



**Department of
Taxation**

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TO: All County Auditors, Appraisers and Appraisal Firms Currently Listed

Through: Shelley Wilson, Executive Administrator for Tax Equalization

FROM: Rebecca R. Luck, Legal Counsel for the Tax Equalization Division

RE: Am. Sub. House Bill 487 – Assessor’s Duties

DATE: July 31, 2012

Introduction

Am. Sub. House Bill 487, 129th General Assembly, contains two changes of note for county auditors as they fulfill their duties as assessor of real property within their respective counties.

R.C. 5713.012

This new section requires all county auditors to involve a “qualified project manager” in each mass assessment project that originates more than two years after the effective date of the enactment of this section (September 10, 2012). The section defines “qualified project manager” to mean a person who “plans, manages, coordinates, and controls the execution of a mass appraisal project under the direction of the county auditor.” A “mass appraisal project” is defined as “any sexennial reappraisal, triennial update, or other revaluation of all real property or the valuation of newly constructed real property in accordance with section 5713.01 of the Revised Code.”

R.C. 5713.012 outlines the requirements necessary to become a qualified manager. Such a person must complete a course of study and pass a comprehensive examination. The course and the examination must be approved by the superintendent of real estate and professional licensing, and consist of at least thirty hours of instructions, quizzes, and learning aids. The course must include instruction and examination in the following:

- Concepts and principles of mass appraisal as they relate to the assessment of real property for purposes of ad valorem taxation;
- Methods of data collection and data management relative to parcels of real property, including modern alternative data collection methods and currently utilized computer-assisted mass appraisal systems;

- Assessment sales-ratio study including various measures of central tendency, the various measures of dispersion of data about the mean, median, and dollar-weighted mean, and the advantages and disadvantages of various analysis techniques;
- Traditional approaches of property valuation, including the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project;
- Methods and systems for model building and model calibration as related to mass appraisal of real property
- Methods of production management and project analysis such as Gantt charts, program evaluation and review technique (PERT) charts, frequency distribution charts, line graphs, bar charts, and scatter diagrams, as they are utilized in the mass appraisal area.

Once the course is completed and the examination passed, the designation requires seven hours of continuing education in mass appraisal every two years.

Once the section becomes effective on September 10, 2014, the Tax Commissioner cannot approve any contract for any sexennial reappraisal, triennial update, or other revaluation of all real property or the valuation of newly constructed real property as required by R.C. 5713.01(E) or include any person on the list of appraisal firms approved under Ohio Adm. Code 5703-25-08, unless the appraiser/appraisal company designates a person with appropriate credentials to act as a qualified project manager. This provision will apply to any contract signed after September 10, 2014.

Planned Administrative Code changes include listing the requirements for certification as a qualified project manager, as well as confirming that contracts signed and mass appraisal projects originated after September 10, 2014 will require the identification of a person meeting such qualifications. Additionally, the new language will make it clear that the qualified project manager must provide on-site, day-to-day management of the project from beginning to completion.

R.C. 5713.03

R.C. 5713.03 describes a county auditor's duties when determining the true value of property within the county. Two changes of note were made. The first change, the addition of the words "the fee simple estate, as if unencumbered," following the words "true value" were intended to clarify the definition of "true value." This addition supports the method of calculating true value found in case law. *Muirfield Assn. Inc. v. Franklin Cty. Bd. of Revision* (1995), 73 Ohio St.3d 710. This clarification has been made necessary by later Ohio Supreme Court decisions which called into question whether "the fee simple estate, as if unencumbered" was the proper test for concluding to true value when a particular property had been the subject of an arm's-length sale. See *Cummins Property Services, L.L.C. v. Franklin Cty. Bd. of Revision* 117 Ohio St.3d 516, 2008-Ohio-473.

The second change, of the word “shall” to “may,” is intended to ease the strict standard imposed by the Ohio Supreme Court in *Berea City School Dist. Bd. of Edn. v. Cuyahoga Cty. Bd. of Revision* 106 Ohio St.3d 269, 2005-Ohio-4979, and its progeny. Prior to the Ohio Supreme Court’s decision in *Berea*, property owners and other interested parties were able to challenge the use of recent sale price of an individual piece of property as an indicator of value by arguing that a portion of (or a reduction from) the sale price was based upon something other than the transfer of an interest in realty. For instance, in a period of extremely high financing rates, the Ohio Supreme Court found that owner financing affected the price for which an individual property transferred. *Ratner v. Stark Cty. Bd. of Revision* (1986), 23 Ohio St.3d 59. The *Ratner* court held that where it has been shown that the sales price is not reflective of true value, other evidence of value, such as appraisals, may be considered in setting value.

This standard was in place for almost twenty years. However, in *Berea*, the Ohio Supreme Court reversed its holding and concluded that, in all cases where a sale was made that was arm’s-length, and recent to the tax lien date, the sale must be used as an indicator of value. This decision and subsequent decisions have imposed a very strict standard on auditors in valuing property. Prior to the current change in the law, when setting value an auditor was unable to consider the fact that the property was subject to non-market financing, a sale/leaseback arrangement, or restrictive covenants.

This change in the law is not intended to place every arm’s-length sale into question. It is also not intended to give appraisal evidence greater weight than the price garnered at an arm’s-length sale. Instead, the change in the law is intended to allow the auditor to look at the totality of the circumstances surrounding the sale and to determine whether the sale is affected by non-market forces. In such cases, the auditor may consider other evidence in determining the value of “the fee simple estate, as if unencumbered.”

Revised R.C. 5713.03 will be effective for the first tax year a county undergoes reappraisal or update for tax year 2013 or later. This means there will be different dates for the implementation of the new standard based on where a county falls in the revaluation cycle. DTE will seek to have this provision amended so that the statute applies to all 88 counties at the same time. In the meantime, the current language stands. The Tax Commissioner is also in the process of drafting amendments to the Ohio Administrative Code to reflect the legislative changes.