that the appraisal district may use in appraising property are the market data (sales) comparison approach, the income approach and the cost approach.<sup>76</sup>

### Market Data (Sales) Comparison Approach

The market data comparison approach to value is based on sales prices of similar properties. The appraisal district compares the property being appraised to similar properties that have recently sold and then adjusts the comparable sold properties for the differences between them and the property being appraised.<sup>77</sup>

A sale is not considered comparable unless the sale occurred within 24 months of the appraisal date, unless there are too few comparable sales within that time span to constitute a representative sample.<sup>78</sup> For residential property in a county with a population of more than 150,000, a sale is not considered to be a comparable sale unless the sale occurred within 36 months of the appraisal date, regardless of the number of comparable sales within that time span.<sup>79</sup>

Comparable sales must be appropriately time-adjusted<sup>80</sup> and must be similar in factors such as location, lot size, improvements, age, condition, access, amenities, views, income, operating expenses and occupancy.<sup>81</sup> The existence of easements, deed restrictions or other legal burdens affecting a property's ability to be sold also must be considered.<sup>82</sup>

### Income Approach

The income approach is based on income and expense data and is used to determine the present worth of future benefits. It seeks to determine what an investor would pay now for a future revenue stream anticipated to be received from the property.

The income approach is most suitable for types of properties frequently purchased and held for the purpose of producing income, such as apartments, retail properties and office buildings.<sup>83</sup> A chief appraiser must estimate the property's gross income potential and operating expenses; estimate capitalization rates or rates of discount; and base projections of future rent or income potential and expenses on reasonably clear and appropriate evidence.<sup>84</sup> In using the income approach, the chief appraiser may not separately appraise or account for personal property that is already included in the appraisal of real property.<sup>85</sup>

64 Tex. Tax Code §22.07(a)

65 Tex. Tax Code §22.07(b)

66 Tex. Tax Code §22.27(a)

67 Tex. Tax Code §22.27(b)(2)

68 Tex. Tax Code §22.27(b)(2)

69 Tex. Tax Code §22.27(b)(3)

70 Tex. Tax Code §22.27(b)(7)

71 Tex. Tax Code §22.27(b)(8)

72 Tex. Tax Code §22.27(b)(9)

73 Tex. Tax Code §§25.01, 25.02 and 25.18(b)

74 Tex. Tax Code §23.01

75 Tex. Tax Code §1.04(7)

76 Tex. Tax Code §23.0101

77 Tex. Tax Code §23.013(a)

78 Tex. Tax Code §23.013(b)

79 Tex. Tax Code §23.013(b-1)

80 Tex. Tax Code §23.013(c)

81 Tex. Tax Code §23.013(d)

82 Tex. Tax Code §23.013(d)

83 Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 193 (2011) (IAAO publication); and Joseph K. Eckert, Ph.D., Robert J. Gloude-mans, Richard R. Almy, *Property Appraisal and Assessment Administration*, p. 206 (1990) (IAAO publication)

84 Tex. Tax Code §23.012

85 Tex. Tax Code §23.24(b)

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## Cost Approach

The cost approach is especially useful for appraisal of property types for which sales and income data are scarce, unique properties and new construction.<sup>86</sup> The cost approach is based on what it would cost to replace the building (improvement) with one of equal utility. A chief appraiser uses cost data obtained from generally accepted sources and makes any appropriate adjustment for physical, functional or economic obsolescence.<sup>87</sup> Depreciation is applied and the estimate is added to the land value.

## Mass Appraisal

Appraisal districts use a method called mass appraisal to calculate the value of a large number of properties.<sup>88</sup> Appraisal districts must comply with the Uniform Standards of Professional Appraisal Practice if using mass appraisal and ensure that the same appraisal methods and techniques be used in appraising the same or similar kinds of property.<sup>89</sup>

In a mass appraisal, the appraisal district classifies properties according to a variety of factors, such as size, use and construction type. Using recent property sales, income and expense, cost and depreciation data, appraisal districts determine the value of properties in each class.<sup>90</sup> Appraisal districts consider differences such as age, location and use to appraise all the properties in each class.<sup>91</sup> Each property is also appraised based on its individual characteristics.<sup>92</sup>

The market value of a residence homestead must be determined solely on the basis of its current use regardless of its highest and best use.<sup>93</sup> For example, a homestead must be appraised as such, even if it is located where its highest and best use might be as the site for an office building or a parking lot for a mall. In determining the market value of a residence, the chief appraiser must consider the value of other residential property in the neighborhood,<sup>94</sup> even if the other property:

- was sold at a foreclosure sale conducted in any of the three years preceding the tax year in which the residence is being appraised, if it was comparable at the time of sale with other residences in the neighborhood; or
- has a market value that has declined because of a declining economy.

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86 Robert J. Gloude-mans, Richard R. Almy, *Fundamentals of Mass Appraisal*, p. 193 (2011) (IAAO publication); and Joseph K. Eckert, Ph.D., Robert J. Gloude-mans, Richard R. Almy, *Property Appraisal and Assessment Administration*, p. 206 (1990) (IAAO publication)

87 Tex. Tax Code §23.011

88 Tex. Tax Code §23.01(b)

89 Tex. Tax Code §23.01

90 IAAO, *Standard on Mass Appraisal of Real Property*, (April 2013), p. 8. <http://docs.iaao.org/media/standards/StandardOnMassAppraisal.pdf> (Last visited Dec. 1, 2015).

91 IAAO, *Standard on Mass Appraisal of Real Property*, (April 2013), p. 12. <http://docs.iaao.org/media/standards/StandardOnMassAppraisal.pdf> (Last visited Dec. 1, 2015).

92 Tex. Tax Code §23.01(b)

93 Tex. Tax Code §23.01(d)

94 Tex. Tax Code §23.01(c)

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## Limitation on Residence Homestead Value Increases

Texas law sets a limit on the amount of annual increase to the appraised value of a residence homestead to not exceed the lesser of:

- the market value of the property; or
- the sum of:
  - 10 percent of the appraised value of the property for last year;
  - the appraised value of the property for last year; and
  - the market value of all new improvements to the property.<sup>95</sup>

A new improvement is an improvement to a residence homestead made after the most recent appraisal of the property that increases its market value and was not included in the appraised value of the property for the preceding tax year. It does not include repairs to or ordinary maintenance of an existing structure, the grounds or another feature of the property.<sup>96</sup> A replacement structure for one that was rendered uninhabitable or unusable by a casualty or by wind or water damage is also not considered a new improvement if certain circumstances are met.<sup>97</sup>

The appraisal limitation only applies to a residence homestead.<sup>98</sup> It takes effect Jan. 1 of the tax year following the year in which the homeowner qualifies for the homestead exemption. It expires on Jan. 1 of the tax year following the year in which the property owners no longer qualify for the residence homestead exemption.<sup>99</sup>

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## Notice of Appraised Value

Texas law requires that a property owner be given notice of a revaluation of his or her property and a reasonable estimate of the amount of taxes that would be imposed on property if the total amount of property taxes for the subdivision were not increased.<sup>100</sup> Chief appraisers are required to deliver a clear and understandable written notice to a property owner of the property's appraised value if:

- the property's appraised value is greater than it was in the preceding year;
- the property's appraised value is greater than the value rendered by the property owner;
- the property was not on the appraisal roll in the preceding year; or
- an exemption or partial exemption approved for the property in the preceding tax year was canceled or reduced for the current tax year.<sup>101</sup>

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95 Tex. Tax Code §23.23(a)

96 Tex. Tax Code §23.23(e)

97 Tex. Tax Code §23.23(f) and (g)

98 Tex. Tax Code §23.23(a)

99 Tex. Tax Code §23.23(c)

100 Tex. Const. art. VIII §21(c)

101 Tex. Tax Code §25.19(a)(1)-(4)



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This is done using a form called *Notice of Appraised Value* that must be sent by April 1 or as soon thereafter as practicable for a residence homestead, or by May 1 or as soon thereafter as practicable for any other type property.<sup>102</sup>

The notice must contain the following information:

1. a list of the taxing units in which the property is taxable;
2. the appraised value of the property in the preceding year;
3. the taxable value of the property in the preceding year for each taxing unit that taxes the property;
4. the appraised value of the property for the current year;
5. the kind and amount of each exemption, if any, approved for the prior and current year;
6. the amount of tax that would be imposed on the property on the basis of the tax rate for the preceding year, if the appraised value is greater than in the preceding year.<sup>103</sup>

If an exemption or partial exemption that was approved for the preceding year was canceled or reduced for the current year, the notice must include the amount of the exemption or partial exemption that was canceled or reduced.<sup>104</sup> The form is also required to include the following statement in italic typeface:

*The Texas Legislature does not set the amount of your local taxes. Your property tax burden is decided by your locally elected officials, and all inquiries concerning your taxes should be directed to those officials.*<sup>105</sup>

The notice must provide a detailed explanation of the time and procedure for protesting the value; the date and place the ARB will hear protests; and a brief explanation noting that the governing body of each taxing unit decides whether or not taxes on the property will increase and that the appraisal district determines the value of the property.<sup>106</sup> The notice must also include certain information based on property type.<sup>107</sup>

Appraisal districts are free to develop their own form, but it must include all the information required by the Tax Code.<sup>108</sup> If the appraisal district board of directors approves, the chief appraiser may dispense with the notice if the increase in the appraised value is \$1,000 or less.<sup>109</sup>

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## Exemptions

Texas allows a variety of tax exemptions for property and property owners that qualify for the exemption. An exemption removes part of the property's value from taxation, which lowers the tax bill. For example, if a home is valued at \$150,000 and the property owner qualifies for a \$25,000 exemption, he or she pay taxes on the home as if it were worth \$125,000.

Partial or total (absolute) exemptions remove part of a property's appraised value used to determine local property taxes. A partial exemption removes a percentage or a fixed dollar amount of a property's value from taxation. A total (absolute) exemption excludes the entire property from taxation. The state requires taxing units to offer certain (mandatory) exemptions and have the option to decide locally on whether or not to offer others. Exemptions discussed in this guide apply to residence homesteads only. Additional exemption information can be found in the Comptroller's publication *Texas Property Tax Exemptions*.

Property owners are required to apply for exemptions in most circumstances.<sup>110</sup> The general deadline for filing an exemption application is before May 1.<sup>111</sup> If a property owner fails to file a required application on time, the property owner usually forfeits the right to the exemption unless other application provisions exist in law.<sup>112</sup> Certain property owners may late-file homestead exemption applications, as indicated below:

- A property owner may file an age 65 or older or disabled exemption application up to one year after the date on which he or she became age 65 or disabled.<sup>113</sup>
- A property owner may file a donated residence homestead of a partially disabled veteran exemption application for up to one year after he or she qualifies.<sup>114</sup>
- A property owner may file a homestead exemption application up to two years after the date the taxes become delinquent.<sup>115</sup>
- A property owner may file a disabled veteran's exemption application up to five years after the date the taxes become delinquent.<sup>116</sup>

If a late-filed homestead exemption is granted, the property owner will receive a new tax bill with a lower amount. If the taxes have already paid, the property owner will receive a refund.<sup>117</sup>

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102 Tex. Tax Code §25.19

103 Tex. Tax Code §25.19(b)(1)-(5)

104 Tex. Tax Code §25.19(b)(4)

105 Tex. Tax Code §25.19(b)(6)

106 Tex. Tax Code §25.19(b)(7)-(9)

107 Tex. Tax Code §25.19

108 Tex. Tax Code §25.19

109 Tex. Tax Code §25.19(e)

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110 Tex. Tax Code §11.43(a)

111 Tex. Tax Code §11.43(d)

112 Tex. Tax Code §11.43(d), 11.431, 11.433, 11.434, 11.435, 11.438, 11.439 and 11.4391

113 Tex. Tax Code §11.43(k)

114 Tex. Tax Code §11.43(k)

115 Tex. Tax Code §11.431(a)

116 Tex. Tax Code §11.439(a)

117 Tex. Tax Code §11.431(b)

**Exhibit 5** shows the steps that can be taken to file an application for a residence homestead exemption.

Once a property owner receives a homestead or disabled veteran's exemption, he or she does not have to apply for it again unless requested by the chief appraiser or unless the property owner's qualifications change:

