

Property Taxpayer Remedies

Property Tax Assistance • January 2010

You are entitled to an explanation of the remedies available to you when you are not satisfied with the appraised value assigned to your property by your appraisal district. The Texas Comptroller of Public Accounts is required to publish an explanation of the remedies available to taxpayers and procedures to be followed in seeking remedial action. The Comptroller also must include advice on preparing and presenting a protest.

The Legislature further directs that copies of this document be made readily available to taxpayers at no cost. The chief appraiser of an appraisal district may provide a copy with the *Notice of Appraised Value* mailed to property owners to explain the time and procedures used in protesting the value of their property. The chief appraiser must provide another copy to property owners initiating protests.

The first step in exercising your rights under the Tax Code is to protest your property's appraised value. The following remedies only address appraised values and related matters. Government spending and taxation are not the subject of this publication and must be addressed by local taxing units.

How to Protest Property Value

If the appraisal district appraises your property at a higher amount than in the previous year, state law requires the appraisal district to send a notice by May 1, or by April 1 if your property is a residential homestead, or as soon as practical thereafter. The notice must separate the appraised value of real and personal property and show an estimate of how much tax you would have to pay based on the same tax rate your city, county, school district and any special purpose district set the previous year.

The notice will also include the date and place the ARB will begin hearing protests and may tell you whether your appraisal district has an informal meeting process to resolve your concerns. If you are dissatisfied with your appraised value or if errors exist in the appraisal records regarding your property, you should file a *Notice of Protest* with the ARB.

Beginning on Jan. 1, 2010, appraisal districts in counties with a population of 500,000 or more must provide for electronic filing of a protest for excessive appraisal or unequal appraisal on property for which a residence homestead exemption has been granted, including electronic communications regarding the

protest. Electronic filing systems are not required to be made available to taxpayers using tax agents. Appraisal districts that have a Web site and are in counties with a population of more than 250,000 but less than 500,000 must implement electronic filing by Jan. 1, 2011, and counties with a population of 250,000 or less must do so by Jan. 1, 2013. There are no special provisions in these smaller appraisal districts for taxpayers with agents.

What Can be Protested

The *Notice of Protest* may be filed using the prescribed form on the Comptroller's Web site: www.window.state.tx.us/taxinfo/taxforms/50-132.pdf. The notice need not be on this form. Your notice of protest is sufficient if it identifies (1) the protesting person claiming an ownership interest in the property, (2) the property that is the subject of the protest and (3) dissatisfaction with a determination of the appraisal district.

You may protest the value on your property in the following situations:

- the value the appraisal district placed on your property is too high;
- your property is unequally appraised;
- the appraisal district denied a special appraisal, such as open-space land, or incorrectly denied your exemption application;
- the appraisal district failed to provide you with required notices; or
- other matters prescribed by Tex. Tax Code §41.41(a).

How to Resolve Concerns Informally

Many appraisal districts will informally review your concerns with you and try to resolve your objections. It is very important, however, that you preserve your right to protest to the ARB by filing your *Notice of Protest* before the deadline, even if you expect to resolve your concerns at the informal meeting with the appraisal district.

Find out the process your appraisal district follows. Try to discuss your protest issue with the appraisal office in advance. Ask one of the appraisal district's appraisers to explain how the district arrived at the value of your property. Be sure the property description is correct and that the measurements for your home or business and lot are accurate. Many appraisal districts have this information online.

What is an ARB?

The ARB is an independent, impartial group of citizens authorized to resolve disputes between taxpayers and the appraisal district. Although, in most counties, the ARB is appointed by the appraisal district board of directors, it is not controlled by the appraisal district.

Bringing a protest before the ARB is a formal process; it is somewhat like taking a case to a court for resolution. The ARB must follow certain procedures that may be unfamiliar to you. It must base its decisions on facts it hears from you and the appraisal district to decide whether the appraisal district has acted properly in determining the value of your property.

ARB members cannot discuss your case with anyone outside of the hearing. You should know, however, that your protest hearing is open to the public; anyone can sit in and listen to the case.

When are Protests Filed?

You should file your *Notice of Protest* with the ARB no later than 30 days after the appraisal district mailed the *Notice of Appraised Value*. You may request an evening or weekend hearing. The ARB will notify you at least 15 days in advance of the date, time and place of your hearing. If you are not represented by an agent, you are entitled to one postponement of the hearing to a later date without showing cause. The ARB begins hearings around May 15 and generally completes them by July 20. Start and end dates can vary from appraisal district to appraisal district.

At least 14 days before your protest hearing, the appraisal district will mail a copy of this pamphlet; a copy of the ARB procedures; and a statement 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. This information is not required to be delivered 14 days before a hearing; it only must be available for inspection and copying.

