

## Document: O.C.G.A. § 48-5-306

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### O.C.G.A. § 48-5-306

#### Copy Citation

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**Official Code of Georgia Annotated**    **TITLE 48 Revenue and Taxation (Chs. 1 – 18)**    **CHAPTER 5 Ad Valorem Taxation of Property (Arts. 1 – 13)**    **Article 5 Uniform Property Tax Administration and Equalization (Pts. 1 – 3)**    **PART 2 County Boards of Tax Assessors (§§ 48-5-290 – 48-5-314)**

#### **48-5-306.** Annual notice of current assessment; contents; posting notice; new assessment description.

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**(a) Method of giving annual notice of current assessment to taxpayer.** Each county board of tax assessors may meet at any time to receive and inspect the tax returns to be laid before it by the tax receiver or tax commissioner. The board shall examine all the returns of both real and personal property of each taxpayer, and if in the opinion of the board any taxpayer has omitted from such taxpayer's returns any property that should be returned or has failed to return any of such taxpayer's property at its fair market value, the board shall correct the returns, assess and fix the fair market value to be placed on the property, make a note of such assessment and valuation, and attach the note to the returns. The board shall see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes. The board shall give annual notice to the taxpayer of the current assessment of taxable real property.

When any corrections or changes, including valuation increases or decreases, or equalizations have been made by the board to personal property tax returns, the board shall give written notice to the taxpayer of any such changes made in such taxpayer's returns. The annual notice may be given personally by leaving the notice at the taxpayer's dwelling house, usual place of abode, or place of business with some person of suitable age and discretion residing or employed in the house, abode, or business, or by sending the notice through the United States mail as first-class mail to the taxpayer's last known address. The taxpayer may elect in writing to receive all such notices required under this Code section by electronic transmission if electronic transmission is made available by the county board of tax assessors. When notice is given by mail, the county board of tax assessors' return address shall appear in the upper left corner of the face of the mailing envelope and with the United States Postal Service endorsement "Return Service Requested" and the words "Official Tax Matter" clearly printed in boldface type in a location which meets United States Postal Service regulations.

**(b) Contents of notice.**

**(1)** The annual notice of current assessment required to be given by the county board of tax assessors under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. The annual notice shall conform with the state-wide uniform assessment notice which shall be established by the commissioner by rule and regulation and shall contain:

**(A)** The amount of the previous assessment;

**(B)** The amount of the current assessment;

**(C)** The year for which the new assessment is applicable;

**(D)** A brief description of the assessed property broken down into real and personal property classifications;

**(E)** The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced;

**(F)** The name, phone number, and contact information of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process;

**(G)** If available, the website address of the office of the county board of tax assessors; and

**(H)** A statement that all documents and records used to determine the current value are available upon request.

**(2)**

**(A)** In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal and an estimate of the current year's taxes for all levying authorities which shall be in substantially the following form:

"The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors. At the time of filing your appeal you must select one of the following options:

(i) An appeal to the county board of equalization with appeal to the superior court;

(ii) To arbitration without an appeal to the superior court; or

(iii) For a parcel of nonhomestead property with a fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, to a hearing officer with appeal to the superior court.

If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number)."

(B) The notice shall also contain the following statements in bold print:

"The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions."

(3) The annual notice required under this Code section shall be mailed no later than July 1; provided, however, that the annual notice required under this Code section may be sent later than July 1 for the purpose of notifying property owners of corrections and mapping changes.

**(c) Posting notice on certain conditions.** In all cases where a notice is required to be given to a taxpayer under subsection (a) of this Code section, if the notice is not given to the taxpayer personally or if the notice is mailed but returned undelivered to the county board of tax assessors, then a notice shall be posted in front of the courthouse door or shall be posted on the website of the office of the county board of tax assessors for a period of 30 days. Each posted notice shall contain the name of the owner liable to taxation, if known, or, if the owner is unknown, a brief description of the property together with a statement that the assessment has been made or the return changed or altered, as the case may be, and the notice need not contain any other information. The judge of the probate court of the county shall make a certificate as to the posting of the notice. Each certificate shall be signed by the judge and shall be recorded by the county board of tax assessors in a book kept for that purpose. A certified copy of the certificate of the judge duly authenticated by the secretary of the board shall constitute prima-facie evidence of the posting of the notice as required by law.

