

2011

APPEAL PROCESS GUIDE
FOR THE PROPERTY OWNER



IMPORTANT DATES TO KNOW
2011 APPEAL PROCESS TIME FRAME

- March 1 - assessment notices must be mailed
- March 15 - last day to file for owner-occupied status with Director of Equalization

Local Board of Equalization

- March 17 - last day to mail or file¹ written appeal with clerk of local board
- March 21 - local board begins
- March 25 - local board ends
- April 1 - last day to receive written notice of local board's decision

County Board of Equalization

- April 5 - last day to mail or file¹ written appeal with county auditor
- April 12 - county board begins
- May 3 - county board ends
- May 6 - last day to receive written notice of county board's decision

Consolidated Board of Equalization

- April 5 - last day to mail or file¹ written appeal with county auditor
- April 12 - consolidated board begins
- May 3 - consolidated board ends
- May 6 - last day to receive written notice of consolidated board's decision

Office of Hearing Examiners

May 20 - last day to mail or file¹ a written appeal with:
Chief Administrative Hearing Officer
523 E. Capitol Ave
Pierre, SD 57501

Circuit Court

Appealing from County Board - you must appeal within 30 days after notice has been served of the decision.
Appealing from Office of Hearing Examiners - you must appeal within 30 days after notice of the decision.

¹ Use of the term "file" means in the hands of the official with whom it is to be filed. Postmarked by deadline is considered timely mailing.

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NOTICE TO BOARDS OF EQUALIZATION and PROPERTY OWNERS
PRODUCTIVITY VALUATION FOR 2011 ASSESSMENTS

Beginning with the 2010 property valuations, all agricultural land is to be assessed using the productivity valuation method.

Information concerning this valuation process and the data used to establish the values is available from your Director of Equalization and at the Department of Revenue and Regulation web site at:

<http://www.state.sd.us/drr2/prospectax/property/productivity.htm>

It is important to remember that a property is to be valued fairly and uniformly. A property cannot be assessed higher than actual market value and cannot be assessed higher than other comparable properties. It is also important to remember that the productivity valuation system is being phased in over the next several years.

If anyone has questions on this, please contact your local Director of Equalization or the Department of Revenue and Regulation.

BASIC ASSESSMENT INFORMATION

In South Dakota, it is the assessor's responsibility to assign your property a value for tax purposes. For agricultural land, that value is based on the productivity value. For all other property, that value is equal to the amount for which it would sell on the open market. These values are sometimes called the "true and full value." Assessors determine the market value of property by using a combination of the following three approaches:

Cost approach - the assessor estimates the cost of replacing the property (structures), reduces that amount by its age (depreciation), and adds the value of the land.

Market approach - the assessor compares the subject property to like properties that have recently been sold.

Income approach - the assessor uses the value of the projected income from like properties to determine value.

The assessor also classifies property as agricultural or non-agricultural. The assessor makes this determination by considering the amount of the owner's income derived from agriculture, the property's primary use and the property's size. After determining the market value and the classification of a parcel of property, the assessor sends a notice to the property owner. This assessment notice is to be mailed by March 1 of every year.

Owner-occupied single family dwelling - This designates that the property is to receive a lower levy for school general fund tax purposes. To be eligible, the property owner must have filed an "Owner-Occupied Certificate" by March 15, 2011. (Any property previously designated as owner-occupied would remain so, unless it sold or had a change in use.)

You may appeal your property's owner-occupied status. This appeal is made directly to the County Board of Equalization. In your appeal you must state that you meet the qualifications which are:

- (1) You owned the property on November 1, 2010.
- (2) You occupied the property on November 1, 2010.
- (3) This is the only property you own that would receive the owner-occupied status.
- (4) That the property is your principal place of residence
- (5) You filed the certificate by March 15, 2011.

You may also appeal the taxable/exempt status of your property. This type of appeal is made directly to the County Board of Equalization.

Decisions of County Board of Equalization may be appealed in the same manner as other decisions.

PROPERTY OWNER'S RIGHTS AND DUTIES

As the owner of real property in South Dakota, you have the right to ensure your property is being assessed at no more than market value and also assessed equitably in relationship to other properties. Any lessee responsible for payment of taxes pursuant to the provisions of a lease shall be considered the taxpayer and may also appeal the valuation, classification, taxable status of the property. When you receive your assessment notice, it is your duty to review the notice to ensure the property is listed correctly. Also you need to check the assessed value. Ask yourself "If I sold this property, is this the amount I would expect to receive?" If it is higher than what you think you could sell it for, first talk to your county director of equalization. He/she can explain how the values were determined and show you sales of like properties that he/she used in determining your value. If you still disagree with the assessment on your property, your first step in the appeal process is to the local board of equalization. Your appeal must be for the total value of the property. An appeal on just the structure value or just the land value will be considered an appeal of the entire property.

