

# Taxpayer Appeal Information Sheet

Section 12-60-2510 of the S.C. Code of Laws allows appeals on real estate valuations under the following circumstances.

In years when the appraised value has increased by one thousand dollars or more, the owner or agent has 90 days after the date of notice indicated on the Notice of Classification, Appraisal & Assessment of Real Estate to file the written appeal. Failure to file within the appeal period constitutes a waiver of the owner's right of appeal for that tax year and the assessor is not required to review any request filed after that time.

In years when there is no notice of property tax assessment, the property taxpayer may appeal the fair market value, the special use value, the assessment ratio, and the property tax assessment of a parcel of property at any time. The appeal must be submitted in writing to the Assessor. An appeal submitted before the first penalty date applies for the property tax year for which that penalty would apply. An appeal submitted on or after the first penalty date applies for the succeeding property tax year.

The appeal must be in writing, must be timely filed, should properly identify the property under appeal (tax map number), should provide the taxpayer's opinion of value, and should include documentation supporting the opinion of value.

If the appeal is mailed to our office, please keep a copy for your records. Efforts to insure our receipt of your appeal can also be made by mailing it registered mail with return receipt or by using any other method that shows proof of delivery.

If the owner has an agent act on his behalf, the agent must meet the requirements as set forth in Section 12-60-90 of the S.C. Code of Laws.

Section 12-60-90 of the S.C. Code of Laws effectively specifies who can make a presentation for a taxpayer in the administrative tax process which consists of:

- (a) Attorneys, and certified public accountants, licensed in the state of South Carolina who are in good standing with their licensing bodies. A valid power of attorney or letter of authorization is required.
- (b) Enrolled agents. An enrolled agent is a person who has demonstrated special competence in federal taxation by passing a written examination administered by the Office of Professional Responsibility of the Internal Revenue Service ("IRS") or through employment with the IRS. The Federal Office of Professional Responsibility should be contacted for more information about enrolled agent qualification. Circular 230 § 10.3(c). A valid power of attorney or letter of authorization is required.
- (c) Partners may represent their partnership. Verification of partnership is required on company letterhead.

- (d) Corporate officers may represent their corporation. Verification of employment is required on company letterhead.
- (e) Full-time employees may represent their employers. Verification of employment is required on company letterhead.
- (f) Individuals may represent themselves or a member of their immediate family. A member of the immediate family will need a valid power of attorney or letter of authorization.
- (g) State and local government tax officials and state and local government employees may represent their offices, agencies, or both. Code Section 12-60-90(B).
- (h) Real estate appraisers who are registered, licensed, or certified by the South Carolina Real Estate Appraiser's Board pursuant to Chapter 60, Title 40 during the administrative tax process in a matter limited to questions concerning the valuation of real property.
  - 1. A real estate appraiser who seeks to represent a taxpayer during the administrative tax process pursuant to Section 12-60-90 would be limited to questions concerning the valuation of the real property as he/she determined the value pursuant to his/her license issued pursuant to Title 40, Chapter 60 of the S.C. Code of Laws.

Basically put, appraisers are limited to questions concerning valuation. As an appraiser, they must be an advocate for their opinion of value for the property in question which is based on their analysis as an appraiser pursuant to Title 40, Chapter 60 of the S.C. Code of Laws. They cannot represent in any other capacity. They cannot be an agent or a consultant and represent during the administrative tax process.

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## Appeal Supporting Documentation

Documentation supporting the owner's opinion of value is necessary for a successful appeal. Simply writing, too high or too low is not enough information for the appraisal staff to increase, reduce, rescind, or sustain the value of your property. The appraisal staff has based the valuations on the best information that we have available to us so, help us, help you by supplying us with documentation that supports your opinion of value.

12-60-2520(B) of The Code of Laws of South Carolina states "The protest must contain:  
(1) the name, address, and telephone number of the property taxpayer;  
(2) a description of the property in issue;  
(3) a statement of facts supporting the taxpayer's position;  
(4) a statement outlining the reasons for the appeal, including any law or other authority, upon which the taxpayer relies; and  
(5) the value and classification which the property taxpayer considers the fair market value, special use value, if applicable, and the proper classification."

Copies of any appraisals, closing statements, comparable real estate sales, real estate listings, and/or income and expense statements that support your opinion.

List purchase price and date purchased (if purchased within the last four years); List any remodeling completed within the last four years and cost; List asking price (If the property has been offered for sale in the last four years)

Three-year income and expense history starting with current year. Separate expense items paid by tenant and or landlord.

Rental schedules for all rented space including square footage, tenant expenses, length of lease, escalation clauses, etc. Rental schedules for all vacant space including square footage, tenant expenses, length of lease, escalation clauses, etc.

Four-year history of capital expenditures starting with current year.

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## Burden Of Proof

The property owner, taxpayer, or their agent bears the burden of proving their opinion of value determination for the subject property. Below are some Administrative Law Court rulings pertaining to burden of proof.