**(d) Records and information availability.** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as

qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page;

**(2)** No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

**(3)**

**(A)** The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the board of tax assessors to enforce compliance with the provisions of this subsection.

**(B)** In any action brought to enforce the provisions of this subsection in which the court determines that either party acted without substantial justification either in not complying with this subsection or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

**(e) Description of current assessment.** The notice required by this Code section shall be accompanied by a simple, nontechnical description of the basis for the current assessment.

**(f) Rules and regulations.** The commissioner shall promulgate such rules and regulations as may be necessary for the administration of this Code section.

## History

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Ga. L. 1913, p. 123, § 6; Code 1933, § 92-6911; Ga. L. 1937, p. 517, § 2; Ga. L. 1970, p. 580, § 1; Ga. L. 1971, p. 33, § 1; Ga. L. 1972, p. 1114, § 5; Ga. L. 1974, p. 609, § 1; Ga. L. 1975, p. 1083, § 2; Ga. L. 1976, p. 518, § 2; Code 1933, § 91A-1448, enacted by Ga. L. 1978, p. 309, § 2; Ga. L. 1985, p. 1262, § 2; Ga. L. 1994, p. 1823, § 1; Ga. L. 1999, p. 1043, § 2; Ga. L. 1999, p. 1212, § 1; Ga. L. 2009, p. 27, § 4/SB 55; Ga. L. 2009, p. 216, § 2C/SB 240; Ga. L. 2010, p. 1104, § 1-1/SB 346; Ga. L. 2015, p. 1219, § 14/HB 202; Ga. L. 2017, p. 774, § 48/HB 323; Ga. L. 2018, p. 162, § 1/HB 374.

## Notes

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**The 2015 amendment**, effective January 1, 2016, in division (b)(2)(A)(iii), substituted "\$750,000.00, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of \$750,000.00" for "\$1 million"; in subparagraph (b)(2)(B), substituted "statements" for "statement" in the introductory language and inserted "or most applicable" in the first sentence of the notice; and, in subsection (d), in paragraph (1), inserted "a description of the methodology used by the board of tax assessors in setting the property's fair market value," deleted "and" from the end, in paragraph (2), added "; and" to the end, and added paragraph (3).

**The 2017 amendment**, effective May 9, 2017, part of an Act to revise, modernize, and correct the Code, added the catchline at the beginning of subsection (f).

**The 2018 amendment**, effective July 1, 2018, substituted "\$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section" for "\$750,000.00" twice in division (b)(2)(A)(iii).

### Editor's notes.

Ga. L. 1985, p. 1262, § 3, not codified by the General Assembly, provided that that Act would apply to tax bills and assessment notices mailed on or after January 1, 1986.

Ga. L. 1999, p. 1043, § 4, not codified by the General Assembly, provides that the amendment to this Code section shall be applicable to all assessments and proceedings commenced on or after January 1, 2000.

Ga. L. 1999, p. 1212, § 2, not codified by the General Assembly, provides that the amendment to this Code section shall be applicable to all taxable years beginning on or after January 1, 2000.

Ga. L. 2009, p. 27, § 5/SB 55, not codified by the General Assembly, provides, in part, that the amendment to this Code section shall be applicable to all taxable years beginning on or after January 1, 2009.

## JUDICIAL DECISIONS

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 **General Consideration**

 **Valuation of Property**

 **Notice**

 **General Consideration**

### Editor's notes.

In light of the similarity of the statutory provisions, decisions under Ga. L. 1931, p. 7, § 85 are included in the annotations for this Code section.

**Subsection (a) of O.C.G.A. § 48-5-306 does not require tax assessors to use any definite system or method**, but demands only that valuations be just and that the valuations be fairly and justly equalized among the individual taxpayers according to the best information obtainable. *Rogers v. DeKalb County Bd. of Tax Assessors*, 247 Ga. 726, 279 S.E.2d 223, 1981 Ga. LEXIS 842 (1981).

**Subsection (a) of O.C.G.A. § 48-5-306 permits the board to audit** and make changes to a taxpayer's return with regard to personalty omitted and personalty that has been returned and undervalued. *Eckerd Corp. v. Coweta County Bd. of Tax Assessors*, 228 Ga. App. 94, 491 S.E.2d 173, 1997 Ga. App. LEXIS 1045 (1997).

