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Washington Department of Revenue
Property Tax Division

**2013 Review
of the Board of Equalization
in Kittitas County**



May 2014

Table of Contents

Overview	3
Introduction.....	3
Purpose.....	3
Scope of Review	3
Information Reviewed	3
Acknowledgment	3
Executive Summary	4
About this Review.....	4
Categories of Results	4
Results.....	4
Requirements.....	6
Regularly Convened Sessions.....	7
Board Clerk’s Record of Hearing	8
Board Orders.....	10
Value Change Notice or Other Determination Notice to Accompany Petition	12
Recommendations	13
Desk Reference Manual.....	14
Opening Remarks.....	15
Appeals Information Packet Letter	16
Next Steps.....	17
Prioritizing Requirements and Recommendations.....	17
Follow up	17
Questions.....	17

Overview

Introduction

The Department of Revenue (Department) conducted an onsite interview with the Clerk of the Kittitas County Board of Equalization (Clerk). The interview focused on the Kittitas County Board of Equalization's (Board) processes and procedures.

Purpose

The primary purpose of this review by the Department is to assist the Board in their processes and procedures to ensure compliance with state statutes and regulations.

An effective review of the methods employed by the Board in administering the assessment appeal process will promote fair, timely, and uniform property tax assessments.

Scope of Review

The review is limited in scope. We interviewed the Clerk and reviewed petition files and other documentation for compliance with state statutes and regulations.

Information Reviewed

To complete our review, we gathered information about the administration of the Board through interviews, documents provided by the Clerk, and independent verification. The areas we reviewed included, but were not limited to:

- Petitions for appeal (2012 assessment year for taxes payable in 2013)
 - Hearing procedures
 - Board orders
 - Board members and hearing examiners qualifications
 - Regularly convened session
 - Reconvening processes
 - Publications, forms, literature, and website
 - Board policies
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Acknowledgment

We commend the Clerk, the Board, and the county legislative authority for their willingness to look at changes to improve the administration of the appeals process.

Executive Summary

About this Review In September 2013, the Department conducted an on-site visit to the Board of Equalization office. We interviewed the Clerk of the Board about the processes and procedures used in hearing appeals.

An administrative review of this type is prone to underscore problem areas even in a county that is doing well. Though we may have observed processes or procedures employed that could be considered "best practices," those items may not be reflected in this report.

Categories of Results

The Department has completed its review and grouped the results into two categories:

- The first category, "Requirements," is of the greatest urgency for effective administration by the Clerk and the Board. A change is required to adhere to the law.
- The second category, "Recommendations," requires the attention of the Clerk and the Board. We note recommendations as being in the best interest of all parties. We believe improvements in these areas can improve service to the public.

The Department based the requirements and recommendations contained in this report on our review of the administrative procedures employed, existing state statutes and regulations, and areas we saw opportunities to improve processes, procedures, and communication.

Results

The Department identified four requirements and three recommendations directed toward improving the Board's processes.

The items identified may be specific to the Clerk's duties, the Board's duties, county legislative authority duties, or they may have shared components of responsibility. A summary of these items follows.

Continued on next page

Executive Summary, Continued

Requirements

1. The Board is required to request the approval of the county legislative authority to continue hearings after the regular 28-day convened session. (RCW 84.48.010, WAC 458-14-046) 7
 2. The Board Clerk is required to keep a record of the Board’s proceedings and publish the record. (RCW 84.48.010 and WAC 458-14-095 (5))..... 8
 3. The Board is required to issue orders stating the facts and evidence upon which their decision is based upon and the reason(s) for the decision. (RCW 84.48.010 and WAC 458-14-116) 10
 4. Petitions filed after July 1 must include a copy of the value change notice or other determination notice being appealed. (RCW 84.40.038 and WAC 458-14-056) 12
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Recommendations

1. The Department recommends the Board develop a desk reference manual for the Board’s and Clerk’s administrative duties..... 14
 2. The Department recommends the Board include all of the significant details regarding how the hearing is conducted in the opening remarks. 15
 3. The Department recommends that the Board update their property tax information packet letter. 17
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Requirements

Introduction

For the items listed as “Requirements,” the Board of Equalization must make changes in procedure to comply with law.

