TTARA
RESEARCH FOUNDATION

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A Primer on Property Tax Administration in Texas

Introduction and Background

While policymakers and the public often think of the property tax as a "local" tax, the tax actually involves a complex interplay between the state and local governmental entities, each with critical functions in the administration of the system. In fact, the property tax in many respects operates as both a state and a local tax. It should come as no surprise that a hybrid system for assessing, levying, and collecting the tax has developed in the three decades since the last major reform of the system in 1979.

One way to understand the property tax administration system is to look at the so-called "property tax calendar," the annual cycle in which various government authorities establish each taxpayer's liability for the tax, hear taxpayer protests and appeals, bill the taxpayer for the tax owed, and collect the tax. It is important to recognize that the property tax system gives responsibility for its major functions to separate entities. For example, while the appraisal of property is performed by professionally staffed appraisal districts, dispute resolution is handled by a separate appraisal review board and, if necessary, by a district court. The assessment and collection of the property tax, on the other hand, is conducted by officials (either elected or appointed) employed by a taxing unit.

The annual property tax cycle ties in with the process by which local taxing units (cities, counties, school districts, etc.) prepare and adopt their budgets. It also affects the distribution of state aid to school districts and budgetary assumptions the Legislature makes when it writes the state's biennial appropriations bill. Critically important local and state budget decisions thus depend on the proper, timely, and fair administration of the tax.

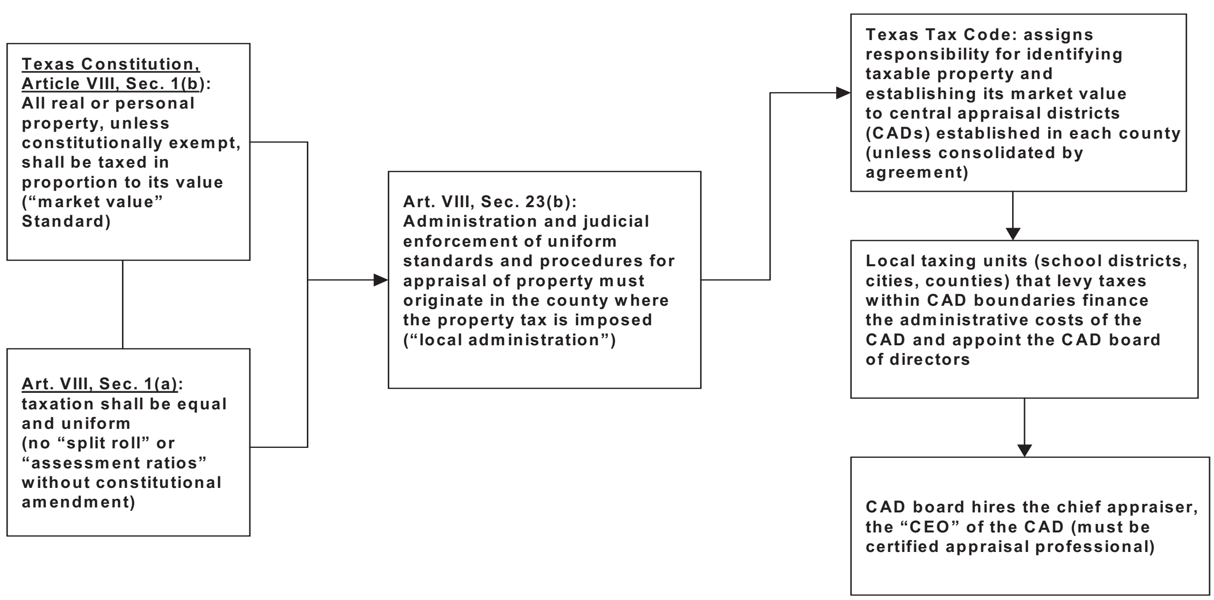
The Texas Constitution authorizes a tax on the "fair market value" of:

- real property (primarily land, buildings, and improvements to land); and
- tangible personal property held for the production of income ("business personal property," such as retail inventories, furniture and equipment, etc.).

