

# Real property taxation in Kentucky

Mark A. Loyd, Esq., CPA



**S**tate and local property taxes can be a significant cost of owning real estate in Kentucky. A typical property owner, whether an individual or a business, could have to pay as much as \$12,300 annually on a piece of real property valued at \$1,000,000 – assuming a property tax rate of approximately \$1.23 per \$100 of value. So, managing this ongoing cost has the potential to yield real savings over time.

## Real property tax basics

The ad valorem property tax (as a quick aside, ad valorem means “by value”) is one of the oldest taxes imposed by the Commonwealth and the various county and city governments, school districts and other special taxing districts in Kentucky. The Commonwealth has relied on the property tax for well over 200 years as one of its primary sources of revenue, and it remains a major source of revenue along with sales and use, income and coal taxes. It is a major source of revenue for local governments as well.

The calculation of the real property tax to be assessed on a given parcel of real property (meaning the land and improvements on it) is very straightforward. The tax rate (expressed in dollars and cents per \$100 of value) is simply applied against the real property’s fair cash value. “Fair cash value” is the functional equivalent of fair market

value; it is the price that would be paid in a voluntary, i.e., not forced, sale in which the parties involved are both willing and informed. Determining what the fair cash value should be is the tricky part.

But, not all real property is taxable. Although all non-exempt real property is subject to property tax, the Kentucky Constitution provides for several exemptions. These are generally determined by reference to the owner of the real property. For example, real property owned and occupied by institutions of religion is exempt. Likewise, property owned by charitable and educational institutions is exempt provided that any income derived from the property is used solely for the maintenance of the property. Places of burial not held for profit are exempt. And, homesteads maintained for an elderly or disabled person are exempt. To obtain an exemption, an owner must file an “Application for Exemption from Property Taxation” with the Kentucky Department of Revenue.

## Real property tax bills

Although the Department administers nearly all of Kentucky’s state-level and certain local taxes, each county’s Property Valuation Administrator (typically referred to as a PVA), as the title implies, is the primary administrator of state and local ad valorem taxes on real property in Kentucky. It is each PVA’s duty to value and assess tax on all real property within their county at its full value for all the taxing jurisdictions within their county including the Commonwealth. The Department, however, as alluded to above, does play a role, which is to direct, instruct and supervise PVAs.

The assessment date for real property is Jan. 1 of each year. So, each PVA determines the fair cash value of all real property in its county as of that date. When the PVA determines that the value of a parcel of real property has increased from its prior assessed value, the PVA sends out a notice to the real property owner. If there is no increase in value, the PVA does not send a notice.

Prior to Sept. 15, real property tax bills are delivered to the sheriff who sends out the tax bills. Each property owner must pay his or her tax bill by Jan. 1 of the immediately following year; otherwise, a 2 percent penalty is due, and if not paid by Jan. 31, a 10 percent penalty is due. However, a property owner can receive a 2 percent discount by paying his or her bill on or before Nov. 1 of the year of the tax bill.

*continued on page 44*

## Real property continued

### Disputing a real property tax bill

Disputing a property tax assessment can be a bit tricky, even though the procedures themselves are relatively clear-cut. In this regard, it is often worth it to enlist someone with experience in handling real property disputes. Unlike a tax assessment relating to nearly every other type of tax, a property tax assessment must be disputed *prior to* the issuance of the tax bill. If a taxpayer waits until he or she gets the tax bill in the late summer (or early fall), then that taxpayer cannot dispute the bill – it is too late.

The time to dispute property tax is when the “tax rolls” of the county in which it is located are “opened” – which is the first Monday in May. In 2009, it is Monday, May 4, but sometimes it begins during the week preceding the Kentucky Derby which is, as many Kentuckians know, always run on the first Saturday in May. The tax rolls are open for 13 days, a period often referred to as the open inspection period, but traditionally, many PVAs push back or extend this 13-day deadline. Check with the local PVA to find out when the open inspection period for his or her county closes.

A property owner wishing to dispute his or her tax bill must request an informal conference with the PVA during this open inspection period or risk losing the right to dispute the assessment. A property owner who is not used to disputing property tax assessments often learns of the open inspection period when he or she

receives the PVA’s notice of increased value. But, a property owner can dispute the tax value of the property regardless of whether the PVA has attempted to increase the tax value of that property. Perhaps, a previously productive property has become unproductive and fallen into disrepair, *e.g.*, a shopping center losing its primary tenant and falling victim to vandalism or a manufacturing plant shutting down, which has resulted in a decline in value. Unfortunately, these things happen.