Contents

This section contains the following topics:

Topic	See Page
Regularly Convened Sessions	7
Board Clerk’s Record of Hearing	8
Board Orders	10
Value Change Notice or Other Determination Notice to Accompany Petition	12

Regularly Convened Sessions

Requirement	The Board is required to request the approval of the county legislative authority to continue hearings after the regular 28-day convened session. (RCW 84.48.010, WAC 458-14-046)
What the law says	Boards of equalization meet on July 15 for a minimum of three days but for not more than 28 calendar days. The county legislative authority may reconvene the board of equalization when the number of petitions filed exceeds 25, or 10 percent of the number of appeals filed in the preceding year, whichever is greater.
What we found	The Board continued to hold hearings after the regular 28-day convened session without requesting authorization from the county legislative authority. During the Department's review of the Board's processes, the Clerk replied that next year she would request formal approval by the county legislative authority.
Action needed to meet requirement	<p>The Board must request the authorization of the county legislative authority to be reconvened after their regular 28 day session, when petitions filed exceed 25 or 10 percent of the number of petitions filed in the preceding year, whichever is greater.</p> <p>The Department recommends the authorization be in writing. <i>Notice of Approval to Hear Property Tax Appeals</i> (form REV 64 0049e) is available on Property Tax Resource website located by clicking on the following link http://propertytax.dor.wa.gov/.</p>
Why it's important	Proper authorization ensures that the county legislative authority is aware of the Board's workload.

Board Clerk's Record of Hearing

Requirement The Board Clerk is required to keep a record of the Board's proceedings and publish the record. (RCW 84.48.010 and WAC 458-14-095 (5))

What the law says The statute requires the board clerk to maintain a journal or record of the board of equalization's proceedings and orders. The record must be published in the same manner as other proceedings of the county legislative authority.

What we found The appeal files examined did not contain the Board Clerk's Record of Hearing (form REV 60 0002).

The Clerk has a customized form titled *BOE Hearing Notes* that contains similar information as the *Board Clerk's Record of Hearing*; however, the form excludes the subject parcel number, recorded audio tape or CD number; time the hearing started and ended, and a dated signature of the chairperson or designee.

A completed version of *BOE Hearing Notes* was not with the appeal packets reviewed for the audit.

In addition, the Clerk stated she is unaware if the record of the Board's proceedings is published. Moreover, the Kittitas County Commissioner's Clerk is responsible for publishing their documents.

The Clerk noted the county legislative authority's agenda is posted on a bulletin board within the county courthouse and on the county website. The agenda action sheet is posted on the same bulletin board, and the minutes are posted on the county website. She indicated the Board Clerk's Record of Hearing could also be posted either on the bulletin board and/or on the county website.

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Board Clerk's Record of Hearing, Continued

Action needed to meet requirement

The Clerk must complete the *Board Clerk's Record of Hearing form* and include the form in each appeal file (REV 60 0002).

The Department's form lists the following information:

- Petition Number
- Taxpayer's name and contact information
- Subject parcel number
- Hearing date
- Board members present at hearing
- Market value determined by the board or other decision by the board
- Recorded on tape or CD number
- Time the hearing started and ended
- Signature of chairperson or designee and date

The record of hearings must be published in the same manner as other county legislative authority proceedings.

Why it's important

The record serves as a public summary of the actions taken by the board of equalization for each hearing.

Board Orders

Requirement The Board is required to issue orders stating the facts and evidence upon which their decision is based upon and the reason(s) for the decision. (RCW 84.48.010 and WAC 458-14-116)

What the law says The Board’s order must be on a form provided by the Department or approved by the Department. The order must state the facts and evidence upon which the decision is based upon and the reason(s) for the decision.