- If a property owner moves to a new home, he or she must fill out a new application to receive most exemptions and to transfer any tax ceiling.<sup>118</sup>
- A property owner who becomes disabled may file a new application the year the he or she becomes disabled in order to receive more exemptions.<sup>119</sup>
- A property owner may file for the 100 percent or totally disabled veteran or the surviving spouse exemption in the middle of year on a new residence homestead for the remaining part of the year.<sup>120</sup>

A chief appraiser may not require a person allowed a 100 percent or totally disabled veteran exemption under Tax Code Section 11.131 to file a new application to determine the person's current qualification if the person has a permanent total disability as determined by the U.S. Department of Veterans Affairs.<sup>121</sup>

### **Residence Homestead Exemptions**

To qualify for residence homestead exemptions, the property owner generally must own and occupy the home as his or her principal residence on Jan. 1.<sup>122</sup> Typically, the exemption is applicable as of Jan. 1 of the tax year in which it is approved.<sup>123</sup> The residence itself can be a house, a condominium or a manufactured home, as long as the property owner owns the improvement.<sup>124</sup> A residence homestead generally includes the land as well, not to exceed 20 acres, so long as the owner of the residence holds an ownership interest in the land upon which it sits.<sup>125</sup> Generally, a property owner may not receive a residence homestead exemption for more than one property in the same year.<sup>126</sup>

If a property owner temporarily moves away, he or she can still receive an exemption as long he or she intends to return and does not establish another principal residence.<sup>127</sup> Temporarily generally means an absence of less than two years.<sup>128</sup> An absence for military service inside or outside

the U.S. or a stay in a facility providing services related to health, infirmity or aging may be longer.<sup>129</sup>

### **EXHIBIT 5 How to File an Application for Homestead Exemption**

- |   |
|---|
| 1. Obtain application form(s) at the local appraisal district office.   |
| 2. Return the form(s) to the appraisal district office after Jan. 1 but no later than April 30 and include other information as indicated on the application form. <sup>130</sup>   |
| 3. Provide all the information and documentation requested. For example, if a property owner is claiming an age 65 or older or disabled exemption, he or she may need to show proof of age or disability. Remember that making false statements on the exemption application is a criminal offense. <sup>131</sup>                                  |
| 4. If the chief appraiser mails a written request for more information, the property owner has 30 days from the postmark date to reply. <sup>132</sup>  |
| 5. The chief appraiser must notify a property owner in writing within five days if he or she denies or modifies an exemption. This notice must explain how the property owner can protest before the ARB. Additional notice requirements exist before a chief appraiser can cancel an exemption for an owner who is age 65 or older. <sup>133</sup> |

### **General Residence Homestead**

There are no specific qualifications for the general homestead exemption other than that the owner has an ownership interest in the property and uses the property as his or her principal residence. An applicant is required to state that he or she does not claim an exemption on another residence homestead in or outside of Texas.<sup>134</sup>

Texas law requires school districts to offer a \$25,000 exemption on residence homesteads.<sup>135</sup> Any taxing unit, including a city, county, school district or special purpose district, has the option of deciding locally to offer a separate residence homestead exemption of up to 20 percent of a property's appraised value, but not less than \$5,000.<sup>136</sup> For example, if a residence homestead is valued at \$20,000 and the city offers a 20 percent exemption from city taxes, the exemption amount is \$5,000, the minimum, even though 20 percent of \$20,000 is \$4,000.

Each taxing unit decides before July 1 whether to offer an optional exemption and at what percentage.<sup>137</sup> This exemption is added to any other homestead exemption for which a homeowner qualifies.<sup>138</sup> Counties are also required to offer

118 Tex. Tax Code §11.43(a), 11.26 and 11.261

119 Tex. Tax Code §11.42(c) and 11.43(k)

120 Tex. Tax Code §11.42(e)

121 Tex. Tax Code §11.43(r)

122 Tex. Tax Code §§11.13(j)(1) and 11.42

123 Tex. Tax Code §11.42(a)

124 Tex. Tax Code §§11.13(j)(1) and 11.432

125 Tex. Tax Code §§11.13(j)(1), 11.432(b) and (c)

126 Tex. Tax Code §11.13(h)

127 Tex. Tax Code §11.13(l)

128 Tex. Tax Code §11.13(l)(1)

129 Tex. Tax Code §11.13(l)(2)

130 Tex. Tax Code §11.43(d)

131 Tex. Tax Code §11.43(d) and (f)

132 Tex. Tax Code §11.45(b)

133 Tex. Tax Code §§11.43 and 11.45

134 Tex. Tax Code §§11.13(j)(1) and 11.43(j)

135 Tex. Tax Code §11.13(b)

136 Tex. Tax Code §11.13(n)

137 Tex. Tax Code §11.13(n)

138 Tex. Tax Code §11.13(n)

a \$3,000 exemption if the county collects farm-to-market roads or flood control taxes.<sup>139</sup>

Joint, community or successive owners may not each receive the same exemption for the same residence in the same year.<sup>140</sup>

### Persons Age 65 or Older or Disabled

School districts are required to give persons age 65 or older or disabled an additional \$10,000 residence homestead exemption.<sup>141</sup> This exemption applies as of Jan. 1 of the year in which the property owner becomes age 65 or disabled.<sup>142</sup> If a property owner qualifies for both the \$10,000 exemption for homeowners age 65 or older and the \$10,000 exemption for being a person with disabilities, he or she must choose one or the other and cannot receive both.<sup>143</sup>

Any taxing unit, including a city, county, school district or special purpose district, has the option of deciding locally to offer an additional exemption of at least \$3,000 for homeowners age 65 or older or disabled.<sup>144</sup>

If a property owner does not claim another residence in the same year, he or she will receive the age 65 or older or disabled exemption for the full year.<sup>145</sup> If the property owner claims another residence during the same year, he or she will no longer qualify for the exemption on the first home for the remaining portion of that year.<sup>146</sup> Taxing units prorate taxes based on the number of days from when a property owner no longer qualifies for the exemption to the end of the tax year.<sup>147</sup>

### Disabled Veteran or Survivor

All or part of a disabled veteran's property (including a residence homestead) may be exempt from property taxation. A surviving spouse or surviving child may also qualify for an exemption.<sup>148</sup>

### Partial Exemptions

Partial Exemptions and Total (Absolute) Exemptions should be subtitled under Disabled Veteran or Survivor. Texas law provides partial exemptions for any property owned by disabled veterans and their surviving spouses and children.<sup>149</sup> The amount of the exemption is determined according to the percentage of service-connected disability as shown in **Exhibit 6**.<sup>150</sup>

<sup>139</sup> Tex. Const. art. VIII §1-a and Tex. Tax Code §11.13(a)

<sup>140</sup> Tex. Tax Code §11.13(h)

<sup>141</sup> Tex. Tax Code §11.13(c)

<sup>142</sup> Tex. Tax Code §11.42(c)

<sup>143</sup> Tex. Const. art. VIII §1-b(c)

<sup>144</sup> Tex. Tax Code §11.13(d)

<sup>145</sup> Tex. Tax Code §11.42(c)

<sup>146</sup> Tex. Tax Code §§11.13(h) and 26.10(b)

<sup>147</sup> Tex. Tax Code §26.10(b)

<sup>148</sup> Tex. Tax Code §§11.131, 11.132, 11.133 and 11.22

<sup>149</sup> Tex. Tax Code §11.22

<sup>150</sup> Tex. Tax Code §11.22(a)

## EXHIBIT 6 Disabled Veteran Partial Exemption

An Exemption of Up to of the Appraised Value:	For a Disability Rating of at Least:	But Less Than:
\$5,000	10%	30%
\$7,500	30%	50%
\$10,000	50%	70%
\$12,000	70% and over	

A disabled veteran is entitled to a \$12,000 exemption of the value of a designated property if he or she:

- is age 65 years or older and has a disability of at least 10 percent;
- is totally blind in one or both eyes; or
- has lost the use of one or more limbs.<sup>151</sup>

If a disabled veteran who is entitled to an exemption dies, the surviving spouse is entitled to the same exemption as long as he or she remains unmarried.<sup>152</sup> If the spouse does not survive the veteran, each of the veteran's surviving children younger than 18 years of age and unmarried is entitled to an exemption on property they own.<sup>153</sup>

If an individual dies while on active duty as a member of the U.S. armed services:

- any surviving spouse is entitled to an exemption from taxation of \$5,000 of the assessed value of the property the spouse owns and designates;<sup>154</sup> and
- each of the individual's surviving children younger than 18 and unmarried is entitled to an exemption to be computed by dividing \$5,000 by the number of eligible children.<sup>155</sup>

A separate partial exemption is also available for residence homesteads donated to disabled veterans by charitable organizations which extends to surviving spouses who have not remarried.<sup>156</sup>

The deadline for filing for the partial disabled veteran exemptions is April 30. The residence homestead exemption application includes the donated homes exemption and may be filed up to two years from the delinquency date. The disabled veteran exemption application applies to all property types and may be filed up to five years from the delinquency date.<sup>157</sup>

### Total (Absolute) Exemptions

Partial Exemptions and Total (Absolute) Exemptions should be subtitled under Disabled Veteran or Survivor. A disabled

<sup>151</sup> Tex. Tax Code §11.22(b)

<sup>152</sup> Tex. Tax Code §11.22(c)

<sup>153</sup> Tex. Tax Code §11.22(c)

<sup>154</sup> Tex. Tax Code §11.22(d)(1)

<sup>155</sup> Tex. Tax Code §11.22(d)(2)

<sup>156</sup> Tex. Tax Code §11.132

<sup>157</sup> Tex. Tax Code §§11.431 and 11.439

veteran who receives 100 percent disability compensation due to a service-connected disability and a rating of 100 percent disabled or of individual unemployability from the U.S. Department of Veterans Affairs is entitled to an exemption of the total appraised value of his or her residence homestead.<sup>158</sup> Veterans who qualify for the exemption after Jan. 1 of a tax year receive an exemption for the applicable portion of that year immediately upon qualifying for the exemption. If the property no longer qualifies in a year, the exemption is removed for that portion of the year.<sup>159</sup>

The 100 percent disabled veteran exemption extends to a surviving spouse who was married to a disabled veteran who qualified or would have qualified for this exemption if it has been in effect at the time of the veteran's death.<sup>160</sup> To be entitled to this exemption, the surviving spouse must not have remarried; the property was the residence homestead of the surviving spouse when the veteran died; and the property remains the residence homestead of the surviving spouse.<sup>161</sup>

### Surviving Spouses

A surviving spouse of a member of the U.S. armed services killed in action is allowed a total property tax exemption on his or her residence homestead if he or she has not remarried since the death of the armed services member.<sup>162</sup>

The surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to a total residence homestead exemption if the surviving spouse is an eligible survivor as determined by the Texas Employees Retirement System under Government Code Chapter 615 and has not remarried since the first responder's death.<sup>163</sup>

If a surviving spouse qualifies for one of these exemptions, he or she can take same dollar amount of the tax exemption on the former homestead to a subsequently qualified residence homestead. The chief appraiser of the county in which the former residence was located must provide to the surviving spouse a written certificate so that the amount of the exemption on the subsequent qualified homestead can be determined.<sup>164</sup>

### Tax Ceiling (Freeze)

An age 65 or older or disabled property owner's homestead exemption qualifies him or her for a tax ceiling on the school district taxes; that is, the school district taxes on the

property owner's home cannot increase as long as he or she owns and lives in it.<sup>165</sup> The ceiling cannot expire if the home is made uninhabitable.<sup>166</sup> The tax ceiling is set at the amount paid in the year that the property owner qualified for the age 65 or older or disabled exemption.<sup>167</sup> This provision allows for the school district taxes to fall below the ceiling.<sup>168</sup>

A tax ceiling can be raised if a home is improved unless the improvements are for normal repairs and maintenance or for a home built to replace one made uninhabitable and the replacement structure meets certain criteria.<sup>169</sup> For example, if a property owner adds a garage or a room to the existing home, the tax ceiling may be raised. It may also change if the property owner moves to another home.<sup>170</sup> A tax ceiling does not expire if the property owner transfers the interest in the home to a trust, but still lives in the home.<sup>171</sup>

If a property owner buys another home in Texas, he or she may transfer the percentage of school tax paid based on the former home's school tax ceiling to the new home.<sup>172</sup> For example, if the property owner currently has a tax ceiling of \$100, but would pay \$400 in school district taxes without the tax ceiling, the percentage of tax paid is 25 percent. If the taxes on the new home are \$1,000, the new school tax ceiling would be \$250, or 25 percent of \$1,000.