Consequently, the primary purpose of the property appraisal system is to identify property that is subject to tax and establish its "fair market value." The appraisal process itself does not involve policy determinations, such as whether to tax or exempt certain property or the appropriate level of taxation. These decisions are left to the elected officials charged with making public policy decisions and accountable to the electorate for those decisions.

The Texas Constitution further provides that all taxation shall be uniform and equal (Art. VIII, Sec. 1). The “equal and uniform” provision assures that similarly situated property located within the same county or in different counties is taxed in a similar manner. In other words, unlike in many states, residential property and business property may not be subject to different tax rates in the same jurisdiction (“split roll”), nor may they be assessed for taxation at different percentages of their value (“assessment ratios”). While the market value of property must be determined equally, however, the Constitution does permit different levels of taxation of property, subject to the exemption policies enacted by the Legislature and approved by the voters in constitutional amendment elections. These policies result in a system in which certain property is not taxed at its full market value.

Legal Framework for Property Appraisal



Moreover, although the market value of similarly situated property located in different areas or regions may differ because of distinct market considerations in those areas, the methodologies used to appraise such property must comply with generally accepted appraisal techniques. If they do not, the appraisal of the property may be challenged in court for failure to meet the “equal and uniform” test.

The Constitution also requires that the administration and judicial enforcement of uniform standards and procedures for appraisal of property originate in the county where the property tax is imposed (Art. VIII, Sec. 23(b)). State law assigns the basic responsibility for identifying taxable property and establishing its market value to the central appraisal district ("CAD"). Texas has 252 CADs (Potter/Randall and Irion/Reagan counties have a combined district). Just as Texas counties do, the CADs vary widely in population, types of property, number of individual parcels of property, and administrative costs. In 2005 Texas CADs appraised 16.6 million pieces of property for 3,868 taxing units (e.g., cities, counties, school districts, junior college districts, municipal utility districts, etc.). Their total administrative expenses were $282.7 million, a 1.2 percent increase over 2004.[1] Total property value in the state in 2005 was $1.6 trillion, an increase of $100 billion over 2004.

The local taxing units that levy property taxes within the boundaries of the CAD (for the most part cities, school districts, and the county itself) finance the administrative costs of the CAD and appoint a board of directors to oversee its operations. One of the board's primary duties, in addition to adopting a budget for the CAD, is hiring the chief appraiser for the district. The chief appraiser functions as the "CEO" of the district and is accountable to the board for its performance.

As the head administrative officer of the CAD, the chief appraiser's job is to ensure that the CAD properly identifies all taxable property within the district and establishes its market value, utilizing generally accepted standards and procedures for the appraisal of property. For this reason, chief appraisers must be certified appraisal professionals familiar with the appropriate methods for determining property values.

I. The Appraisal Process

The property tax calendar begins on January 1. On this date (with some limited exceptions) any taxable property owned by a taxpayer that is located within the boundaries of the CAD becomes subject to tax for that calendar year. The chief appraiser and the appraisal district must establish the market value of all such property on January 1 of each year.

How does the chief appraiser know what taxable property is located in the CAD on January 1? There are two primary sources of information:

