

Briefing on the Centrally Assessed Property Appeals Process  
for the SJR 17 Study of Centrally Assessed and Industrial Property

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**Introduction**

This briefing paper provides information about the appeals process for centrally assessed property in Montana and selected other states to inform the Senate Joint Resolution No. 17 (SJR 17) study of centrally assessed and industrial property.

**Montana Centrally Assessed Property Appeals**

As provided in section 15-2-302(1)(a), MCA, the State Tax Appeal Board (Board) hears property tax appeals for centrally assessed property. A centrally assessed property complaint must be filed with the Board within 30 days of receipt of notice of the Department of Revenue's decision.

The process for centrally assessed property is different from the process for property that is not centrally assessed. Disputes related to locally assessed property are first heard at the county tax appeal board in the county in which the property is located, as required in section 15-15-103, MCA. If requested, an appeal of a county tax appeal board decision is heard by the State Tax Appeal Board as provided in section 15-15-104. MCA. Centrally assessed property questions go straight to the State Tax Appeal Board because the property is generally located in more than one county.

Section 15-2-303, MCA, provides for judicial review of state tax appeal board decisions. A party to a centrally assessed property proceeding may appeal a decision of the State Tax Appeal Board by filing a petition in a district court in which some portion of the property is located or in the district court of the first judicial district (Lewis and Clark and Broadwater Counties). The petition for judicial review must be filed within 60 days of the final decision of the State Tax Appeal Board.

**Centrally Assessed Property Appeals in Other States**

This section discusses the centrally assessed property appeals process in New Mexico, North Carolina, Oregon, and Utah. These states offer examples of the different appeals processes used in the states.

## **New Mexico**

Owners of state assessed properties in New Mexico have two options for disputing the taxation value or classification of the property. The first option is to file a petition of protest with the Property Tax Division of the New Mexico Taxation and Revenue Department. The petition is filed by writing a letter that contains information about the property, the property owner, and the reason for the protest, including what the owner believes to be the value of the property. After a petition is filed, there may be an information conference before the hearing required in section 7-8-23, NMSA. The decision of the hearing may be appealed to district court pursuant to section 39-3-1.1, NMSA. If a petition of protest is filed, the property owner irrevocably waives the right to file a claim for refund.

The second option for appealing the valuation of state assessed property is to file a claim for a refund after paying the disputed taxes. This is a civil action in the District Court for Santa Fe County. The district court decision may be appealed to the Court of Appeals.

## **North Carolina**

Appeals of Department of Revenue decisions related to valuation, apportionment, and equalization of centrally assessed property go to the Property Tax Commission. The Property Tax Commission is a 5-member body appointed by the Governor (three members) and the General Assembly (two members).<sup>1</sup> Generally, the Commission hears the appeal, although rarely one or more Commission members or Department of Revenue employees may hear a case and propose a decision to the full Commission.

A party wishing to appeal a Property Tax Commission decision can appeal to the North Carolina Court of Appeals and then to the North Carolina Supreme Court.<sup>2</sup>

## **Oregon**

Oregon has a Tax Court, which was created in 1961, to hear cases involving state taxes. The Tax Court has two divisions: the Magistrate Division and the Regular Division. Decisions of the Magistrate Division can be appealed to the Regular Division and then to the state Supreme Court.

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<sup>1</sup>"Property Tax Commission," North Carolina Department of Revenue, available from <http://www.dornc.com/taxes/property/ptc.html>.

<sup>2</sup>Charles B. Neely, Jr. and Nancy S. Rendleman, "North Carolina Property Tax Assessment and Appeals Procedure," available from <http://www.williamsmullen.com/files/Publication/c496e92a-180c-481a-811d-2be0a56edf53/Presentation/PublicationAttachment/5269dad3-ea13-4705-bca7-2bee3a15899c/NC%20Propoerty%20Tax%20%20Assessment%20%20Appeals%202001.pdf>.

The Magistrate Division proceedings are informal: rules of evidence may not apply and proceedings are not recorded. A taxpayer may be represented by an attorney, public accountant, real estate broker, or appraiser.<sup>3</sup>

Centrally assessed property appeals go first to the Department of Revenue while appeals for other property are made to the county board of property tax appeals.<sup>4</sup> An appeal of a Department of Revenue decision goes to the Magistrate Division of the Tax Court and then through the process outlined above.<sup>5</sup>

## Utah

Appeals of centrally assessed property in Utah have three stages: the prehearing process, the stipulation process, and the hearing process.<sup>6</sup>

During the prehearing process the parties try to reach a settlement. The parties may include the property owner, the affected counties, and the Property Tax Division of the Utah State Tax Commission (Commission). If all parties reach an agreement, the Commission will issue an order approving the agreement. If only the property owner and Property Tax Division reach an agreement, the affected counties have the opportunity to pursue further proceedings.

During the stipulation process, the parties choose the next course of action. The options include an initial hearing, waiver of the initial hearing and going directly to the formal hearing, or mediation. The initial hearing is an informal hearing before an Administrative Law Judge but the decision is issued by the Commission. If a formal hearing is not requested after 30 days, the initial hearing decision and order becomes final. Any party to the case may request a formal hearing, which is conducted by an Administrative Law Judge and one or more Commissioners. A party that is unsatisfied with the formal hearing decision may seek judicial review within 30 days.

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<sup>3</sup>Oregon Courts, "An Introduction to the Courts of Oregon," available from <http://courts.oregon.gov/OJD/aboutus/courtsintro/index.page?>

<sup>4</sup>Board of Property Tax Appeals, "Real Property Petition and Instructions for Filing," available from <http://www.oregon.gov/DOR/PTD/docs/bopta/310-063.pdf?ga=t>.

<sup>5</sup>Oregon Department of Revenue, "Appeals Matrix," available from <http://www.oregon.gov/dor/PTD/docs/bopta/303-689.pdf>.

<sup>6</sup>All information from this section is from "Appeals of Centrally Assessed Property," Utah State Tax Commission, available from <http://tax.utah.gov/commission/centrally-assessed-audits>.