



# Taxpayers' Rights, Remedies and Responsibilities

Property Tax Assistance • February 2009

## The Basics

The property tax is the largest funding source for local services in Texas. Property taxes help to pay for public schools, city streets, county roads, police, fire protection and many other services.

Property taxes are based on monetary value. For example, the property tax due on a vacant lot valued at \$10,000 would be 10 times as much as the tax for one valued at \$1,000.

Property taxes are local taxes. Your local officials determine a value for your property, set tax rates and collect your taxes. State law, however, governs the process.

The Texas Constitution sets out five basic rules for the property tax:

- 1 **Taxation must be equal and uniform.**  
All property, whether residential or commercial, must be taxed equally and uniformly. No single property or type of properties should pay more than its fair share of taxes.
- 2 **Generally, all tangible property must be taxed on the basis of its current market value.**  
The Constitution provides certain exceptions, such as productivity values for agricultural and timber land.  
A property's market value is the price it would sell for when both buyer and seller seek the best price and neither is under pressure to buy or sell. Farm and ranch land can be valued on its capacity to produce crops or livestock instead of its market value. This is called agricultural appraisal. Similarly, special timberland appraisal is available to property owners whose land produces timber for commercial use.
- 3 **All property is taxable unless a federal or state law exempts it from the tax.**  
The Texas Legislature may provide for Constitutionally approved exemptions. Exemptions may exclude all or part of a property's value from taxation.
- 4 **Property owners have a right to reasonable notice of increases in appraised property value.**
- 5 **Each property in a county must have a single appraised value.**

### How does the system work?

The Texas property tax system has four main participants:

- 1 The *property taxpayer*, whether residential or business, is responsible for paying taxes and has a reasonable expectation that the taxing process will be fairly administered.
- 2 An *appraisal district* in each county, administered by a chief appraiser, determines the value of your property each year. The appraisal district's board of directors hires the chief appraiser. Local taxing units appoint the directors and fund the appraisal district according to a tax-based formula.
- 3 An *independent appraisal review board (ARB)* settles disagreements between you and the appraisal district about your property's taxability and value. The

appraisal district's board of directors appoints citizens to serve as ARB members.

- 4 **Local taxing units**, including the school districts, counties, cities and special districts, decide how much money they must spend to provide public services. Property tax rates are set according to taxing unit budgets. Some taxing units have access to other revenue sources, such as a local sales tax. School districts must rely on the local property tax, in addition to state and federal funds.

The annual tax levy has four phases: property valuation, a protest period, tax rate adoption and tax collection.

Each Jan. 1 marks the beginning of property appraisal, which depends upon the use of the property as of Jan. 1 and current market conditions.

Between Jan. 1 and April 30, the appraisal district processes tax exemption applications, agricultural appraisals, other tax relief and property renditions. The appraisal district also makes value determinations for all taxable property within its boundaries. After May 1, the appraisal review board begins hearing protests from property owners. When the ARB finishes its work, the appraisal district gives each taxing unit a list of taxable property known as a certified appraisal roll.

In August or September, the elected officials of each taxing unit adopt tax rates. Several taxing units may tax your property. Every nonexempt property is taxed by the appropriate county and local school district. You also may pay taxes to a city and to special districts such as hospital, junior college or water districts. The tax roll is created when tax rates are applied to appraised values.

Tax collections begin around Oct. 1, when tax bills are sent to property owners. Taxpayers have until Jan. 31 of the following year to pay their taxes. On Feb. 1, penalty and interest charges begin accumulating on most unpaid tax bills. Taxing units may impose an additional penalty on July 1 for legal costs on unpaid taxes.

The Property Tax Assistance Division (PTAD), a division of the State Comptroller's office, conducts an annual Property Value Study (PVS) for each school district for state funding purposes. This study measures property values within a school district to ensure equitable school funding. The state sends more money to districts that are less able to raise money through local taxes. The Comptroller's values do not directly affect local values or property taxes.

### What is the taxpayer's role?

As a taxpayer, you should know your rights, understand the remedies available and fulfill your responsibilities under law.

- **Know your rights:**
  - ✓ You have the right to equal and uniform tax appraisals. Your property should be appraised at market value in the same way as similar properties in the area.
  - ✓ Your property should be taxed on its agricultural or timber value if it qualifies for such treatment and you apply timely.

- ✓ You should receive all tax exemptions or other tax relief for which you qualify, if you apply for such relief in a timely fashion.
- ✓ You should receive notices of changes in your property's value or in your exemption status.
- ✓ You should be informed about a taxing unit's proposed tax rate increase and have an opportunity to comment on it before the taxing unit's governing body.
- **Understand your remedies:**
  - ✓ If you believe your property value determination is too high, or if you were denied an exemption or agricultural appraisal, you may protest to your ARB. If you do not agree with the ARB's decision, you may take your case to binding arbitration in some instances or to district court.
  - ✓ You may speak during public hearings when your elected officials are deciding how to spend your taxes and setting the tax rate.
  - ✓ You and your fellow taxpayers may limit major tax increases through elections to roll back or limit tax rates.
- **Fulfill your responsibilities:**
  - ✓ You must apply timely for general, aged 65 or older, disabled or any local-option homestead exemptions with the appraisal district where your property is located.
  - ✓ You must apply for other exemptions, agricultural appraisal and other forms of tax relief before the deadlines set by law.
  - ✓ You must report, or render, taxable business personal property to your appraisal district. In doing so, you may give your opinion of the property's value.
  - ✓ You should ensure that your property is listed with your correct name, current address and property description.
  - ✓ You must pay your taxes on time. You may not withhold or attempt to pay taxes into a special account to protest your assigned value, tax rates or the budget of a taxing unit.

### Appointing an Agent

You may represent yourself in any property tax matter. You also may appoint a representative — commonly called an "agent" — to handle specific duties. You don't need an agent to file for exemptions on your home; just obtain an application form from your appraisal district.

To appoint an agent, you must provide that person with written authorization to represent you. You must use a special *Appointment of Agent* form (Form no. 50-162), available from the appraisal district or the Comptroller's office. No form is needed, however, if the person is your attorney, mortgage lender, employee or a person acting only as a courier.

The *Appointment of Agent* form asks you to cite a date upon which your authorization for this person will end. If you don't provide an ending date, the agent will continue to represent you until you file a statement ending the appointment or appoint a new agent.



