

# PropertyTaxAnalytics Inc.

## I. Basics of Real Property Taxation and Appeals.

Washington law requires that all property be assessed at 100% of its true and fair value. “True and fair value” means market value and is the amount of money a buyer of property willing but not obligated to buy would pay a seller of property willing but not obligated to sell, taking into consideration all uses to which the property is adapted and might in reason be applied. This is often referred to as the “willing buyer/willing seller” test.

Washington property is assessed as of January 1. The tax year also begins on January 1, but for the year *following* the assessment year. Most counties revalue properties on an annual basis while others revalue on a multi-year cycle of two, three or four years. For example, in an annual revaluation county the value on January 1, 2009 will be used to determine the property taxes for the year beginning January 1, 2010 and ending December 31, 2010. In a multi-year county on a four year cycle, the value on January 1, 2009 will be used to determine the property taxes for the taxes paid in 2010, 2011, 2012, and 2013, no matter what the market does during that period of time. This can raise questions of inequity during periods of recession and expansion and as a result legislation has been passed requiring all Washington counties to begin annual revaluations as of the January 1, 2014 assessment year. Note that revaluation is different from physical appraisal; by law, counties are required to physically reappraise their properties at least once every six years.

The sales comparison approach is considered the primary approach in valuing Washington property. The cost and income approaches are the dominant factors considered in determining true and fair value in cases of property of a complex nature, property being used under terms of a franchise granted by a public agency, property being operated as a public utility, or property not having a record of sale within five years and not having a significant number of sales of comparable property in the general area.

The appeals process typically begins with the filing of a petition with the county board of equalization (BOE). The deadline to file an appeal to the BOE is on or before July 1 of the assessment year or 30 days after the date of a notice of value change (60 days in some counties), whichever is later. If a filing deadline falls on a Saturday, Sunday, or legal holiday, the deadline typically moves to the next business day.

There is an alternative appeal process known as pay under protest. A taxpayer must include with each installment of taxes it is protesting a letter stating the taxes are being paid under protest and the specific reasons why. The taxpayer then has until June 30 of the following tax year to file an appeal in Superior Court. Payment under protest can most benefit a buyer who pays the taxes for the year in which it purchased the property but the time for appealing the assessment year on which those taxes are based has already passed. Similarly, a bona fide purchaser who has purchased after July 1 but by December 31 and the sale price was less than 90% of the assessed value can request the BOE to reconvene, allowing the buyer to appeal its valuation without regard to the regular appeal deadline. The request to reconvene must be made by April 30 of the tax year immediately following purchase.

## **II. Issues Relating to Valuation.**

### **A. Burden of Proof.**

The burden of proof is extremely high in Washington. Washington law presumes that the assessor's valuation is correct. A taxpayer must show by "clear, cogent and convincing" evidence that the assessor's value is incorrect. Once the taxpayer's burden is met, the presumption is overcome and the burden of proof should shift to a preponderance of the evidence. However, the State Board has ruled that even if a taxpayer has met its burden of proof at the county board level, upon further appeal the presumption remains in place for the assessor's original valuation. The Washington courts and basic logic – once the presumption is overcome, it is overcome -- do not appear to support the State Board's ruling but the issue remains unresolved. Consequently, taxpayers in Washington have a very high burden to meet in order to prevail in a property tax appeal. Legislation to implement a more reasonable preponderance of the evidence standard has been introduced in each of the past several years but has yet to pass.

### **B. Dates of Comparable Sales.**

Because of the tax year structure, a taxpayer in Washington is always looking backwards when establishing value. By statute comparable sales must have occurred during the five years *prior* to the assessment date. The associated rule is ambiguous, stating that sales must be within five years of the assessment date, and some counties believe this supports the use of post-assessment date sales. However, the statute is controlling and complements the willing buyer/willing seller test as such a buyer/seller would not be able to look forwards in making its decision.

### **C. Use of Income Approach for Income-Producing Properties.**

Contrary to accepted appraisal methodology, some counties refuse to use an income approach to determine the value of income-producing properties. The issue has yet to be decided with any finality.