An Assessor's valuation is presumed correct and the property owner bears the burden of proving the Assessor's determination is not correct. 84 C.J.S. Taxation 410 (1954). Ordinarily this is done by proving the actual value of the property. See; *Cloyd v. Mabry*, S.C. 86, 367 S.E.2d 171 (Ct. App. 1988); *Belk Dept. Stores v. Taylor*, 258 S.C. 174, 191 W.E.2d 144, 146 (1972) (noting that the taxpayer contesting an assessment has the burden to prove that the assessed valuation is incorrect); and *Newberry Mills, Inc. v. Dawkins*, 259 S.C.7, 190 S.e.2d 503, 507 (1972) (noting that it was incumbent upon the taxpayer to prove that the taxing authority's valuation of its property was incorrect); and *W. Thomas Miller v. Charleston County Tax Assessor*, SC ALC 07-ALJ 0345-CC July 1, 2008, *Northbridge Associates, LLC v. Charleston County Assessor*, SC ALC 06-ALJ-0863-CC November 25, 2008; also *Joe W. Hiller, Architect, Inc. V Colleton County Assessor*.

*Old Citadel Associates, LLC v. Charleston County Assessor*, SC ALC 03-ALJ-17-0149-CC, March 29, 2004, citing "An assessor's valuation is presumed correct and made in conformity with the law" and "A taxpayer contesting an assessment has the burden of showing that the valuation of the taxing authority is incorrect". Also, *John Street Associates, LLC v. Charleston County Assessor*, SC ALC 03-ALJ-17-150 CC.

As a preliminary matter, it must be noted that Taxpayer bears the burden of proof in this case. See *Cloyd v. Mabry*, 295 S.C. 86, 367 S.E.2d 171, 173 (Ct. App. 1988) ("A taxpayer contesting an assessment has the burden of showing that the valuation of the taxing authority is incorrect.") *Douglas West vs. Fairfield County Assessor*, 06-ALJ-17-0145CC.

There is a presumption that an Assessor's valuation of a piece of property is correct. See SC Tax Comm's v. SC Tax Bd. Of Review, 278 S.C. 556, 562, 299 S.E.2d 489, 792-93 (1983). In a challenge to such a valuation, the taxpayer bears the burden of demonstrating that the assessor's valuation is incorrect. Therefore in the case at hand, Taxpayer bears the burden of proving, by a preponderance of the evidence, that the Assessor's valuation of his property, ....is incorrect, either by demonstrating fatal errors in the Assessor's valuation or by establishing the actual value of the property. In the instant case, Taxpayer has not met the burden. Edward Przbyl vs. Edgefield County Assessor 07-ALJ-17-0363-CC.

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## Market Valuation Issues

The South Carolina Code of Laws Section 12-37-930 states, "All property must be valued for taxation at its true value in money which in all cases is the prices which the property would bring following reasonable exposure to the market, where both the seller and buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used."

Basically put, market value is the value that a property would sell for on the open the market place following reasonable exposure time to the market and where the buy and seller are knowledgeable and are not acting under compulsion. The Assessor's Office does not create market value. Market value is created by people who buy and sell property. Our responsibility is to analyze market data and assess property based on that information. Foreclosures, foreclosure resales, forced sales, family sales, distressed sales, non-market level sales, un-marketed property sales, and other unreliable sales are **not** used to develop fair market value.

If you recently purchased one of these types of properties and are appealing based upon purchase price, please read the following court rulings very carefully.

The Courts have consistently ruled that:

1. All property shall be valued for taxation purposes at its true value in money which in all cases shall be held to be the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed as to the uses and purposes for which it is adapted and for which it is capable of being used. S. C. Code Ann. § 12-37-930 (Supp. 1995).
2. Fair market value is the measure of true value for taxation purposes. *Lindsey v. S.C. Tax Comm'n*, 302 S.C. 504, 397 S.E.2d 95 (1990).
3. "A taxpayer contesting an assessment has the burden of showing that the valuation of the taxing authority is incorrect. Ordinarily, this will be done by proving the actual value of the property." [citations omitted]. *Cloyd v. Mabry*, 295 S.C. 86, 367 S.E.2d 171, at 173 (Ct. App. 1988).

4. While not conclusive, market sales of comparable properties present probative evidence of the fair market value of similar property. 84 C.J.S. *Taxation* § 411 (1954); see *Cloyd v. Mabry*, 295 S.C. 86, 367 S.E.2d 171 (Ct. App. 1988).
5. Forced sales and distress sales such as foreclosed properties are not probative evidence of value. *Hickey v. United States*, 208 F.2d 269 (1953).
6. A delinquent tax sale is a forced or distress sale with the sale price dictated more by the amount of taxes owed rather than the normal market factors which provide a reliable indication of true value and should not be considered as a comparable sale for purposes of determining the fair market value of the subject property. See S. C. Code Ann. § 12-37-930 (Supp. 1995); and *Hickey v. United States*, 208 F.2d 269 (1953).

We are responsible for appraising over 157,500 parcels. How do we accomplish this? We accomplish this using Mass Appraisal. Mass Appraisal is the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing to achieve uniformity and equity for tax purposes.