What we found The Board is using a customized order form. The customized board order form does not meet the standards required by the Department. Also, a well reasoned explanation was not included in the orders reviewed.

The orders reviewed did not:

- Summarize the facts and evidence supplied by the appellant and Kittitas County Assessor (Assessor).
- Explain how the Board arrived at their decision.
- Correctly state that sales made within five years of the date of the petition must be considered during the appeal process.

The following table lists statements in the Board’s orders that were unclear:

No. 1	<i>“The Board decided to adjust the value of this property to reflect a reasonable value of the assessment.”</i> The Board must determine the true and fair market value of the subject property based on the information provided during the appeal, not a “reasonable” value.
No. 2	<i>“The Board felt the documentation submitted by the petitioner on these properties did not support a change of value.”</i> This statement does not tell the reader of the document why the Board was not convinced the Assessor incorrectly valued the subject property.
No. 3	An order incorrectly states <i>“The supporting sales were after the appraisal date of 2010 and therefore cannot be considered to make a change in the value.”</i> WAC 458-14-076(2) requires boards to consider sales that have occurred within five years of the appeal petition.

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Board Orders, Continued

Action needed to meet requirement

A well-reasoned explanation of the Board's decision must be included in the order. For example:

- Why the comparable sales offered by the appellant were not considered comparable.
- Why the comparison of assessed values of other parcels did not demonstrate market value.
- Why the dates of the comparable sales are not appropriate.
- Why the percentage of change between the current assessment year and the prior assessment year did not demonstrate market value.
- Why a private appraisal of another property was not considered as evidence in the appeal of the subject property.
- Why the appellant's comparable sales are more comparable to the subject property than the Assessor's comparables.
- Why a private appraisal of another property was not considered as evidence in the appeal of the subject property.
- Why the appellant's comparable sales are more comparable to the subject property than the Assessor's comparables.

For example, the summary may include:

The appellant (or assessor) offered four comparable sales ranging in dates from June 2011 to February 2013, with sales prices ranging from \$5,000 to \$11,000. The sales provided by the appellant convinced the board to reduce the value.

Board orders must explain the reason for the change in value and the facts and evidence upon which the decision is based.

Why it's important

A well-written Board order will assist both parties of the appeal to understand the decision reached by the Board. A well-reasoned decision stating the facts about the subject property and the evidence supplied by both the appellant and assessor indicates the Board reviewed the evidence offered.

Value Change Notice or Other Determination Notice to Accompany Petition

Requirement Petitions filed after July 1 must include a copy of the value change notice or other determination notice being appealed. (RCW 84.40.038 and WAC 458-14-056)

What the law says Only complete and timely filed taxpayer petitions can be considered by boards of equalization. Petitions must be made on a form prescribed or approved by the Department. Any petition not conforming to the requirements on the form cannot be considered complete.

What we found During the Department's review of the Board's processes, we discovered the petitions filed after July 1 did not include a copy of the value change notice or other determination notice made by the Assessor as required on the petition form.

The Clerk stated that she never receives the value change notices from the Assessor. However, the Assessor informs her of the date that the value change notices are sent to the taxpayers.

Action needed to meet requirement Petitions made after July 1 that do not include a copy of the change of value notice or other determination notice are incomplete and must be returned to the taxpayer with a form letter explaining the situation. The form letter should include a reasonable deadline for the taxpayer to return the completed petition. If the petition is not returned by the deadline stated in the letter, the petition must be rejected.

Why it's important Without a copy of the change of value notice or other determination notice accompanying a petition when it is filed after July 1, it is impossible to determine if the petition has been filed timely. Only complete and timely filed petitions can be granted a hearing.

Recommendations

Introduction

For the items listed as “Recommendations,” the Department believes the Board of Equalization could improve service to the public by making voluntary changes in procedures.

