

ARTICLE 15 – EQUALIZATION BY COUNTY BOARD

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77-1501. County board of equalization; who constitutes; meetings; county officials; duties. The county board shall constitute the county board of equalization. The county board of equalization shall fairly and

impartially equalize the values of all items of real property in the county so that all real property is assessed uniformly and proportionately.

The county assessor or his or her designee shall attend all meetings of the county board of equalization when such meetings pertain to the assessment or exemption of real and personal property. The county treasurer shall attend all meetings of the county board of equalization involving the exemption of motor vehicles from the motor vehicle tax. All records of the county assessor's office shall be available for the inspection and consideration of the county board of equalization. The county clerk, deputy, or designee pursuant to section 23-1302 shall attend all meetings of the county board of equalization and shall make a record of the proceedings of the county board of equalization.

Source: Laws 1903, c. 73, § 120, p. 428; R.S.1913, § 6436; C.S.1922, § 5971; C.S.1929, § 77-1701; R.S.1943, § 77-1501; Laws 1953, c. 273, § 1, p. 898; Laws 1997, LB270, § 85; Laws 1999, LB194, § 23; Laws 2005, LB762, § 2; Laws 2009, LB166, § 14; Laws 2012, LB801, § 97.

Annotations

A complete and adequate remedy is provided for relief from an overassessment of property. *Scudder v. County of Buffalo*, 170 Neb. 293, 102 N.W.2d 447 (1960).

Individual discrepancies and inequalities in valuation are corrected and equalized by county board of equalization. *LeDioyt v. County of Keith*, 161 Neb. 615, 74 N.W.2d 455 (1956).

County board of equalization is an administrative agency of the county. *Speer v. Kratzenstein*, 143 Neb. 310, 12 N.W.2d 360 (1943). This article prescribes duties of county board of equalization. *Peterson v. Brunzell*, 103 Neb. 250, 170 N.W. 905 (1919).

Board possesses no powers save those conferred by statute. *Brown v. Douglas County*, 98 Neb. 299, 152 N.W. 545 (1915). Abolishment of office of county assessor does not oust county board and county clerk of their jurisdiction as board of equalization. *Hatcher & Co. v. Gosper County*, 95 Neb. 543, 145 N.W. 993 (1914).

The county board constitutes the board of equalization, and thus, the two boards have the same membership. But because each board has its own well-defined public duties and functions, the two boards are separate and distinct bodies. *Wolf v. Grubbs*, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

This section and Neb. Const. art. VIII, sec. 1, read together, require a county board of equalization to value comparable properties similarly, even where separate protests are heard in the first instance by referees who recommend greatly disparate property valuations. *Zabawa v. Douglas Cty. Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008).

77-1502. Board; protests; form; report; notification.

(1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be signed and filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. For protests of real property, a protest shall be filed for each parcel. Protests regarding taxable tangible personal property returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be made on a form prescribed by the Tax Commissioner, signed, and filed with the county clerk of the county where the property is assessed. It shall be acceptable for a county to create its own form, including an electronic form, as long as the form captures the information required by this subsection. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made, including the requested valuation, and a description of the property to which the protest applies.

If the property is real property, a description adequate to identify each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest, including the requested valuation, or the applicable description of the property, the protest shall be dismissed by the county board of equalization. Counties may make reasonable efforts to contact protesters who have timely filed a protest but have either filed incomplete information or not used the required form. The protest shall also indicate whether the person signing the protest is an owner of the property or a person authorized to protest on behalf of the owner. If the person signing the protest is a person authorized to protest on behalf of the owner, such person shall provide the authorization with the protest. If the person signing the protest is not an owner of the property or a person authorized to protest on behalf of the owner, the county clerk shall mail a copy of the protest to the owner of the property at the address to which the property tax statements are mailed.

(3) Beginning January 1, 2014, in counties with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, for a protest regarding real property, each protester shall be afforded the opportunity to meet in person with the county board of equalization or a referee appointed under section 77-1502.01 to provide information relevant to the protested property value.

(4) No hearing of the county board of equalization on a protest filed under this section shall be held before a single commissioner or supervisor.

(5) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description adequate to identify the real property or a physical description of the tangible personal property to which the protest applies, (b) any recommendation of the county assessor for action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report, if prepared by the county clerk, shall be given to the county assessor on or before August 2. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the county assessor shall return the same to the county clerk for proper preparation.