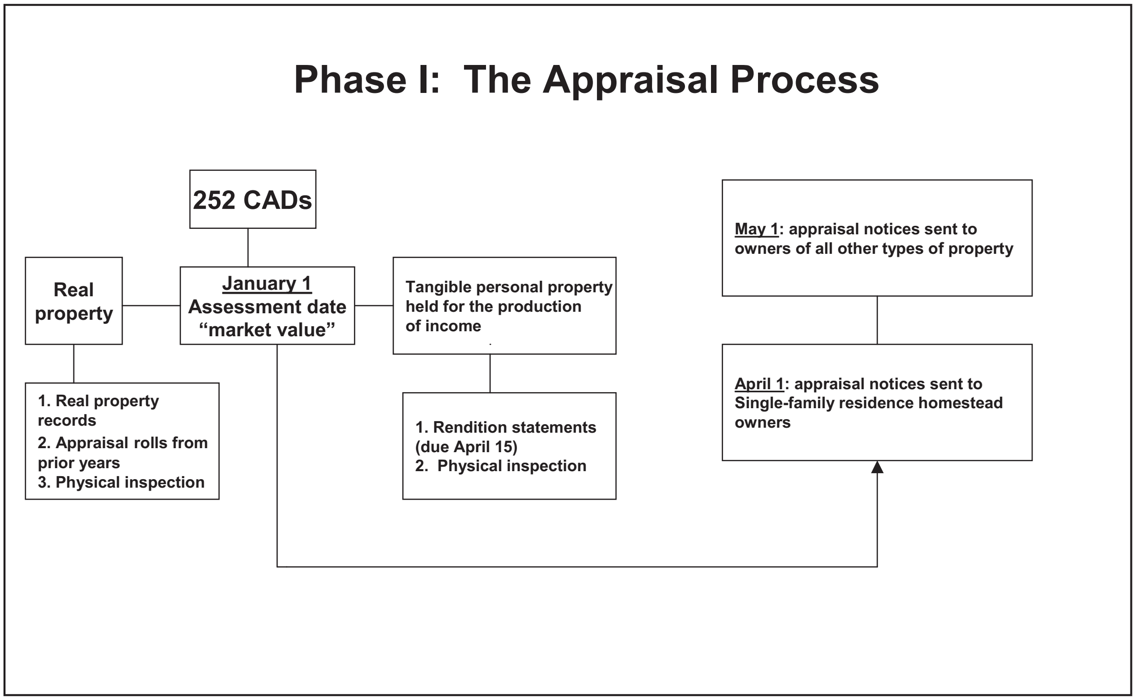
- for real property, real property records and appraisal rolls (lists of parcels subject to tax in the CAD) from prior years; and
- for business personal property, lists of taxable property owned by a taxpayer in the CAD on January 1 (so-called "rendition statements").

A taxpayer who owns business personal property in the CAD on January 1 has until April 15 (subject to possible extensions) to file a rendition statement listing the property and its location. A taxpayer who fails to file a rendition statement may be subjected to substantial penalties.

Having identified the property, the chief appraiser then determines the market value of each parcel of real property and items of business personal property. To determine the market value, the chief appraiser applies both statutorily prescribed standards for

[1] All figures are contained in the Comptroller of Public Accounts "Appraisal District Operations Report, 2005 and 2006 Data."

appraising the property and generally accepted standards adopted by nationally recognized appraisal organizations. There are three primary methods of appraising property, and Texas law requires the chief appraiser to apply the method most appropriate to the particular type of property subject to the appraisal. Moreover, once the chief appraiser has determined the most appropriate method of appraisal for the property, he or she must use the same method to appraise similar property in the CAD. This requirement is designed to ensure equality and uniformity of appraisal within an appraisal district.



By April 1 of each year, the chief appraiser must send to each owner of a single-family residence homestead a notice listing the appraised value of the owner's home. By May 1 of each year, the chief appraiser must send a similar notice to each owner of any other type of taxable property, such as farm and ranch property, commercial or industrial property, minerals, or business personal property (e.g., office equipment and furniture, computers, etc.). Sending the appraisal notices to each property owner ends the first phase of the property tax cycle.

Although CADs are charged with identifying and appraising taxable property (and the state is constitutionally prohibited from appraising property on a statewide basis), the state still plays an important role in the appraisal of property for taxation. As part of the school finance system, the Comptroller of Public Accounts conducts an annual study of property values in each school district in the state. The purpose of the study is "to ensure equity among taxpayers in the burden of school district taxes and among school districts in the payment of state financial aid to schools." (Sec. 403.301, Government Code). The study determines the taxable value of all property and of each category of property in each district. That value is then used to determine how much state aid should be distributed to the district. It should be noted that the Comptroller's study lags a year behind the actual current year property values used by school districts for current year budgets and tax rates. With certain exceptions, state aid for a particular school district in a given year is based on the prior year's property values in the district.