If disabled, you will qualify for a \$10,000 exemption for school taxes in addition to the \$15,000 exemption granted to all homeowners. In addition, any taxing unit may offer an exemption of at least \$3,000 to homeowners with disabilities.

Disabled homeowners have a ceiling imposed on their school taxes similar to that provided to homeowners aged 65 or older. The school taxes on your home cannot increase as long as you own and live in it. School taxes on your home may fall below the ceiling.

Your tax ceiling may rise if you modify your home (other than by normal repairs or maintenance). For example, if you add a garage or a room to your home, your tax ceiling can go up. Your tax ceiling also will change if you move to a new home. The ceiling does not expire, however, when a disabled owner conveys his or her interest in the home to a trust, if the owner-trustor continues to occupy the home.

A county, city or junior college district also may freeze or limit your taxes by adopting a tax ceiling. The ceiling goes into effect after the unit adopts the limitation and you qualify your home.

If you do not claim another homestead in the same year, you will receive disabled exemptions for the full year. If you do claim another homestead during the same year, you will no longer qualify for the exemption on the old home for the remainder of that year. Your taxes will be prorated based on the number of days that elapse after you no longer qualify for the exemption.

As with the aged 65 or older exemption, if you purchase another home in Texas, you may transfer your former home's school tax ceiling percentage to the new one. To do so, you must qualify your former home for the exemption in 2003 or afterward. You may request a certificate from the appraisal district for your former home to present to the appraisal district for your new home. Again, for exemption from taxes levied by a county, city or junior college district, you must transfer the tax ceiling to another home in the same taxing unit.

When homeowners who receive disabled homeowner exemptions die, the tax ceiling (but not the exemptions) offered by a county, city or junior college district transfers to their surviving spouses, if they are disabled or 55 or older at their spouse's death and live and have ownership in the home. An interpretation of the law is required regarding the transfer of a school tax ceiling to a surviving spouse. To determine how the law for transferring the ceiling is interpreted locally, survivors should apply to their appraisal district.

Disabled homeowners who apply for homestead exemptions also may pay their home taxes in installments. See page 8 of this guide for details.

Disabled homeowners may defer, or postpone, paying any property taxes on their homes for as long as they own and live in them. To postpone your tax payments, file a "tax deferral affidavit" with your appraisal district. You also may suspend any lawsuit by filing an affidavit with the court or stop the home's tax sale by filing the affidavit with the officer conducting the sale and the appraisal district, taxing unit or taxing unit's delinquent tax attorney. This deferral applies to all property taxes of the taxing units that tax your home.

A tax deferral, however, only *postpones* your tax liability. It does not cancel it. Interest on the sum due accrues at the rate of 8 percent a year. Once you

### How To File for an Exemption on Your Home

- 1 Obtain an application form at your local appraisal district office. (A separate application is needed for the disabled veteran's exemption.)
- 2 Return the form(s) to the appraisal district office after Jan. 1 but no later than April 30.
- 3 Provide all the information and documentation requested. For example, if you are claiming an aged 65 or older or disabled exemption, you may need to show proof of age or disability. Remember that making false statements on your exemption application is a criminal offense.
- 4 You may file for a homestead exemption and/or a disabled veteran's exemption up to one year after the date upon which taxes become delinquent. You will receive a new tax bill with a lower amount, or a refund if you have already paid.
- 5 If you turn 65 this year, you may file for the aged 65 or older exemption up to one year from the date upon which you turned 65.
- 6 If the chief appraiser asks you for more information by sending you a written request, you have 30 days from the postmark date to reply.

- 7 If the chief appraiser denies or modifies your exemption, he or she must notify you, in writing, within five days. This notice must explain how you can protest before the ARB.
- 8 Once you receive a homestead or disabled veteran's exemption, you don't have to apply for it again unless the chief appraiser asks you to do so or unless your qualifications change. If you move to a new home, you must fill out a new application to receive exemptions on the new home and to transfer any tax ceiling. If you become disabled, you should file a new application that year to receive more exemptions. (Beginning Sept. 1, 2005, a person who applies for a general homestead exemption and then becomes 65 years of age should automatically receive the exemption for persons 65 years of age or older and a tax ceiling on their property. Persons who applied for a general homestead exemption before Sept. 1, 2005 should contact their local appraisal district about their 65 and older exemption status when they become 65.)
- 9 The chief appraiser may require you to submit a new application by sending you a written notice and an application form. If you don't return it, you may lose your exemptions.

or your surviving spouse no longer own your home or live in it, past taxes and interest become due 181 days later. Any penalty and interest that was due on the tax bill for the home before the tax deferral will remain on the property and become due when the deferral ends.

### Are you a disabled veteran or survivor?

You may qualify for a property tax exemption if you are either (1) a veteran who was disabled while serving with the U.S. armed forces or (2) the surviving spouse or child (under 18 years of age and unmarried) of a disabled veteran or a member of the armed forces who was killed while on active duty.

You must be a Texas resident to receive this exemption. You also must have documents from either the Veterans' Administration or the appropriate branch of the armed forces showing the percentage of your service-related disability. Your disability rating must be at least 10 percent.

If you are a surviving spouse or child, you must have the veteran's disability records. You may need other documents as well, such as proof of marriage or age.

This exemption ranges from \$5,000 to \$12,000, depending on the extent of the disability. This exemption is not only for a home; you can apply it to any property you own on Jan. 1. You may pick only one property to receive the exemption, however.

### What should new homeowners do?

- **Before you buy a home, you or your mortgage company should obtain a tax certificate for the home from all jurisdictions that tax it.**  
The tax certificate will show whether delinquent taxes are owed on the property; you can't get a clear property title until you have paid all delinquent taxes.
- **If your mortgage company pays property taxes on your home out of an escrow account, make sure the taxing units send original tax bills to the company.**  
You may want to request a receipt to verify that the mortgage company pays these taxes on time, and to use for federal income tax purposes.
- **You should apply to the appraisal district for a residence homestead and any other exemptions.**  
You must apply to the appraisal district that appraises your home.
- **If you sold your previous home in Texas, make sure it's listed under the new owner's name and address.**
- **If your home is new, you should receive a notice of appraised value from your appraisal district in April or May.**

Contact the district if you don't receive it, or if it does not list all taxing units to which you will owe taxes.