When a property owner who has been receiving the age 65 or older homestead exemption and tax ceiling dies, the ceiling transfers to the surviving spouse, as long as he or she is age 55 or older and the residence homestead was his or her homestead on the date of the spouse's death.<sup>173</sup> If the age 65 or older property owner dies in the year of his or her 65th birthday, but had not applied for the age 65 or older exemption, the surviving spouse may qualify for the ceiling.<sup>174</sup> The exemption remains in effect for as long as the survivor owns and lives in the home.<sup>175</sup> If a surviving spouse age 55 or older buys another home, he or she may transfer the percentage of tax paid based on the former home's tax ceiling to the new home.<sup>176</sup>

A county, city or junior college district may freeze or limit a property owner's taxes by adopting a tax ceiling.<sup>177</sup> The ceiling goes into effect after the taxing unit adopts the limi-

158 Tex. Tax Code §11.131(b)

159 Tex. Tax Code §11.131

160 Tex. Tax Code §11.131(c)

161 Tex. Tax Code §11.131

162 Tex. Tax Code §11.133(b)

163 Tex. Tax Code §11.134

164 Tex. Tax Code §§11.133(c) and 11.134(d)

165 Tex. Tax Code §11.26(a)

166 Tex. Tax Code §11.26(n)

167 Tex. Tax Code §11.26(a)

168 Tex. Tax Code §11.26(a)

169 Tex. Tax Code §11.26(b) and (o)

170 Tex. Tax Code §11.26(g)

171 Tex. Tax Code §11.26(f)

172 Tex. Tax Code §11.26(g)

173 Tex. Tax Code §11.26(i)

174 Tex. Tax Code §11.26(j)

175 Tex. Tax Code §11.26(i)(2)(B)

176 Tex. Tax Code §11.26(g)

177 Tex. Const. art. VIII §1-b(h) and Tex. Tax Code §11.261(a)



tation and the property owner qualifies the homestead.<sup>178</sup> If a property owner purchases another home in the same county, city or junior college, he or she may transfer the former tax ceiling percentage to the new home.<sup>179</sup> A property owner may request a certificate from the appraisal district for the former home to present to the appraisal district for the new home.<sup>180</sup>

When a homeowner who receives the age 65 or older or disabled homeowner exemption and tax ceiling dies, the tax ceiling offered by a county, city or junior college district transfers to the surviving spouse, if he or she is disabled or age 55 or older at the spouse's death and the residence homestead was the surviving spouse's residence on the date of death and remains his or her homestead.<sup>181</sup>

## Agricultural Appraisal

If land qualifies for agricultural appraisal, it typically lowers a property's taxable value. The appraised value of qualified agricultural land is based on the land's capacity to produce agricultural products, including timber, rather than its market value, which often is higher.<sup>182</sup> This appraisal method usually results in a lower property value for the land and a reduced property tax bill.

Two different provisions of the Texas Constitution address qualifications for agricultural appraisal. Texas Constitution, Article VIII, Section 1-d, defining agricultural use, requires a property owner to show farming or ranching is his or her primary occupation and source of income. Very few property owners qualify under this provision. Nearly all land receiving agricultural appraisal falls under Texas Constitution, Article VIII, Section 1-d-1, also known as open-space valuation, as described below.

Property owners are required to apply for special agricultural appraisal.<sup>183</sup> The deadline for filing an application is before May 1, but the chief appraiser may generally extend the filing deadline for good cause.<sup>184</sup> If a property owner fails to file a required application on time, the land is ineligible for special agricultural appraisal for that year.<sup>185</sup>

**Exhibit 7** shows the steps that can be taken to file an application for agricultural appraisal.

## EXHIBIT 7

### How to File an Application for Agricultural Appraisal

1. Obtain an application form at the local appraisal district office.<sup>186</sup>
2. Fill it out completely and return it to the appraisal district office after Jan. 1, but no later than April 30.<sup>187</sup> Remember that falsifying statements on the application is a criminal offense.<sup>188</sup>
3. If more time is needed to complete the application form, the property owner may submit a written request to the chief appraiser before the April 30 deadline. The chief appraiser can grant up to 60 extra days if the property owner has a good reason for needing extra time.<sup>189</sup>
4. If a property owner misses the April 30 deadline, he or she may file a late application any time before the ARB approves the appraisal records,<sup>190</sup> usually on or about July 20.<sup>191</sup> A property owner is to be charged a penalty for late filing equal to 10 percent of the tax savings obtained through receiving agricultural appraisal for the land.<sup>192</sup> After the ARB approves the records, a property owner can no longer apply for agricultural appraisal for that year.<sup>193</sup>
5. If the chief appraiser requests more information, a property owner has 30 days to reply.<sup>194</sup> A property owner may ask for more time not to exceed 15 days but must have a good reason.<sup>195</sup> If a property owner does not reply, the application is denied.<sup>196</sup>
6. If the chief appraiser denies an application for agricultural appraisal, he or she must notify the property owner in writing within five days.<sup>197</sup> This notice must explain how the property owner can protest to the ARB and provide a full explanation of the reasons for the denial.<sup>198</sup> This notice must be sent by certified mail.<sup>199</sup>
7. Once a property owner receives an agricultural appraisal, he or she does not have to apply again in succeeding years unless his or her qualifications change or ownership changes.<sup>200</sup>
8. The chief appraiser may request a new application from time to time, to verify that the property still meets the qualifications for special agricultural appraisal.<sup>201</sup> Failure to respond to the chief appraiser's request may result in a determination that the property is no longer eligible for agricultural appraisal, and a notice to the owner of this determination. Before a chief appraiser may determine a change of use has occurred for an existing agricultural appraisal on property owned by someone age 65 years or older, additional written notice procedures must be followed.<sup>202</sup>
9. If a property owner becomes the owner of land that was qualified for special appraisal by the previous owner, the new owner must apply in his or her own name. Failure to do so may result in the land being deemed ineligible for the agricultural appraisal. The property owner must notify the appraisal district in writing by April 30 if the land's eligibility changes.<sup>203</sup> Failure to do so may result in imposition of a penalty equal to 10 percent of the difference between taxes imposed under special appraisal and the taxes that should have been imposed.<sup>204</sup>

178 Tex. Tax Code §11.261(b)

179 Tex. Tax Code §11.261(g)

180 Tex. Tax Code §11.261(h)

181 Tex. Tax Code §11.261(i)

182 Tex. Tax Code §23.52(a)

183 Tex. Tax Code §23.54(a)

184 Tex. Tax Code §23.54(d)

185 Tex. Tax Code §23.54(e)

186 Tex. Tax Code §23.54(b)

187 Tex. Tax Code §23.54(d)

188 Tex. Penal Code §37.10

189 Tex. Tax Code §23.54(d)

190 Tex. Tax Code §23.541(a)

191 Tex. Tax Code §41.12(a)

192 Tex. Tax Code §23.541(b)

193 Tex. Tax Code §23.541(a)

194 Tex. Tax Code §23.57(b)

195 Tex. Tax Code §23.57(b)

196 Tex. Tax Code §23.57(b)

197 Tex. Tax Code §23.57(d)

198 Tex. Tax Code §23.57(d)

199 Tex. Tax Code §1.07(d)

200 Tex. Tax Code §23.54(e)

201 Tex. Tax Code §23.54(e)

202 Tex. Tax Code §23.51

203 Tex. Tax Code §23.54(h)

204 Tex. Tax Code §23.54(h)



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## Open Space Land Appraisal

Typically, to qualify for open-space appraisal, the land must be currently devoted principally to agricultural use to the degree of intensity generally accepted in the area.<sup>205</sup>

Agricultural use includes, but is not limited to:

- Cultivating the soil, producing crops for human food, animal feed or planting seed or for the production of fibers;
- floriculture (cultivation and management of ornamental and flowering plants), viticulture (cultivation of grapes), and horticulture (cultivation of fruits, vegetables, flowers, herbs or other plants);
- Raising or keeping livestock;
- Raising or keeping exotic animals for the production of tangible products having a commercial value;
- Planting cover crops or leaving land idle for participation in a government program or in conjunction with normal crop or livestock rotation procedure;
- Producing or harvesting logs and posts for constructing or repairing fences, pens, barns or other agricultural improvements on adjacent qualified open-space land devoted to a different agricultural use;
- Wildlife management; and
- Raising or keeping bees for pollination or for the production of human food or other commercial products.<sup>206</sup>

For land to qualify for open-space (1-d-1) agricultural use appraisal, generally it must meet the following eligibility requirements:

1. The property is land which includes all appurtenances (not improvements).<sup>207</sup>
2. The land must be currently devoted principally to agricultural use or to wildlife management to the degree of intensity generally accepted in the area.<sup>208</sup>
3. The land must have been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years.<sup>209</sup> Land used for wildlife management may qualify if previously designated as open-space or timberland except as provided.<sup>210</sup>

The property owner must file an application on the proper form with the information necessary for the appraisal district to determine the validity of the claim.<sup>211</sup>

The eligibility of open-space land does not end during temporary cessation of agricultural use, if certain criteria is met, under the following circumstances.

- A drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production.
- The owner is deployed or stationed outside of this state as a member of the U.S. armed services.
- The land is appraised primarily on the basis of the production of citrus and is located in a pest management zone and under a certain agreement to destroy, remove or treat all the citrus trees on the land that are or could become infested with pests.<sup>212</sup>

The eligibility of open-space land does not end when a lessee begins conducting oil and gas operations if the portion of land on which oil and gas operations are not being conducted otherwise continues to qualify.<sup>213</sup>

## Open-Space Land Inside a City or Town

Generally, open-space land inside a city or town may not qualify for agricultural appraisal.<sup>214</sup>

Land located within an incorporated city or town must meet the criteria applicable to open-space land and one of the following additional criteria.

- The city or town must not provide the land with general services comparable to those provided in other parts of the city or town having similar features and population.
- The land must have been devoted principally to agricultural use continuously for the preceding five years.
- The land has been devoted principally to agricultural use or to the production of timber or forest products continuously for the preceding five years and the land is used for wildlife management.<sup>215</sup>

For more information about the special appraisal of agricultural land, including timberland and land used for wildlife management, please consult the following appraisal manuals published by the Comptroller's office:

- *Manual for the Appraisal of Agricultural Land*;
- *Manual for the Appraisal of Timberland*; and
- *Guidelines for Qualification of Agricultural Land in Wildlife Management Use*.

The Texas Parks and Wildlife Department publishes *Comprehensive Wildlife Management Planning Guidelines* for each ecoregion.