- The Mass Appraisal process includes:
  - Identification of properties to be appraised
  - Defining market areas of consistent behavior that applies to properties
  - Identifying supply and demand in the market that impacts value
  - Developing and calibrating model structures that reflects the relationship among the characteristics affecting value
  - Analyzing and applying the conclusions to the market models
  - Reviewing, modifying, and measuring the results

The appraisers in our office use a combination of the following appraisal methods to value your property:

**Cost Approach** – estimates the cost to replace your building new, then subtracts for depreciation to determine the value of the improvement. The improvement value is then added to the land value.

**Sales Comparison Approach** – compares your property to similar properties that have sold during the previous five years.

**Income Approach**- determines the value of commercial property based on the amount of income it should produce in the market place.

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## Equitable Valuation Issues

Equity is a contention that the subject was not appraised similarly to like type properties. The basic premise behind equitable value is fairness. Textbook definitions follow:

Equity: 1) in assessment, the degree to which appraisals or assessments bear a consistent relationship to market value. Measures include the coefficient of dispersion, coefficient of variation, and price-related differential. 2) in popular usage, a synonym for tax fairness. 3) in ownership, the net value of property after liens and other charges have been subtracted.

Source: Mass Appraisal of Real Property, IAAO

Uniformity: The equality of the burden of taxation in the method of Assessment.

South Carolina statutes allow appeals on various items, but there is no specific ability to appeal "equity." The items that can be appealed appear in the Code of Laws of South Carolina 1976 as follows:

Section 12-60-2510. (A)(3) In years when there is a notice of property tax assessment, the property taxpayer, within ninety days after the assessor mails the property tax assessment notice, must give the assessor written notice of objection to one or more of the following: the fair market value, the special use value, the assessment ratio, and the property tax assessment.

Various court rulings have been made over the years regarding equity. The first question always to be answered is, "is the subject property valued at market value." After that, the South Carolina courts have consistently used the following citations. These particular references are taken from 03-ALJ-17-0148 CC Northbridge Associates, LLC v. Charleston County Assessor, in a decision dated 3/30/2004 by Chief Judge Marvin F. Kittrell of the South Carolina Law Court:

"Complete equity and uniformity are not practically attainable when valuing property. Wasson v. Mayes, 232 S.C. 497, 167 S.E.2d 304 (1967). The standard for a claim based on the inequitable valuation of property is the intentional and systematic undervaluation of certain properties while other properties in the same class are valued at fair market value. Joe W. Hiller, Architect, Inc. v. Colleton County Assessor, supra; citing Sunday Lake Sun Co. v. Wakefield Taxpayer, 247 U.S. 350 (1918). The burden of proving intentional and systematic undervaluation rests with the complaining party. Sunday Lake Sun Co. v. Wakefield Taxpayer, supra.

The burden is not met by a mere showing that some properties are undervalued: there must be shown some intentional and systematic undervaluation of property in the county. Allegheny Pittsburgh Coal Co. v. County Commission, 488 U.S. 336 (1989).

South Carolina Law is clear that equity is not a basis for reducing a property's value when the property is otherwise valued at fair market value. Where a property is correctly valued but other properties in the area are valued too low, the owner is not entitled to a reduced value solely on the grounds that properties of other taxpayers are undervalued. It is necessary to show an intentional violation of the essential principle of practical uniformity. C.J.S. taxation, 557: SC Tax Commission decision No. 92-89.

Thus even if the taxpayer could show inequities the inequities are no dispositive of the issue. Rather the inequities must be intentional...”

In addition, ALC Ray N. Stevens (formerly Director of the South Carolina Department of Revenue), in H.P. Worrell and Sidney D. Thompson v. Georgetown County Assessor, 02-ALJ-0141-CC and 02-ALJ-14-CC also Cited Allegheny (above), as follows:

In Allegheny, the court found that the property of the petitioners had been assessed at approximately 8 to 35 times more than comparable neighboring property, and that these discrepancies continued for more than ten years with little change Id. 109 S. Ct. at 638. Indeed, in finding the presence of a faulty and systematic valuation method which produced a disparity, Allegheny found that the disparity was a gross disparity as opposed to a mere judgment error in valuation by the Assessor.

Finally, these three citations have been used frequently in ALC cases in South Carolina and other jurisdictions:

...”It is necessary to show an intentional violation of the essential principals of practical uniformity.” C.J.S. Taxation, 557, S.C. Tax Commission Decision N. 92-89.

“Absolute accuracy with respect to valuation and complete equality and uniformity are not practically attainable.” Wassen v. May, 252 S.C. 497, 167 S.E. 2d 304 (1969).

“In order for a taxpayer to obtain relief where there is inequities it must be shown that the same was brought about by systematic and intentional inequities in appraisals.” Owens Steel Co. v. S.C. Tax Commission, 337 S.E. 2d 880,882; and Sioux City Bridge Co. v. Dakota County, 43 S. Ct. 190.

While the definitions are technical in nature and not necessarily easily understood by the layman, the court decisions clarify the main issues. The appellant in an equity appeal, based on the preceding, must answer the following questions:

- 1) Is the subject appraised at market value while...
- 2) Similar properties were under appraised, and were...
- 3) Similar properties systematically and intentionally undervalued?
- 4) Is any disparity in the values gross in nature?