- **If you no longer qualify for the general, aged 65 or older or disabled homestead exemption, you should notify the appraisal district in writing.**

If you fail to do so and don't pay your taxes in full, you will face a 50 percent delinquent tax penalty, plus interest.

## Savings on Agricultural Land Taxes

Agricultural appraisal lowers the taxable value of land. As noted previously, it values land based on its capacity to produce crops, livestock, manage wildlife or timber, rather than its value on the real estate market. This method typically reduces your property tax bill.

### What land qualifies?

Taxpayers may qualify for agricultural appraisal under two different provisions in the constitution. The newer one is called "open-space valuation" or "1-d-1 appraisal" (after Article 8, Section 1-d-1 of the Texas Constitution). Nearly all land that receives agricultural appraisal falls under this law. Details on the older law — known as "1-d" or "agricultural use" — are available from your appraisal district. Very few landowners apply for "1-d," since you have to show at least 50 percent of your income comes from farming or ranching.

To receive "1-d-1 appraisal," your land must meet the following criteria:

- **The land must be devoted principally to agricultural use.**  
Agricultural use includes the production of crops, livestock, poultry, fish or cover crops. It also can include leaving the land idle for a government program or for normal crop or livestock rotation. Land used for raising certain exotic animals or birds to produce human food or other items of commercial value and wood for use in fences or structures on adjacent agricultural land also qualifies, as does land used for wildlife management. Wildlife management land must previously have qualified as open-space land for other purposes, except for land subject to some federal permits. Wildlife management land must be used in at least three of seven specific ways to propagate a breeding population of wildlife for human use. See the Comptroller's *Guidelines for Qualification of Agricultural Land in Wildlife Management Use*, available from the Texas

## How to File for Agricultural Appraisal

- 1 Obtain an application form at your local appraisal district office.
- 2 Fill it out completely and return it to the appraisal district office after Jan. 1, but no later than April 30. Remember that falsifying statements on your application is a criminal offense.
- 3 If you need more time to complete your application form, submit a written request to the chief appraiser before the April 30 deadline. The chief appraiser can grant up to 60 extra days if you have a good reason for needing extra time.
- 4 If you miss the April 30 deadline, you may file an application any time before the ARB approves the appraisal records, which usually occurs on or about July 20. You will be charged a penalty for late filing equal to 10 percent of the tax savings you obtained through receiving agricultural appraisal for your land. After the ARB approves the records, you can no longer apply for agricultural appraisal for that year.

- 5 If the chief appraiser asks you for more information, you will have at least 30 days to reply. You may ask for more time, but you must have a good reason. If you don't reply, the chief appraiser must deny your application.
- 6 If the chief appraiser denies or modifies your request for agricultural appraisal, he or she must tell you, in writing, within five days. This notice must explain how you can protest to the ARB.
- 7 Once you receive agricultural appraisal, you don't have to apply again in succeeding years unless your qualifications change. The chief appraiser may request a new application from time to time, to verify that you still meet the qualifications. If you receive a notice to reapply, be sure to do so. If you don't, you will lose your eligibility. If you become the owner of land that is already qualified, you must reapply in your own name by April 30. If you don't, you will lose your eligibility. You must notify the appraisal district, in writing, by April 30 if your land's eligibility changes. Failure to do so will result in a penalty charge.

Comptroller's office (address and Web site on back of this book).

- ✓ Timberland must be used with the intent to produce income and be devoted principally to the production of timber.
- ✓ Both agricultural land and timberland must be devoted to production at a level of intensity that is common in the local area.
- ✓ The land must have been devoted to agricultural and/or timber production for at least five of the past seven years. Land within the city limits, however, must have been devoted to such use continuously for the preceding five years, unless the land did not receive substantially equal city services as other properties in the city.

- **If your land has qualified for agricultural appraisal and you change its use to a non-agricultural purpose, you will owe a "rollback" tax for each of the previous five years in which your land received the lower appraisal.**

The rollback tax is the difference between the taxes you paid on your land's agricultural value and the taxes you would have paid if the land had been taxed on a higher market value. In addition, 7 percent interest is charged for each year from the date on which taxes would have been due.

The chief appraiser determines whether a change to a nonagricultural use has been made and sends the taxpayer a notice of the change. If you disagree, you may file a protest with the appraisal review board. You must file this protest within 30 days of the date on which the notice was mailed to you.

If you don't protest or if the ARB decides against you, you owe the rollback tax. The owner who changes the land's use receives the rollback tax bill, even though you may have not owned the land when it received the tax break.

## New Business/ Going Out of Business

If you own a new business, you must report, or render, your income-producing personal property, including furniture, fixtures, equipment and inventory. (See page 5 for information on "rendition.") You will pay taxes on the property that you own on Jan. 1 of the tax year. Motor vehicle dealers, boat and outboard motor dealers, manufactured housing retailers and heavy equipment dealers should check with their local appraisal district or county tax office for details on how to report property and pay taxes on their inventory.

The appraisal district's staff may enter and inspect your premises to determine what taxable personal property you own and its value. They make such inspections during normal business hours or at a time agreeable to both parties.

If the total taxable value of your business personal property is less than \$500 in any one taxing jurisdiction, it is exempt in that jurisdiction. For example, if your office equipment in the city is worth \$300, you will not pay city property taxes on it. If the total value of all equipment you own within school district or county boundaries is \$500 or more, you will pay school and county property taxes on that equipment. No application is required to receive the under-\$500 exemption.

If you go out of business after the first of the year, you will still be liable for taxes on the personal property you owned on Jan. 1. You aren't relieved of this liability because you no longer own the property. If you conduct a "going out of business" sale, you must request a "going out of business" permit from the appraisal district. Check with your appraisal district for more details.

## Valuing Property

Each county's appraisal district determines the value of all taxable property within the county. Before the appraisals begin, the district compiles a list of taxable property. The listing for each property contains a description and the name and address of the owner.

The appraised home value for a homeowner who qualifies his or her homestead for exemptions in the preceding and current year may not increase more than 10 percent per year.