Although the state property values determined by the Comptroller do not directly affect property values on local tax rolls, the Comptroller's determination may have a significant impact on local values nonetheless. If the state determined value is higher than the local CAD value (by more than 5%), the school districts in the CAD lose state aid. While districts may appeal the results of the study to the Comptroller (and frequently win those appeals), some believe that higher state values tend to encourage appraisal districts to "chase" the state value in an effort to avoid penalizing their school districts. In this respect, state appraisals can have a real impact local property tax administration.

Additionally, the Comptroller is required to conduct periodic methods and procedures reviews of appraisal districts to determine if they are using generally accepted appraisal techniques and standards. The purpose of these reviews is to assure that every appraisal district in the state is using uniform standards and treating similarly situated property in an equitable manner. Although the Constitution bars the Comptroller from directly enforcing uniform appraisal standards, the property value study does provide a mechanism for indirect state oversight of appraisal districts. In fact, if a CAD fails to comply with generally accepted appraisal standards and does not take adequate remedial action, the Comptroller must notify the judge of each district court in the county where the CAD is located, who shall appoint a board of conservators to oversee the CAD's operations until the problems are corrected.

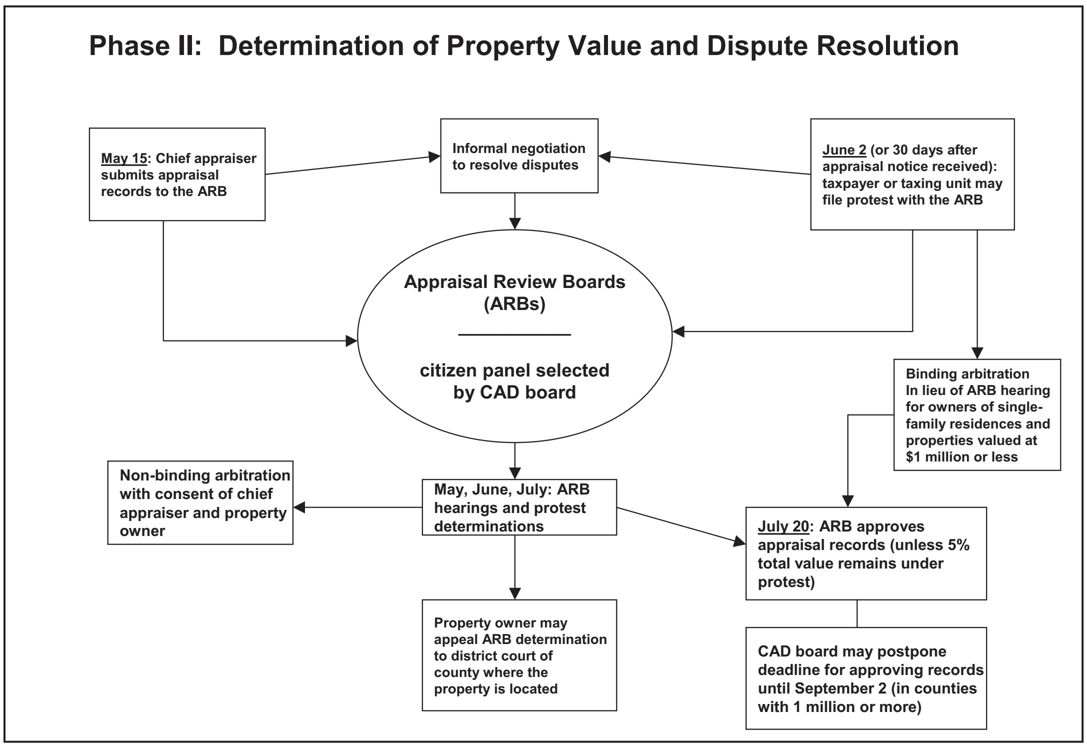
II. Determination of Property Value and Dispute Resolution