(6) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board's decision. The notice shall contain a statement advising the protester that a report of the board's decision is available at the county clerk's or county assessor's office, whichever is appropriate. If the protester is not an owner of the property involved in the protest or a person authorized to protest on behalf of the owner, the county clerk shall also mail written notice of the board's decision to the owner of such property at the address to which the property tax statements are mailed.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S.1943, § 77-1502; Laws 1947, c. 251, § 36, p. 826; Laws 1949, c. 233, § 1, p. 644; Laws 1953, c. 274, § 1, p. 899; Laws 1959, c. 355, § 25, p. 1267; Laws 1959, c. 371, § 1, p. 1307; Laws 1961, c. 377, § 6, p. 1158; Laws 1961, c. 384, § 1, p. 1177; Laws 1972, LB 1342, § 1; Laws 1975, LB 312, § 1; Laws 1984, LB 660, § 2; Laws 1986, LB 174, § 1; Laws 1986, LB 817, § 13; Laws 1987, LB 508, § 44; Laws 1992, LB 1063, § 124; Laws 1992, Second Spec. Sess., LB 1, § 97; Laws 1994, LB 902, § 21; Laws 1995, LB 452, § 23; Laws 1995, LB 490, § 147; Laws 1997, LB 270, § 86; Laws 2003, LB 292, § 12; Laws 2004, LB 973, § 33; Laws 2005, LB 283, § 2; Laws 2005, LB 299, § 1; Laws 2006, LB 808, § 37; Laws 2008, LB965, § 15; Laws 2009, LB166, § 15; Laws 2010, LB877, § 4; Laws 2011, LB384, § 14; Laws 2018, LB885, § 1; Laws 2021, LB291, § 1.

77-1502.01. Board; referee; appointment; compensation; duties. In all counties the county board of equalization may appoint one or more suitable persons to act as referees. The compensation of a referee shall be fixed by the county board and shall be payable from the general fund of the county. The county board of equalization may direct that any protest filed in accordance with section 77-1502, shall be heard in the first instance by the referee in the manner provided for the hearing of protests by the county board of equalization. Upon the conclusion of the hearing in each case, the referee shall transmit to the county board of equalization all papers relating to the case, together with his or her findings and recommendations in writing. The county board of equalization, after considering all papers relating to the protest and the findings and recommendations of the referee, may make the order recommended by the referee or any other order in the judgment of the board of equalization required by the findings of the referee, or may hear additional testimony, or may set aside such findings and hear the protest anew.

Source: Laws 1969, c. 626, § 1, p. 2525; Laws 1980, LB658, § 1.

Annotations

The ultimate responsibility to equalize valuations rests upon the county board of equalization, and it cannot avoid this duty by using the power to appoint referees. *Zabawa v. Douglas Cty. Bd. of Equal.*, 17 Neb. App. 221, 757 N.W.2d 522 (2008).

77-1503.01. Property exempt from equalization. Any property valued by the state shall not be subject to the jurisdiction of the county board of equalization.

Source: Laws 1971, LB945, § 4; Laws 1984, LB835, § 10; Laws 1987, LB508, § 45; Laws 1992, LB1063, § 125; Laws 1992, Second Spec. Sess., LB1, § 98; Laws 1995, LB452, § 24; Laws 1995, LB490, § 148; Laws 1997, LB270, § 87; Laws 1999, LB194, § 24.

Annotations

County board of equalization is statutorily empowered and authorized to equalize only those assessments of countywide property of which the county has the authority to assess the value. *John Day Co. v. Douglas Cty. Bd. of Equal.*, 243 Neb. 24, 497 N.W.2d 65 (1993).

77-1504. Equalization of property; board; powers and duties; protest; procedure; notice of decision. The county board of equalization may meet on or after June 1 and on or before July 25, or on or before August 10 if the board has adopted a resolution to extend the deadline for hearing protests under section 77-1502, to consider and correct the current year's assessment of any real property which has been undervalued or overvalued. The board shall give notice of the assessed value to the record owner or agent at his or her last-known address. The county board of equalization in taking action pursuant to this section may only consider the report of the county assessor pursuant to section 77-1315.01.