Property Tax Code Section 23.23(a) sets a limit on the appraised value of a residence homestead, stating that its appraised value for a tax year may not exceed the lesser of: (1) the market value of the property; or (2) the sum of: (A) 10 percent of the appraised value of the property for last year; (B) the appraised value of the property for the last year in which the property was appraised; and (C) the market value of all new improvements to the property, excluding a replacement structure for one that was rendered uninhabitable or unusable by a casualty or by mold or water damage.

The appraisal limitation first applies in the year after the homeowner qualifies for the homestead exemption.

### How is your property valued?

The appraisal district must repeat its appraisal process for property at least once every three years.

To save time and money, the appraisal district uses *mass appraisal* to appraise large numbers of properties. In a mass appraisal, the district first collects detailed descriptions of each taxable property in the district. It then classifies properties according to a variety of factors, such as size, use and construction type. Using data from recent property sales, the district appraises the value of typical properties in each class. Taking into account differences such as age or location, the district uses "typical" property values to appraise all the properties in each class.

The appraisal district may use three common methods to value property: the market, income and cost approaches.

The market approach is most often used and simply asks, "What are properties similar to this property selling for?" The value of your home is an estimate of the price your home would sell for on Jan. 1. The appraisal district compares your home to similar homes that have sold recently and determines your home's value.

Other methods are used to appraise types of properties that don't often sell, such as utility companies and oil leases. The income approach asks, "What would an investor pay in anticipation of future income from the property?" The cost approach asks, "How much would it cost to replace the property with one of equal utility?"

### What if your property value rises?

A *notice of appraised value* tells you if the appraisal district intends to increase the value of your property.

Chief appraisers send two kinds of notices of appraised value. A detailed notice contains a description of your property, its value, the exemptions and an estimate of taxes that might be owed.

**This notice is sent:**

- **if the value of your property is higher than it was in the previous year.**  
(The appraisal district's board can decide that it will send detailed notices only if a property's value increases by more than \$1,000.);
- **if the value of your property is higher than the value you gave on a rendition (see next section); or**
- **if your property wasn't on the appraisal district's records in the previous year.**

If these conditions do not apply, the chief appraiser will send you a short notice, without the tax estimate, when your property is reappraised or changes hands, or upon request by you or your agent.

The chief appraiser must send you the notice of appraised value by May 1 or as soon thereafter as possible. If you disagree with this value, you have until May 31 or 30 days from the date the notice was mailed (whichever is later) to file a protest with the ARB.

The notice of appraised value explains how and when you can file a protest with the ARB if you disagree with the district's actions, and will include a protest form.

### What is a rendition?

A *rendition* is a form you may use to report the taxable property you own on Jan. 1 to your appraisal district. You may render both real and personal property. The rendition identifies, describes and gives the location of your taxable property.

Business owners must report a rendition of their personal property. Other property owners may submit a rendition if they choose.

Persons filing renditions who are not the property owner, owner's employee or owner's affiliated entity must have the rendition notarized.

If the total taxable value of your personal property is less than \$500 in any one taxing unit, the property is exempt in that taxing unit.

● **Advantages: If you file a rendition, you are in a better position to exercise your rights as a taxpayer.**

- ✓ Your correct mailing address is established on record so taxing units will send your tax bills to the right address.
- ✓ Your opinion of your property's value is on record with the appraisal district. The chief appraiser must send you a notice of appraised value if he or she places a higher value on your property than the value you listed on your rendition.

● **Deadline: File your rendition with the appraisal district after Jan. 1 and no later than April 15.**

You may apply, in writing, for a mandatory extension to May 15. The chief appraiser may extend the deadline another 15 days beyond May 15 if you can show good cause for needing an extension.

● **Requirements: If you own tangible personal property that is used to produce income, you must report this property on a rendition form every year.**

Businesses, for instance, must report their inventories, furniture, fixtures, equipment and machinery on a rendition. State law contains stiff penalties for delinquent or fraudulent renditions. Check with the appraisal district for rendition forms and more information about rendering business personal property.

The appraisal district must keep renditions and any income and expense information that you file about your property confidential.

## How to Protest

Your most important right as a taxpayer is your right to protest to the appraisal review board (ARB). You may protest if you disagree with any of the appraisal district's actions concerning your property. You may discuss your objections about your property value, exemptions and special appraisal in a hearing with the ARB, an impartial panel of your fellow citizens.

Most appraisal districts will informally review your protest with you to try to resolve your concerns. Check with your district for details.

If you lease property and are required by the lease contract to pay the owner's property taxes, you may appeal the property's value to the ARB. You may make this appeal *only* if the property owner does not, however. This appeal right applies to leased land, buildings and personal property. The appraisal district will send the notice of appraised value to the property owner, who is required to send a copy to you. If you appeal, the ARB will send any subsequent notices to you.

State law prohibits the Comptroller's office from advising a taxpayer, appraisal district or appraisal review board about a matter under protest. State law also prohibits the Comptroller from intervening in a protest.

### What is an ARB?

An ARB is a group of citizens authorized to resolve disputes between taxpayers and the appraisal district.

The appraisal district's board of directors appoints ARB members. Members must be residents of the appraisal district for at least two years to serve. Current officers and employees of the appraisal district, taxing units and the Texas Comptroller's office may not serve. In counties with populations greater than 100,000, former directors, officers and employees of the appraisal district cannot serve on an ARB. Some other specific Tax Code restrictions also apply. ARB members also

must comply with special state laws on conflict of interest. They must complete a training course and receive a certificate of course completion from the Comptroller.

The ARB determines taxpayer protests. The ARB also decides issues that a taxing unit may challenge about the appraisal district's actions. In taxpayer protests, it listens to both the taxpayer and the chief appraiser. The ARB determines if the appraisal district has acted properly. ARB decisions are binding only for the year in question. ARB hearings begin around May 1. The ARB should complete most of the hearings by July 20. In the largest counties, this deadline may be later.

ARB meetings are open to the public. Notices of the date, time and place of each meeting must be posted at least 72 hours in advance at the appraisal district office and the county clerk's office. The ARB's hearing procedures must be posted in a prominent place in the room in which hearings are held. ARBs typically meet at the appraisal office; generally, they do not have their own staffs or offices.

The chief appraiser must publicize annually the right to and methods for protesting before the ARB, in a manner designed to effectively notify all district residents. The ARB by rule will provide for hearing times on evenings or on Saturdays or Sundays.

