

THE HISTORY AND GENERAL PRINCIPLES OF PROPERTY TAXES IN SOUTH CAROLINA

SOUTH CAROLINA DEPARTMENT OF REVENUE
GOVERNMENT SERVICES DIVISION

SCAC Institute of Government, October 16, 2024

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Disclaimer

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COLONIAL TIMES

- Originally used to support Colonial government.
- Later to support the poor, the judicial system and roads.
- Real property taxed at a fixed rate per acre with no consideration given to use, quality or type of property.
- 1780's property taxes on the value of land as fixed by statute. Assessor had discretion only to determine which classification to assign.

THE 1800'S

- Historically, a difficult century for South Carolinians.
- Classification system separated from annual taxing act, but classifications not updated with economic changes.
- SC Supreme Court notes, "The system of taxation in South Carolina is extremely arbitrary, and, in many respects, unequal." *Martin v. Tax Collector of St. Luke's Parish*. (1843)

Constitutional Amendment 1865

“All taxes upon property, real or personal, shall be laid upon the actual value of the property taxed, as the same shall be ascertained by an assessment made of the purpose of laying such tax. In the first apportionment which shall be made under this Constitution, the amount of taxes shall be estimated from the average of the two years next preceding such apportionment; but in every subsequent apportionment, from the average of the ten years then next preceding.” Art. 1, Sect. 8

1865 Constitution

- Although “actual value” language was included, there was no provision requiring an equal and uniform rate of tax to be applied.
- All real property was treated as one classification.

Act 4776, 1866

- Personal property was separated from real property and taxed at different rates.
- Problem: These distinctions were not in keeping with the language in the 1865 Constitution.

Constitution Amended

- In 1868, the Constitution was again amended to include language that taxes on real and personal property would be based on the actual value of the property taxed.
- Local authorities could tax property within their jurisdiction.
- Exemptions included for municipal, educational, literary and scientific, religious or charitable purposes.
- A 5 year cycle of reassessment.

Problem!!

- Multiple assessments between the State and the local governments.
- State v. Kelly (1895), Taxpayer's real property assessed for state and county purposes at \$87,790, but assessed for municipal purposes at \$141,085.
- Taxpayer wanted the Court to compel the assessor and treasurer of the City of Charleston to correct the municipal assessment to conform to the State and county assessment, claiming that the municipal assessment violated the Constitution since the assessment was not uniform and was not based on the actual value of the property.

State v. Kelly (1895)

- Supreme Court stated:
“There is only one legal assessment for the year 1893 in the city of Charleston, and the duty of the city assessor is purely ministerial.”
- The court required the city assessor to correct the assessment and make it conform to the state and county assessment.

State Constitution of 1895

- We are still operating under the State Constitution that was approved in 1895.
- This Constitution has been amended several times.
- Article X deals with Finance, Taxation and Bonded Indebtedness and was extensively revised in 1977.
- The Constitution sets forth the classification and taxation ratios for property, a list of some exemptions from property tax, and provisions for bonded indebtedness of the State, political subdivisions and school districts.

1915—State Tax Commission created!

Duties included:

- Supervision of all state assessing officials;
- Order the reassessment of property;
- Annually make a levy upon the assessed value of property subject to taxation as necessary to raise annual appropriations.

State Tax Commission Duties Cont'd

- Assess and equalize values of certain utility property.
- Assess and equalize values of certain other companies.

Income Tax Act 1915

- Enforced by County Auditors.
- First annual report of the Tax Commission to the Governor and General Assembly: the Commission listed the name and amount of the tax paid in each county and asked that the members of the legislature and other taxpayers examine the list and note the absence of names of those people whom they knew to be liable for the tax.

Just One Little Bug. . .

- 1922: The State, facing deflation following World War I and decreasing cotton production due to the devastating effects of the boll weevil attacks, sought much needed revenue by imposing the first indirect tax, which included income, inheritance and gasoline taxes.



Some things never change. . .

- In 1920, a Joint Special Committee on Revenue and Taxation studied taxes in SC and recommended changes to the law.
- The Legislature was concerned about tax relief for agriculture properties.
- The Committee issued the Marion Report which recommended a classification system, but noted that a constitutional amendment would be required.
- The Constitutional amendment did not take place until 1932.

Constitutional Amendments 1932

- Included a new tax on intangible personal property.
- Included language still in use today: “The assessment of all property shall be equal and uniform in the following classifications.” Art. X, Sec. 1

Conflict

- 1946, a dispute arose between the Tax Commission and the county auditors over who controlled the duties of the auditors.
- A local ordinance ordered the auditor to remove all taxes on livestock.
- The Tax Commission filed an action to force the Auditor to comply with the state law and assess the livestock.

Murph v. Query (1946)

“The county tax officials are subordinate to the State Tax Commission and are required to comply with its orders and follow its directions in tax matters within its authority.”