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205 Tex. Tax Code §23.51(1)

206 Tex. Tax Code §23.51(2)

207 Tex. Tax Code §23.51(1)

208 Tex. Tax Code §23.51(1)

209 Tex. Tax Code §23.51(1)

210 Tex. Tax Code §23.51(1) and (7)

211 Tex. Tax Code §23.54(a) and (b)

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212 Tex. Tax Code §§23.522, 23.523 and 23.524

213 Tex. Tax Code §23.524

214 Tex. Tax Code §23.56

215 Tex. Tax Code §23.56(1)

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## Change of Land Use

If the land has qualified for agricultural appraisal and the property owner changes the land's use to a non-agricultural purpose, he or she will owe a rollback tax for each of the previous five years in which the land received the lower appraisal.<sup>216</sup>

The rollback tax is the difference between the taxes paid based on the land's open-space value and the taxes that would have been paid if the land had been taxed based on its market value (which typically is much higher).<sup>217</sup> In addition, the property owner is charged 7 percent interest for each year from the date on which taxes would have been due.<sup>218</sup> Exceptions to the rollback tax for change of use may include the following if they meet certain criteria:

- a sale for right-of-way;<sup>219</sup>
- a condemnation;<sup>220</sup>
- land transferred to a state, political subdivision or qualified nonprofit corporation to be used for a public purpose;<sup>221</sup>
- land transferred from a state, political subdivision or qualified nonprofit corporation to an individual or entity for purposes of economic development;<sup>222</sup>
- timberland;<sup>223</sup>
- cemeteries;<sup>224</sup>
- religious organizations;<sup>225</sup>
- certain charitable organizations;<sup>226</sup> and
- schools.<sup>227</sup>

The chief appraiser determines whether change of use has occurred and must send the property owner a notice of the change by certified mail.<sup>228</sup> Additional notice requirements exist if the property is owned by someone age 65 years or older.<sup>229</sup>

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216 Tex. Tax Code §23.55(a)

217 Tex. Tax Code §23.55(a)

218 Tex. Tax Code §23.55(a)

219 Tex. Tax Code §23.55(f)

220 Tex. Tax Code §23.55(f)

221 Tex. Tax Code §23.55(f)

222 Tex. Tax Code §23.55(f)

223 Tex. Tax Code §23.55(g)

224 Tex. Tax Code §23.55(j)

225 Tex. Tax Code §23.55(l)

226 Tex. Tax Code §23.55(o) and (p)

227 Tex. Tax Code §23.55(q)

228 Tex. Tax Code §§1.07(d) and 23.55(e)

229 Tex. Tax Code §23.551

# Equalization

The Comptroller's office may not advise a property owner, a property owner's agent or an appraisal district on a matter that the Comptroller's office knows is the subject of a protest to the ARB.<sup>230</sup>

A property owner may present objections about the property's value, exemptions and special appraisal in a hearing to an ARB.<sup>231</sup> The ARB is an impartial panel of fellow citizens authorized to resolve certain disputes between the property owner and the appraisal district.<sup>232</sup> After listening to the property owner and the chief appraiser, the ARB will make a written determination on the issues heard during the hearing.<sup>233</sup>

In counties with 120,000 or more population, the local administrative judge appoints the ARB members.<sup>234</sup> Otherwise, the appraisal district's board of directors appoints them.<sup>235</sup> These members must be residents of the appraisal district for at least two years to serve.<sup>236</sup> Current officers and employees of the appraisal district, taxing units and the Comptroller's office may not serve.<sup>237</sup> In counties with populations of more than 100,000, former directors, officers and employees of the appraisal district cannot serve on an ARB.<sup>238</sup> Other specific Tax Code restrictions apply.

ARB members must comply with special state laws on conflict of interest;<sup>239</sup> must complete training courses and receive certificates of course completion from the Comptroller's office;<sup>240</sup> and must complete a statement indicating agreement to comply with Tax Code requirements during hearings.<sup>241</sup>

ARB hearings are open to the public;<sup>242</sup> however, a closed hearing is allowed on the joint motion of the property owner and chief appraiser if either intends to disclose proprietary or confidential information at the hearing.<sup>243</sup> The ARB must develop hearing procedures and must post these procedures

in a prominent place in the room in which hearings are held.<sup>244</sup> The chief appraiser must publicize annually the right to and methods for protests before the ARB, in a manner designed to effectively notify all appraisal district residents.<sup>245</sup>

The usual deadline for filing protests is May 1.<sup>246</sup> The filing deadline is postponed until the next business day if the deadline falls on a Saturday, Sunday or legal state or national holiday.<sup>247</sup> The usual deadline may be postponed under certain circumstances.<sup>248</sup> If the appraisal district mails a notice of appraised value, the deadline is 30 days from the delivery date.<sup>249</sup> **Exhibit 8** gives the steps for filing a protest.

The ARB generally begins hearing protests from property owners after May 1 and must complete most of the hearings by July 20.<sup>250</sup> This deadline may be extended to a later date in some larger counties.<sup>251</sup> When the ARB finishes its work, the appraisal district gives each taxing unit a list of taxable property, called a certified appraisal roll.<sup>252</sup>

Many appraisal districts will informally meet with the property owner to discuss the protest to try to resolve any concerns. A property owner may wish to contact the appraisal district to see if it offers this service.

Each appraisal district in a county with a population of 500,000 or more or that maintains a website accessible to the public must implement a system that allows certain residence homestead owners to:

- file a notice of protest electronically with the ARB for a value or unequal appraisal protest;<sup>253</sup>
- receive and review comparable sales data and other evidence that the chief appraiser intends to use at the protest hearing electronically;<sup>254</sup>
- receive, as applicable, an electronic settlement offer from the appraisal district to correct the appraisal records by changing the market value and, if applicable, the

230 Tex. Tax Code §5.041(f)

231 Tex. Tax Code §41.41(a)

232 Tex. Tax Code §41.01(a)

233 Tex. Tax Code §41.47(a)

234 Tex. Tax Code §6.41(d-1)

235 Tex. Tax Code §6.41(d)

236 Tex. Tax Code §6.41(c)

237 Tex. Tax Code §6.412(c)

238 Tex. Tax Code §6.12(d)

239 Tex. Tax Code §§6.412, 6.413 and 41.69

240 Tex. Tax Code §5.041(b) and (e-2)

241 Tex. Tax Code §5.041(b-1) and (e-2)

242 Tex. Tax Code §41.66(d)

243 Tex. Tax Code §41.66(d-1)

244 Tex. Tax Code §41.66(a)

245 Tex. Tax Code §§41.41(b) and 41.70

246 Tex. Tax Code §41.44(a)(1)

247 Tex. Tax Code §1.06

248 Tex. Tax Code §41.44

249 Tex. Tax Code §41.44(a)(1) and (2)

250 Tex. Tax Code §41.12(a)

251 Tex. Tax Code §41.12(c)

252 Tex. Tax Code §26.01(a)

253 Tex. Tax Code §41.415(b)(1)

254 Tex. Tax Code §41.415(b)(2)

## EXHIBIT 8 How to File a Protest

appraised value of the property, or a notice from the appraisal district that a settlement offer will not be made to the property owner;<sup>255</sup> and

- accept or reject a settlement offer electronically.<sup>256</sup>

This service is not required for properties in areas where the chief appraiser determines that factors affecting market value are unusually complex or to an owner who has designated an agent.<sup>257</sup>

With the *Notice of Appraised Value*, the chief appraiser must include information about the electronic system, including instructions for accessing and using it.<sup>258</sup> The notice of protest filed electronically must, at a minimum, include:

- a statement as to whether the protest is brought under Tax Code Sections 41.41(a)(1) or 41.41(a)(2);<sup>259</sup>
- a statement of the property owner's good-faith estimate of the value of the property;<sup>260</sup> and
- an electronic mail address that the appraisal district may use to communicate electronically with the property owner in connection with the protest.<sup>261</sup>

If the property owner accepts a settlement offer made by the appraisal district, the chief appraiser must enter the settlement in the appraisal records.<sup>262</sup> If the property owner rejects a settlement offer, the ARB is to hear and determine the protest.<sup>263</sup>

The property owner's electronic mail address provided to an appraisal district is confidential and may not be disclosed by the appraisal district.<sup>264</sup>

### Actions Subject to Protest

The ARB can hear protests on any action taken by the appraisal district or chief appraiser that adversely affects a property owner.<sup>265</sup> A property owner can protest any of the following:

- the property's value;<sup>266</sup>
- the property was appraised unequally;<sup>267</sup>
- the chief appraiser denied an exemption;<sup>268</sup>
- the chief appraiser denied a special appraisal, such as an agricultural appraisal for farm or ranch;<sup>269</sup>
- the chief appraiser determined that the property owner took the land out of agricultural use;<sup>270</sup>

255 Tex. Tax Code §41.415(b)(3)

256 Tex. Tax Code §41.415(b)(4)

257 Tex. Tax Code §41.415(g)

258 Tex. Tax Code §41.415(c)

259 Tex. Tax Code §41.415(d)(1)

260 Tex. Tax Code §41.415(d)(2)

261 Tex. Tax Code §41.415(d)(3)

262 Tex. Tax Code §41.415(e)

263 Tex. Tax Code §41.415(f)

264 Tex. Tax Code §41.415(h)

265 Tex. Tax Code §41.41(a)

266 Tex. Tax Code §41.41(a)(1)

267 Tex. Tax Code §41.41(a)(2)

268 Tex. Tax Code §41.41(a)(4)

269 Tex. Tax Code §41.41(a)(5)

270 Tex. Tax Code §41.41(a)(8)

1. A property owner must file the protest in writing.<sup>271</sup> The appraisal district has protest forms available, but a property owner is not required to use one. A notice of protest must identify the owner and the subject property and indicate that the property owner is dissatisfied with a decision made by the appraisal district.<sup>272</sup>

2. A property owner must file the notice of protest before May 15 or no later than 30 days after the date the appraisal district mailed the notice of appraised value, whichever is later.<sup>273</sup> A property owner working offshore on a drilling or production facility or on a boat<sup>274</sup> or a property owner on full-time active duty outside the United States<sup>275</sup> may be entitled to file a late protest.

3. If the chief appraiser sends a property owner a notice that the land is no longer in agricultural use, the property owner must file a protest within 30 days of the date the chief appraiser mailed the notice.<sup>276</sup> The chief appraiser sends this notice by certified mail.<sup>277</sup>

4. If a property owner files an untimely notice of protest before the ARB approves the appraisal records, he or she is entitled to a hearing only if the board decides that the property owner had good reason for failing to meet the deadline.<sup>278</sup>

5. A property owner may file a late protest because the chief appraiser or ARB failed to mail a required notice. A property owner must pay the taxes due on the portion of the property that is not subject to dispute before the delinquency date to be entitled to this type of hearing.<sup>279</sup>

6. A property owner is entitled to an ARB hearing solely on the issue of whether one or more taxing units delivered a tax bill in a timely manner if the owner files a late protest on or after the taxes become delinquent, but not later than the 125th day after the owner claims to have first received a tax bill from one or more of the taxing units that taxes the property.<sup>280</sup>

7. In some cases, a property owner may file with the ARB to correct an error even after these deadlines.<sup>281</sup>

- the property is being taxed by the wrong taxing units;<sup>282</sup>
- the appraisal records show an incorrect owner for the property;<sup>283</sup>
- the property was incorrectly included on the appraisal records;<sup>284</sup>
- the chief appraiser or ARB failed to send the property owner a notice that the law requires them to send;<sup>285</sup> or

271 Tex. Tax Code §41.44(a)

272 Tex. Tax Code §41.44(d)

273 Tex. Tax Code §§1.07(c) and 41.44(a)

274 Tex. Tax Code §41.44(c-1)

275 Tex. Tax Code §41.44(c-2)

276 Tex. Tax Code §§1.07(c) and 41.44(a)(4)

277 Tex. Tax Code §1.07(d)

278 Tex. Tax Code §41.44(b)

279 Tex. Tax Code §§41.411(c) and 41.4115(b)

280 Tex. Tax Code §§41.4115(a) and 41.44(c-3)

281 Tex. Tax Code §25.25

282 Tex. Tax Code §41.41(a)(6)

283 Tex. Tax Code §41.41(a)(7)

284 Tex. Tax Code §41.41(a)(3)

285 Tex. Tax Code §41.411(a)

- any other action that the appraisal district, chief appraiser or ARB took that applies to and adversely affects the property owner.<sup>286</sup>

### Property Value

This protest is typically based on the property owner's opinion that the appraised value of the property is above the market value or excessive. The evidence presented for an over-market valuation protest may be sale prices of comparable properties in the area and other information, such as the condition of the property. For example, if the property is appraised at \$105,000 and the property owner presents evidence indicating that the market value is \$100,000, it is expected that the ARB would lower the appraised value to \$100,000 because the \$105,000 value is above market and excessive.