### Should you protest?

The ARB must base its decisions on evidence. It hears evidence from both the taxpayer and the chief appraiser.

#### Protest issues that an ARB can consider include:

● **Is the proposed value of your property too high?**

Ask one of the district's appraisers to explain the appraisal. Be sure the property description is correct. Are the measurements for your home or business and lot accurate? Gather blueprints, deed records, photographs, a survey or your own measurements to contest the appraiser's decision.

Are there any defects not noted in the district's survey, such as a cracked foundation or inadequate plumbing? Obtain photographs, statements from builders or independent appraisals.

Ask the appraisal district for appraisal records on similar properties in your area. Is there a big difference in their values? This comparison may show that your property wasn't treated equally.

Collect evidence on recent sales of properties similar to yours from neighbors or real estate professionals. Ask the appraisal district for the sales that it used.

Consider using an independent appraisal by a real estate appraiser. Insurance records also may be helpful.

If you decide to use sales information to support your protest, you should:

- ✓ obtain documents or sworn statements from the person providing the sales information;
- ✓ use sales of properties similar to yours in size, age, location and type of construction;
- ✓ use recent sales. Sales occurring close to Jan. 1 are best; and
- ✓ weigh the costs of preparing a protest against the potential tax savings. Preparing a protest may not be worth the time and expense if it results in only a small tax savings.

If you protest the agricultural value of your farm or ranch, find out how the appraisal district calculated your value. Compare its information with that of local experts on agriculture, such as the county agricultural extension agent, the U.S. Department of Agriculture or other recognized agricultural sources. The Comptroller's *Manual for the Appraisal of Agricultural Land* may be helpful.

● **Is your property valued unequally compared with other property in the appraisal district?**

Determine whether the property value is closer to market value than other, similar properties. A ratio study or a comparison of a representative sample of properties, appropriately adjusted, for determining the median level of appraisal must be prepared to prove unequal appraisal.

● **Did the chief appraiser deny an exemption?**

First, find out why the chief appraiser did so. If the chief appraiser denied your homestead exemption, for example, obtain evidence that you owned your home on Jan. 1 and used it as your principal residence on that date.

If the chief appraiser denied a homestead exemption for part of the land around your home, show how much land is used as part of your residence.

If the chief appraiser denied an aged 65 or older or disabled homestead exemption or a disabled veteran's exemption, read about the qualifications for exemptions on pages 2-3 of this report.

● **Did the chief appraiser deny agricultural appraisal for your farm or ranch?**

Find out why the chief appraiser denied your application. Agricultural appraisal laws have specific requirements for property ownership and use. Prove

### How to File a Protest

- **File a written protest.** The appraisal district has protest forms available, but you need not use one. A notice of protest is sufficient if it identifies the owner, the property that is the subject of the protest and indicates that you are dissatisfied with a decision made by the appraisal district.
- **File your notice of protest by May 31 or no later than 30 days after the appraisal district mailed a notice of appraised value to you, whichever date is later.** Note that the deadline is 30 days after mailing the notice, not its receipt. If you are an off-shore worker or on full-time military duty, you may be entitled to file a late protest.
- **If the chief appraiser sends you a notice that your land is no longer in agricultural use, you must file your protest within 30 days of the date upon which the chief appraiser mailed the notice.** The chief appraiser sends this notice by certified mail; the mailing date appears on the green card you will receive.
- **If you file a notice of protest before the ARB approves the appraisal records, you are entitled to a hearing only if the**

board decides that you had good reason for failing to meet the deadline.

- **If you don't file a notice of protest before the ARB approves the appraisal records, you lose your right to protest.** You also lose the right to file a lawsuit about the taxable value of your property.
- **If your protest is late because the chief appraiser or ARB failed to mail a required notice of appraised value or a denial of exemption or agricultural appraisal, you may file your protest any time before the taxes become delinquent or no later than the 125th day after the date you claim you received a tax bill from one or more of the taxing units that tax your property.** You must pay some current taxes before the delinquency date to be entitled to this type of hearing. A notice of appraised value is not always required.
- **In some cases, you may file with the ARB to correct an error even after these deadlines.** Contact your appraisal district or the Comptroller's office if you have questions about clerical errors, substantial value errors, double taxing or other possible errors.

that your property qualifies for special appraisal based on its productivity and intensity of use.

Gather your ownership records and management records or obtain information from local agencies that provide services for farmers and ranchers.

● **Did the chief appraiser wrongly determine that you took your land out of agricultural use?**

Is agricultural activity still taking place on your land? If you have taken only part of the land out of agricultural use, you may need to show which parts still qualify. If you are letting land lie fallow, show that the time it has been out of agricultural use is not excessive or is part of a typical crop or livestock rotation process for your county.

● **Do the appraisal records show an incorrect owner?**

Provide records of deeds or deed transfers to prove ownership.

If you acquired the property after Jan. 1, you may protest its value until the ARB approves the appraisal records. The law recognizes both the old and new owners as having an interest in the property's taxes.

● **Is your property being taxed by the wrong taxing units?**

An error of this sort often is simply a clerical error. For example, the appraisal records may show your property as located in one school district when it actually is in another.

● **Is your property incorrectly included on the appraisal records?**

Some kinds of taxable personal property move from place to place quite regularly. Property is taxed at only one location in Texas. You can protest the inclusion of your property on the appraisal records if it should be taxed at another location in Texas.

● **Did the chief appraiser or ARB fail to send you a notice that the law requires them to send?**

A notice is presumed delivered if sent by first-class mail with a correct name and last known address. In some instances, notices are sent via certified mail, and the date of delivery is shown on the return receipt card. The timeliness of communications is determined by the post office cancellation mark.

If you rebut this presumption with proof that you did not receive the notice, the appraisal district must prove that it mailed the notice properly. You have the right to a hearing on your property for an improperly mailed notice.

You have the right to protest if the chief appraiser or ARB fails to give you a required notice. But unless you disagree with your appraisal, there is no point in protesting such a failure. Make sure that the appraisal district has your correct name and address.

You *cannot* protest failure to give notice if the taxes on your property are delinquent. Before the delinquency date, you must pay a partial amount, usually the amount of taxes that are not in dispute.

● **Is there any other action the appraisal district or ARB took that affects you?**

You have the right to protest any appraisal district action affecting you and your property. For instance, the chief appraiser may claim your property wasn't taxed in a previous year. You may protest only those actions that affect your property.