**Statute establishes the procedure for securing tax uniformity in a county.** *Hawes v. Conner*, 224 Ga. 567, 163 S.E.2d 724, 1968 Ga. LEXIS 850 (1968).

**Import of this statute** is to ensure that the burden of taxation is spread evenly over the taxpayers, according to a fair valuation (now fair market value) of their property holdings. *Allen v. Norris*, 148 Ga. App. 261, 251 S.E.2d 145, 1978 Ga. App. LEXIS 3150 (1978).

### **Application to persons who make returns to commissioner is unconstitutional. —**

Because former Code 1933, §§ 92-6901 and 92-6915 (see now O.C.G.A. §§ 48-5-305 and **48-5-306**) provided that nothing in former Code 1933, Ch. 92 (see now O.C.G.A. Pt. 2, Art. 5, Ch. 5, T. 48) shall apply to those persons who were required to make their returns to the comptroller general (now commissioner), these two sections, therefore, expressly excluded such persons from the benefit of any such due process procedure as may be afforded under former Code 1933, Ch. 92 (see now O.C.G.A. Pt. 2, Art. 5, Ch. 5, T. 48). Therefore, an application of former Code 1933, Ch. 92 (see now O.C.G.A. Pt. 2, Art. 5, Ch. 5, T. 48) by the county board as to such persons contravened the federal and state Constitutions. *Pullman Co. v. Suttles*, 187 Ga. 217, 199 S.E. 821, 1938 Ga. LEXIS 753 (1938).

**Action of board outside the board's authority is void** when the board of tax assessors acts arbitrarily and beyond the scope of the board's authority, there is no sound distinction between a situation when the board raises the valuations of all the taxpayers in order to obtain additional revenue for school purposes, or when the board lowers all the valuations by a certain percent in order to reduce taxes. In so doing, the board's action is outside their authority and hence void. *Cross v. Miller*, 221 Ga. 579, 146 S.E.2d 279, 1965 Ga. LEXIS 534 (1965).

Trial court did not err in denying the plaintiff's request for a mandamus nisi because the Open Records Act, O.C.G.A. § 50-14-1 et seq., was not available to enforce compliance with the plaintiff's requests for information from the county board of tax assessors regarding property tax assessments as those requests were made pursuant to O.C.G.A. § **48-5-306** and not the Open Records Act. *Hansen v. DeKalb County Board of Tax Assessors*, 295 Ga. 385, 761 S.E.2d 35, 2014 Ga. LEXIS 532 (2014).

**If assessment action displeases a taxpayer, the taxpayer's remedy is arbitration** as provided in former Code 1933, § 92-6912 (see now O.C.G.A. § 48-5-311). *Hawes v. Conner*, 224 Ga. 567, 163 S.E.2d 724, 1968 Ga. LEXIS 850 (1968).

### **Injunction against unlawful or arbitrary valuations. —**

When an increase in the valuations of realty returned by taxpayers is not for the purpose of equalizing such valuations, but is an unlawful and arbitrary attempt to provide additional revenue for educational purposes, a court may grant an interlocutory injunction against the making up, compiling, or listing of any report or digest incorporating or including therein any increased assessment or changes or alterations in the returns, and may enjoin the tax receiver from transmitting to the department or the comptroller general or the tax collector of the county, or any tax authorities of the county or state any report, list, or other compilation or digest including or incorporating therein any increase or change or alteration in the return filed with the tax receiver by any taxpayer thereof. *Crain v. Calhoun*, 204 Ga.

therein any increase or change or alteration in the return filed with the tax receiver by any taxpayer thereof. *Green v. Cannon*, 204 Ga. 550, 50 S.E.2d 209, 1948 Ga. LEXIS 466 (1948).

### **Right to appeal penalty assessment. —**

Assessment of a penalty for a breach of a conservation use covenant is an assessment for which a property owner has the right to appeal pursuant to O.C.G.A. § 48-5-311, and the failure of the county board of assessment to provide notice of the property owner's right to appeal was in error. *Oconee County Bd. of Tax Assessors v. Thomas*, 282 Ga. 422, 651 S.E.2d 45, 2007 Ga. LEXIS 592 (2007).