### Unequal Appraisal

An unequal appraisal protest can be broken down into five separate elements or parts. If the evidence shows that the following standard has been met, the protest is determined in favor of the appraisal district.

1. The appraised value of the subject property is **equal to or less than**
2. the median appraised value of
3. a reasonable number of
4. comparable properties that are
5. appropriately adjusted.<sup>287</sup>

The evidence presented for an unequal appraisal should be based on generally accepted appraisal methods and techniques<sup>288</sup> and focus on three key issues:

1. Is the **number** of properties selected for the sample **reasonable**?<sup>289</sup>
2. Are each of the properties in the sample **comparable** to the subject property?<sup>290</sup>
3. Was the **value** of each comparable property **appropriately adjusted** by reference to the subject property?<sup>291</sup>

### Denial of Exemptions

If the chief appraiser denied the homestead exemption, the property owner should obtain evidence that he or she owned the home on Jan. 1 and used it as the principal residence on that date.<sup>292</sup> If the chief appraiser denied a homestead

exemption for part of the land around the home, the property owner should show how much land is used as a residence.

If the chief appraiser denied an age 65 or older or disabled homestead exemption, disabled veteran's exemption or other exemption, the property owner should read about the qualifications for exemptions and address them specifically in the protest.

### Agricultural Land

If the property owner protests the agricultural value of a farm or ranch, he or she should find out how the appraisal district calculated the property's value and compare the appraisal district's information with that of other experts on agriculture, such as the county agricultural extension agent, the U.S. Department of Agriculture or other recognized agricultural sources. The Comptroller's *Manual for the Appraisal of Agricultural Land* may be of help on the general appraisal process.

### Denial or Change of Agricultural Land Use

Find out why the chief appraiser denied the application. Agricultural appraisal laws have specific requirements for the property to qualify. Provide evidence that the property is eligible for special appraisal based on its principal devotion to agricultural use, as well as the history and intensity of this use.<sup>293</sup>

If the property owner has taken only part of the land out of agricultural use, he or she may need to show which parts still qualify.<sup>294</sup> If the land has been let lie fallow, the property owner should show that the time it has been out of agricultural use is not excessive or is part of a typical crop or livestock rotation process for the county.<sup>295</sup>

### Errors in Appraisal Records

Errors in appraisal records often are simply mistakes. The appraisal district may, for example, have failed to change a property's records, resulting in it showing an incorrect owner. The law recognizes both the old and new owners as having an interest in the property's taxes. If a property owner acquired the property after Jan. 1, he or she may protest its value if the protest is filed before the deadline.<sup>296</sup>

The appraisal records may show the property as located in one school district when it actually is in another. A property owner can protest the inclusion of property on the appraisal records if it should be taxed at another location in Texas.<sup>297</sup>

<sup>286</sup> Tex. Tax Code §41.41(a)(9)

<sup>287</sup> Tex. Tax Code §41.43(b)(3)

<sup>288</sup> Tex. Tax Code §23.01(f)

<sup>289</sup> *Sagemont Plaza v. Harris County Appraisal District*, 30 S.W.3d 425, 427 (Tex.App.—Corpus Christi, 2000, pet. denied)

<sup>290</sup> *Weingarten Realty Investors v. Harris County Appraisal District*, 93 S.W.3d 280 (Tex. App.—Houston [14th Dist.] 2002, no pet.)

<sup>291</sup> *Weingarten Realty Investors v. Harris County Appraisal District*, 93 S.W.3d 280 (Tex. App.—Houston [14th Dist.] 2002, no pet.)

<sup>292</sup> Tex. Tax Code §11.13(j)(1)

<sup>293</sup> Tex. Tax Code Chapter 23, Subchapters C, D, E, or H

<sup>294</sup> Tex. Tax Code §23.55(d)

<sup>295</sup> Tex. Tax Code §23.51(1) and (2)

<sup>296</sup> Tex. Tax Code §41.412(a)

<sup>297</sup> Tex. Tax Code §41.42



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## Failure to Provide Required Notice

A property owner has the right to protest if the chief appraiser or ARB fails to give the property owner any required tax notices.<sup>298</sup>

A property owner who believes he or she is not receiving all tax notices in a timely manner should contact the appraisal district to ensure that the appraisal district's records correctly reflect the property owner names for each property and mailing address for all notices.

A property owner cannot protest a failure to give notice if the taxes on the property are delinquent.<sup>299</sup> Before the delinquency date, the property owner must pay a partial amount, usually the amount of taxes not in dispute.<sup>300</sup> A property owner may ask the ARB to be excused from prepaying taxes; to do so, he or she must file an oath attesting to an inability to pay the taxes in question and argue that prepaying them would restrain his or her right to access to the ARB.<sup>301</sup> The ARB will hold a hearing and decide the terms or conditions of payment.<sup>302</sup>

## Any Other Adverse Actions

Property owners have the right to protest any appraisal district action that applies to and adversely affects them.<sup>303</sup> For example, the chief appraiser may claim the property was omitted from the appraisal roll and not taxed in a previous year.<sup>304</sup> A property owner can protest only those actions that affect the property.<sup>305</sup>

## Hearing Notification

The ARB will notify a property owner at least 15 days in advance of the date, time and place of the hearing.<sup>306</sup> The property owner may wish to discuss the protest issue with the appraisal district before the hearing if time permits. The property owner may be able to work out a satisfactory resolution with the appraisal district without appearing before the ARB.

At least 14 days before a protest hearing, the appraisal district will mail the property owner:

- a copy of the Comptroller's *Property Taxpayer Remedies pamphlet*;<sup>307</sup>
- a copy of the ARB procedures;<sup>308</sup> and
- a statement affirming that the property owner may inspect and obtain a copy of the data, schedules, formulas and any

other information the chief appraiser plans to introduce at the hearing.<sup>309</sup>

This material is usually mailed with the notice of hearing.

## Agent for Property Tax Matters

A property owner may represent him or herself in any property tax matter, or appoint an agent to handle specific duties.<sup>310</sup> Except in limited circumstances, to appoint an agent the property owner must provide that person with written authorization to represent him or her.<sup>311</sup> The property owner must use the *Appointment of Agent for Property Tax Matters* form and a lessee designated by the property owner may use the *Lessee's Designation of Agent for Property Tax Matters* form available from the appraisal district or the Comptroller's website.<sup>312</sup> The property owner must sign the authorization; the agent may not sign the form appointing him or herself. The form is not binding on the appraisal district until the property owner files it.<sup>313</sup>

The *Appointment of Agent for Property Tax Matters* form asks a property owner to cite a date upon which the authorization for this person will end.<sup>314</sup> If a property owner does not provide an ending date, the agent will continue to represent the property owner until the property owner or the designated agent files a statement ending the appointment or until the property owner appoints a new agent to act in the same capacity for the same property.<sup>315</sup>

If a property owner has not designated an agent to represent him or her before the ARB, the property owner is entitled to one postponement without showing cause.<sup>316</sup> The chairman of the ARB may grant additional postponements if the property owner can show good cause.<sup>317</sup> Good cause is defined as a reason that includes an error or mistake that was not intentional or was not the result of conscious indifference and will not cause undue delay or injury to the person authorized to extend the deadline or grant a rescheduling.<sup>318</sup> The chief appraiser can also agree to a postponement.<sup>319</sup>

## Correction of Certain Errors Found After the Protest Filing Deadline

In certain situations, the chief appraiser may change the appraisal roll at any time to correct any inaccuracy prescribed by board rule that does not increase the amount of tax liability.<sup>320</sup>

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298 Tex. Tax Code §41.411

299 Tex. Tax Code §41.411(c)

300 Tex. Tax Code §41.4115(b)

301 Tex. Tax Code §41.4115(d)

302 Tex. Tax Code §41.411(d)

303 Tex. Tax Code §41.41(a)(9)

304 Tex. Tax Code §25.21(a)

305 Tex. Tax Code §41.41(a)

306 Tex. Tax Code §41.46(a)

307 Tex. Tax Code §41.461(a)(1)

308 Tex. Tax Code §41.461(a)(3)

309 Tex. Tax Code §41.461(a)(2)

310 Tex. Tax Code §1.111(b)

311 Tex. Tax Code §1.111(b)

312 Tex. Tax Code §1.111(b)

313 Tex. Tax Code §1.111(b)

314 Tex. Tax Code §1.111(c)

315 Tex. Tax Code §1.111(c) and (d)

316 Tex. Tax Code §41.45(e)

317 Tex. Tax Code §41.45(e)

318 Tex. Tax Code §41.45(e-2)

319 Tex. Tax Code §41.45(e)

320 Tex. Tax Code §25.25(b)

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On motion of the chief appraiser or property owner, the ARB may make the following corrections to the appraisal roll for the current and previous five tax years:

- a clerical error made in writing, copying, transcribing or entering data;
- multiple appraisals of the same property more than once in the same tax year, sometimes called double taxation;
- inclusion of property that does not exist at the location or in the form described in the appraisal roll; or
- an error in which property is shown as owned by a person who did not own the property on Jan. 1 of that tax year.<sup>321</sup>

For the current tax year, the ARB may grant a late hearing to correct certain over-appraisals,<sup>322</sup> to correct values based on a joint motion made by the property owner and the chief appraiser,<sup>323</sup> or to hear the protest if the property owner was not sent a required notice.<sup>324</sup> A written motion requesting a late hearing must be filed before the taxes become delinquent on Feb. 1.<sup>325</sup>

A property owner may file a motion to correct if he or she can show that the appraised value on the property for the current year exceeds the correct appraised value by more than a third.<sup>326</sup> To be eligible for a one-third over-appraisal hearing:

- the property owner must not have had a prior ARB hearing and determination on the dispute; and
- the appraised value of the property must not have been established by agreement between the property owner or his or her agent and the appraisal district.<sup>327</sup>

If a property owner proves that the value is in error but by less than one-third, the ARB may not order a correction.<sup>328</sup>

If the ARB orders a correction of at least a one-third error, the property owner will pay a 10 percent penalty for the late filing based on the taxes for the correct value.<sup>329</sup> On joint motion of the property owner and chief appraiser, the ARB must correct an error that resulted in an incorrect appraised value for the owner's property.<sup>330</sup>

Before an ARB decision on a late hearing can take place, the property owner must pay some amount of current taxes, usually those not in dispute.<sup>331</sup> The property owner may ask the ARB to excuse him or her from prepaying taxes by filing an oath attesting to an inability to pay the taxes in question and the ARB will decide, after a hearing, whether the pre-

payment would constitute an unreasonable restraint on the right of access to the ARB.<sup>332</sup>

If the property owner wins a value reduction in a late ARB hearing, the taxing units will refund the difference between the tax payment and the correct amount of taxes to the property owner who paid the taxes.<sup>333</sup>

## Protest Considerations

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In deciding whether to file a protest, a property owner may want to first consider these questions:

1. What reasons do I have to support the protest?
2. What evidence is available to support the protest?
3. Is the amount of any potential tax savings worth the time, effort and expense of protesting?

The following additional protest recourses can be found on the Comptroller's website:

- *How to Present Your Case at an Appraisal Review Board Hearing – A Homeowners Guide*;
- *How to Present Your Case at an Appraisal Review Board Hearing – A Guide for Small Businesses*;
- *Appraisal Review Board Manual*; and
- *Continuing Education Course for Appraisal Review Board Members*.