**How should you protest?**

The ARB will notify you at least 15 days, based on the notice's postmark date, in advance of the date, time and place of your hearing. Try to discuss your protest issue with the appraisal office in advance. You may work out a satisfactory solution without appearing before the ARB. If you have not designated an agent

to represent you before the ARB, you are entitled to one postponement without showing cause. The ARB may grant additional postponements if you can show reasonable cause. Or, the chief appraiser can agree to a postponement. You must appear at a hearing (in person, by affidavit or through an agent) or you may lose your right to judicial review.

At least 14 days before your protest hearing, the appraisal district will send you:

- ✓ a copy of this pamphlet;
- ✓ a copy of the ARB procedures;
- ✓ a statement affirming that you may inspect and obtain a copy of the data, schedules, formulas and any other information the chief appraiser plans to introduce at your hearing; and
- ✓ notice of your right to postpone the hearing.

If you request this information, the appraisal district may charge for copies. The charge may not exceed \$15 on a residential property or \$25 on a non-residential property.

When you present your protest to the ARB, you may appear in person; send someone whom you authorize in writing to appear in your behalf; or send a sworn affidavit with evidence to support your protest. (See *Appointing an Agent* on page 1.)

You may contact the appraisal district or the Comptroller's office for an affidavit form, but you need not use this form. If your letter contains all the information required, you may have your letter notarized and send it to the appraisal review board.

● **Do not contact ARB members outside the hearing.**

ARB members are prohibited from communicating with other persons about a property under protest. Each ARB member must sign an affidavit stating that he or she hasn't discussed your case with anyone. An ARB member who discusses your case outside the hearing must remove himself or herself from your hearing. An ARB member who communicates on specific evidence, argument, facts or the merits of a protest with the chief appraiser or appraisal district staff outside the hearing commits a criminal offense (a Class C misdemeanor).

● **Be on time and prepared for your hearing.**

The ARB may place time limits on hearings.

● **Stick to the facts of your presentation.**

The ARB has no control over the appraisal district's operations or budget, tax rates for local taxing units, inflation or local politics; addressing these topics in your presentation wastes time and will not help your case.

● **Present a simple and well-organized protest.**

Stress key facts and figures. Write them down in logical order and give copies to each ARB member. You are required to give a copy of your evidence to the appraisal district staff at or before the hearing. Photographs and other documents are useful evidence.

● **Recognize that the ARB acts as an independent judge.**

The ARB listens to both the taxpayer and chief appraiser before making a decision. It is not a case of the taxpayer against the ARB *and* the chief appraiser.

Appraisal district staff must take an oath to tell the truth. The ARB will ask you to take an oath as well, either by swearing or by affirming, before you present evidence. Should you refuse to take the oath, the ARB will note this fact and may take it into account as it weighs the evidence.

The chief appraiser has the burden of proving your property's value by a preponderance of the evidence

presented at the ARB hearing. If he or she fails to meet the burden of proof, the ARB must determine in your favor. A recent addition to the law adds another tool for the owner of a property under protest with a market or appraised value of \$1 million or less. If a property owner submits to the appraisal district a properly conducted, recently completed and certified appraisal of property value at least 14 days before the hearing, the appraisal district must provide evidence which clearly refutes the independent appraisal. If the appraisal district fails to do so, the ARB is required to rule in favor of the property owner.

**What should you do about errors found after the filing deadline?**

The law provides for late ARB hearings to correct errors, including property appraised more than a third above its correct value. Property owners must file a written request and meet certain requirements for the ARB to grant a late hearing on an approved value.

For the current and previous five tax years, the ARB may correct a clerical error, multiple appraisal of a property or inclusion of nonexistent property on the appraisal roll. A "clerical error" is a mistake in writing, copying, transcribing or entering data, but not in reasoning or judging a value. "Multiple appraisal," also called double taxation, is taxing the same property more than once in the same tax year. "Nonexistent property" is property that does not exist at the location or in the form described in the appraisal roll.

For the current tax year, the ARB may grant late hearings to correct certain over appraisals; correct values based on a joint motion of the property owner and chief appraiser; and hear from owners who weren't sent a required notice. Such late hearings require property owners to file written requests before the delinquency date of Feb. 1.

Before an ARB decision on a late hearing can take place, the owner must pay some current taxes, usually those not in dispute. If the owner wins a value reduction in a late ARB hearing, the taxing units will refund the difference in the tax payment and the correct amount of taxes. For an over appraisal hearing to take place, the property must not have had an ARB hearing and determination earlier in the year.

The owner must show that the approved appraised value exceeds the correct value by more than a third. If the owner proves that the value is in error but less than one-third wrong, the ARB may not order a value reduction. If the owner proves at least a one-third error, the ARB will reduce the value. The owner will pay a 10 percent penalty based on the taxes on the correct value for the late filing. For a joint motion hearing, the ARB must approve a change when the property owner and chief appraiser have agreed to the change in writing.

Following rules adopted by the ARB, the chief appraiser may change the appraisal roll at any time to correct any inaccuracy that does not increase the amount of tax liability.

**Should you appeal to district court or request binding arbitration?**

Once the ARB rules on your protest, it will send you a written order by certified mail. If you are dissatisfied with the ARB's findings, you have the right to appeal its decision to the state district court in the county in which your property is located.

You should consult with an attorney to determine if you have a case. Within 45 days of receiving the written order you must file a petition for review with the district court.

You also are required to make a partial payment of taxes, usually the amount of tax that is not in dispute, *before the delinquency date*. You may ask the court to excuse you from prepaying your taxes; to do so, you must file an oath attesting to your inability to pay the taxes in question and argue that prepaying the taxes restrains your right to go to court on your protest. The court will hold a hearing and decide the terms or conditions of your payment. If you request binding arbitration, the amount of tax that is not in dispute must be paid before the delinquency date.

At the district court, you may ask to have your appeal resolved through arbitration, by a jury or by a judge.

As an alternative to filing an appeal in state district court, a property owner is entitled to appeal through binding arbitration an ARB order determining a protest concerning: 1) the appraised or market value, as applicable, of real property as determined by the ARB order of \$1 million or less; and 2) only the determination of the appraised or market value of the property.