### **Requirements from county board of tax assessors regarding information requests. —**

Trial court did not err in denying the plaintiff's request for a mandamus nisi because the plaintiff's request for mandamus was unsupported as a matter of law as it was undisputed that the county board of tax assessors provided various documents in response to the plaintiff's information requests regarding property tax assessments, and the plaintiff's demands for supplementation of the responses and an explanation of those responses in a recorded meeting session strayed far beyond what was required by O.C.G.A. § **48-5-306**. *Hansen v. DeKalb County Board of Tax Assessors*, 295 Ga. 385, 761 S.E.2d 35, 2014 Ga. LEXIS 532 (2014).

## **Valuation of Property**

### **Proper assessment required as part of tax enforcement proceedings. —**

Assessment made in the manner prescribed by the statute is indispensable in proceedings to enforce the collection of taxes. *Colvard v. Ridley*, 218 Ga. 490, 128 S.E.2d 732, 1962 Ga. LEXIS 542 (1962).

### **Duty to ensure just and fair valuation of property and proportionate distribution of taxes. —**

It is the duty of the board of tax assessors to see that all taxable property within the county is returned and assessed for taxes at the property's just and fair value (now fair market value) and that valuations as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as near as may be only the taxpayer's proportionate share of taxes. *Colvard v. Ridley*, 218 Ga. 490, 128 S.E.2d 732, 1962 Ga. LEXIS 542 (1962); *Register v. Langdale*, 226 Ga. 82, 172 S.E.2d 620, 1970 Ga. LEXIS 439 (1970).

County homeowners, who alleged that the assessors board engaged in "sales chasing" by selectively targeting recently sold properties for reappraisal at the increased sales price while leaving the assessed values of similar unsold properties unchanged, stated a tax refund claim under O.C.G.A. § 48-5-380; the procedure allegedly violated the uniformity and equalization requirements of Ga. Const. 1983, Art. VII, Sec. I, Para. III(a), and O.C.G.A. § **48-5-306**(a). *Rice v. Fulton County*, 358 Ga. App. 1, 852 S.E.2d 860, 2020 Ga. App. LEXIS 681 (2020), cert. denied, No. S21C0644, 2021 Ga. LEXIS 561 (Ga. July 7, 2021).

### **Property in same class to be valued by same standard or system. —**

Tax assessors must use the same standard or system in determining and fixing taxable value of all property of the same class. *Colvard v. Ridley*, 218 Ga. 490, 128 S.E.2d 732, 1962 Ga. LEXIS 542 (1962).

### **Taxation within class must be uniform, equal, and by same standard. —**

Taxation of all kinds of property of the same class must be uniform and by the same standard of valuation, equally with other taxable property of the same class. *Champion Papers, Inc. v. Williams*, 221 Ga. 345, 144 S.E.2d 514, 1965 Ga. LEXIS 458 (1965).

### **What valuation methods authorized. —**

Tax assessors may use any system, method, cadastral survey, books, available lists of valuations of types of property, city valuations, or

other instruments, or other information obtainable, provided such information is the best information available in the assessors fixing of just and fair valuation (now fair market value) of the property assessed, and provided that the taxation as between individual taxpayers is justly and fairly equalized. *Kight v. Gilliard*, 214 Ga. 445, 105 S.E.2d 333, 1958 Ga. LEXIS 456 (1958); *Colvard v. Ridley*, 218 Ga. 490, 128 S.E.2d 732, 1962 Ga. LEXIS 542 (1962).

**Tax assessors are authorized to fix fair market value from the best information obtainable.** This does not require the tax assessors to use any definite system or method, but demands only that the valuations be just and that the valuations be fairly and justly equalized among the individual taxpayers, according to the best information obtainable. *Kight v. Gilliard*, 214 Ga. 445, 105 S.E.2d 333, 1958 Ga. LEXIS 456 (1958); *Colvard v. Ridley*, 218 Ga. 490, 128 S.E.2d 732, 1962 Ga. LEXIS 542 (1962).

#### **Use of cadastral surveys in equalizing values for taxation. —**

Authority granted by Ga. L. 1941, p. 382 and Ga. L. 1951, p. 85 to tax assessors to use information based upon a cadastral survey in equalizing values for taxation is not a substitution of the survey for the discretion of the assessors. *Hutchins v. Candler*, 209 Ga. 415, 73 S.E.2d 191, 1952 Ga. LEXIS 522 (1952).

