

P. O. Box 47471
Olympia, WA 98504-7471

Washington Department of Revenue Property Tax Division

2023 Review of the Whatcom County Board of Equalization



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Overview

Introduction

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

Purpose

The Department's primary purpose of this review 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 reviewed administrative procedures 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 2022 assessment year for taxes payable in 2023.
- Hearing procedures.
- Deliberation process.
- Board orders.
- Regular convened session.
- Reconvening processes.
- Publications, forms, literature, and website.
- Board policies.

Acknowledgment

We thank the Board and Clerk for their cooperation throughout our review. We commend the Board for their willingness to look at opportunities to improve the uniformity and administration of property tax.

Executive Summary

About this review

The Department interviewed the Board's staff about the processes and procedures used in hearing appeals.

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 Board. The Department believes the Board could improve their performance and service to the public by making voluntary changes in procedures.

The Department bases requirements and recommendations contained in our reports 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 six requirements and two recommendations directed toward improving the Board's methods.

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.

Executive Summary, continued

Requirements

1. The Board is required to hold a hearing and make a decision when the appellant has submitted a complete and timely filed petition.
2. The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21 business days prior to the hearing.
3. The Board is required to reduce the standard of proof from clear, cogent, and convincing to the preponderance of evidence when the appellant shows clear, cogent, and convincing evidence that a specific value within the overall assessed value is flawed.
4. The Board is required to only accept complete and timely filed petitions.
5. The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21-business days prior to the hearing.
6. The Board is required to provide the parties to an appeal with their decision on a form prescribed or approved by the Department.

Recommendations

1. The Department recommends the Board submit any customized forms to the Department for approval.
2. The Department recommends the Board update their Desk Reference Manual.

Requirement – Untimely filed petitions

Requirement

The Board is required to hold a hearing and make a decision when the appellant has submitted a complete and timely filed petition.

What the law says

A taxpayer may appeal an assessed valuation placed on such property by the county assessor for any reason authorized by statute. The appeal must be made with a complete and timely filed petition, on the form prescribed (RCW 84.40.038).

A taxpayer must file a timely petition for a specific assessment year to preserve their right to appeal (WAC 458-14-056).

What we found

The Board is holding untimely filed petitions for an appeal in the following year.

The Clerk notifies the taxpayer when a petition is submitted after the required deadline, informing them of the late filing and their options to request a reconvene or waiver of the filing deadline for good cause. When the taxpayer does not provide a reason for the late filing, the Board holds the petition until the next year.

The only method for appealing the Assessor's value or determination is a complete and timely filed petition for each assessment year the taxpayer wishes to appeal.

Action needed to meet requirement

The Board is required to take the following actions:

- Discontinue the practice of holding untimely petitions until the next filing year. Appellants must submit a separate petition form for each assessment year they wish to appeal.
- When a petition is not filed timely, the Board must send a notice to the taxpayer denying the appeal. The notice must include information for:
 - Waiver of the filing deadline for good cause and a deadline for submission.
 - Reconvene information and a deadline for submission.
 - If the taxpayer provides a waiver of the filing deadline request the board must make a decision to grant or deny the request.
 - The Board must provide the taxpayer with their decision in writing. The decision notice must inform the taxpayer that the Board's decision for the good cause waiver request is final and not appealable to the BTA.

Requirement – Untimely filed petitions, continued

Why it's important

Proper documentation of complete and timely filed appeals assures both the taxpayer and the assessor due process.

Requirement – Exchange of evidence prior to hearing

Requirement

The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21 business days prior to the hearing.

What the law says

When a taxpayer provides additional evidence after the petition is filed, they must submit a copy to the assessor's office and the board at least 21 business days prior to the hearing (RCW 84.48.150 and WAC 458-14-066(3)).

What we found

One of the petition files reviewed by the Department included a hearing notice that set the submission deadline for additional evidence at 22 instead of 21 business days prior to the hearing.

Action needed to meet requirement

The Board is required to take the following actions:

- Use a deadline of 21 business days prior to a hearing for providing additional evidence for an appeal. The count of 21 business days should not include the hearing date, weekends, or public holidays.
 - This could be accomplished by replacing the deadline date in the letter with the following language: petitioners have 21 business days prior to the hearing to provide additional evidence. Use of this statement decreases the chance of the Board giving incorrect written advice to petitioners.

Why it's important

Deadlines within the property tax appeals process ensures due process for all parties.

Requirement – Standard of proof

Requirement

The Board is required to reduce the standard of proof from clear, cogent, and convincing to the preponderance of evidence when the appellant shows clear, cogent, and convincing evidence that a specific value within the overall assessed value is flawed.