To apply for binding arbitration, you must complete the request form prepared by the Comptroller and submit it and a \$500 deposit (money order or cashier's check payable to the Comptroller of Public Accounts) to the appraisal district in which the ARB order was issued. The appraisal district will forward your request and deposit to the Comptroller. After receiving the request, the Comptroller will send you the Web site address where an arbitrators' registry is maintained. At this Web site, you and the appraisal district may select an arbitrator who is mutually agreeable. If you and the appraisal district cannot agree to an arbitrator, the Comptroller will make the selection.

The appointed arbitrator will arrange for an arbitration proceeding. After considering the evidence of the parties, the arbitrator will issue a decision concerning the value of the property. If the arbitrator's decision is closer to your value, the appraisal district will pay the arbitrator's fee, and the Comptroller will refund your deposit less 10 percent that law directs the Comptroller to retain. If the arbitrator's decision is closer to the appraisal district value or equal to half of the difference between your value and the appraisal district's value, then the arbitrator's fee is paid from your deposit. After the arbitrator's fee is paid, if it is less than \$450, the balance is refunded to you.

## Setting Tax Rates

Once the ARB approves the appraisal records, the chief appraiser prepares an *appraisal roll* for each taxing unit. An appraisal roll lists the taxable property within the unit's boundaries. The appraisal district's job then is finished for the current year. It has, at least in theory, provided a set of equal and uniform values for the use of all local taxing units.

Now the taxing units decide what services they will provide in the coming year and how much money they will need. Each taxing unit adopts a tax rate that will raise the needed tax dollars.

### How do tax rates work?

As a taxpayer, it's important for you to understand how government spending, property values and tax rates affect the size of your tax bill.

- **Property values determine each taxpayer's share of the total taxes.**

Changes in property values may affect the individual's tax bills, but they do not necessarily increase or decrease the *total* amount of taxes to a taxing unit.

- **A taxing unit's budget determines its total amount of taxes.**

Total taxes collected increase only when government spending increases.

- **The only meaningful way to compare tax rates is to consider the amount of tax revenue they will produce.**

"Truth-in-taxation" laws give taxpayers a voice in decisions affecting their property tax rates.

Beginning in early August, taxing units take the first step toward adopting a tax rate by calculating and publishing the *effective* and *rollback tax rates*.

The *effective tax rate* would provide the taxing unit with about the same amount of revenue it received in the year before, on properties taxed in both years. If property values rise, the effective tax rate will go down, and vice versa. Comparing property tax revenues from one year to the next year tells you whether there will be a tax increase.

The *rollback rate*, by contrast, would provide the taxing unit with about the same amount of tax revenue it spent the previous year for day-to-day operations, *plus* an extra 8 percent contingency for operating money and sufficient funds to pay its debts in the coming year. (For school districts, the contingency is 4 cents per \$100 of property value rather than 8 percent.)

In addition to effective and rollback rates, effective maintenance and operations rates must also be calculated. Special notices of budget and tax rate hearings must be published and posted on the web.

If a unit adopts a tax rate that is higher than the rollback rate, voters in the unit can circulate a petition calling for an election to limit the size of the tax increase. For school districts, no petition is required. The school board simply calls for an election to ratify the adopted rate if the adopted rate exceeds the rollback rate.

Each taxing unit, other than a school district, a water district or small taxing unit (with a rate of less than 50 cents per \$100 of property value that raises less than \$500,000), publishes the effective and rollback rates in a local newspaper, along with a list of the debts it must pay and the amount of money left over from the previous year. A school district or water district must publish a special notice in the newspaper.

If taxpayers believe that the taxing unit has not calculated and published these rates or other required information in good faith, they can ask a district court to stop the taxing unit from adopting a tax rate until it complies with the law.

Additional laws apply to tax rate settings for school districts.

- **What if your taxing unit plans to increase the tax rate?**

Taxing units hold budget hearings to discuss what services to provide in the coming year and how to pay for them. Taxpayers concerned about spending should attend these hearings.

If a governing body wants to increase its property tax rate above the effective or rollback rate, it must publish a quarter-page notice in a local newspaper, announcing special public hearings. School districts must publish a notice and hold a public hearing. (Small taxing units and certain water districts have a special notice process.)

The public hearings allow taxpayers to voice their opinions about the proposed tax increase and ask questions.

Before the hearings end, the governing body must set a date, time and place for the tax rate's formal adoption. The taxing unit then publishes another quarter-page ad announcing the meeting to adopt the tax rate.

If you believe that your taxing unit has failed to comply in good faith with these requirements, you can file a lawsuit in district court to stop tax collections until the taxing unit complies with the law. You must file the lawsuit before substantially all of the tax bills are mailed.

### How can you limit a tax increase?

If a taxing unit adopts a tax rate that exceeds the rollback rate, the taxpayers may petition for an election to reduce the tax increase to the rollback rate. If a school district adopts a tax rate above the rollback rate, the district *must* hold an election to ratify the adopted rate; no petition is required.

### For taxing units other than school districts, petitions for holding a tax rate rollback election must:

- **use specific legal wording.**  
An attorney can assist you with the proper wording for a petition;
- **be signed by at least 7 or 10 percent of the registered voters in the taxing unit, depending on whether the adopted tax rate raises more or less than \$5 million for maintenance and operations taxes.**  
The number of registered voters is the number of voters included on the most recent official voter list; and
- **be presented to the taxing unit's governing body within 90 days after it adopts the tax rate.**  
Once the governing body receives a petition, it has 20 days to determine if it is valid. If the governing body determines that the petition is valid, or if the governing body takes no action during the 20 days, it must set an election date 30-90 days from then.

If a majority votes in favor of the tax rollback, the tax rate is reduced to the rollback rate immediately. For school districts, if a majority votes against ratifying the school district's adopted tax rate, the calculated rollback rate will become the school's tax rate. In school districts, however, a rollback election is not required if the tax rate increase is intended to pay for responses to a natural disaster.

## Paying Your Taxes

Taxing units usually mail their tax bills in October. The delinquency date usually is Feb. 1. If Feb. 1 is drawing near and you haven't received a tax bill, contact your local tax offices. Find out how much tax you owe and make sure your correct name and address are on record.