## **III. Property Tax Rates and Limitations.**

Many Washington taxpayers are seeing their assessed values go down yet their taxes still go up. Statewide property tax levies for taxes paid in 2012 grew by 1.6% compared to 4.0% in the prior year. By contrast, values dropped 3.9%, similar to the 4.2% drop in the prior year. The statewide average levy rate was \$11.78 per \$1,000 in value in 2012. Until 2010, rates had been falling each year from a high of \$13.93 per \$1,000 in 1997. See the attached table for historical data from 1973 to 2012.

Washington assessors set the levy rate based on the taxing district's budget request, the total assessed value of the taxing district, and any applicable levy limitations. If the aggregate limits are exceeded, a district hierarchy for rate reductions is set by statute and rates are reduced accordingly. There are four restrictions that affect how high property taxes can go.

### **A. The One-Percent Constitutional Limit.**

The primary limitation on property taxes was established by the 55th amendment to the Washington State Constitution in 1972. Article 7, Section 2 of the Constitution and RCW 84.52.050 limit the total regular

property tax levy to a maximum of \$10.00 per \$1,000 of the market value of property. Excluded from this \$10 limit are levies for ports and public utility districts

**B. Statutory Maximum Rates For Taxing Districts.**

Maximum levy rates for the various types of taxing districts (the state, counties, cities and town, fire districts, etc.) are set by statute. In addition, there is a maximum aggregate rate of \$5.90 per \$1,000 in value for counties, cities, fire districts, library districts, and certain other junior taxing districts. The state levy for support of common schools is not subject to this \$5.90 limit although it is subject to the constitutional \$10.00 limit.

**C. The 101% Limit.**

In 1971, legislators established a limit on the increase in regular property taxes for taxing districts. The current limit each year for most districts is 101% of their highest lawful levy since 1985, plus an additional amount to allow for new construction within the district. The 101% limit applies to the total amount of property tax for a taxing district, not to individual properties. With majority voter approval, districts may raise the 101% limit in order to exercise more levy authority under statutory and constitutional limits.

**D. Excess Levies.**

Most districts can submit propositions for additional property tax levies to a vote of the people. Local school districts have no regular levy authority (although they are allocated funds from the statewide school levy) so they receive a substantial portion of their funding from voter-approved excess levies. Excess levies must be authorized by a 60% majority of the voters, except for school levies which only require a simple majority, and such levies are not subject to any of the limitations described above.

**IV. Recent Legislation.**

In 2012 the Washington State Legislature passed State Senate Bill 6277, which expanded the property tax exemption for eligible new, rehabilitated, or converted multiunit housing within residential targeted areas in urban centers. Currently only certain cities are allowed to create residential targeted areas and offer this exemption. However, the bill made the exemption available in residential targeted areas in an unincorporated area of a county if (1) that area is within an urban growth area under the Growth Management Act and contains an institution of higher education where at least 1,200 students live on campus during the academic year, and (2) the county has an unincorporated population of at least 350,000. For any multiunit housing located in an unincorporated area of a county, a property owner seeking this exemption must commit to renting or selling at least 20% of the units to low and moderate income households. The exemption can be for up to twelve years. Pierce, Snohomish, and Walla Walla are among the counties which offer this exemption. Seattle offers the exemption as well, but with additional requirements.

## COUNTY REVALUATION CYCLES

### 2013 Assessment Year

Sources: Department of Revenue's Property Tax Division and County Revaluation Plans

ANNUAL REVALUATION COUNTIES		
6 YEAR INSPECTION CYCLE		
ADAMS	ISLAND	SAN JUAN
BENTON	LEWIS	SKAGIT
CLALLAM	KING	SKAMANIA
CLARK	KITSAP	SNOHOMISH
COLUMBIA	KITTITAS	SPOKANE
COWLITZ	LINCOLN	STEVENS
DOUGLAS	MASON	THURSTON
FRANKLIN	OKANOGAN	WALLA WALLA
GRANT	PACIFIC	WHATCOM
GARFIELD	PIERCE	WHITMAN
		YAKIMA
4 YEAR INSPECTION CYCLE		
CHELAN	Klickitat	PEND ORIELLE
FERRY		
CYCLICAL REVALUATION COUNTIES		
4 YEAR REVALUATION AND INSPECTION CYCLE		
ASOTIN	JEFFERSON	WAHKIAKUM
GRAYS HARBOR		