The second phase of the cycle begins on or about May 1. During the second phase, the chief appraiser must prepare and submit by May 15 the appraisal records to the appraisal review board (ARB). The ARB consists of a panel of citizens selected by the board of directors of the appraisal district. The appraisal review board's job is to hear disputes over the appraisal of property that cannot be resolved by informal negotiations between the chief appraiser and property owner. A property owner may initiate a protest by filing a form with the ARB by the later of June 2 or the 30th day after receiving the notice of the appraised value. Taxing units may also challenge the appraisal records submitted by the chief appraiser before the ARB in generally the same manner as property owners.

During May, June, and July (and sometimes even later), the ARB may hold thousands of taxpayer protest hearings, depending on the size of the county and the diversity of properties located in the county. Many disputes between property owners and the chief appraiser are resolved informally, but if they are not, the ARB must decide whether to order the chief appraiser to modify the value of the property. For example, for tax year 2005 property owners filed more than 855,000 formal written protests, a 9 percent increase over the 2004 level. ARBs scheduled 472,537 of these for formal hearing, with nearly a quarter of those dismissed because the property owner failed to appear at the hearing.

State law requires the ARB to approve the appraisal records by July 21, but the ARB may not approve the records as long as 5% of the total value remains under protest on that date. In counties with a population of one million or more, however, the board of directors of the CAD may postpone the deadline for approving the records until September 2. It may also increase the threshold percentage from 5 to 10 percent to allow the ARB to approve the records on time.

A property owner who disagrees with the ARB's decision may appeal to a district court in the county in which the property is located. In 2005 property owners filed at least 4,296 lawsuits challenging their appraisals, compared to 3,682 lawsuits in the prior year. Since 2005 residential and certain business property owners (properties of $1 million in value or less) may also elect binding arbitration to resolve valuation disputes. Non-binding arbitration is also available for all categories of property. Only 13 lawsuits were resolved by non-binding arbitration in 2005.



III. Assessment and Collection

The third phase of the property tax cycle begins on or about July 25. By this date the chief appraiser must certify the appraisal roll to each taxing unit that participates in the CAD. The tax assessor-collector for the unit has until August 1 to submit to the governing body both the roll and an estimated collection rate. It is important to note that the tax assessor-collector is a separately elected or appointed official who is employed by the taxing unit that levies and collects the taxes. For example, the Constitution requires a county tax assessor-collector to be elected, while the tax assessor and collector (which may be the same or a different person) for a home rule city is chosen in the manner required by the city charter and ordinances. Theoretically, each taxing unit located within a county may have a separate assessor and collector, although in practice many counties have consolidated the assessment and collection functions in one or more assessor-collectors.

Based on the amount of value listed on the roll and the estimated collection rate, the taxing unit must calculate and publicize certain information about its property taxes. This information includes:

- the “effective tax rate,” or a tax rate that is generally calculated by dividing last year’s total levy less the lost property levy by the current total value less the new property value on the roll for the current year;
- the “rollback tax rate,” or the rate above which the taxing unit may be required to hold a “rollback” election (calculated for all taxing units except school districts by multiplying the effective tax rate for maintenance and operations by 1.08 and adding the current debt rate[2]);
- the estimated unencumbered fund balances remaining at the end of the fiscal year;
- a schedule of the taxing unit’s debt obligations, the amount of principal and interest that will be paid from property tax revenue in the next year, any increase in the debt rate necessary to repay those obligations; and
- a statement of whether the effective tax rate, if adopted by the unit, would increase or decrease the total tax levy for the current year over the previous year and the amount of the increase of decrease.

Except for school districts and certain small taxing units, a taxing unit must make this information public by August 7.

