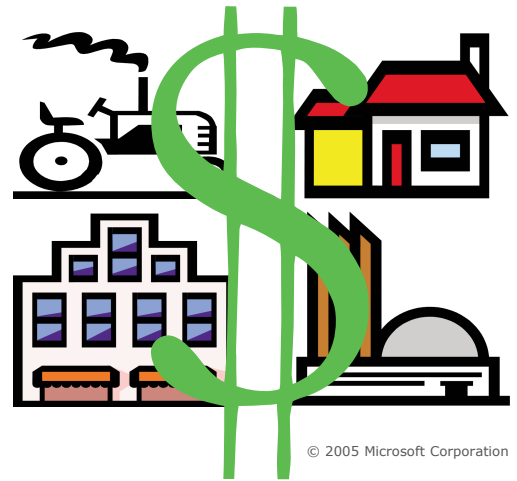


# Real Estate Assessment Process in Pennsylvania . . . An Overview

## In General

Real property taxes have been and continue to be an important source of local revenue for counties, municipalities, and school districts. In 2009, \$14.5 billion dollars in property tax revenue was collected by local taxing districts—\$10.7 billion by school districts, \$1.9 billion by counties, \$1.5 billion by municipalities, and \$0.4 billion by Philadelphia.<sup>1</sup> The property tax is not levied at the state level in Pennsylvania.

The Consolidated County Assessment law<sup>2</sup> (hereinafter referred to as the assessment law) governs the real estate assessment process in counties of the second class A through the eighth class.<sup>3</sup> Philadelphia<sup>4</sup> and Allegheny<sup>5</sup> Counties primarily are subject to distinctive statutory provisions regarding the assessment of real property, as well as to unique home rule charter and administrative code requirements. The Third Class City Code sets forth procedures relating to the assessment of real property for taxation purposes in cities of the third class.<sup>6</sup>



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<sup>1</sup> The Legislative Budget and Finance Committee, December 11, 2012, office email, citing 2009 data obtained from the Department of Community and Economic Development and the Pennsylvania Department of Education.

<sup>2</sup> 53 Pa.C.S. § 8801 et seq., <<http://www.legis.state.pa.us/WU01/LI/LI/CT/HTM/53/00.088..HTM>>.

<sup>3</sup> In addition, a school district of the first class A, second class, third class or fourth class is subject to the property tax rate restrictions and anti-windfall limitations delineated in the Taxpayer Relief Act (Act of June 27, 2006, Special Session 1, P.L. 1873, No. 1).

<sup>4</sup> “The General County Assessment Law,” Act 155 of 1933 (72 P.S. § 5020-101 et seq.); Related to Taxation; Board of Revision of Taxes, Act 404 of 1939 (72 P.S. § 5341.1 et seq.); 53 Pa.C.S. §§ 8561-8565 (relating to assessments in cities and counties of the first class).

<sup>5</sup> “The General County Assessment Law”; Second Class County Assessment Law, Act 294 of 1939 (72 P.S. § 5452.1 et seq.); Second Class County Code, Act 230 of 1953 (16 P.S. § 3101 et seq.).

<sup>6</sup> “The Third Class City Code,” Act 317 of 1931, § 2522 (53 P.S. § 2522).

### Key Definitions

**“Base year.”** The year upon which real property market values are based for the most recent countywide revision of assessment of real property or other prior year upon which the market value of all real property of the county is based for assessment purposes. Real property market values shall be equalized within the county and any changes by the board<sup>7</sup> shall be expressed in terms of base-year values.<sup>8</sup>

**“Common level ratio.”** The ratio of assessed value to current market value used generally in the county and published by the State Tax Equalization Board on or before July 1 of the year prior to the tax year on appeal before the board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.<sup>9</sup>

**“Established predetermined ratio.”** The ratio of assessed value to market value established by the board of county commissioners and uniformly applied in determining assessed value in any year.<sup>10</sup>