#### **Valuations not voided by failure to use past methods. —**

Duties placed on the board of tax assessors do not require the use of any definite system or method, but demand only that the valuations be just and fair (now fair market value) and that the valuations be justly and fairly equalized among taxpayers. The failure to use any particular system, method, cadastral survey, book, or other instruments used in the past to derive values would not in any way render void the valuations placed on such property by the assessors. *Hutchins v. Williams*, 212 Ga. 754, 95 S.E.2d 674, 1956 Ga. LEXIS 519 (1956).

#### **Property valuation may be increased even if property not further improved. —**

Tax authorities are not prevented from increasing the valuation by the fact that the property has been returned for a lower valuation in the past, and that there have been no improvements thereon, or that no particular fixed system was used to derive the valuation as long as there is a just and fair valuation (now fair market valuation) and the valuation as between individual taxpayers is justly and fairly equalized. *Whitehead v. Henson*, 115 Ga. App. 81, 153 S.E.2d 581, 1967 Ga. App. LEXIS 1010, rev'd, 223 Ga. 329, 155 S.E.2d 391, 1967 Ga. LEXIS 515 (1967).

**Reevaluation and reassessment of only rural real estate of 25 acres or more** did not constitute an impermissible spot or piecemeal reappraisal. *Harrington v. Baldwin County Bd. of Tax Assessors*, 214 Ga. App. 178, 447 S.E.2d 300, 1994 Ga. App. LEXIS 815 (1994), cert. denied, No. S94C1697, 1994 Ga. LEXIS 1134 (Ga. Oct. 28, 1994).

**Piecemeal or spot reappraisals which follow a general appraisal** of residential property throughout the jurisdiction and which results in a significant increase in taxes without regard to any equalization between taxpayers is contrary to the statutory mandate and void. *Thorpe v. Benham*, 161 Ga. App. 116, 289 S.E.2d 275, 1982 Ga. App. LEXIS 1779 (1982); *Dade County v. Eldridge*, 229 Ga. App. 401, 494 S.E.2d 106, 1997 Ga. App. LEXIS 1426 (1997).

#### **Valuation of leasehold estates. —**

Trial court erred in dismissing for failure to state a claim upon which relief could be granted a taxpayer's petition seeking a declaration that the valuation method a county board of assessors and the development authority of the county used for leasehold estates arising from a local development authority sale-leaseback bond transaction was illegal and in granting the authority's motion for judgment on the pleadings because the taxpayer made material allegations that could be supported by admissible evidence on the issue of whether the valuation method fairly and justly approximated the fair market value of a bond transaction leasehold estate, and the board and authority failed to show that they were clearly entitled to judgment; although O.C.G.A. § 36-80-16.1(e) gave county boards of tax assessors authority to use simplified methods for determining the value of a bond transaction leasehold estate, the statute did not relieve the board and authority from their duty to value the leasehold estate at the estate's fair market value, and any contention that the statute did allow the board and authority to value a bond transaction leasehold estate at less than the estate's fair market value would make the statute



illegal and unconstitutional. *Sherman v. Fulton County Bd. of Assessors*, 288 Ga. 88, 701 S.E.2d 472, 2010 Ga. LEXIS 813 (2010).

#### **Failure to show entitlement to mandamus relief. —**

In a taxpayer's suit against a county and officials (the county), the court upheld the grant of summary judgment to the county because the taxpayer's mandamus claims failed for the simple reason that the claim adduced no evidence that any actual assessment of any particular property was other than at fair market value or that the county had failed to comply with the county's legal duty to see that all taxable property within the county is assessed and returned for taxes at the property's fair market value. *SJN Props., LLC v. Fulton County Bd. of Assessors*, 296 Ga. 793, 770 S.E.2d 832, 2015 Ga. LEXIS 192 (2015).

#### **↑ Notice**

#### **Purpose of notice requirements. —**

Purpose of the notice required by this statute is to give the taxpayer an opportunity to exercise the taxpayer's right to challenge the change by an appeal to the board of equalization. *Oxford v. City of Waycross*, 241 Ga. 159, 243 S.E.2d 881, 1978 Ga. LEXIS 905 (1978).