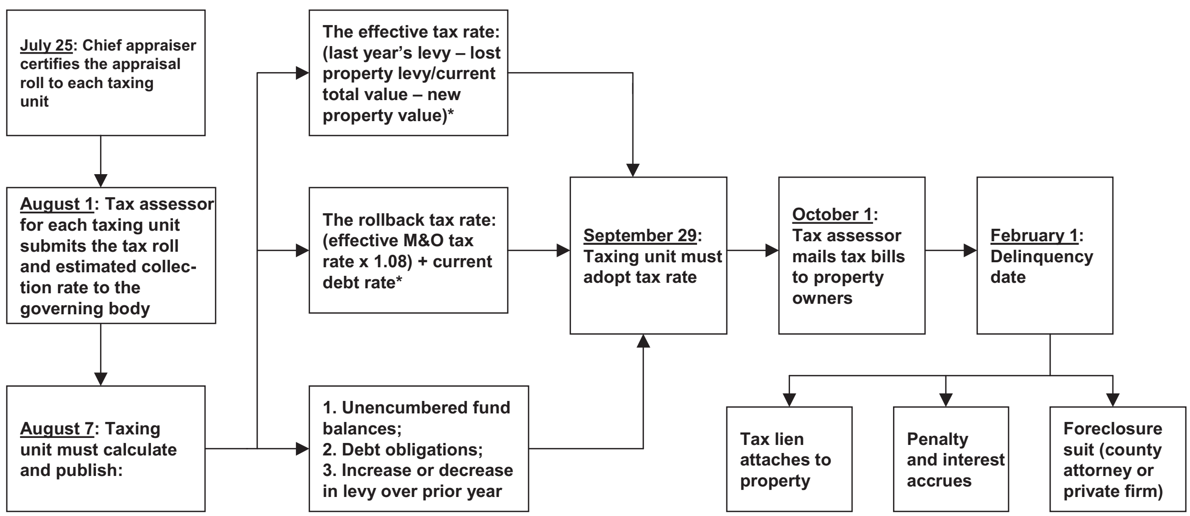
Between August 7 and September 29 (or no later than 60 days after the chief appraiser certifies the appraisal roll), a taxing unit must adopt its tax rate. If the unit does not adopt a tax rate by this date, the unit’s tax rate equals the lower of the effective tax rate calculated for the current year or last year’s tax rate.

On October 1 the tax assessor must mail tax bills to each property owner with taxable property in the taxing unit. A property owner must generally pay the tax bill upon receipt. Unless the owner is eligible for a deferral (e.g., elderly homeowners), if the owner fails to pay the tax bill prior to February 1 of the following year, the taxes become delinquent. Even if the property owner protests or appeals the appraisal of the property and the protest or appeal is still pending, the taxpayer must still pay part of the tax. In this case the amount of tax owed by the taxpayer is the lesser of the amount of tax being levied or the tax owed on the amount of property value not in dispute. In the event of a delinquency, a tax lien attaches to the owner’s property, and the owner becomes liable for penalty and interest on the unpaid tax. A suit to collect the tax, penalties, and interest, and, if necessary, to foreclose the property may be brought by a taxing unit, either through the county attorney or by agreement with a private law firm. A residential property owner has a limited time (one year) in which to redeem property sold at a tax sale.

[2] The Legislature mandated a lower rollback tax rate for school districts in the 2006 school finance legislation.

Property taxes may be collected by a single collector within a county (a “consolidated” collector, often the county tax assessor-collector or even the appraisal district) or by one or more individual taxing units (e.g., school districts, municipal utility districts, etc.). For example, 112 appraisal districts also perform assessing and collecting functions. In some counties, therefore, a property owner may receive and pay more than one tax bill, depending upon which units tax the property, while in others the owner pays a single, consolidated tax bill.

Phase III: Assessment and Collection



*For school finance purposes, school districts have different requirements for calculating their effective and rollback tax rates.

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