

**Office of Legislative Services**  
**Background Report**  
**The Assessment of Real Property: Answers to**  
**Frequently Asked Questions**

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# OLS Background Report On The Assessment of Real Property: Answers to Frequently Asked Questions

## INTRODUCTION

The process of assessing land and structures, referred to as "real property," to determine its taxable value is rarely an issue when property taxes are low. In many New Jersey towns and cities, however, property taxes are relatively high and can be a source of aggravation for many of the State's real property taxpayers.

A property tax bill is the product of two factors: the local tax rate, set by the county tax board based on the budget needs of the various taxing entities; and the assessed value of the parcel of real property. When the local tax rate cannot be lowered due to revenue requirements to meet local budgets, the focus of the taxpayers often turns to the assessment process.

A great deal of the displeasure felt by property taxpayers over the assessment of their property results from a lack of understanding about the means by which the assessed value of their property is determined by the local tax assessor. This report will provide answers to the most frequently-asked questions about the assessment of real property.

## WHAT IS ASSESSED VALUE?

The term "assess" has two different meanings with respect to property taxation. First, it is often used in common parlance to refer to taxes billed to a particular property, as in: "In 2005, \$3,500 in school taxes were assessed against 111 Maple Avenue." The second meaning, with which we are concerned here, is more statutorily precise. The assessed value of a parcel of real property is the dollar-value determination by the municipal tax assessor as to the property's worth, *relative to all the other taxable real property in the municipality*. A property's assessed value is usually equivalent to its taxable value, unless all or a portion of the property has qualified for a tax exemption. In technical terms, the municipal tax assessor is directed by law to value each parcel at its true value, "deemed to be valuation at current market prices or values" (N.J.S.A.54:1-35.3, N.J.S.A.54:4-2.25 and N.J.S.A.54:4-23) as of October 1 of the year prior to the year for which the taxes are billed. In fact, in a rising market, the assessed value is generally less than a property's market value because few assessors have the time or resources to adjust the value of each parcel on an annual basis. This does not present a problem, however, when all of the properties in the municipality are undervalued to the same degree, more or less.<sup>1</sup>

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<sup>1</sup> Since each municipal tax assessor may in fact assess their municipality at a different percentage of market value than other assessors within the county, in order to fairly apportion the county tax burden according value, the individual municipal assessments have to be annually adjusted to compensate for the differences. That process, known as equalization, is accomplished by multiplying a municipality's total assessment by its assessed to true value ratio, as determined by the Director of the Division of Taxation

## **WHY ASSESS REAL PROPERTY?**

The costs of local government services are primarily paid for through local real property taxation. The advantages to paying for local government through a tax on real property are that it is very stable as a funding source and the collection of delinquent taxes can be accomplished fairly easily through the sale of tax liens or, with greater effort, through the foreclosure of tax liens. In any case, the law provides for an automatic lien against real property in the amount of the taxes assessed against that property and it is relatively easy to enforce the lien because the property does not move. Moreover, it is a tax paid by business and industrial property owners as well as residential property owners, and by owners of vacant properties as well as owners of properties on which buildings and structures have been erected.

Real property taxes are imposed by counties and taxing districts. At the present time the State does not impose a real property tax. The primary taxing districts are municipalities, school districts (local and regional), fire districts, county and municipal free public libraries, and special improvement districts, although other districts may be created by a municipality whose boards impose taxes to fund the provision of specialized services for which the district was created. The municipality functions as the tax collector for the county and the taxing districts and is required to pay these other entities in full, even if the municipality does not collect all of the taxes that have been billed.

Article VIII, Section I, paragraph 1 of the New Jersey Constitution, known as the uniformity clause, requires all real property to be assessed for taxation according to the *same standard of value*, and taxed at the *general tax rate* of the taxing district in which it is situate, for the use of the taxing district. This constitutional provision is intended to ensure that the property tax burden is *distributed fairly*, according to property value, throughout a county or taxing district.

## **WHO ASSESSES MY PROPERTY?**

Every municipality is required to appoint a tax assessor. The assessor is required to complete a State certification program and is appointment for an initial four year term. Upon reappointment, the

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(N.J.S.A.54:1-35.1 et seq.). The division collects sales data

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throughout the State and then the Director determines an average assessment to true value ratio for each municipality by comparing the assessment on properties that sold during the year with their actual sale prices. Equalized property values are also used in the formulae to distribute State school aid and State library aid.

assessor can be removed only for good cause. Although appointed by the municipality, tax assessors are intended to be independent of the local political establishment and are subject to control by the Director of the Division of Taxation in the Department of the Treasury. By contrast, municipal tax collectors are subject to control by the Division of Local Government Services in the Department of Community Affairs.