Action of the county board of equalization pursuant to this section shall be for the current assessment year only. The action of the county board of equalization may be protested to the board within thirty days after the mailing of the notice required by this section. If no protest is filed, the action of the board shall be final. If a protest is filed, the county board of equalization shall hear the protest in the manner prescribed in section 77-1502, except that all protests shall be heard and decided on or before September 15 or on or before September 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502. Within seven days after the county board of equalization's final decision, the county clerk shall mail to the protester written notice of the decision. The notice shall contain a statement advising the protester that a report of the decision is available at the county clerk's or county assessor's office, whichever is appropriate. The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission on or before October 15 or on or before October 30 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911,

c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S.1943, § 77-1504; Laws 1947, c. 251, § 37, p. 826; Laws 1979, LB187, § 210; Laws 1984, LB835, § 11; Laws 1987, LB508, § 46; Laws 1988, LB1207, § 8; Laws 1989, LB361, § 21; Laws 1991, LB320, § 11; Laws 1992, LB1063, § 126; Laws 1992, Second Spec. Sess., LB1, § 99; Laws 1994, LB902, § 22; Laws 1995, LB452, § 25; Laws 1995, LB490, § 149; Laws 1997, LB270, § 88; Laws 1998, LB1104, § 10; Laws 1999, LB194, § 25; Laws 2005, LB263, § 13; Laws 2005, LB283, § 3; Laws 2006, LB808, § 38; Laws 2007, LB167, § 2; Laws 2011, LB384, § 15.

Annotations

1. Power of county board

Power of county board of equalization to rectify returns and change assessments is limited to a set number of circumscribed days each year. County board of equalization does not have jurisdiction to decrease the challenged assessed personal property values. County board of equalization is statutorily empowered and authorized to equalize only those assessments of countywide property of which the county has the authority to assess the value. *John Day Co. v. Douglas Cty. Bd. of Equal.*, 243 Neb. 24, 497 N.W.2d 65 (1993). It is the function of the county board of equalization to determine the actual value of locally assessed property for tax purposes. In carrying out this function, the county board must give effect to the constitutional requirement that taxes be levied uniformly and proportionately upon all taxable property in the county. Individual discrepancies and inequalities within the county must be corrected and equalized by the county board of equalization. *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991).

This section provides for equalizing value of real estate of individual taxpayer. *Fromkin v. State*, 158 Neb. 377, 63 N.W.2d 332 (1954). County boards of equalization deal with assessments of individuals and between townships, precincts or districts within county. *Scotts Bluff County v. State Board of Equalization and Assessment*, 143 Neb. 837, 11 N.W.2d 453 (1943).

County board of equalization has no authority to increase the valuation of an assessment of all the real estate in a precinct in the absence of a finding that the valuation of such real estate does not bear a just relation to the valuation of the real estate in all townships, precincts or districts in the county. *Peterson v. Brunzell*, 103 Neb. 250, 170 N.W. 905 (1919).

2. Procedures

Notice to owner of intention to raise valuation is required. *Gamboni v. County of Otoe*, 159 Neb. 417, 67 N.W.2d 489 (1954). When taxpayer claims that real estate is assessed too high, he should first apply for relief to board of equalization, and, if denied, should appeal to the courts. *Power v. Jones*, 126 Neb. 529, 253 N.W. 867 (1934).

The several owners of different tracts of land may unite in petition for relief. *State ex rel. Mellor v. Grow*, 74 Neb. 850, 105 N.W.898 (1905).

3. Miscellaneous

This section and section 77-1502 were not repealed by section 77-1358. *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987).

A decree of court fixing the value of real estate on a previous assessment is not competent evidence in a further suit affecting the assessment value of the property in a subsequent year. *DeVore v. Board of Equalization*, 144 Neb. 351, 13 N.W.2d 451 (1944).

Lands, city and village lots, and personal property are considered as separate classes for equalization. *State ex rel. Lincoln Land Co. v. Edwards*, 31 Neb. 369, 47 N.W. 1048 (1891).

77-1504.01. Adjustment to class or subclass of real property; procedure. (1) Unless the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502, after completion of its actions and

based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the commission on or before July 26.

(2) The commission shall hear and take action on a petition filed by a county board of equalization on or before August 10. Hearings held pursuant to this section may be held by means of videoconference or telephone conference. The burden of proof is on the petitioning county to show that failure to make an adjustment would result in values that are not equitable and in accordance with the law. At the hearing the commission may receive testimony from any interested person.

(3) After a hearing the commission shall, within the powers granted in section 77-5023, enter its order based on evidence presented to it at such hearing and the hearings held pursuant to section 77-5022 for that year. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be made to the class or subclass of real property affected. When issuing an order to adjust a class or subclass of real property, the commission may exclude individual properties from that order whose value has already been adjusted by a county board of equalization in the same manner as the commission directs in its order. On or before August 10 of each year, the commission shall send its order by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board.