What the law says

If a taxpayer shows by clear, cogent, and convincing evidence that a specific value within an overall assessed value is incorrect, then the standard of proof shifts to preponderance of the evidence for all contested issues related to that specific value (RCW 84.40.0301 and WAC 458-14-046).

What we found

One of the petition files included an order stating standard of proof the Board's decision was based was a preponderance of evidence. The petitioner provided cost to cure evidence and the Assessor did not provide an answer. It appears the standard of proof was clear, cogent, and convincing and the petitioner provided sufficient evidence to overcome the Assessor's presumption of correctness. It is unclear to the Department why the Board stated the standard of proof as a preponderance of evidence.

When the standard of proof is reduced from clear, cogent, and convincing to a preponderance of evidence for a Board decision the reason must be clearly stated in the order.

Action needed to meet requirement

The Board is required to take the following actions:

- When a taxpayer provides clear, cogent, and convincing evidence to overcome the Assessor's presumption of correctness it must be stated as such in the order.
 - When the Board makes a decision to decide an appeal based on a reduced standard of proof the reason for the reduction in the standard of proof must be explained in the order.
- Reduce the standard of proof to a preponderance of evidence to make a decision when the Assessor makes an admission that they are incorrect. For example, when the Assessor recommends another value to the Board or taxpayer.
- Decide appeals for the Assessor's determinations, for non-valuation appeals, using a preponderance of evidence as the standard of proof to decide the appeal.

Why it's important

Board decisions made with the standard of proof required by law ensures equity in the appeals process, for all taxpayers.

Requirement – Incomplete petitions

Requirement

The Board is required to only accept complete and timely filed petitions.

What the law says

Boards of equalization must only consider complete and timely filed taxpayer petitions. Petitions must be made on a form prescribed or approved by the Department. Any petitions not conforming to the requirements on the form cannot be considered complete (RCW 84.40.038 and WAC 458-14-056).

The Department of Revenue shall exercise general supervision and control over the administration of the assessment and tax laws of the state, over county assessors, county boards of equalization, and boards of county commissioners (RCW 84.08.010).

What we found

One of the petitions reviewed by the Department included a petition that was signed by someone other than the taxpayer. The petition did not reference the signor was acting as an agent or under power of attorney.

A petition without a signature by the taxpayer, agent, or person acting under written power of attorney is incomplete and cannot be accepted by the Board.

Action needed to meet requirement

The Board is required to take the following actions:

- Only accept petitions as complete when properly signed the taxpayer, authorized agent, or person acting under power of attorney.

Why it's important

Properly administering petitions ensures equity and provides a fair process for the appellant and assessor.

Requirement – Evidence

Requirement

The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21-business days prior to the hearing.

What the law says

When a taxpayer or the Assessor provides additional evidence after a petition is filed, they must submit a copy to the opposing party and the Board at least 21-business days prior to the hearing (RCW 84.48.150 & WAC 458-14-066(4)).

What we found

In one instance, the Clerk forwarded the Assessor's answer provided to the Board to the petitioner. It is the responsibility of the parties to an appeal to provide any additional evidence to the Board and the opposing party.

Action needed to meet requirement

The Board is required to take the following actions:

- Discontinue the practice of forwarding evidence submitted by the parties. Petitioners must provide both the Board and the Assessor any additional evidence.
 - If either the assessor or taxpayer does not timely provide their additional evidence to the Board and the opposing party, the Board may take any of the following actions:
 - If there is no objection by either party, consider the new evidence.
 - If there is an objection by either party the Board may:
 - Refuse to consider evidence that was not timely submitted.
 - Postpone the hearing for a definitive time period designated by the Board, to provide the parties an opportunity to review all evidence.
 - Or
 - Proceed with the hearing but allow the parties to submit new evidence to the board and the opposing party after the hearing is concluded. The new evidence must be submitted within a time period designated by the Board, and must be provided to each party with an adequate opportunity to rebut or comment on the new evidence prior to the Board's decision.

Why it's important

Accurate appeal information ensures the Board provides fair and equitable due process for all parties involved in the appeal process.

Requirement – Order form

Requirement

The Board is required to provide the parties to an appeal with their decision on a form prescribed or approved by the Department.

What the law says

Boards of equalization must make a decision and issue an order on complete and timely filed petitions. The order must be on a form provided by or approved by the Department (RCW 84.48.010 and WAC 458-14-116).