Contents

This section contains the following topics:

Topic	See Page
Desk Reference Manual	13
Opening Remarks	14
Appeals Information Packet Letter	16

Desk Reference Manual

Recommendation The Department recommends the Board develop a desk reference manual for the Board's and Clerk's administrative duties.

What we found The Board does not have a desk reference manual. However, they do refer to the Department's *Operations Manual for County Boards of Equalization in Washington State*.

Action recommended Develop a desk reference manual which may include policy information and specific step-by-step procedures on how to administer the duties of the Board.

The goal of a desk reference manual is to provide the tools necessary to perform the duties of the Board in an efficient and professional manner. The Board should follow such manual in all its operations and procedures.

Why it's important Desk reference manuals are useful for training staff, maintaining consistency within the office, and a good tool in preventing the loss of institutional knowledge.

Opening Remarks

Recommendation The Department recommends the Board include all of the significant details regarding how the hearing is conducted in the opening remarks.

What we found The Board currently uses opening remarks to set the stage for the hearing; however, some important items are not included.

The Board's opening statement excluded items such as:

- The date and time of each hearing.
 - The assessor enjoys a presumption or correctness.
 - What constitutes proper evidence.
 - The Board's procedure for issuing written determinations, such as when an order will be delivered; i.e., within 15 days, 30 days, etc.
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Action recommended To assure that everyone in attendance understands how the hearing will be conducted, opening remarks by the board should include the following:

- Introductions.
- Date and time of each hearing.
- The fact that the board and assessor's office are independent of each other.
- The board's duties, i.e., to determine market value as of the assessment date, to determine exempt status, etc.
- The presumption of correctness. The law grants the assessor the presumption of correctness and the burden of proving that an assessed value is incorrect belong to the taxpayer.
- What constitutes proper evidence, i.e. market sales, market based cost and depreciation information, market based income information.
- Assessments of other properties, percentage of value increase, personal hardship, and the amount of tax owed are not evidence of market value.
- The board's procedure for making determinations, i.e., at the end of the hearing, at a later date, etc.
- The board's procedure for issuing written determinations, i.e., within 15 days, 30 days, etc.
- The right of all parties to appeal to the State Board of Tax Appeals.
- Length of the hearing and a reminder to use their time wisely.

Why it's important Thorough opening remarks assure that everyone in attendance understands how the hearing will be conducted.

Appeals Information Packet Letter

Recommendation The Department recommends that the Board update their property tax information packet letter.

What we found The Board has created a packet of information for taxpayers who inquire about the appeals process. The packet includes a cover letter encouraging the taxpayer to discuss the assessment issue with the Assessor, where to file an appeal, appeal deadlines, a real property petition form, the Department's *Appealing Your Property Assessment to the County Board of Equalization* publication, and an excerpt of WAC 458-14-056 and RCW 84.40.039.

It is unclear if the Board provides this packet of information for all types of appeals or just real property assessment appeals.

Action recommended The Department recommends that the Board update the following topics in their cover letter:

- The valuation information (evidence) supplied by the appellant can be submitted at the time the petition is made or it can be submitted to the Assessor and Board at least seven business days, excluding holidays prior to the hearing.
 - In addition to the WAC reference regarding clear, cogent, and convincing evidence include the statutory reference, RCW 84.40.0301.
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Why it's important The Board's information packet should provide an accurate overview of the property tax assessment and appeal process. Relevant data and information should be listed accurately according to the statutes.

Next Steps

Prioritizing Requirements and Recommendations

Once the Clerk and Board receive a final copy of this review, the Department will (if requested) consult with them to prioritize the items listed in the report.

Follow up

The Department is committed to the success of the Kittitas County Board of Equalization by ensuring the members and the Clerk comply with state statutes and regulations.

The Department will follow-up in six months to review the changes implemented. This will give the Board an opportunity to provide information to the Department about any issues they encountered during the implementation process.

Questions

For questions about specific requirements or recommendations in our report, please contact the contributing staff members listed below.

Levy and Appeals Auditor	Annette Hargadon	(360) 534-1429
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