(4) The county assessor shall make the specified changes to each item of property in the county as directed by the order of the commission. In implementing such order, the county assessor shall adjust the values of the class or subclass that is the subject of the order. For properties that have already received an adjustment from the county board of equalization, an additional adjustment may be made so that total adjustments made are equal to the commission's ordered adjustment and no additional adjustment shall be made applying the commission's order, but such an exclusion from the commission's order shall not preclude adjustments to those properties for corrections or omissions. The county assessor of the county adjusted by an order of the commission shall recertify the abstract of assessment to the Property Tax Administrator on or before August 20.

Source: Laws 1995, LB452, § 26; Laws 1997, LB397, § 22; Laws 1998, LB306, § 22; Laws 1999, LB140, § 1; Laws 1999, LB194, § 26; Laws 2000, LB968, § 58; Laws 2003, LB291, § 2; Laws 2004, LB973, § 34; Laws 2005, LB283, § 4; Laws 2008, LB965, § 16; Laws 2011, LB384, § 16.

Annotations

Pursuant to this section, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of property. *Bartlett v. Dawes Cty. Bd. of Equal.*, 259 Neb. 954, 613 N.W.2d 810 (2000).

Pursuant to subsection (2) of section 77-5019, except for orders issued by the Nebraska Tax Equalization and Review Commission pursuant to this section or section 77-5023, the commission is not a proper party to a proceeding for judicial review of an order of the commission. *Widtfeldt v. Holt Cty. Bd. of Equal.*, 12 Neb. App. 499, 677 N.W.2d 521 (2004).

A claim brought pursuant to this section and which was denied by the Nebraska Tax Equalization and Review Commission was not entitled to judicial review because no statutory right of appeal exists for such claims. The Nebraska Court of Appeals did not have jurisdiction under subsection (1) of section 77-5019 to hear county's appeal of a claim brought pursuant to this section because the claim was not a decision appealed to the Nebraska Tax Equalization and Review Commission and was not brought pursuant to section 77-5028. *Boone Cty. Bd. of Equal. v. Nebraska Tax Equal. and Rev. Comm.*, 9 Neb. App. 298, 611 N.W.2d 119 (2000).

77-1506.01. Application for reduction in value; waiver of notice. Whenever any owner of real or personal property applies to the county board of equalization for a reduction in the taxable value of any such property, the

owner shall be deemed to have waived notice of increase in the taxable value of such property which is found undervalued by the county board of equalization notwithstanding the provisions of any other statutes to the contrary.

Source: Laws 1969, c. 673, § 3, p. 2598; Laws 1979, LB187, § 211; Laws 1992, LB719A, § 167.

77-1507. Board; duties; addition of omitted property; clerical errors; protest; procedure. (1) The county board of equalization may meet at any time for the purpose of assessing any omitted real property that was not reported to the county assessor pursuant to section 77-1318.01 and for correction of clerical errors as defined in section 77-128 that result in a change of assessed value. The county board of equalization shall give notice of the assessed value of the real property to the record owner or agent at his or her last-known address. For real property which has been omitted in the current year, the county board of equalization shall not send notice pursuant to this section on or before June 1.

Protests of the assessed value proposed for omitted real property pursuant to this section or a correction for clerical errors shall be filed with the county board of equalization within thirty days after the mailing of the notice. All provisions of section 77-1502 except dates for filing a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall issue its decision on the protest within thirty days after the filing of the protest.

(2) The county clerk shall, within seven days after the board's final decision, send:

- (a) For protested action, a notification to the protester of the board's final action advising the protester that a report of the board's final decision is available at the county clerk's or county assessor's office, whichever is appropriate; and
 - (b) For protested and nonprotested action, a report to the Property Tax Administrator which shall state a description adequate to identify the property, the reason such property was not assessed pursuant to section 77-1301, and a statement of the board's justification for its action. A copy of the report shall be available for public inspection in the office of the county clerk.
- (3) The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission within thirty days after the board's final decision.
- (4) Improvements to real property which were properly reported to the county assessor pursuant to section 77-1318.01 for the current year and were not added to the assessment roll by the county assessor on or before March 19 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, such improvements which were not added to the assessment roll on or before March 25 shall only be added to the assessment roll by the county board of equalization from June 1 through July 25. In counties that have adopted a resolution to extend the deadline for hearing protests under section 77-1502, the deadline of July 25 shall be extended to August 10.