What we found

The orders in the petition files reviewed by the Department did not include the hearing date. The orders also listed an incorrect website address for the State Board of Tax Appeals (BTA).

The Board's custom order form is missing some key information. The order includes an incorrect website address for the State Board of Tax Appeals (BTA) and does not include the hearing date.

The Department provides forms for the appeals process to aid boards of equalization in carrying out their duties. Using the most recent version of the Department's forms ensures the Board is providing the necessary information to parties including updates due to recent legislative changes.

Action needed to meet requirement

The Board is required to take the following actions:

- Use the most recent version of the Department's order form, available on our website (dor.wa.gov). Using the Department's most recent order form will help to ensure the Board includes accurate and necessary information when providing their decisions to the parties to an appeal.
- Begin using the most current version of the Department's order. The Board may use customized forms, if the form is submitted to the Department for approval. The Board must request and receive approval each year they wish to use customized forms.
- Updates to the Board's custom order form should include:
 - Addition of the hearing date.
 - Update the BTA website to the following:
 - bta.wa.gov/index.php/forms-publications/
- The Clerk should access the Department's forms available on dor.wa.gov prior to each year's regular session to verify the Board is using the most recent forms and information.

Why it's important

The law states an order must be on a form provided or approved by the Department. This ensures taxpayers receive fair and equitable treatment in the appeals process.

Recommendation – Custom forms

Recommendation

The Department recommends the Board submit any customized forms to the Department for approval.

What we found

The Board made the following changes to the Department’s petition form:

- The instructions changed the change of value notice and deadline date to be specific to Whatcom County.
- The assessment and tax years for appeal were added.
- Asterisks were added to indicate required information. RCW 84.40.038 and WAC 458-14-087 require appeals be submitted to boards of equalization on either the form provided by the Department, or a form approved by the Department.

Using the Department’s forms allows the Board to carry out their duties accurately and efficiently.

Action recommended

The Department recommends the Board take the following actions:

- Use the Department’s forms.
- If you wish to alter any of the Department’s forms or use customized forms, submit the form with the alterations to the Department for approval. The Board must request and receive approval each year they wish to make changes to the Department’s forms or use customized forms.

Why it’s important

The Department updates forms for accuracy and consistency as laws, policies, and procedures change. Using the Department’s forms or Department approved forms will ensure accurate and current information.

Recommendation – Desk reference manual

Recommendation

The Department recommends the Board update their Desk Reference Manual.

What we found

The Board's Desk Reference Manual includes the following inaccurate information that needs updating:

- Section 3, BOE Calendar lists April 30 as the deadline for a late filing Exception Request.
- Section 3, BOE Calendar lists July 15 or 14 days after the assessment roll is certified as the first day of the Board's 28-day regularly convened session.
- Section 8.4.2, If a petition is not timely filed, notify the petitioner in writing or e-mail why the petition was rejected for that assessment year and it will be processed for the next assessment year once the Assessor sets the values for that year.
- Section 10, When a taxpayer files a Late Filing Exception Request or a Request for Reconvening, date stamp the request. The Board usually gives the clerk the authority to accept or deny these requests on behalf of the Board.

Action recommended

The Department recommends the Board take the following actions:

- Correct the Desk Reference Manual to include accurate information.
 - Update the following sections:
 - Section 3, BOE Calendar, remove April 30 as the deadline for submission of a late filing request. The Department considers two weeks from the date of the late filing letter to be a reasonable amount of time for appellants to provide a good cause waiver request. A deadline of April 30 does not provide all taxpayers requesting a waiver of the filing deadline with the same length of time in their appeal period.
 - Section 3, BOE Calendar to instruct the Board to hold the first meeting of their regular 28-day session on July 15 or **within 14 days** after the assessment roll is certified.
 - Section 8.4.2, If a petition is not timely filed, notify the petitioner in writing or e-mail why the petition was rejected for that assessment year. If the petitioner does not meet the requirements for a late filing or reconvene request the petition must be rejected. If the petitioner wishes to appeal in the following year they must submit a complete and timely petition for that year.
 - Section 10, When a taxpayer files a Late Filing Exception Request or a Request for Reconvening, date stamp the request. The **Board must make a decision** and provide it to the Clerk. (The Clerk cannot make these decisions.)

Why it's important

Accurate training materials ensures the Board and staff provide petitioners with fair and equitable treatment within the property tax appeals process.

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

Questions

For questions about specific requirements or recommendations in our report, please contact:

Washington State Department of Revenue
Property Tax Division
PO Box 47471
Olympia, WA 98504-7471
(360) 534-1400
dor.wa.gov