### **HOW DO I KNOW WHAT MY PROPERTY ASSESSMENT IS FOR EACH TAX YEAR?**

N.J.S.A.54:4-38.1 requires the tax assessor to notify each taxpayer of the current assessment and preceding year's taxes by mail prior to February 1st of each year. Thereafter, the assessor or county board of taxation is required to notify each taxpayer by mail within 30 days of any change to that assessment. The notification of change of assessment must contain the prior assessment along with the current (changed) assessment. Any notice issued by the assessor or county board of taxation also must include information instructing the taxpayer on where to file an appeal of the assessment and the final date by which that appeal may be filed.

### **WHY DOESN'T THE ASSESSED VALUE OF A PROPERTY ALWAYS MATCH THE MARKET VALUE OF THE PROPERTY?**

The assessed value of a property will only match the market value of that property in those years that the municipality implements a revaluation or a reassessment program that results in all property being assessed at 100% of true (market) value. If a revaluation or reassessment program has not occurred in the year in which the property is valued, then due to continuous fluctuations in the real estate market, the assessed value will begin to deviate from market value. Uniformity will be maintained within the municipality if all property assessments deviate to the same degree from market value. This uniformity requirement would act to prevent a new house from being assessed at its sales price when the rest of the municipality is assessed below current market values. For example, the purchaser of a new home costing \$400,000 would see the assessment of that property set at \$400,000 *only* if all other property located in the municipality were assessed at 100% of true value. If the municipal percentage of assessed to true value of all property was 88%, that same house costing \$400,000 would be assessed for taxation at \$352,000.

The practice by some local assessors of raising the assessed value of newly purchased homes to the sales price (commonly referred to as "spot assessment") was declared unconstitutional by the New Jersey Supreme Court in 1990 in Township of West Milford v. Van Decker, 120 N.J. 354. The court ruled that the municipal assessor's practice of increasing the assessed value only of homes sold in the municipality during the year, and leaving the assessments of all other properties alone for that year, constituted a "spot assessment" in violation of the uniformity clause of the State Constitution. The court specifically stated that under no circumstances may the assessed valuation of a property be increased only because it has been sold.

## HOW IS MY ASSESSMENT CALCULATED?

The assessor performs separate assessments on the land and on the improvements that comprise the parcel of real property. The improvements generally consist of buildings and structures which may lose value over time due to deterioration. By adding the assessment for the land to the assessment for the improvements on the land, the assessor determines the total assessed value for the parcel of real property. According to the Handbook for New Jersey Assessors, promulgated by the Division of Taxation, there are three accepted approaches to determining the assessed value of a parcel of real property. These are the comparative approach, the reproduction cost approach, and the income approach. The Handbook also notes that all three approaches to determining value should be used whenever possible to determine the true value of a property.

The *comparative approach* uses the sales prices paid in actual sales of real property throughout the municipality in an effort to estimate the value of a property if it were placed on the market for sale. This method is sometimes referred to as the market data approach or the sales approach. These data are collected and published on an annual basis by the Director of the Division of Taxation. The sales used to determine a property's value under this method must be of comparative properties, and must be bona-fide sales, meaning that they must represent an arms-length transaction between a willing seller and a willing buyer. For example, a sale of a property between family members likely would not be considered bona-fide for the purpose of representing a comparable sale since the sales price would be assumed to be below market value.

The *replacement cost approach* uses current building costs and current standards of material and design to estimate the cost of creating a structure or building having the same utility as the property being assessed. A depreciation of that number is then applied, so that the assessment will be reflective of the age of the structure or building being assessed. A separate value is calculated for the land, and added to the value determined for the structure or building, to arrive at the total assessment.

The *income approach* analyzes the income produced by a property to estimate the amount that a willing buyer would invest in the purchase of the property. The primary use of this method is for income-producing properties such as stores, apartment buildings, hotels, and other types of properties where the property produces income. This method is very complicated and requires the assessor to make a detailed budgetary study of the property, subtracting expenditures from gross annual income to determine net income, and then capitalizing that income at an interest rate which the property's investor can anticipate as a reasonable return. Under this approach, the capitalized value of the net income represents the value of the property. The owner of an income-producing property is statutorily required to produce income data if requested by the assessor.

The Real Property Appraisal Manual for New Jersey Assessors lists several factors that assessors

must consider when valuing the land portion of a parcel for taxation. The Manual notes that the value of the land will be determined by its "highest and best" (most profitable) use and that the supply and demand for land will regulate that value. Other factors used to determine the value of land for assessment purposes include the size, shape, depth, and topography of the parcel, the location of the parcel, and the frontage of that location. In addition, soil type and productivity or capability of the soil are important factors in determining the valuation of farm property.