#### **Notice provisions to be strictly construed. —**

Statute providing for notice when, for failure of service, a person may be deprived of the person's property must be strictly construed. *Gilmore v. Curry*, 225 Ga. 483, 170 S.E.2d 31, 1969 Ga. LEXIS 541 (1969).

When a reassessment notice was properly mailed to a taxpayer pursuant to O.C.G.A. § 48-5-306 and the taxpayer's request for a late appeal was denied by the board of tax assessors, the taxpayers were not entitled to declaratory relief or to mandamus because O.C.G.A. § 48-5-311 prescribes a time limit for filing appeals, the appeal was not filed within that period, and the board was powerless to extend the period. *Dillard v. Denson*, 243 Ga. App. 458, 533 S.E.2d 101, 2000 Ga. App. LEXIS 428 (2000).

#### **Required contents of notice. —**

Statute requires that the taxpayer be told of the time period in which an appeal may be demanded, and statement on the notice of assessment that the assessment will become final if not protested as provided by law did not comply with the statutory requirement. *Ledbetter Trucks, Inc. v. Floyd County Bd. of Tax Assessors*, 240 Ga. 791, 242 S.E.2d 596, 1978 Ga. LEXIS 829 (1978).

#### **Relation to § 48-5-7.2(e). —**

O.C.G.A. § 48-5-7.2(e) expressly requires a tax board, upon denying an application for preferential assessment, to notify the applicant in the same manner that notices of assessment are given pursuant to O.C.G.A. § 48-5-306, and appeals from the denial of an application for preferential assessment by the board of tax assessors shall be made in the same manner that other property tax appeals are made pursuant to O.C.G.A. § 48-5-311; in light of a tax board's failure to provide an applicant with the proper statutory notice, the board's argument that the applicant failed to exhaust the applicant's administrative remedies was without merit. *Chatham County Bd. of Tax Assessors v. Emmoth*, 278 Ga. 144, 598 S.E.2d 495, 2004 Ga. LEXIS 538 (2004).

#### **Notice sufficient unless defect misleads taxpayer to taxpayer's detriment. —**

Failure of the board of tax assessors to comply strictly with the requirements for the contents of the notice does not invalidate the notice, unless the defect in the notice in fact misleads the taxpayer to the taxpayer's detriment. *Oxford v. City of Waycross*, 241 Ga. 159, 243 S.E.2d 881, 1978 Ga. LEXIS 905 (1978).

#### **Increased valuation may be enjoined when taxpayer not given notice of it. —**

When a taxpayer returns the taxpayer's property, and an assessment and a higher valuation is made by the assessors for those years, the taxpayer should be given due notice thereof and have an opportunity to be heard thereon. If the taxpayer has not been given such notice, the enforcement of a tax fi. fa. based upon the increased valuation may be enjoined by a court of equity. *Gilmore v. Curry*, 225 Ga. 483, 170 S.E.2d 31, 1969 Ga. LEXIS 541 (1969).

#### **Taxpayer need not be served notice of reduction in assessment. —**

When a taxpayer's assessment is increased by the board of tax assessors, the taxpayer must be served with a notice which will give the taxpayer an opportunity to contest the increase. When the board reduces the assessment on a taxpayer's property, the taxpayer need not be served with notice of the reduction. *County Bd. of Tax Assessors v. Catledge*, 173 Ga. 656, 160 S.E. 909, 1931 Ga. LEXIS 377 (1931) (decided under Ga. L. 1931, p. 7, § 85).

#### **Notice not required. —**

Because the tax assessors did not correct the taxpayer's 1998 or 1999 returns, change those returns, or reassess the property but rather, the taxpayer elected to automatically return the taxpayer's property in 1998 and 1999 at the 1997 value, the statutory notice requirements of O.C.G.A. § 48-5-306 did not preclude summary judgment. *Pine Pointe Hous., L. P. v. Bd. of Tax Assessors*, 269 Ga. App. 855, 605 S.E.2d 443, 2004 Ga. App. LEXIS 1318 (2004), cert. denied, No. S05C0346, 2005 Ga. LEXIS 92 (Ga. Jan. 24, 2005).

#### **Manner in which notice to be served. —**

Statute contemplates that the notice of a change made by the board of tax equalizers shall be served personally upon the taxpayer, or by leaving the same either at the taxpayer's place of residence or the taxpayer's place of business. Only in the case of a nonresident taxpayer is service by sending notice through the United States mail allowed. *Gilmore v. Curry*, 225 Ga. 483, 170 S.E.2d 31, 1969 Ga. LEXIS 541 (1969).