Source: Laws 1903, c. 73, § 121, p. 428; Laws 1905, c. 112, § 1, p. 515; Laws 1909, c. 112, § 1, p. 444; Laws 1911, c. 104, § 14, p. 379; R.S.1913, § 6437; C.S.1922, § 5972; C.S.1929, § 77-1702; R.S.1943, § 77-1507; Laws 1987, LB508, § 48; Laws 1995, LB490, § 150; Laws 1997, LB270, § 89; Laws 1999, LB194, § 27; Laws 2005, LB263, § 14; Laws 2005, LB283, § 5; Laws 2006, LB808, § 39; Laws 2010, LB877, § 5; Laws 2011, LB384, § 17.

Annotations

County board of equalization may equalize omitted property subsequent to regular time. *Fromkin v.*

State, 158 Neb. 377, 63 N.W.2d 332 (1954).

County board of equalization may assess omitted or unassessed real property without previous notice to owner. *Radium Hospital v. Greenleaf*, 118 Neb. 136, 223 N.W. 667 (1929).

County board of equalization must give notice when assessing omitted personal property. *Farmers Co-op. Creamery & Supply Co. v. McDonald*, 100 Neb. 33, 158 N.W. 369 (1916); *Farmers Co-op. Creamery & Supply v. McDonald*, 97 Neb. 510, 150 N.W. 640 (1915), on rehearing 97 Neb. 512, 150 N.W. 656 (1915). It is the duty of county board of equalization to assess the value of omitted property, and its action in that regard cannot be controlled by state board. *State ex rel. Mickey v. Drexel*, 75 Neb. 751, 107 N.W. 110 (1906).

Omission made in the belief that the property is not taxable does not invalidate tax upon other property. *Burlington & M. R. R. Co. v. Seward County*, 10 Neb. 211, 4 N.W. 1016 (1880).

77-1507.01. Failure to give notice; effect. Any person otherwise having a right to appeal may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine the actual value or special value of real property for that year if a failure to give notice prevented timely filing of a protest or appeal provided for in sections 77-1501 to 77-1510.

Source: Laws 2005, LB15, § 5; Laws 2007, LB167, § 3; Laws 2009, LB166, § 16.

77-1508. Board; examination of persons; production and inspection of records. Whenever any county board of equalization shall have reason to believe that any person, company or corporation has not listed all of his or its property for taxation, or that any property has not been fairly valued and assessed, it shall be lawful for such board to call before it any such person, or any agent or officer of any such corporation, and require the production of any books, records or papers. The person so called shall be sworn, and shall answer under oath, and give all information which he may possess, touching the existence, location and value of any property sought to be listed, valued and assessed, and no person so called shall be excused from answering any question put to him on the ground that his answer might tend to criminate him, but no answer he shall make or testimony he may give shall be used against him in any criminal prosecution.

Source: Laws 1903, c. 73, § 122, p. 430; R.S.1913, § 6438; C.S.1922, § 5973; C.S.1929, § 77-1703; R.S.1943, § 77-1508.

Annotations

Power conferred by this section is not exclusive. *Speer v. Kratzenstein*, 143 Neb. 310, 12 N.W.2d 360 (1943), vacating 143 Neb. 300, 9 N.W.2d 306 (1943).

77-1509. Board; compelling attendance of witnesses; penalties; fees. The county board of equalization may issue process to compel the attendance before it of any person with books, records and papers, if necessary, which process shall be served by the sheriff the same as a summons from the district court, and he shall receive the same fees therefor. Any person who shall fail to respond to such process, or who shall refuse to answer any proper question put to him by the board, shall forfeit the sum of five hundred dollars, to be recovered in a civil action in the name of the county. Witnesses shall receive the same fees as witnesses in the district court to be paid by the person, the valuation of whose property is being investigated, in case the board finds that such person has willfully concealed or undervalued his property; otherwise, by the county.

Source: Laws 1903, c. 73, § 123, p. 430; R.S.1913, § 6439; C.S.1922, § 5974; C.S.1929, § 77-1704; R.S.1943, § 77-1509.

