

New 2011 Property Tax Assessment Procedures & Appeal Processes

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The Georgia Legislature recently enacted Senate Bill 346 ("SB 346") which was signed into law on June 4, 2010, and which amends O.C.G.A. Title 48, Chapter 5 entitled "Ad Valorem Taxation of Property". The changes took effect January 1, 2011, and will change how each county will be required to assess real property values and how taxpayers may appeal those valuations. I have highlighted a few of the important aspects of the law below.

Georgia law still requires that all real and personal property be taxed. Property tax is an "ad valorem tax," which means it is calculated according to value. All real property and all personal property are taxable in Georgia unless the property has been exempted by law per O.C.G.A. 48-5-3. Real property is land and generally anything that is erected, growing or affixed to the land; and personal property is everything that can be owned that is not real estate.

Property taxes are charged against the owner of the property on January 1, and against the property itself if the owner is not known. (O.C.G.A. 48-5-9). Unless otherwise specified, property tax returns are to be filed between January 1 and April 1 (with some county deadlines being March 1) with the county tax commissioner's office, or in some counties the county tax assessor's office has been designated to receive returns. (O.C.G.A. 48-5-10,48-5-18).

While SB 346 revised the process by which each county is required to notify property owners of the assessed fair market value in a taxable year, the bill did not revise O.C.G.A. 48-5-10 which requires each property owner to still file a Real Property Tax Return ("Return") declaring the fair market value of his or her property each year. However, the changes to the law are beneficial to taxpayers in that failing to file a Return no longer bars a property owner from having an avenue for appeal later in the year.

Prior to SB 346, the failure of a property owner to file a Return declaring the value of their property automatically deemed the taxpayer to have "filed a return" at the same value as had been previously assessed by the county in the prior year. Thereafter, if the county did not change the assessment of the

fair market value of that property, the taxpayer would not receive a Notice of Change of Assessment, and therefore, the property owner had no ability to appeal the value in that year – even if the actual fair market value had decreased – because the Notice of Change in Assessment is what triggered a property owner’s appeal rights where no Return had been filed between January 1 and April 1 of that tax year. So, for example, if a parcel had been assessed at \$200,000 in 2009, and the property owner failed to file a Real Property Tax Return by the filing deadline in his or county to declare the fair market value of that property in 2010, and the county kept the same \$200,000 assessment for the value of that property in 2010, even if comparables existed to prove that the actual value of that property had fallen in 2010 to \$150,000, the taxpayer who failed to file a Real Property Tax Return had no recourse. He or she had no way to appeal the \$200,000 value for 2010 because if the taxpayer failed to file a Return declaring the lower value at the beginning of 2010, and the county did not send out a Notice of Change of Assessment (because the county valued the property at the same value as 2009, so there was no change), then the taxpayer could not declare a different value until the next tax year and was stuck with the fair market value as assessed by the county for 2010.

However, the consequences of failing to file a Return now are no longer so drastic, because SB 346 requires all counties in Georgia to send every property owner an **Annual Notice of Current Assessment** listing the assessed value of said property regardless of whether or not there has been a change in value as assessed by the county. The Annual Notice must be mailed to all property owners in each county no later than July 1. The Annual Notice will then automatically allow every taxpayer the opportunity to appeal the assessed value within forty-five (45) days of receipt of the Annual Notice of Current Assessment.

While the new procedures requiring counties to send the Annual Notice is a great improvement to the assessment procedure, it is still recommended that every property owner still file a Return if the property owner knows on January 1 in any given year that his or her property value has changed from the previous year. The reason for this is that it puts the county on notice early on that the property owner has a dispute with the previous year’s assessed value, and the Return will be used as the comparison for the value assessed by the county in all subsequent appeals.

The changes in the law also require the county to send to each property owner within 10-days of the property owner’s written request, a copy of all public records and information which the county has

relied upon to determine the fair market value of that property upon payment by the property owner of a copy fee of 25 cents per page. Thus, the county will be required to provide all comparison property information used in determining the fair market value of each parcel in every county. Previously, many counties would only provide said comparison information at the appeal hearing before the Board of Equalization.

There is also an establishment of a new hearing tribunal for properties valued in excess of \$1,000,000.00, as well as the creation of certain unified forms to be used in the appeal process which must be provided to the taxpayer by each county. Many of the new, unified forms may be found on most county Tax Assessor's websites, or you may obtain the forms and the procedures outline for your county by going to the Tax Assessor's Office and requesting these documents. Hopefully, the new laws will help make the processing of assessing your real property an easier and more effective method going forward.