Your tax bill may include taxes for more than one taxing unit if these taxing units have combined their collection operations. School tax rates must be divided into maintenance and operations, as well as debt service, for the previous and current tax years. Both the property owner and the owner's designated agent must be mailed tax bills.

If your mortgage company pays the property taxes on your home, the mortgage company will receive the tax bill.

The tax collector must give you a receipt for your tax payment if you ask for one. Receipts are useful for federal income tax purposes and for ensuring that your mortgage company has paid the taxes on your home. In addition, your tax receipt is evidence that you paid the tax if a taxing unit sues you for delinquent taxes.

If you appeal your value to district court, you must pay your taxes — usually the amount that is not in dispute — before the delinquency date. You may ask the court to excuse you from prepaying your taxes. You must file an oath of “inability to pay” the taxes in question and argue that prepaying the taxes restrains your right to go to court on your protest. The court will hold a hearing and decide the terms or conditions of your payment.

You have no legal right to withhold taxes or to put taxes in escrow to protest government spending or for any other reason. You must express your concerns in taxing unit budget hearings or in ARB value hearings. However, you may make a payment under protest as indicated on the check or in a transmittal letter.

#### When is the deadline for payment?

In most cases, the deadline for paying your property taxes is Jan. 31. Taxes that remain unpaid on Feb. 1 are considered delinquent. Penalty and interest charges are added to the original amount.

Taxing units must give you at least 21 days to pay after they mail your original bill. If your bill is mailed after Jan. 10, the delinquency date is postponed. You have until the first day of the next month that will provide at least 21 days for paying the bill. If the taxing unit mails your tax bill on Jan. 15, therefore, your taxes don't become delinquent until March 1. The delinquency date will be printed on your bill.

Most property owners pay their property taxes before the year's end so they can deduct the payments from their federal income taxes. If you haven't received a tax bill because the ARB is still reviewing a protest on your property, you may make a conditional tax payment. You must pay either last year's tax amount for the property or the taxes due on the ARB order, whichever sum is less. Once the ARB sets a value, the tax collector will send you either a supplemental tax bill or a tax refund.

Check with the tax collection office on local payment options that may be available, such as:

- ✓ **discounts**, if you pay your taxes early;
- ✓ **split payment** of taxes, allowing you to pay half your taxes by Nov. 30 and the remainder by June 30 without any penalty;
- ✓ **partial payment** of your taxes;
- ✓ **payment by credit card**, with an additional fee of up to 5 percent;
- ✓ **escrow agreements** for a special year-round account; and
- ✓ **work contracts**, in lieu of paying taxes, for certain taxpayers doing certain duties.

#### Installment payments for homestead taxes for persons aged 65 or older years of age or disabled are available to any taxpayer who qualifies.

You may defer some of your homestead taxes if you choose. The taxes that may be deferred are those for any value exceeding 105 percent of your home's appraised value, plus any new improvements, from the

preceding tax year. You must file a deferral application with the appraisal district before the taxes become delinquent, and you must pay the taxes based on 105 percent of the home's value.

If you are qualified for the aged 65 or older or disabled homestead exemptions, you may pay your current taxes on your home in four installments. You must pay at least one-fourth of your taxes before the Feb. 1 delinquency date. The remaining payments are due before April 1, June 1 and Aug. 1, without any penalty or interest. If you miss an installment payment, you will face a 6 percent penalty and also pay interest at 1 percent for each month of delinquency. You must indicate on your first payment that you are paying your home taxes in installments. Installment payments apply to all taxing units on the tax bill.

Persons qualifying for aged 65 or older or disabled homeowner exemptions may defer payment of their taxes (see *Age 65 or older homeowners or disabled homeowners* section on pages 2-3).

Homeowners whose residences are damaged in a disaster and are located in a designated disaster area also may pay their taxes in four installments, in the same months as aged 65 or older or disabled homeowners do.

#### What if you don't pay your taxes?

The longer you allow your delinquent property taxes to go unpaid, the more expensive and risky it becomes for you.

- **You will have penalty and interest charges added to your taxes.**  
Regular penalty charges may be as high as 12 percent, depending on how long the tax remains unpaid. Interest will be charged at the rate of 1 percent per month, with no maximum. Private attorneys hired by taxing units to collect delinquent accounts can charge an additional penalty to cover their fees.
- **You will receive delinquent tax notices.**  
The tax collector will send you at least one notice that your taxes are delinquent. They often send additional notices and warnings.
- **You may have the option to set up an installment plan.**  
Some tax collectors will allow you to pay delinquent taxes in installments for up to 36 months. They are not required to offer this option, however.  
Before signing an installment agreement, you should know that the law considers your signature an “irrevocable admission” that you owe all the taxes covered by the agreement.
- **You may be sued.**  
The tax collector's last resort is to take a delinquent taxpayer to court. Court costs will be added to the delinquent tax bill.  
Each person who owns taxable property on Jan. 1 is liable for all taxes due on the property for that year.

A person who owned taxable property on Jan. 1 can be sued for delinquent taxes even if the property has been sold or transferred since then.

- **You may face problems in selling your property.**

Each taxing unit holds a *tax lien* on each item of taxable property. A tax lien automatically attaches to property on Jan. 1 each year to secure payment of all taxes. This tax lien gives the courts the power to foreclose on the lien and seize the property, even if its ownership has changed. The property then will be auctioned and the proceeds used to pay the taxes. As a result of the tax lien, someone who purchases real estate cannot obtain a clear title until all the delinquent taxes owed on the property are paid in full. If you are buying a portion of a larger parcel of land, check the taxes on the larger parcel. You will not be able to clear a tax lien against your part unless taxes on the whole are paid.

## For More Information

The appraisal district can answer questions about property values, exemptions, agricultural appraisal and protests. Your taxing units can answer questions about tax rates and tax bills. Most property tax records are open to the public, including all appraised values, exemption applications and tax bills. If you have concerns about how the appraisal district operates or who serves as appraisal review board members, you may contact your appraisal district board of directors. The board of directors may not resolve issues dealing with your property's value, but can address concerns with appraisal district services, operations and policies.

#### Property Tax Assistance Division Information Services Texas Comptroller of Public Accounts

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<http://www.window.state.tx.us/taxinfo/proptax/remedy09/>

Call toll free in Texas (800) 252-9121.

In Austin, call (512) 305-9999.

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