A property owner who wants to appeal the PVA’s determination may appeal to the local Board of Assessment Appeals for the county in which the property is situated. The Board is composed of three experienced property appraisers, and a panel of the Board consists of three members. Counties with more than 100 appeals, such as Jefferson County, have multiple panels. This appeal procedure is more formal than the conference with the PVA. Care must be taken to ensure that the appeal is filed within the statutory period, which is very short.

After an appeal to the local Board of Assessment Appeals, an individual or an organization via their attorney may appeal to the Kentucky Board of Tax Appeals, a quasi-judicial administrative adjudicative body, which is a fancy way of saying that it is a court-like proceeding that is less formal than a court. At this point, the procedures for continuing a property tax dispute converge with those for other taxes so that an appeal can be made to Circuit Court, then to the

Court of Appeals as a matter of right, and then, to the Kentucky Supreme Court, provided that it grants discretionary review and agrees to hear the appeal. But, the vast majority of property tax disputes are resolved by agreement, *i.e.*, settled, with the PVA at some point.

### Subjects of a property tax dispute

In rare instances, a property tax dispute is about procedure. For example, in *Jefferson County Property Valuation Administrator v. Cromwell Louisville Associates, LP*, No. 2007-CA-001128 (Ky. App. 2008) (designated to be published), the Court of Appeals opined that a property owner could dispute only the property’s value for the current year during the open inspection period for that year, and could not dispute the property’s value for prior years. The taxpayer in that case has requested the Kentucky Supreme Court grant discretionary review and hear its appeal.

Other times, a property tax dispute concerns the meaning or application of a tax exemption. A recent example is *St. Andrew Orthodox Church, Inc. v. Thompson*, Nos. 2006-CA-000305 & 2006-CA-000458 (Ky. App. 2007), *discretionary review granted*, *Freeman v. St. Andrew Orthodox Church, Inc.*, No. 2007-SC-000640 (Ky.). The author’s law firm represents St. Andrew pro bono. In that case, the Kentucky Supreme Court recently heard oral arguments regarding the meaning of the exemption for religious institutions.

Nearly always, with a few exceptions such as those highlighted above, a property tax dispute concerns the *value* of real property. As such, it is important to obtain as much information as possible about the involved property and those nearby, such as recent transfers of similar properties, building permits for the property, features of the property in need of repair, income statements if the property is leased, etc. When arguing about what the fair cash

value of the property should be for ad valorem tax purposes, this information is important to have.

Bottom line – if you, your business or one of your clients owns real property and you think that it is valued for tax purposes at more than the price for which it could be sold, consideration should be given to disputing the tax value set by the PVA. Mark your calendars for the first Monday in May. Good luck,

but remember that, “Luck favors the prepared.” - Edna Mode, *The Incredibles*.

*About the author: Mark A Loyd, Esq., CPA, is a member of Greenebaum Doll & McDonald in Louisville and chairs its State and Local Tax Team. He is a member of the KyCPA board of directors; chair of the editorial board; member of the industry task force; and former chair of the taxation committee. He can be reached at [mal@gdm.com](mailto:mal@gdm.com); 502.587.3552.*

## Sign up for the 2009 KyCPA Educational Foundation Golf Scramble

The KyCPA Educational Foundation Golf Scramble will be held June 29 at Belterra Golf Club in Belterra, Ind., the site of the KyCPA Annual Members Meeting on June 30 (see page 37 for details).

The cost of the outing is \$160 per player or \$590 per foursome. Enjoy a great day of golf for a great cause ... helping Kentucky's best and brightest students pursue an accounting education and a career as a CPA! And after the event, treat yourself to a Margaritaville Party from 6 to 8:30 p.m. Scramble

winners and prizes will be awarded. Enjoy the music of paradise from the band Steel of the Night.

And don't forget: the Golf Scramble is also an excellent **sponsorship opportunity.**

If you are interested in supporting the Educational Foundation and this popular event, need more information or want to register, contact Becky Ackerman at 502.736.1369 or email [backerman@kycpa.org](mailto:backerman@kycpa.org).

# Game on