You can appear at the ARB hearing in person, by affidavit or through an agent. If you fail to appear, you may lose the right to be heard by the ARB on the protest and the right to appeal. If you are not represented by an agent and you fail to appear at a hearing, you are entitled to a new hearing if you file with the ARB, not later than four days after your hearing date, a written statement showing good cause for failing to appear and request a

new hearing. Good cause is defined as a reason that includes an error or mistake that was not intentional or was not the result of conscious indifference and will not cause undue delay or injury to the person authorized to extend the deadline or grant a rescheduling.

What Steps to Take to Prepare for Protest Hearing

You should consult with the appraisal district staff about your property's value. Ask questions about items you do not understand. The appraisal district is required to provide copies of documents that you request, at a cost not to exceed \$25 total for all the copies it makes for each property you protest, or \$15 for each residence. Many appraisal districts provide a great deal of information on their Web sites at no charge.

If you are protesting the appraisal of your home, you can view the video *How to Present your Case at an Appraisal Review (ARB) Hearing* on the Comptroller's Web site at <http://www.window.state.tx.us/taxinfo/proptax/ARBvid/player.html>.

Observing the following tips can also help in achieving a successful appeal:

- *Be on time and prepared for your hearing.* The ARB may place time limits on hearings.
- *Stick to the facts and avoid emotional pleas.* 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.
- *Review the ARB hearing procedures.* After you receive the ARB hearing procedures, take time to become thoroughly familiar with them and be prepared to follow them.
- *Present your information in a simple and well-organized manner.* You and the appraisal district staff are required to exchange evidence at or before the hearing. Photographs and other documents are useful. You should take an appropriate number of copies so that each ARB member and the appraisal district representative receive one.

The date of your appraisal is Jan. 1, so you should make sure that changes made before that date are included in the appraisal. Improvements or damage to your property after Jan. 1 should not be part of the appraisal or the protest.

If you are protesting the value of business property or other appraisal matters, you should have evidence to support your opinion of value. Sales data may not be available or relevant, but income and expense information may be useful.

The appraisal district has the burden of proof in value and unequal appraisal disputes. An appraiser's job is to appraise property at its market value, equitably and uniformly.

What if you are Dissatisfied with the ARB's Decision

After the ARB rules on your protest, it will send a written order by certified mail. If you are dissatisfied with the ARB's findings, you have the right to appeal the decision. Depending on the facts and type of property, you may be able to appeal to the state district court in the county in which your property is located; to an independent arbitrator appointed by the comptroller; or, in certain counties and under limited circumstances, to the State Office of Administrative Hearings (SOAH).

You may appeal through binding arbitration if your property is valued at \$1 million or less. You may also use binding arbitration for your residence homestead regardless of its appraised value. To request binding arbitration, you must file a *Request for Binding Arbitration* form with the appraisal district, along with a deposit check payable to the Comptroller of Public Accounts. The deposit is \$500 for standard arbitration or \$250 for expedited arbitration. An expedited arbitration limits each party to one hour of argument. All but \$50 of your deposit will be refunded to you if the arbitrator sets your value at an amount closer to your opinion of value than to the ARB's value. If not, the deposit is used to pay the arbitrator's fee. You must exercise the arbitration option not later than 45 days after the date you receive the ARB's notice of its decision.

Under a pilot program established by House Bill 3612 adopted by the 81st Regular Session of the Legislature in 2009, property owners in Bexar, Cameron, El Paso, Harris, Tarrant and Travis counties may appeal ARB orders for real or personal properties with values of more than \$1 million to SOAH. This legislation requires this pilot program be implemented over a three-year period beginning Jan. 1, 2010, and limits it to 3,000 appeals. The pilot program expires Jan. 1, 2013. You must exercise this option not later than 30 days after the date you receive the ARB's notice of its decision.

Alternatively, you may appeal the decision to the state district court in which your property is located. You must file the appeal no later than 60 days after you receive the final ARB order.

In all types of appeals, you are required to pay taxes equal to the undisputed value of your property before the delinquency date.

What is the Comptroller's role in the protest process?

You should know that the Comptroller does not have oversight responsibility over the ARB and has no authority to investigate complaints about the ARB. Any complaints about the ARB or its members should be directed to the ARB itself or to the appraisal district board of directors. The Comptroller's office has no direct involvement in the protest process.

Where can you get more information?

This publication does not cover all aspects of the ARB protest process or property taxes. For more information, please see the following resources:

- *Taxpayer Bill of Rights;*
- *Valuing Property;*
- *Setting Tax Rates;*
- *How To Protest;*
- *Paying Your Taxes;*
- *Appraisal Review Board Manual;* and
- *Texas Property Tax Code.*

This information is found on the Comptroller's Property Tax Assistance Web site. It provides property owners a wealth of information on the appraisal and protest process at <http://www.window.state.tx.us/taxinfo/proptax/>. You may also contact the Comptroller's Information Services Team for assistance at ptad@cpa.state.tx.us or at (800) 252-9121.

Property Tax Assistance Division Information Services

Texas Comptroller of Public Accounts

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<http://www.window.state.tx.us/taxinfo/proptax/remedy10/>

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

In Austin, call (512) 305-9999.

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