## Respect the Process

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Many property owners do not choose to be represented by agents or attorneys in protest hearings. While the law requires the hearings to be as informal as possible,<sup>334</sup> the ARB must follow written procedures.<sup>335</sup> Property owners are entitled to expect hearings to be conducted as described in the procedures.<sup>336</sup>

### **A property owner should decide how to appear at the hearing.**

A property owner or property owner's agent may appear at a protest hearing in one of three ways:

1. in person;
2. by affidavit, offering evidence or argument by affidavit without appearing in person; or
3. by telephone conference call with argument and evidence offered by affidavit.

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321 Tex. Tax Code §25.25(c)

322 Tex. Tax Code §25.25(d)

323 Tex. Tax Code §25.25(h)

324 Tex. Tax Code §41.411(c)

325 Tex. Tax Code §25.25(d) and (h) and §41.411(c)

326 Tex. Tax Code §25.25(d)

327 Tex. Tax Code §25.25(d)

328 Tex. Tax Code §25.25(d)

329 Tex. Tax Code §25.25(d)

330 Tex. Tax Code §25.25(h)

331 Tex. Tax Code §25.26(b)

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332 Tex. Tax Code §25.26(d)

333 Tex. Tax Code §26.15(f)

334 Tex. Tax Code §41.66(b)

335 Tex. Tax Code §41.66(a)

336 Tex. Tax Code §41.66(a)

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## A property owner should not contact ARB members outside the hearing.

ARB members are prohibited from communicating with the property owner or other persons about a property under protest outside of the hearing.<sup>337</sup> Each ARB member must sign an affidavit stating that he or she has not discussed the case with anyone.<sup>338</sup> An ARB member who discusses a case outside the hearing must remove him or herself from the hearing.<sup>339</sup> An ARB member who communicates on specific evidence, argument, facts or the merits of a protest with the chief appraiser, appraisal district staff, or appraisal district board of directors member outside the hearing commits a Class A misdemeanor.<sup>340</sup> A property tax consultant or attorney representing a party to the ARB proceeding, chief appraiser, appraisal district staff or a member of the board of directors commits a Class A misdemeanor if they communicate with an ARB member with the intent to influence a decision.<sup>341</sup>

## A property owner should be on time and prepared for the hearing.

Common courtesy dictates that a property owner should be on time for an appointment. ARBs often hear hundreds or thousands of protests. They have to be fair to everyone and strive to provide every protester an appropriate amount of time to make a presentation.<sup>342</sup> To hear every protest, the ARB may place a time limit on hearings.<sup>343</sup>

## A property owner should stick to the facts of the presentation.

The ARB has no control over the appraisal district's operations or budget, tax rates, inflation or local politics; addressing these topics in a presentation wastes time and will not help a property owner's case. The property owner should focus on the details of the property appraisal or other protested concern.

## A property owner should present a simple and well-organized protest.

A property owner should stress key facts related to the protest, writing them down in logical order and giving copies to each ARB member. A property owner is required to give either a written or electronic copy of his or her evidence to the appraisal district staff at or before the hearing.<sup>344</sup>

Photographs and other documents are useful evidence.

337 Tex. Tax Code §41.66(f)

338 Tex. Tax Code §41.66(g)

339 Tex. Tax Code §41.66(g)

340 Tex. Tax Code §6.411(a) and (d)

341 Tex. Tax Code §6.411(b) and (d)

342 Tex. Tax Code §41.66(b)

343 Tex. Tax Code §41.66(a)

344 Tex. Tax Code §41.45(h)

The property owner should practice his or her presentation beforehand to improve the delivery.

## The property owner should recognize that the ARB acts as an independent judge.

The ARB must listen to the property owner and the chief appraiser before making a decision; it is not a case of the property owner against the chief appraiser and the ARB. All testimony at an ARB hearing must be given under oath.<sup>345</sup>

## Evidence

In value and unequal appraisal protests, the chief appraiser has the burden of proving the property's value by a preponderance of the evidence presented at the ARB hearing.<sup>346</sup> If the chief appraiser fails to meet this burden of proof, the ARB must decide in the property owner's favor.<sup>347</sup>

The law provides for a different burden of proof when a property under protest has a market or appraised value of \$1 million or less.<sup>348</sup> If the property owner submits to the appraisal district a properly conducted, recently completed and certified appraisal of property value made by a licensed appraiser at least 14 days before the hearing, the appraisal district has the burden of establishing the value of the property by clear and convincing evidence.<sup>349</sup> If the appraisal district fails to do so, the ARB is required to rule in favor of the property owner.<sup>350</sup> To be valid, the property owner's appraisal must meet specific statutory requirements.<sup>351</sup>

The appraisal district also has a burden of establishing the value of property by clear and convincing evidence presented at a hearing concerning value or unequal appraisal<sup>352</sup> if:

- the appraised value of the property was lowered in the previous year by the ARB, an arbitrator or a district court;<sup>353</sup>
- the appraised value of the property in the preceding year was not determined by a written agreement of the parties;<sup>354</sup> and
- not later than 14 days before the protest hearing, the property owner files with the ARB and delivers to the chief appraiser (1) information, such as income and expense statements or information regarding comparable sales, which is sufficient to allow for a determination of the appraised or market value of the property if the protest is authorized under Tax Code Section 41.41(a)(1); or (2) in-

345 Tex. Tax Code §41.67(a)

346 Tex. Tax Code §41.43(a)

347 Tex. Tax Code §41.43(a)

348 Tex. Tax Code §41.43(a-1)

349 Tex. Tax Code §41.43(a-1)

350 Tex. Tax Code §41.43(a-1)

351 Tex. Tax Code §41.43(a-2)

352 Tex. Tax Code §41.43(a-3)

353 Tex. Tax Code §41.43(a-3)(1)

354 Tex. Tax Code §41.43(a-3)(2)

formation that is sufficient to allow for a determination of whether the property was appraised unequally if the protest is authorized under Tax Code Section 41.41(a)(2).<sup>355</sup>

A property owner should make sure that the property's description is correct. Are the measurements for the home or business and lot accurate? The property owner should pull together blueprints, deed records, photographs, a survey or his or her own measurements to contest the appraiser's decision.

Does the appraisal district's survey show all of the home's defects, such as a cracked foundation or inadequate plumbing? The property owner should take photographs, statements from builders or independent appraisals to the hearing.

If a property owner wants to show that a property was not treated equally, he or she should ask the appraisal district for appraisal records on similar properties in the area to try to determine whether there is a significant difference in their values. Once the property owner has the records of similar property values, appropriate adjustments must be made for issues such as size, location and condition.

If a property owner wants to show that a property was appraised excessively, he or she should collect evidence on recent sales of similar properties from neighbors or real estate professionals. A property owner should ask the appraisal district for the sales that it used.

A property owner should consider using an independent appraisal by a real estate appraiser. A property owner's insurance records also may be helpful.

If a property owner decides to use sales information to support a protest, he or she should:

- obtain documents or sworn statements from the person providing the sales information;
- use sales of properties similar in size, age, location and type of construction;
- use recent sales — those occurring as close to Jan. 1 as possible are the best to compare to the property;<sup>356</sup> and
- provide photographs of the properties that sold.

## Appealing an ARB Order

Once the ARB rules on the protest, it will send the property owner a written order by certified mail.<sup>357</sup> If the property owner is dissatisfied with the ARB's findings, he or she has the right to file an appeal with the district court in the county in which the property is located,<sup>358</sup> or, in certain instances,

<sup>355</sup> Tex. Tax Code §41.43(a-3)(3)

<sup>356</sup> Tex. Tax Code §§23.01(a) and 23.013(f)

<sup>357</sup> Tex. Tax Code §41.47(d)

<sup>358</sup> Tex. Tax Code §§42.01(a) and 42.21

request binding arbitration<sup>359</sup> or appeal to the State Office of Administrative Hearings (SOAH).<sup>360</sup>

### District Court

A property owner is entitled to appeal an order of the ARB to district court.<sup>361</sup> To exercise this right, the property owner must file a petition for review with the district court within 60 days after receiving notice that a final order has been entered, or at any time after the hearing but before the 60-day deadline.<sup>362</sup> If the property owner is appealing the ARB's determination of a motion to correct the appraisal roll, he or she must file suit to compel the appraisal renew board to order a change in the appraisal roll within 60 days after receiving notice of the ARB's determination.<sup>363</sup> Failure to file a petition within this period bars any appeal to district court.<sup>364</sup>

The property owner is required to make a partial payment of taxes, usually the amount of taxes not in dispute, before the delinquency date.<sup>365</sup> The property owner may ask the district court to be excused from prepaying taxes; to do so, he or she must file an oath attesting to an inability to pay the taxes in question and argue that prepaying them would restrain the property owner's right to go to court on the protest.<sup>366</sup> The district court will hold a hearing and decide the terms or conditions of payment.<sup>367</sup>

An appeal to district court means the property owner is entitled to trial by jury, but the property owner may request a bench trial. At a bench trial, the trial judge hears and decides all fact and legal issues in the case without a jury.<sup>368</sup>

### Binding Arbitration

As an alternative to appealing an ARB determination to district court, the property owner may appeal through binding arbitration.<sup>369</sup> Binding arbitration is available for market or appraised value determinations by ARBs.<sup>370</sup> Unequal appraisal determinations also may be the subject of a request for binding arbitration.<sup>371</sup> Binding arbitration is available only if the property is:

- a residence homestead, regardless of value;<sup>372</sup> or
- a property with an appraised value of \$5 million or less.<sup>373</sup>

<sup>359</sup> Tex. Tax Code §41A.01

<sup>360</sup> Tex. Gov't Code §2003.901

<sup>361</sup> Tex. Tax Code §§42.01(a) and 42.21

<sup>362</sup> Tex. Tax Code §42.21(a)

<sup>363</sup> Tex. Tax Code §42.21(a)

<sup>364</sup> Tex. Tax Code §42.21(a)

<sup>365</sup> Tex. Tax Code §42.08(b)

<sup>366</sup> Tex. Tax Code §42.08(d)

<sup>367</sup> Tex. Tax Code §42.08(d)

<sup>368</sup> Tex. Tax Code §42.23(c)

<sup>369</sup> Tex. Tax Code §41A.01

<sup>370</sup> Tex. Tax Code §41A.01

<sup>371</sup> Tex. Tax Code §41A.01

<sup>372</sup> Tex. Tax Code §41A.01

<sup>373</sup> Tex. Tax Code §41A.01



As with filing a suit in district court, if the property owner requests binding arbitration he or she must pay taxes that are not in dispute before the delinquency date.<sup>374</sup> To appeal an ARB order to binding arbitration, the property owner must file with the appraisal district not later than the 45th day after receiving notice of the order.<sup>375</sup>

To apply for binding arbitration, the property owner must complete the request form prepared by the Comptroller's office<sup>376</sup> and submit a required deposit ranging from \$450 to \$1,550 based on the property type and value.<sup>377</sup>

The property owner must make the deposit in the form of a money order or cashier's check, payable to the Texas Comptroller of Public Accounts.<sup>378</sup> Although the deposit is made payable to the Comptroller's office, the property owner must file it, along with the application, in the appraisal district in which the ARB order was issued.<sup>379</sup> The appraisal district will complete the application and forward the request and deposit to the Comptroller's office.<sup>380</sup>

After receiving a property owner's request from the appraisal district, the Comptroller's office will appoint an eligible arbitrator who is listed in the Comptroller's registry.<sup>381</sup>

The appointed arbitrator will arrange for an arbitration hearing.<sup>382</sup> Not later than 20 days after the hearing, the arbitrator will issue an award that includes a determination of the property's appraised or market value, as appropriate.<sup>383</sup> The arbitrator's award is final and may not be appealed except in certain instances.<sup>384</sup>