**“STEB.”** The State Tax Equalization Board.

### Uniformity

Pennsylvania has a constitutional requirement for uniformity of taxation.<sup>11</sup> Since 1909, the courts have held that real estate is a taxable subject of one class and taxes must be uniform upon the same class of subjects.<sup>12</sup> A uniform assessment rate means that all properties in a county, whether residential, commercial, or industrial, will be assessed at the same ratio of assessed value to market value. The Pennsylvania Supreme Court stated:

. . . the principle of uniformity is a constitutional mandate to the courts, to the legislature, and to the taxing authorities, in the levy and assessment of taxes which cannot be disregarded. The purpose of requiring all tax laws to be uniform is to produce equality of taxation. Absolute equality is difficult of attainment, and approximate equality is all that can reasonably be expected. Hence it has been held that where there is substantial uniformity the constitutional requirement has been met. . . .<sup>13</sup>

<sup>7</sup> “Board.” The board of assessment appeals or the board of assessment revision established in accordance with section 8851 (relating to board of assessment appeals and board of assessment revision). The term, when used in conjunction with hearing and determining appeals from assessments, shall include an auxiliary appeal board.” 53 Pa.C.S. § 8802.

<sup>8</sup> 53 Pa.C.S. § 8802.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> “All taxes shall be uniform, upon the same class of subjects, within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws.” Pa. Const. art. XIII, § 1.

<sup>12</sup> *Delaware, Lackawanna & Western Railroad Company's Tax Assessment (No. 1)*, 73 A. 429 (Pa. 1909).

<sup>13</sup> *Id.* at 430 (citations omitted).

The controlling principle in matters of valuation is that no one taxpayer should pay any more or less than their proportionate share of the cost of government.

## Valuation of Property

Section 8842(a), (b) of the assessment law prescribes the method by which real property is to be valued:

. . . In arriving at actual value, the county may utilize the current market value or it may adopt a base-year market value. . . . [T]he following apply: (i) In arriving at actual value, the price at which any property may actually have been sold, either in the base year or in the current taxable year, shall be considered but shall not be controlling. (ii) The selling price shall be subject to revision by increase or decrease to accomplish equalization with other similar property within the county . . . .

The courts have interpreted actual value to mean market value.<sup>14</sup> Market value has been defined by the Pennsylvania State Supreme Court as “the price in a competitive market a purchaser, willing but not obligated to buy, would pay an owner, willing but not obligated to sell, taking into consideration all the legal uses to which the property can be adapted and might reasonably be applied.”<sup>15</sup>

In arriving at the actual value, three approaches to value must be considered in conjunction with one another: cost, comparable sales, and income. All property values must be equalized by the county before applying the county’s established predetermined ratio (EPR). A property’s assessed value, or the value upon which the millage rate is applied, is then calculated by multiplying the current market or base-year market value by the EPR.<sup>16</sup>



<sup>14</sup> *Baldwin-Lima-Hamilton Corp.*, 412 Pa. 299, 194 A.2d 434 (1963); *Bubl Foundation v. Board of Property Assessment, Appeals and Review of Allegheny County*, 407 Pa. 567, 180 A.2d 900 (1962).

<sup>15</sup> *Bubl Foundation v. Board of Property Assessment, Appeals and Review of Allegheny County*, 407 Pa. 567, 180 A.2d 900 (1962); *U.S. Steel Corp. v. Board of Assessment and Revision of Taxes of Bucks County*, 422 Pa. 463, 223 A.2d 92 (1966).

<sup>16</sup> For example: If the current market value or base year value of Property A is \$100,000 and the county’s predetermined ratio is 40 percent, then the assessed value is \$40,000 ( $\$100,000 \times 40$  percent). Hypothetically, the county may levy 5 mills for the real estate tax; the township in which the property is located may levy 10 mills for the real estate tax; and the coterminous school district may levy 20 mills for the real estate tax. The owner of Property A would, therefore, be liable to pay real estate taxes in the amounts of \$200 to the county ( $\$40,000 \times .005$ ), \$400 to the township ( $\$40,000 \times .01$ ), and \$800 to the school district ( $\$40,000 \times .02$ ). This is the general method by which property is valued and assessed throughout the Commonwealth.