**When notice of a change of assessment is served in the manner requested by the taxpayer**, the taxpayer cannot complain that service was inadequate. *Oxford v. City of Waycross*, 241 Ga. 159, 243 S.E.2d 881, 1978 Ga. LEXIS 905 (1978).

#### **Manner of notifying taxpayer of valuations and changes therein. —**

Requirement that the assessors fix the just and fair valuation (now fair market value) of a taxpayer's property and make a note of any change and attach the note to the return does not require any fixed system of doing so, such as attaching a separate memorandum. When this change is made by pencil note on the taxpayer's return itself, the statute is satisfied. *Hutchins v. Williams*, 212 Ga. 754, 95 S.E.2d 674, 1956 Ga. LEXIS 519 (1956).

#### **Notice to taxpayer as to tentative changes. —**

When tax assessors made tentative changes in tax returns during the period that the assessors studied the returns, but made no final decision on changes until a date within five days of the date on which notices of such changes were mailed, there was sufficient compliance with subsection (a) of this statute. *Register v. Langdale*, 226 Ga. 82, 172 S.E.2d 620, 1970 Ga. LEXIS 439 (1970).

#### **Failure to mail or file notice of appeal within 30 days. —**

Failure of limited liability companies (LLC) to satisfy the requirement of O.C.G.A. § 48-5-311(e)(2)(A) barred any further right to appeal because the letters and returns the LLCs' representative submitted months before the assessment notices were mailed did not excuse the LLCs from complying with the requirement of O.C.G.A. § 48-5-311(e)(2)(A) that a taxpayer mail or file a notice of appeal within 30 days

from the date of mailing the notice pursuant to O.C.G.A. § **48-5-306**; because the LLCs failed to comply with O.C.G.A. § 48-5-311(e) so as to effectuate an appeal to the county board of equalization, the LLCs' appeals to the superior court should have been dismissed. *Hall County Bd. of Tax Assessors v. Avalon Hills Partners, LLC*, 307 Ga. App. 520, 705 S.E.2d 674, 2010 Ga. App. LEXIS 1151 (2010), cert. denied, No. S11C0703, 2011 Ga. LEXIS 602 (Ga. Sept. 6, 2011).

#### **Failure to give notice to taxpayer of right to appeal. —**

County's recalculations of taxpayers' homestead exemptions involved the value of the exemptions, bringing the taxpayers within O.C.G.A. § 48-5-49, which permitted an appeal under O.C.G.A. § 48-5-311. Since the county had not given the taxpayers notice under O.C.G.A. § **48-5-306** of the taxpayers' right to appeal, the taxpayers were entitled to equitable relief requiring the county to: (1) provide taxpayers with proper notice of and the right to appeal changes in the homestead exemptions; (2) stop collecting taxes referenced in bills sent without proper notice; and (3) refund any tax money collected based on bills issued without such notice. *Fulton County Bd. of Tax Assessors v. Marani*, 299 Ga. App. 580, 683 S.E.2d 136, 2009 Ga. App. LEXIS 909 (2009), cert. denied, No. S09C2072, 2010 Ga. LEXIS 18 (Ga. Jan. 12, 2010).

#### **Sufficiency of pleadings regarding compliance with notice provisions. —**

Allegation in a petition that a board of tax assessors raised the assessments made by the tax assessors without giving petitioners notice of the change in tax assessments as required by law was not as against demurrer (now motion to strike), an averment that the petitioners were not given the five-day notice required under this statute. *Lanier v. Suttles*, 212 Ga. 154, 91 S.E.2d 21, 1956 Ga. LEXIS 286 (1956).

## Opinion Notes

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### **OPINIONS OF THE ATTORNEY GENERAL**

#### **Occupant of property sold under bond for title. —**

Purchaser/possessor of a piece of property under a bond for title can be subjected to ad valorem taxation for that parcel, and once the Board of Tax Assessors chooses to assess the property against the occupant, and not the seller of the property, the occupant should receive the tax notices required by O.C.G.A. § **48-5-306**, and be treated as "the taxpayer" entitled to appeal under O.C.G.A. § 48-5-311. 1989 Op. Att'y Gen. U89-17.