If the arbitrator's decision is closer to the property owner's opinion of value stated in the request for arbitration, the appraisal district will pay the arbitrator's fee and the Comptroller's office will refund the property owner's deposit, less \$50 that the law provides that the Comptroller's office retain.<sup>385</sup> If the arbitrator's decision is closer to the value determined by the ARB, or equal to half of the difference between the property owner's value and the ARB's value, the arbitrator's fee will be paid from the property owner's deposit.<sup>386</sup> Any deposited amount remaining after the arbitrator's fee and the Comptroller's \$50 has been paid, will be refunded to the property owner.<sup>387</sup>

### **State Office of Administrative Hearings (SOAH)**

Property owners also may appeal ARB determinations of property with value that exceeds \$1 million to SOAH.<sup>388</sup> The decisions of SOAH administrative law judges are final and may not be appealed.<sup>389</sup> Certain properties are not subject to SOAH review (i.e., industrial property).<sup>390</sup>

To appeal an ARB order to SOAH, the property owner must file with the chief appraiser of the appraisal district, not later than the 30th day after the date the property owner receives notice of the order, a completed notice of appeal to SOAH in the form prescribed.<sup>391</sup> The property owner must file a \$1,500 deposit not later than the 90th day after the date the he or she receives notice of the order.<sup>392</sup> The chief administrative law judge prescribes the form of notice of appeal.<sup>393</sup> The form must require that the property owner provide a copy of the ARB's order; a brief statement explaining the basis for the appeal; and a statement of his or her opinion of the appraised or market value, as applicable, of the property.<sup>394</sup>

As soon as practicable after receiving of a notice of appeal, a chief appraiser must indicate, where appropriate, those entries in the records that are subject to the appeal; submit the notice of appeal and filing fee to SOAH; and request the appointment of a qualified administrative law judge to hear the appeal.<sup>395</sup>

374 Tex. Tax Code §41A.10(a)

375 Tex. Tax Code §41A.03(a)

376 Tex. Tax Code §41A.03(a)(1)

377 Tex. Tax Code §41A.03(a)(2)

378 Tex. Tax Code §41A.03(a)(2) and Comptroller Rule §9.804(b)

379 Tex. Tax Code §41A.03

380 Tex. Tax Code §41A.05(a)

381 Tex. Tax Code §41A.07(a)(1)

382 Tex. Tax Code § 41A.08(a)

383 Tex. Tax Code § 41A.09(a)

384 Tex. Civ. Prac. & Rem. Code §171.088 and Tex.

Tax Code §§41A.09(b)(1) and (4) and 41A.11

385 Tex. Tax Code §41A.09(c)

386 Tex. Tax Code §41A.09(d)(1)(A)

387 Tex. Tax Code §41A.09(d)(1)(B)

388 Tex. Gov't Code §2003.901

389 Tex. Gov't Code §2003.914

390 Tex. Gov't Code §2003.904

391 Tex. Gov't Code §2003.906(a)(1) and (a-1)

392 Tex. Gov't Code §2003.906(a)(2) and (a-2)

393 Tex. Gov't Code §2003.907

394 Tex. Gov't Code §2003.907

395 Tex. Gov't Code §2003.906(b)



# Assessment

Once the ARB approves the appraisal records, the chief appraiser prepares an appraisal roll for each taxing unit.<sup>396</sup> An appraisal roll lists all the taxable property within the taxing unit's boundaries.<sup>397</sup> At this point in the property tax system, the appraisal district's job is finished. It has, at least in theory, provided a set of equal and uniform property values for the use of all local taxing units.<sup>398</sup>

The governing body of each taxing unit adopts tax rates annually, generally in August or September.<sup>399</sup> Taxing units for a taxable property always include a county and school district, but a property owner also may pay taxes to a city or to special purpose districts such as hospital, junior college or water districts. The tax roll is created when tax rates are applied to taxable values.<sup>400</sup>

Generally, after receiving the appraisal roll, each governing body must decide what services the taxing unit will provide in the coming year and determine how much money it will need to do so.

## Determining the Tax Rate

As a taxpayer, it is important for a property owner to understand how government spending affects the size of a tax bill. Changes in property values may affect a tax bill, but do not necessarily increase or decrease the total amount of taxes paid to a taxing unit; that is determined by the taxing unit's budget.

Total taxes collected increase only when government spending increases, but Texas law gives taxpayers a voice in decisions affecting property tax rates.

A taxing unit must identify its needs and prepare a budget to meet them. To assist counties, cities and school districts in this process, the chief appraiser prepares and certifies an estimate of the taxable value of property within that taxing unit to the tax assessor by April 30.<sup>401</sup> Based on current year's values, a taxing unit then must decide how much property tax revenue is necessary to fund that budget and what tax rate is

needed to produce that amount. It also must determine the tax revenue it will need to pay its long-term debt.

Cities, counties and school districts must hold a public hearing on the proposed budget and publicize the date, time and location.<sup>402</sup> The proposed budget must be made available for inspection and posted on the city, county or school district website if one is maintained.<sup>403</sup>

Adoption of a county budget, in most cases, and a city budget that will require raising more revenue from property taxes than in the previous year, requires a separate vote to ratify the property tax increase reflected in the budget.<sup>404</sup>

The vote to adopt a county or city budget must be a record vote and the adopted budget must be posted on the city or county website if one is maintained.<sup>405</sup>

## Calculating Tax Rate

Beginning in early August, most taxing units take the first step toward adopting a tax rate by calculating and publishing the effective and rollback tax rates.<sup>406</sup> In certain cases, school districts may choose to adopt a tax rate before the adoption of a budget.<sup>407</sup> The chief appraiser of its appraisal district must have certified to the school district's tax assessor an estimate of the school district's taxable property value.<sup>408</sup>

The effective tax rate is the rate the taxing unit needs to generate about the same amount of revenue it received in the year before on properties taxed in both years.<sup>409</sup> If property values rise, the effective tax rate will go down and vice versa.<sup>410</sup> The actual tax rate depends on the budget adopted by the governing body.

The rollback rate would provide cities, counties and special purpose districts with about the same amount of tax levied in the previous year for day-to-day operations, plus an extra

396 Tex. Tax Code §26.01(a)

397 Tex. Tax Code §26.01(a)

398 Tex. Const. art. VIII, §1(a)

399 Tex. Tax Code §26.05(a)

400 Tex. Tax Code §26.09(c)

401 Tex. Tax Code §26.01(e)

402 Tex. Educ. Code §44.004; Tex. Loc. Gov't Code §§102.006, 111.007, 111.038(a) and 111.067

403 Tex. Loc. Gov't Code §§102.005(c) and 111.006(b) and Tex. Educ. Code §44.0041

404 Tex. Loc. Gov't Code §§102.007(c), 111.008(c), 111.039(c) and 111.068

405 Tex. Loc. Gov't Code §§102.007(a), 102.008(a)(2)(A), 111.008(a), 111.009(a)(2)(A), 111.039(a), 111.040(a)(2)(A) and 111.068(a)

406 Tex. Tax Code §26.04(e)

407 Tex. Educ. Code §44.04(j)

408 Tex. Tax Code §26.01(e)

409 Tex. Tax Code §26.04(c)(1)

410 Tex. Tax Code §26.04(c)(1)

8 percent increase for operating expenses and sufficient revenue to pay its debts in the coming year.<sup>411</sup> The rollback rate for school districts is tied to school funding calculations plus the debt tax rate.<sup>412</sup>

Many taxing units must publish their effective and rollback rates in a local newspaper or on their websites.<sup>413</sup> If a property owner believes that a taxing unit did not calculate and publish these rates or other required information in good faith, he or she may ask the district court to stop the taxing unit from adopting a tax rate until it complies with the law.<sup>414</sup>

Cities and counties are required to publish their proposed tax rates and notice of hearing, if required, as a quarter-page notice in a local newspaper or by mailing notice to each taxpayer no later than Sept. 1 or 30 days after receiving each certified appraisal roll.<sup>415</sup> School districts, small taxing units, water districts and other taxing units have other specific notice requirements than cities and counties.<sup>416</sup>

Generally, if a taxing unit wants to increase its property tax rate above the lower of either the effective rate or rollback rate, it must publish a quarter-page notice in a local newspaper or mail notice to each taxpayer to alert them of special hearings.<sup>417</sup> The public hearings allow taxpayers to voice opinions about the proposed tax increase and ask questions of the governing body.<sup>418</sup> Before the hearing's end, the governing body must set a date, time and place for the tax rate's formal adoption.<sup>419</sup> The taxing unit then must publish another quarter-page ad announcing the meeting to adopt the tax rate.<sup>420</sup>

If a taxpayer believes that a taxing unit failed to comply with tax rate adoption laws in good faith, he or she can ask a district court for an injunction to stop tax collections until the taxing unit complies with the law.<sup>421</sup> The taxpayer must do this before the tax collector has mailed a large portion of the tax bills.<sup>422</sup>

## Limiting a Tax Increase

If a taxing unit adopts a tax rate higher than the rollback rate, taxpayers may petition for an election to reduce the tax

rate to the rollback rate.<sup>423</sup> If a school district adopts a tax rate above the rollback rate, taxpayers do not have to petition for an election because the law requires the school district to automatically hold an election to ratify the adopted rate.<sup>424</sup> A rollback election is not required in a school district if the tax rate increase is intended to pay for responses to a natural disaster.<sup>425</sup>

A petition calling for the taxing unit to hold a tax rate rollback election must:

- state that it is intended to require an election in the taxing unit on the question of reducing the tax rate for the current year;<sup>426</sup>
- be signed by at least 7 or 10 percent of the registered voters in the taxing unit, depending on whether the adopted tax rate raises more or less than \$5 million for maintenance and operations taxes;<sup>427</sup> and
- be presented to the taxing unit's governing body within 90 days after it adopts the tax rate.<sup>428</sup>

Once the taxing unit's governing body receives a petition and finds that it is valid (or fails to act within the time allowed), it must order an election to be held on a date not less than 30 nor more than 90 days after the last day on which it could have acted to approve or disapprove the petition.<sup>429</sup>

If a majority votes in favor of the tax rollback, the tax rate is reduced to the rollback rate immediately.<sup>430</sup> For school districts, if a majority votes against ratifying a school district's adopted tax rate, the school district's trustees must adopt a rate not exceeding the rollback rate.<sup>431</sup>

## Tax Bills, Receipts and Other Records

The tax assessor must mail tax bills to both the property owner and his or her designated agent, if one is authorized.<sup>432</sup> If a property owner's mortgage company pays property taxes on a home out of an escrow account, the property owner should make sure the taxing units send original tax bills to the mortgage company so that it receives the tax bill. A property owner may want to request a receipt from the tax office to verify that the mortgage company paid these taxes on time.<sup>433</sup> The tax collector must give the taxpayer a receipt for the tax payment if he or she requests one.<sup>434</sup>

411 Tex. Tax Code §26.04(c)(2)

412 Tex. Tax Code §26.08(n)

413 Tex. Local Gov't Code §140.010(c); Tex. Tax Code §§26.04(e), 26.04(e-1) and 26.052(b)(2)

414 Tex. Tax Code §26.04(g)

415 Tex. Loc. Gov't Code §140.010(f)

416 Tex. Tax Code §§26.04, 26.04(e-1) and 26.052(b) and (c) and Tex. Water Code §§49.107 and 49.236

417 Tex. Tax Code §§26.05(d) and 26.06(b) and (c)

418 Tex. Tax Code §26.06(a)

419 Tex. Tax Code §26.06(d)

420 Tex. Tax Code §26.06(b), (c) and (d)

421 Tex. Tax Code §26.05(e)

422 Tex. Tax Code §26.06(e)

423 Tex. Tax Code §26.07(a)

424 Tex. Tax Code §26.08(a)

425 Tex. Tax Code §26.08(a)

426 Tex. Tax Code §26.07(b)(1)

427 Tex. Tax Code §26.07(b)(2)

428 Tex. Tax Code §26.07(b)(3)

429 Tex. Tax Code §26.07(d)

430 Tex. Tax Code §26.07(e)

431 Tex. Tax Code §26.08(d)

432 Tex. Tax Code §31.01(a)

433 Tex. Tax Code §31.075(a)

434 Tex. Tax Code §31.075

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A property owner must pay taxes on the property owned on Jan. 1 of the tax year.<sup>435</sup> Dealers and retailers of certain special inventories must submit a monthly inventory tax statement to the assessor-collector.<sup>436</sup> If the business owner is a motor vehicle, vessel and outboard motor or heavy equipment dealer or a manufactured housing retailer, he or she should check with the appraisal district or tax office for details on how to report property and pay taxes on inventory.