Mobile home owners - the same appeal process is used for registered mobile homes, however you are required to pay your current year taxes in a timely manner pending the outcome of the appeal. For any tax relief, the taxes would need to be paid under protest and file lawsuit for refund within 30 days of payment.

NOTE: The following people do not have to appeal to the local board before going to county board:

Non-residents - A property owner is considered a non-resident if the person resides outside the local board jurisdiction. A non-resident does not have to appeal to the local board before appealing to county board, but may do so if desired.

Unorganized township property owners - as there is no local board for unorganized townships, these property owners appeal directly to the county board of equalization.

LOCAL BOARD

The first step in the appeal process is to the local board of equalization. The local boards consist of the township board of supervisors or the governing board of the municipality, and a member of the school board. The board's primary function is to determine that all taxable properties have been placed on the assessment roll and that a reasonable degree of equalization exists among these properties. The board, however, may only equalize assessments between individual properties. It may not change the level of assessment between entire classes of property, such as agricultural and non-agricultural.

To appeal to the local board, you must notify the clerk in writing of the local board, stating you wish to appeal the assessment of your property. The clerk must receive your notification by March 17, 2011. Postmarked by this date is considered timely. You should state the legal description of the property you are appealing and a brief explanation of why you are appealing, such as "property is higher than market value".

Your local board clerk will notify you when your appeal will be heard by the local board. During this hearing, the form PT17 must be completed. If you appear at the hearing, the clerk will help you complete the form. Your explanation of your appeal may be in person or in writing. It should state the reason you are appealing your assessment. You must also have evidence to prove your point. Just stating the value is too high is not enough. Suggested points are sales of properties you believe are similar to your property. Also assessments of properties similar to yours are useful. Point out how the properties are comparable to your property.

The local board must notify you in writing of the decision by April 1, 2011.

COUNTY BOARD

If you disagree with the decision of the local board, you may appeal to the county board. This board is composed exclusively of county commissioners. The county board's primary functions are to hear appeals from property owners in unorganized territories and appeals from local board decisions, and to see that all classes of property are equalized.

To appeal to the county board, you must write a letter to the county board, stating you wish to appeal the assessment of your property. The written appeal must be mailed to or received by the county auditor by April 5, 2011. Postmarked by this date is considered timely mailing. Your letter should state your name, the legal description of your property and a brief explanation of why you are appealing the valuation.

The county board will notify you when your appeal will be heard. The county board must notify you of the decision by May 6, 2011.

CONSOLIDATED BOARD OF EQUALIZATION

If your property is in a jurisdiction that has chosen to consolidate the local and county board of equalization, your first step of the appeal process is to appeal to the Consolidated Board of Equalization. Look on your assessment notice to see if this applies to your property. This board is composed of the county commissioners and members from the local board of equalization, which may include township supervisors or city commissioners, and school board members.

To appeal to the consolidated board of equalization, you must write a letter to the consolidated board, c/o the county auditor, stating you wish to appeal the assessment of your property. The written appeal must be mailed to or received by the county auditor by April 5, 2011. Postmarked by this date is considered timely mailing. Your letter should state your name, the legal description of your property and a brief explanation of why you are appealing the valuation.

The consolidated board will notify you when your appeal will be heard. The consolidated board must notify you of the decision by May 6, 2011.

OFFICE OF HEARING EXAMINERS

If you disagree with the county or consolidated board's decision, you may appeal to the Office of Hearing Examiners (OHE). The Office of Hearing Examiners is a central panel of administrative law judges who hear appeals within state government. You may also appeal directly from the county board to the circuit court. You may not, however, appeal to the OHE and the circuit court simultaneously.

To appeal to the OHE, you must write a letter to the chief administrative law judge. This letter must be mailed or received by May 20, 2011. If you appeal to OHE, you will receive additional information from that office on how and when the hearing of your appeal will be conducted.

CIRCUIT COURT

If you disagree with the decision of the OHE, you have the right to appeal to the circuit court. You may also take your appeal directly from the county board of equalization to the circuit court, bypassing the OHE. Please remember, you cannot appeal to the OHE and Circuit Court simultaneously.

APPEAL TO CIRCUIT COURT FROM COUNTY OR CONSOLIDATED BOARD OF EQUALIZATION - An appeal to circuit court from the county board of equalization or consolidated board of equalization shall be filed within thirty days of the published notice as required by SDCL 10-11-26.1 or the written notice that has been served of the decision by the county board of equalization.

APPEAL TO CIRCUIT COURT FROM OHE - To appeal to circuit court, you must do so within 30 days after receiving notice of the decision from OHE.