#### **Assessment of returned but undervalued property. —**

Property that has been returned may only be revalued in accordance with O.C.G.A. § **48-5-306** if the county board of tax assessors has not previously rendered a final assessment of that property pursuant to that Code section. 1987 Op. Att'y Gen. No. U87-13, rescinding and superseding Op. Att'y Gen. 1961, p. 482 insofar as it suggests that returned property may be revalued and reassessed at any time within the applicable period of limitation.

#### **Duty to reassess property when fair market value increases. —**

If the fair market value of property increases every two years, then it is the duty of the county tax assessors to increase the valuation of property for tax purposes every two years. 1969 Op. Att'y Gen. No. 69-504.

#### **Duty to correct errors and certify corrections to commissioner. —**

County board of tax assessors is not only authorized to correct mistakes and errors made by the board, but it is made the board's duty to do so. Such correction should be certified to the commissioner so that the digest on file in the commissioner's office may be made to conform with the county digest. 1950-51 Ga. Op. Att'y Gen. 154.

**Real property may not be reassessed despite error in first assessment. —**

Tax assessors are precluded from again assessing real estate that the assessors have previously assessed, although the assessors were mistaken as to the property's value at that time. 1969 Op. Att'y Gen. No. 69-183.

**Invalidity of tax digest has no effect on validity of taxpayer's return. —**

Tax return of a property owner is separate from the tax digest prepared by the tax commissioner, and the invalidity of the digest has no effect on the validity of the taxpayer's return. 1970 Op. Att'y Gen. No. U70-41.

**Board of tax assessors cannot place a nominal value on property of new industries,**

but must see that such valuations are equalized with the valuations placed on property owned by other taxpayers. 1967 Op. Att'y Gen. No. 67-328.

**Board of tax assessors does not have authority to classify personal property as real estate.**

1958-59 Ga. Op. Att'y Gen. 357.

**Valuation of automobiles. —**

Municipal and county tax assessors have a legal right to place a higher valuation on automobiles than on other property. 1954-56 Ga. Op. Att'y Gen. 675.

**Manner in which notice to be served. —**

When property evaluation is altered, the taxpayer must be notified personally or through posting of reevaluation notice in front of the courthouse door. The provisions of this statute requiring the board to give notice either personally or by mail indicate that the giving of notice by mail is not personal service as contemplated by the statute. 1962 Ga. Op. Att'y Gen. 483.

**Board of tax assessors may act in absence of a member. —**

Board of tax assessors consisting of three members, and sitting in accordance with this statute, can legally act in the absence, for any reason, of one of the board's members. 1971 Op. Att'y Gen. No. U71-55.

**Additional compensation for extra duties performed by tax assessors. —**

Board of county commissioners (now county governing authority) may legally pay certain members of the board of tax assessors additional compensation for the performance of extra duties in assembling information. 1952-53 Ga. Op. Att'y Gen. 296.

## Research References & Practice Aids

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### **Law reviews.**

For article surveying legislative and judicial developments in Georgia local government law for 1978-79, see 31 Mercer L. Rev. 155 (1979).

For article, "Procedure and Problems in Georgia Ad Valorem Tax Appeals," see 26 Ga. St. B.J. 98 (1990).

For note on the 1999 amendment to this Code section, see 16 Ga. St. U. L. Rev. 223 (1999).

For survey article on local government law, see 67 Mercer L. Rev. 147 (2015).

For article with annual survey on local government, see 73 Mercer L. Rev. 193 (2021).

### **RESEARCH REFERENCES**

#### **C.J.S.**

84 C.J.S., Taxation, § 799 et seq.

#### **ALR.**

Notice to property owners of increase in assessment or valuation by board of equalization review, 24 A.L.R. 331; 84 A.L.R. 197.

Power of board of tax review to receive evidence as to assessable value, without notice to taxpayer, 113 A.L.R. 990.

Provisions of tax statute as to time for performance of acts by boards or officers as mandatory or directory, 151 A.L.R. 248.

#### **Hierarchy Notes:**

O.C.G.A. Title 48

O.C.G.A. Title 48, Ch. 5

O.C.G.A. Title 48, Ch. 5, Art. 5

O.C.G.A. Title 48, Ch. 5, Art. 5, Pt. 2

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