Annotations

This section is a statute imposing a penalty or forfeiture. Such statutes are strictly construed and will not be construed to include anything beyond their letter even though it may be within their spirit. *County of Merrick v. Beck*, 205 Neb. 829, 290 N.W.2d 642 (1980). This and preceding section apply to the power

to review and correct individual assessments. *Speer v. Kratzenstein*, 143 Neb. 310, 12 N.W.2d 360 (1943), vacating 143 Neb. 300, 9 N.W.2d 306 (1943).

77-1510. Board; appeals, how taken. Any action of the county board of equalization pursuant to section 77-1502 may be appealed to the Tax Equalization and Review Commission in accordance with section 77-5013 on or before August 24 or on or before September 10 if the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502.

Source: Laws 1903, c. 73, § 124, p. 430; R.S.1913, § 6440; C.S.1922, § 5975; C.S.1929, § 77-1705; R.S.1943, § 77-1510; Laws 1947, c. 251, § 38, p. 827; Laws 1959, c. 371, § 2, p. 1308; Laws 1969, c. 673, § 1, p. 2597; Laws 1979, LB187, § 213; Laws 1986, LB174, § 2; Laws 1988, LB1207, § 10; Laws 1989, LB653, § 3; Laws 1989, LB762, § 1; Laws 1991, LB732, § 141; Laws 1991, LB829, § 9; Laws 1992, LB360, § 35; Laws 1992, LB1063, § 128; Laws 1992, Second Spec. Sess., LB1, § 101; Laws 1992, Fourth Spec. Sess., LB1, § 15; Laws 1995, LB452, § 27; Laws 1995, LB490, § 151; Laws 1996, LB1040, § 4; Laws 1997, LB270, § 90; Laws 1997, LB397, § 23; Laws 2001, LB170, § 18; Laws 2001, LB465, § 2; Laws 2003, LB291, § 3; Laws 2004, LB973, § 35; Laws 2005, LB283, § 6.

Annotations

1. Rebuttable presumption

There is a presumption that a board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action. That presumption remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board. *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 437 N.W.2d 501 (1989).

2. Right of appeal

A taxpayer who has not first filed a protest with the county board of equalization may not appeal to the district court a claimed overassessment of his or her own property. *JEMCO, Inc. v. Board of Equal. of Box Butte Cty.*, 242 Neb. 361, 495 N.W.2d 44 (1993). One aggrieved by the action of a county board of equalization may appeal to the district court pursuant to this section. A taxpayer who fails to pursue this remedy may not object to the valuation of his separate property for taxation purposes, and a collateral attack may not be made thereon unless the assessment is void, willfully discriminatory, or the result of fraud. *AT&T Information Sys. v. State Bd. of Equal.*, 237 Neb. 591, 467 N.W.2d 55 (1991).

An appeal from a decision by a county board of equalization is authorized by this section and controlled by section 77-1511. *Nebraska State Bar Found. v. Lancaster Cty. Bd. of Equal.*, 237 Neb. 1, 465 N.W.2d 111 (1991). A property owner's exclusive remedy for relief from overvaluation of property for tax purposes is by protest to the county board of equalization, and appeal therefrom to the district court. *Olson v. County of Dakota*, 224 Neb. 516, 398 N.W.2d 727 (1987); *Power v. Jones*, 126 Neb. 529, 253 N.W. 867 (1934).

An appeal from a tax exemption may be taken pursuant to section 77-202.04 only. *Bemis v. Board of Equalization of Douglas County*, 197 Neb. 175, 247 N.W.2d 447 (1976).

Cited in appeal from county board of equalization regarding valuation. *Boss Hotels Co. v. County of Hall*, 183 Neb. 19, 157 N.W.2d 868 (1968).

Taxpayer may appeal from county board of equalization to district court. *L. J. Messer Co. v. Board of Equalization*, 171 Neb. 393, 106 N.W.2d 478 (1960); *Collier v. County of Logan*, 169 Neb. 1, 97 N.W.2d 879 (1959); *LeDioyt v. County of Keith*, 161 Neb. 615, 74 N.W.2d 455 (1956); *Scotts Bluff County v. State Board of Equalization and Assessment*, 143 Neb. 837, 11 N.W.2d 453 (1943).

Appeal lies from assessment of omitted or undervalued property. *Ewert Implement Co. v. Board of Equalization*, 160 Neb. 445, 70 N.W.2d 397 (1955).

Remedy of appeal is provided for owners who appeared before county board of equalization. *Gamboni v.*

County of Otoe, 159 Neb. 417, 67 N.W.2d 489 (1954).