An exception to the "highest and best" use rules is the assessment of farmland. Article VIII, Section I, paragraph 1(b) of the New Jersey Constitution, approved by the voters in 1963, contains a special provision allowing land, not less than five acres in area, which is determined by the assessor to be actively devoted to agricultural or horticultural use, and to have been so devoted for at least the two successive years immediately preceding the tax year, to be valued for purposes of taxation at the value which the land has for agricultural or horticultural use. The property owner is required to apply for farmland assessment consideration. When the property ceases to qualify for farmland assessment treatment, the Constitution requires that additional property taxes be imposed. These additional taxes, called "roll-back taxes," are imposed in an amount equal to the difference between the taxes paid or payable on the basis of the farmland assessment and the taxes that would have been paid or payable had the land been valued and assessed not as farmland. These additional taxes are payable for the tax year in which the assessor determines the change in the use from farmland, and for each of the two immediately preceding tax years. The purpose of this roll-back tax is to recapture some of the taxes which would have been paid on the land if it had been assessed and taxed at the same standard of value as other real property in the municipality in order to eliminate some of the windfall profits realized by a farmer selling to a real estate developer.

The law also allows for assessment reductions where real property is subject to a conservation or historic preservation easement, both of which restrict the owner's use of the property. In the case of a conservation easement, a partial interest in the title to a property is given by the owner to the State, a local government unit or a charitable conservancy, in order to hold the property predominantly in its natural, scenic or open or wooded state, or for wildlife conservation. The easement may forbid or limit the development of the property or the activities allowed on the property. In the case of a historic preservation easement, a partial interest in the title to a property is given by the owner to the State, a local government unit or a charitable conservancy in order to preserve a building or structure which is historically significant for its architecture, archaeology, or its historic associations. As in the case of a conservation easement, a historic preservation easement may forbid or limit changes in either the appearance or use of the property, or restrict any activity that may have a detrimental effect on the preservation of the property. Pursuant to the provisions of N.J.S.A.13:8B-7, the assessor must consider the existence of any conservation or historical preservation easement acquired pursuant to the "New Jersey Conservation Restriction and Historic Preservation Restriction Act," P.L.1979, c.378 (C.13:8B-1 et seq.), in establishing the full value of any property subject to such restriction.

When a property is certified by the Commissioner of Environmental Protection as a historic site pursuant to N.J.S.A.54:4-3.52 et seq. or pursuant to the provisions of N.J.S.A.54:4-3.52a et seq., it is exempt from taxation.

### **DO I HAVE ANY RECOURSE IF I DO NOT AGREE WITH MY ASSESSMENT?**

The law provides a property owner several mechanisms for appealing an assessment that he or she deems to be too high. In general, however, the assessed value of a property that falls within the common level range for that municipality, being plus or minus 15% of the average assessed to true value ratio for that municipality, will be considered to have been assessed correctly. Therefore, an assessor is granted 15% margin of error in each direction from the average ratio when determining an assessed value. It should be noted that a property taxpayer also has the right to appeal the assessment on any other property located within the same taxing district, although this is rarely done. N.J.S.A.54:3-21 authorizes property taxpayers, no later than April 1st of each year, to file an assessment appeal with the county board of taxation. If the assessed valuation of a taxpayer's property exceeds \$750,000, the appeal may be made directly to the Tax Court. The filing of an appeal with the county board of taxation requires the payment of a filing fee in the amount of \$5 for a property having an assessed value of less than \$150,000; \$25 for a property having an assessed value of more than \$150,000 but less than \$500,000; \$100 for a property having an assessed value of more than \$500,000 but less than \$1,000,000; and \$150 in the case of a property having an assessed value of \$1,000,000 or more. N.J.S.A.54:3-26 requires the county board of taxation to hear and determine all assessment appeals within a 3-month period, however, the Director of the Division of Taxation in the Department of the Treasury may grant an extension of this 3-month period if the county board of taxation is able to demonstrate the need for an extension. A judgment by a county board of taxation may be appealed to the Tax Court by any party involved in the appeal (the taxpayer or the municipality in which the property is situate).

N.J.S.A.54:3-26 also requires that, when no request for review is taken to the Tax Court to review the action or determination of the county board, the judgment of the county board shall be conclusive and binding upon the municipal assessor and the municipality for the assessment year, and for the next two assessment years, unless the value of the property has changed after the assessment date. This binding judgment and assessment "freeze" terminates with the tax year immediately preceding the effective date of a complete revaluation or reassessment of all municipal real property. Also, if, as of October 1 of the year immediately preceding the tax year, the property has gained an addition that qualifies as an added assessment, has converted to a condominium or cooperative, or has been subject to a subdivision or a zoning change, then the binding effect of the county board of taxation's judgment will terminate with that pretax year.<sup>2</sup>

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<sup>2</sup> N.J.S.A.54:51A-8 similarly applies the "freeze act" to Tax Court judgments.

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