

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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Opinion No. 07-37

Assessor's Authority to Reduce Assessment

QUESTION

After the assessment roll has been certified and the assessments delivered to the county board of equalization, may an Assessor of Property independently reduce an assessment pursuant to Tenn. Code Ann. § 67-5-509 or other statute or law for the sole reason that the reduced value is the same amount established by the county board of equalization for the previous year?

OPINION

No. The Assessor of Property is required to make assessments of all property in the county no later than May 20 of each year. After May 20, the assessor's authority to change assessments is limited to obvious clerical mistakes. Although the assessor may recommend to the local board of equalization that it reduce an assessment, the assessor has no independent authority to change the assessment.

ANALYSIS

The Assessor of Property is required to make assessments of all property in the county no later than May 20 of each year. *See* Tenn. Code Ann. § 67-5-504(b) (2006).¹ Prior to May 20, the assessor is required to note upon her records "the current classification and assessed valuation of all taxable property within [her] jurisdiction." Tenn. Code Ann. § 67-5-508(a)(1) (2006). The assessor must make these records available for public inspection at her office. *See* Tenn. Code Ann. § 67-5-508(a)(2) (2006). Additionally, the assessor must notify affected taxpayers of any changes in classification or assessed valuation "at least ten (10) calendar days before the local board of equalization commences its annual session." Tenn. Code Ann. § 67-5-508(a)(3) (2006).

¹With regard to municipal property, however, the assessor must complete these assessments "not less than forty (40) days prior to the beginning tax due date of the municipality." Tenn. Code Ann. § 67-5-504(b) (2006). In Shelby County, the assessor "may establish assessment activity dates other than those set forth in [the tax code], if approved by ordinance or resolution of the local governing body." Tenn. Code Ann. § 67-5-504(a) (2006).

In previous opinions, this Office has observed that, once the foregoing duties are accomplished, the assessor's authority to change assessments is limited to that described in Tenn. Code Ann. § 67-5-509. *See* Op. Tenn. Att'y Gen. No. 83-45 (Jan. 25, 1983); *see also* Op. Tenn. Att'y Gen. No. 87-90 (May 14, 1987); Op. Tenn. Att'y Gen. 86-121 (July 15, 1986). Pursuant to Tenn. Code Ann. § 67-5-509,

[w]henver the assessor shall discover, or it has been called to such assessor's attention, that there has been an error or omission in the listing, description, classification or assessed value of property or any other error or omission in the tax rolls held by the trustee or municipal collector, the assessor shall certify in writing the facts to the trustee or municipal collector, who shall receive the tax on the corrected assessment and report the difference in the trustee's or municipal collector's errors and releasement list, and shall make such other corrections as such certificate may show right and proper.

Tenn. Code Ann. § 67-5-509(c)(1) (2006).

Not all errors or omissions may be corrected under this statute. As the statute explains, errors or omissions correctable pursuant to this statutory authority

include only obvious clerical mistakes, involving no judgment of or discretion by the assessor, name or address of an owner, the location or physical description of property, misplacement of a decimal point or mathematical miscalculation, errors of classification, and duplicate assessment.

Tenn. Code Ann. § 67-5-509(f) (2006). Even corrections of this nature must be requested by the taxpayer or initiated by the assessor by March 1 of the second year following the tax year for which the correction is made. *See* Tenn. Code Ann. § 67-5-509(d) (2006).

A reduction in valuation to reflect the local board of equalization's adjustment of an assessment for an earlier tax year does not fall within the types of errors or omissions described in Tenn. Code Ann. § 67-5-509. The statute authorizes the assessor to correct "only obvious clerical mistakes." *Id.* It does not authorize the assessor to change assessments merely because the local board of equalization established a lower value for a previous tax year.

This conclusion does not leave the taxpayer without a remedy. If the taxpayer believes that the assessment should be reduced, the taxpayer may challenge the assessment by appealing to the local board of equalization prior to the board's final adjournment for the tax year in question. *See*

Tenn. Code Ann. §§ 67-5-1401, -1407(a)(1) (2006).² Alternatively, while it is still in session, the local board of equalization has the discretion to “[d]ecrease the assessments of such properties as the board determines have been excessively assessed.” Tenn. Code Ann. § 67-5-1402(5) (2006). Although the assessor may recommend “changes of assessment or classification” to the board, such adjustments must be accomplished by the local board, and not by the assessor. Tenn. Code Ann. § 67-5-1403(b) (2006); *see also* Op. Tenn. Att’y Gen. No. 05-102 (July 6, 2005).

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²In cases involving tangible personal property, the taxpayer also may file an amended personal property schedule with the assessor at any time until September 1 of the year following the tax year for which the original schedule was submitted. *See* Tenn. Code Ann. § 67-5-903(e) (2006).