State Board of Equalization has right to appeal from action of county board of equalization in exempting property. *State v. Odd Fellows Hall Assn.*, 123 Neb. 440, 243 N.W. 616(1932).

A taxpayer may appeal from order, sustaining another's complaint that his property is assessed too high, without appearance before board of equalization. *In re assessment of Bankers Life Ins. Co.*, 88 Neb. 43, 128 N.W. 661 (1910).

3. Appellate procedures

Section 77-1502 and this section do not control a taxpayer's appeal from a decision of a county board of equalization to the Tax Equalization and Review Commission when a county assessor changes a taxpayer's reported valuation of personal property to conform to net book value. *Prime Alliance Bank v. Lincoln Cty. Bd. of Equal.*, 283 Neb. 732, 811 N.W.2d 690 (2012).

The assignee of certain interests in ethanol manufacturing equipment had 30 days from the date of the decision under section 77- 1233.06(4), and not until the August 24 deadline under this section, to appeal to the Tax Equalization and Review Commission from a county board of equalization's decision in a case where the assignor had filed a personal property return with the value of zero dollars for the equipment and had not filed a protest of the valuation. *Republic Bank v. Lincoln Cty. Bd. of Equal.*, 283 Neb. 721, 811 N.W.2d 682 (2012).

The Tax Equalization and Review Commission's jurisdiction is limited to those appeals filed within the statutory 30-day period, and it does not have the authority to adopt the mailbox rule or the doctrine of unique circumstances because such rules and doctrines would expand its jurisdiction beyond what the Legislature provided in this section. *Falotico v. Grant Cty. Bd. of Equal.*, 262 Neb. 292, 631 N.W.2d 492 (2001).

In an appeal made pursuant to this section, it is the responsibility of the taxpayer to file in the district court a transcript of the proceedings held before the county board of equalization. No proceedings on appeal to the district court shall be held in the absence of the transcript of the proceedings held before the county board of equalization. *Future Motels, Inc. v. Custer Cty. Bd. of Equal.*, 247 Neb. 436, 527 N.W.2d 861 (1995).

Declaratory judgment action held not the appropriate remedy to attack action by county board of equalization. *Ryan v. Douglas County Board of Equalization*, 199 Neb. 291, 258 N.W.2d 626(1977).

In order to perfect an appeal to the district court from a county board of equalization, all activities necessary, including the filing of notice of appeal, must be carried out within forty-five days of the adjournment of the board. *Knoefler Honey Farms v. County of Sherman*, 193 Neb. 95, 225 N.W.2d 855 (1975).

Procedure for appeal is that prescribed for an appeal from a judgment of a justice of the peace to the district court. *Nebraska Conf. Assn. Seventh Day Adventists v. County of Hall*, 166 Neb. 588, 90 N.W.2d 50(1958).

Taxpayer having direct interest must give notice of appeal within twenty days, and one having indirect interest must give notice within ten days. *Sommerville v. Board of Commissioners of Douglas County*, 117 Neb. 507, 221 N.W. 433 (1928).

To perfect an appeal to the Tax Equalization and Review Commission, one must file his or her notice of appeal within 30 days of a board of equalization's final order. *Washington Cty. Bd. of Equal. v. Rushmore Borglum*, 11 Neb. App. 377, 650 N.W.2d 504 (2002).

4. Standard of review

On appeal to the Supreme Court, an equity case involving an action by a county board of equalization is a trial of factual questions de novo on the record, requiring the Supreme Court to reach a conclusion independent of the findings of the trial court. *Ideal Basic Indus. v. Nuckolls Cty. Bd. of Equal.*, 231 Neb. 653, 437 N.W.2d 501 (1989).

5. Equitable remedies

Resort cannot be had to injunction when appeal will afford plain and direct remedy at law. *Radium Hospital v. Greenleaf*, 118 Neb. 136, 223 N.W. 667 (1929).

Suit in equity will not lie to correct assessment as appeal affords remedy for excessive valuation. *Hahn System v. Stroud*, 109 Neb. 181, 190 N.W. 572 (1922); *Western Union Tel. Co. v. Douglas County*, 76 Neb. 666, 107 N.W. 985 (1906). Where assessment is increased without jurisdiction of board of equalization, its collection may be enjoined. *Farmers Co-op. Creamery & Supply Co. v. McDonald*, 100 Neb. 33, 158 N.W.