If a property owner goes out of business after the first of the year, he or she is still liable for taxes on property owned on Jan. 1.<sup>437</sup> A property owner is not relieved of this liability because he or she no longer owns the property.<sup>438</sup> If a property owner conducts a going-out-of-business sale, he or she must request a going-out-of-business permit from the appraisal district.<sup>439</sup> A business owner should check with the appraisal district for more details.

The tax bill may include taxes for more than one taxing unit if taxing units have combined their collection operations.<sup>440</sup>

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435 Tex. Tax Code §32.07(a)

436 Tex. Tax Code §§23.122(b), 23.1242(b), 23.125(b) and 23.128(b)

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437 Tex. Tax Code §32.07(a)

438 Tex. Tax Code §32.07(a)

439 Tex. Business & Commerce Code §17.83

440 Tex. Tax Code §31.01(e)

# Collections

Tax collections begin around Oct. 1.<sup>441</sup> A property owner typically has until Jan. 31 of the following year to pay the taxes.<sup>442</sup> On Feb. 1, penalty and interest charges begin accumulating on most unpaid tax bills.<sup>443</sup> If Feb. 1 is drawing near and no bill has been received, a taxpayer should contact the local tax office to find out how much tax is owed and make sure the correct name and address are on record.

Under certain circumstances, taxing units may impose additional penalties for legal costs on unpaid taxes.<sup>444</sup> Before a person buys a home, it is a good idea to obtain a tax certificate for the home from all jurisdictions that tax it. The tax certificate will show whether delinquent taxes are owed on the property.<sup>445</sup>

## Tax Payment Deadlines

If the tax bill is mailed after Jan. 10, the delinquency date is postponed to the first day of the next month that allows at least 21 days to pay after original bill is mailed.<sup>446</sup> The delinquency date must be printed on the bill.<sup>447</sup>

Most property owners pay their property taxes before year's end so they can deduct the payments from their federal income taxes. If a property owner is appealing an ARB order to district court, he or she must pay the amount not in dispute; the amount due based on the ARB order; or the amount of taxes imposed on the property in the preceding year.<sup>448</sup> If a property owner's taxes are subject to the split-payment option, he or she may pay one-half of the required tax before Dec. 1 and the remaining half of that amount before July 1 of the following year.<sup>449</sup> The appeal must be accompanied by a statement in writing of the amount of taxes not in dispute the property owner proposed to pay.<sup>450</sup> A property owner may pay an additional amount of taxes at any time without forfeiting his or her right to a final determination of the appeal.<sup>451</sup> If a property owner is appealing an ARB order to binding arbitration, he or she must pay the tax amount not in dispute.<sup>452</sup>

441 Tex. Tax Code §31.01(a)

442 Tex. Tax Code §31.02(a)

443 Tex. Tax Code §33.01(a)

444 Tex. Tax Code §§33.01(a), 33.07 and 33.08

445 Tex. Tax Code §31.08(a)

446 Tex. Tax Code §31.04(a)

447 Tex. Tax Code §31.01(c)(7)

448 Tex. Tax Code §42.08(b)

449 Tex. Tax Code §42.08(c)

450 Tex. Tax Code §42.08(b-1)

451 Tex. Tax Code §42.08(c)

452 Tex. Tax Code §41A.10(a)

A property owner may make a payment under protest by indicating so on the instrument of payment or a document accompanying the payment.<sup>453</sup>

## Payment Options

Check with the tax collection office on local payment options that may be available, such as tax deferrals, discounts, escrow accounts, installments and split payments.

### Property Tax Deferrals

A property owner may defer homestead taxes for value exceeding 105 percent of the home's appraised value, plus any new improvements, from the preceding tax year.<sup>454</sup> The property owner must file a deferral application with the appraisal district before the taxes become delinquent<sup>455</sup> and pay the taxes based on 105 percent of the home's value.<sup>456</sup>

While any taxpayer can defer payments on value that exceeds 105 percent, a homeowner age 65 or older or disabled or an individual qualified for a Tax Code Section 11.22 disabled veteran exemption may defer or postpone paying any property taxes on the full taxable value of the home for as long as he or she owns and lives in it.<sup>457</sup>

To postpone tax payments, the taxpayer must file a tax deferral affidavit with the appraisal district.<sup>458</sup> A tax deferral only postpones the tax liability.<sup>459</sup> It does not cancel it.<sup>460</sup>

Interest on the amount due accrues at the rate of 5 percent a year.<sup>461</sup> Past taxes and interest become due 181 days after the property owner or qualified surviving spouse no longer owns or lives in the home that qualified as a homestead.<sup>462</sup> Any penalty and interest that was due on the tax bill for the home before the tax deferral will remain on the property and become due when the deferral ends.<sup>463</sup>

453 Tex. Tax Code §31.115

454 Tex. Tax Code §33.065(a)

455 Tex. Tax Code §33.065(b) and (c)

456 Tex. Tax Code §33.065(f)

457 Tex. Tax Code §33.06(a) and (b)

458 Tex. Tax Code §33.06(b)

459 Tex. Tax Code §33.06(a)

460 Tex. Tax Code §33.06(b) and (d)

461 Tex. Tax Code §33.06(d)

462 Tex. Tax Code §33.06(b) and (f)

463 Tex. Tax Code §33.06(d)

A property owner may abate a delinquent tax lawsuit by filing this affidavit with the court.<sup>464</sup> A property owner may stop a pending tax sale by filing the affidavit with the officer conducting the sale and the appraisal district, taxing unit or taxing unit's delinquent tax attorney.<sup>465</sup>

### Installment Payments

Some taxpayers can pay homestead taxes in installments.<sup>466</sup> If a person qualifies for a residence homestead exemption because he or she is disabled, age 65 or older, a disabled veteran or the surviving spouse of a disabled veteran, the property owner may pay the current taxes on the home in four installments.<sup>467</sup> This installment option is also available to partially disabled veterans and their unmarried surviving spouses with homes donated by charitable organizations.<sup>468</sup>

Homeowners and some small businesses whose property is damaged in a disaster and located in a designated disaster area also may pay their taxes in four installments.<sup>469</sup>

A property owner may pay taxes imposed on property in four equal installments without penalty or interest if the first installment payment is paid before the Feb. 1 delinquency date and the remaining three payments before April 1, June 1 and Aug. 1.<sup>470</sup> If the delinquency date is not Feb. 1, other installment deadlines apply.<sup>471</sup> Installment payments apply to all taxing units on the tax bill.<sup>472</sup>

The property owner must give written notice with his or her first payment that the property owner is paying the taxes in installments.<sup>473</sup> A property owner may make the first installment and request the installment agreement prior to the first day of the first month after the delinquency date, but the owner will be penalized for the delinquency of the first installment.<sup>474</sup>

If a property owner misses an installment payment, he or she will receive a 6 percent penalty and pay interest at 1 percent per month for each month of delinquency.<sup>475</sup>

### Other Payment Options

Check with the tax collector on payment options that may be available on a local option basis, such as:

- **discounts**, if taxes are paid early;<sup>476</sup>
- **split payment** of taxes, allowing the property owner to pay half the taxes by Nov. 30 and the remainder by June 30 without a penalty;<sup>477</sup>
- **partial payment** of the taxes;<sup>478</sup>
- **escrow agreements** for a special year-round account;<sup>479</sup> and
- **work contracts**, in lieu of paying taxes, for certain taxpayers doing certain duties.<sup>480</sup>

A tax collector is only required to enter into an escrow agreement when one is requested by:

- a disabled veteran or a recipient of the Purple Heart, Congressional Medal of Honor, Bronze Star Medal, Silver Star, Legion of Merit or a service cross awarded by a branch of the United States armed forces for payment of property taxes on the property owner's residence homestead;<sup>481</sup> or
- a manufactured home owner for payment of property taxes on the property owner's manufactured home.<sup>482</sup>

### Failure to Pay Taxes

The longer a taxpayer allows delinquent property taxes to go unpaid, the more expensive it becomes, as penalty and interest charges will be added to the taxes due.<sup>483</sup> The property also may be foreclosed or seized.<sup>484</sup>

#### Penalty and interest charge accrue.

Regular penalty charges may be as high as 12 percent depending on how long the taxes remain unpaid.<sup>485</sup> Interest is charged at the rate of 1 percent per month with no maximum.<sup>486</sup> Private attorneys hired by taxing units to collect delinquent accounts can charge an additional 20 percent penalty.<sup>487</sup>

Some tax collectors allow property owners to pay delinquent taxes in installments for up to 36 months.<sup>488</sup> They are not required to offer this option, except for a residence homestead.<sup>489</sup> Before signing an installment agreement, the property owner should know that the law considers his or

464 Tex. Tax Code §33.06(c)

465 Tex. Tax Code §33.06(c-1)

466 Tex. Tax Code §31.031

467 Tex. Tax Code §31.031(a)

468 Tex. Tax Code §31.031(a)(2)(B)

469 Tex. Tax Code §31.032(a)

470 Tex. Tax Code §31.031(a-1)

471 Tex. Tax Code §31.031(a-1)

472 Tex. Tax Code §31.031(a-1)

473 Tex. Tax Code §§31.031(a-1) and (a-2) and 31.032(b) and (b-1)

474 Tex. Tax Code §§31.031(a-2) and 31.032(b-1)

475 Tex. Tax Code §§31.031(b), 31.032(d) and 33.01(c)

476 Tex. Tax Code §31.05

477 Tex. Tax Code §31.03

478 Tex. Tax Code §31.07

479 Tex. Tax Code §31.072

480 Tex. Tax Code §§31.035, 31.036 and 31.037

481 Tex. Tax Code §31.072(h)

482 Tex. Tax Code §31.072(i)

483 Tex. Tax Code §33.01

484 Tex. Tax Code §§33.41, 33.21, 33.91 and 33.911

485 Tex. Tax Code §33.01(a)

486 Tex. Tax Code §33.01(c)

487 Tex. Tax Code §§33.07 and 33.08

488 Tex. Tax Code §33.02(a)(4)

489 Tex. Tax Code §33.02(a)



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her signature an irrevocable admission that the property owner owes all the taxes covered by the agreement.<sup>490</sup>

### **Taxpayer can be sued.**

The tax collector's last resort is to take a property owner to court if he or she is delinquent in paying taxes. Court costs and other expenses will be added to the delinquent tax bill.<sup>491</sup>

If a taxpayer owns taxable property on Jan. 1, he or she is liable for all taxes due on the property for that year.<sup>492</sup> The property owner can be sued for delinquent taxes even if the property has since been sold or transferred.<sup>493</sup>

### **Property may be sold.**

Each taxing unit holds a tax lien on each of a property owner's taxable properties.<sup>494</sup> A tax lien automatically attaches to the property on Jan. 1 each year to secure payment of all taxes.<sup>495</sup>

This tax lien gives the courts the power to foreclose on the lien and seize a property owner's property, even if he or she did not own the home on Jan. 1.<sup>496</sup> The property then will be auctioned and the proceeds used to pay the past due taxes.<sup>497</sup>

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490 Tex. Tax Code §33.02(c)

491 Tex. Tax Code §33.48(a)

492 Tex. Tax Code §32.07(a)

493 Tex. Tax Code §32.07(a)

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494 Tex. Tax Code §32.01(a)

495 Tex. Tax Code §32.01(a)

496 Tex. Tax Code §32.05(a)

497 Tex. Tax Code §§34.01(a) and 34.02(b)(6)

For more information, visit our website:  
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