### Change of Assessment<sup>17</sup>

The county assessment office is authorized to revise the assessment roll at any time in the year.<sup>18</sup> Notification of a change of assessment must be provided to the property owner of record.<sup>19</sup> All additions and revisions are deemed a “supplement to the assessment roll for levy and collection of taxes for the tax year for which the assessment roll was originally prepared.”<sup>20</sup>

Apart from a countywide reassessment, the county assessment office may only initiate a change of assessment when: (1) a property has been subdivided; (2) a physical change has been made to a property, such as new construction or removal or change of existing improvements; (3) a catastrophic loss has occurred to the property; or (4) a change in use of the property (e.g., tax-exempt status) has taken place.<sup>21</sup> The county assessment office is prohibited from engaging in “spot” reassessment.<sup>22</sup>

### Appeal of an Assessment

Another instance in which the assessment of a property can be altered is through the appeal process. The assessment law affords the right to any property owner<sup>23</sup> or taxing district to annually appeal an assessment.<sup>24</sup>

The sale of the property solely cannot lawfully trigger a change of assessment by the county assessment office regardless of the indicated purchase price. This is deemed to be spot reassessment by the assessment law and applicable case law. A spot assessment based on the sale of the property in question is unconstitutional under both the federal<sup>25</sup> and state<sup>26</sup> constitutions. Although the county assessment office may not reassess an existing property because it has recently been sold, the sale of a property may alert a taxing district, such as a school district, to appeal the assessment based on the sales price. Taxing districts have the same right of appeal as property owners with regard to real property assessments. This right was

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<sup>17</sup> This does not refer to an assessment that is incorrect due to a clerical or mathematical error pursuant to 53 Pa.C.S. § 8816.

<sup>18</sup> 53 Pa.C.S. § 8841(c).

<sup>19</sup> 53 Pa.C.S. § 8844 (a), (b).

<sup>20</sup> 53 Pa.C.S. § 8841(c).

<sup>21</sup> 53 Pa.C.S. §§ 8812, 8815, 8817.

<sup>22</sup> 53 Pa.C.S. § 8843.

<sup>23</sup> 53 Pa.C.S. § 8844.

<sup>24</sup> 53 Pa.C.S. § 8855.

<sup>25</sup> The United States Supreme Court ruled in *Allegheny Pittsburgh Coal Co. v. County Com'n of Webster County, W. Va.*, 488 U.S. 336, 109 S. Ct. 633, 102 L. Ed. 2d 688 (1989), that the practice of placing a new assessment on property which was recently sold, while effecting only minor changes to real estate which has not been sold for a number of years, was a violation of the equal protection clause of the Fourteenth Amendment to the United States Constitution.

<sup>26</sup> Pa. Const. art. XIII, § 1.

upheld by the Commonwealth Court in *In re Springfield School District*<sup>27</sup> and *Vees v. Carbon County Board of Assessment Appeals*.<sup>28</sup> The Pennsylvania Supreme Court in *Downingtown Area School District v. Chester County Board of Assessment Appeals*<sup>29</sup> called into question, but did not overrule, the right of a taxing district to selectively appeal property assessments.

The Pennsylvania General Assembly has been actively engaged in studying issues relating to the real estate assessment process in the Commonwealth. Among other efforts, House Resolution 334 of 2009 directed the Legislative Budget and Finance Committee (LB&FC), with assistance from the Local Government Commission and other associations, to study the systems of real property valuation and assessment in Pennsylvania and other states. The LB&FC released the findings of this study in its report, *Pennsylvania's System for Property Valuation and Reassessment*, in September 2010. The full report is available online.<sup>30</sup>

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<sup>27</sup> 879 A.2d 335 (Pa. Cmwlth. 2005).

<sup>28</sup> 867 A.2d 742 (Pa. Cmwlth. 2005).

<sup>29</sup> 913 A.2d 194 (Pa. 2006).

<sup>30</sup> See Legislative Budget and Finance Committee/Reports Released/State and Local Government, <<http://lbfc.legis.state.pa.us/>>.