369 (1916).

Mandamus will not lie to correct errors of board of equalization. *State ex rel. Mickey v. Drexel*, 75 Neb. 751, 107 N.W. 110 (1906).

77-1510.01. Board; powers; costs and fees. After the Tax Equalization and Review Commission obtains exclusive jurisdiction of an appeal from a decision, order, determination, or action of a county board of equalization pursuant to section 77-5013, the board shall have no power or authority to compromise, settle, or otherwise change the decision, order, determination, or action it has taken. The board may, with approval of the Tax Equalization and Review Commission, offer to confess judgment for part of the value claimed or part of the causes involved in the action. If (1) the appellant is present and refuses to accept such confession of judgment in full of the appellant's demands against the board in such action or the appellant fails to attend having had reasonable notice that the offer would be made, its terms, and the time of making it and

(2) at hearing the appellant does not obtain more relief than was offered to be confessed, the appellant shall pay all the costs and fees the board incurred after making the offer. The offer shall not be deemed to be an admission of the cause of action or relief to which the appellant is entitled, and the offer shall not be given in evidence at the hearing.

Source: Laws 1989, LB653, § 4; Laws 1995, LB490, § 152; Laws 2004, LB973, § 36.

77-1514. Abstract of property assessment rolls; prepared by county assessor; file with Property Tax Administrator.

(1) The county assessor shall prepare an abstract of the property assessment rolls of locally assessed real property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall file the abstract with the Property Tax Administrator on or before March 19, except beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the real property abstract shall be filed on or before March 25. The abstract shall show the taxable value of real property in the county as determined by the county assessor and any other information as required by the Property Tax Administrator. The Property Tax Administrator, upon written request from the county assessor, may for good cause shown extend the final filing due date for the abstract and the statutory deadlines provided in section 77-5027. The Property Tax Administrator may extend the statutory deadline in section 77-5028 for a county if the deadline is extended for that county. Beginning January 1, 2014, in any county with a population of at least one hundred fifty thousand inhabitants according to the most recent federal decennial census, the county assessor shall request an extension of the final filing due date by March 22.

(2) The county assessor shall prepare an abstract of the property assessment rolls of locally assessed personal property of his or her county on forms prescribed and furnished by the Tax Commissioner. The county assessor shall electronically file the abstract with the Property Tax Administrator on or before July 20.

Source: Laws 1903, c. 73, § 125, p. 431; R.S.1913, § 6442; C.S.1922, § 5977; C.S.1929, § 77-1707; R.S.1943, § 77-1514; Laws 1945, c. 190, § 1, p. 590; Laws 1947, c. 251, § 39, p. 827; Laws 1959, c. 371, § 4, p. 1309; Laws 1987, LB508, § 49; Laws 1992, LB1063, § 129; Laws 1992, Second Spec. Sess., LB1, § 102; Laws 1994, LB902, § 24; Laws 1995, LB452, § 28; Laws 1995, LB490, § 155; Laws 1997, LB270, § 91; Laws 1999, LB194, § 28; Laws 2000, LB968, § 59; Laws 2004, LB973, § 37; Laws 2005, LB15, § 6; Laws 2005, LB261, § 7; Laws 2007, LB334, § 79; Laws 2011, LB162, § 1; Laws 2011, LB384, § 18; Laws 2015, LB259, § 9.

Annotations

Power of county board of equalization to rectify returns and change assessments is limited to a set number of circumscribed days each year. *John Day Co. v. Douglas Cty. Bd. of Equal.*, 243 Neb. 24, 497 N.W.2d 65 (1993). County assessor should forward abstract of assessment rolls by July 1. *Fromkin v. State*, 158 Neb. 377, 63 N.W.2d 332 (1954); *County of Howard v. State Board of Equalization and Assessment*, 158 Neb. 339, 63 N.W.2d 441 (1954); *County of Douglas v. State Board of Equalization and Assessment*, 158 Neb. 325, 63 N.W.2d 449 (1954); *County of Grant v. State Board of Equalization and Assessment*, 158 Neb. 310, 63 N.W.2d

459 (1954). County assessor is required to prepare abstract of assessment and forward to state board. *Adair v. Miller*, 109 Neb. 295, 190 N.W. 865 (1922).

Actual levy of taxes cannot occur until after completion of the work of State Board of Equalization and Assessment. *United States v. Thurston County*, 54 F.Supp. 201 (D. Neb. 1944).