“Equal and Uniform”

“Equal and uniform does not mean that all counties shall have the same tax levy, but, rather, that uniformity of taxation must be coextensive with the territory to which the tax applies.”

--Smith v. Robertson,
S.C. Supreme Court
1947

Modern Times

- 1972 Newberry Mills v. Dawkins: Taxpayer objected to fact that personal property was taxed at a different assessment ratio than his real property.
- Court held that as long as there is a uniform and equal rate of assessment, the classification of the property can be different.
- The classifications, however, must be reasonable and not arbitrary.

Holtzwasser v. Brady 1974

- Taxpayer leased her property to a manufacturer for manufacturing purposes.
- The leased property was assessed by the Tax Commission at 9.5%, while other property in the county assessed by the county assessor was assessed at 4.2%.

Holtzwasser, cont'd

- The taxpayer claimed that this discrepancy violated the constitutional requirement for uniform and equal assessments.
- The court found that nothing in the Constitution prohibited the General Assembly from classifying property according to its use, so long as the classification is reasonable, not arbitrary, and the tax imposed is uniform on the same class of property.

Holtzwasser, cont'd

- The court held that the property of manufacturers is devoted to a different use than that of other property, and that this difference constitutes a reasonable basis for classification.
- The 9.5% assessment was held to be reasonable and not arbitrary.

ACT 208, 1975

- Legislature passed Act 208 in 1975 in response to the *Holtzwasser* case.
- It provided for statewide equalization and property classification.
- The Legislature wanted to avoid court-ordered statewide equalization, and there was a continuing discrepancy between the property that was assessed by the Tax Commission and that assessed by the local governments.



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ACT 208

- Industry noted that their property, which was valued by the Tax Commission, was being valued at market value, while other property, which was valued by the local government, was frequently valued below market value.
- Act 208 mandated that all counties have a full-time assessor who was charged with appraising and listing all real property, whether exempt or not, except for that real property to be assessed by the Tax Commission.
- The Act further provided that all real property would be valued at its current fair market value and all would be assessed at one time.



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ACT 208

- Act 208 provided for education and training for auditors, assessors and appraisers.



ACT 208

- In addition, the Act provided for uniform assessment ratios throughout the State and instituted a four-group classification for property on a statewide basis:
 - Manufacturing property: assessed at 10.5% of fair market value.
 - Inventories of business establishments, power driven farm machinery and equipment—assessed at 6% of the FMV, while motor vehicles used by farmers for farming were assessed at 5%, and all other farm machinery and cattle exempt.
 - Owner-occupied residential property of not more than 5 acres was assessed between 2.5% and 4% of FMV.
 - Agricultural real property actually used for farming was assessed at 4% of FMV for agricultural purposes, a/k/a “agricultural use value.”

1976 Constitutional Amendment

- Assessment ratios could be changed by the General Assembly, but only with the approval of 2/3 of the membership of each house.
- The amendment also set forth which properties would be exempt.
- In addition, the amendment provided for the additional classification and assessment ratios of property, which have not changed very much since this amendment:



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1976 Constitutional Amendment Classifications

- Manufacturing property: 10.5% of fair market value (The “Roads Bill” in 2017 exempted a percentage of the FMV of manufacturing property as if the ratio were lowered, and this percentage changed again in 2022 See slides 40, 41.)
- Real and personal property owned and leased by companies who transport property or people (railroads, private carlines, airlines, pipelines): 9.5%
- Residential owner-occupied property: 4%



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1976 Constitutional Amendment Classifications

- Agricultural real property actually used for farming: 4% or 6% of Agricultural Use Value
- All other real property: 6%
- Inventories of business: 6%
- Farm machinery and equipment: 5%
- All other personal property: 10.5%



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1976 Constitutional Amendment Classifications

- The Amendment shows that the State was again using certain property taxes as a source of revenue.
- The taxes on airline companies and carlines, calculated as the weighted average millage rate in all counties, were to be deposited in the general fund of the State.



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Fee In Lieu

- In 1988, South Carolina passed its first Fee In Lieu of Taxes (FILOT) Statute, 4-29-67.
- This significant legislation:
 - was the first statute allowing negotiation between the county and a new manufacturing facility for payment of a fee in lieu of property taxes.
 - effectively lowered industrial assessment ratios from 10.5% to as low as 4%



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Fee In Lieu

- Potentially protected industry from future tax increases and payment of other fees and taxes for the duration of the agreement.
- Was intended to induce large, capital-intensive businesses to make new or to expand investment in South Carolina.
- In 1997, the Simplified Fee was introduced, which significantly simplified the FILOT process and requirements. The Simplified Fee is codified at 12-44-10 and following.
- In addition to the Simplified Fee, there are now provisions for Little Fees, Big Fees, Super Fees and Enhanced Fees.



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Act 388

- In 2006, Act 388 was enacted by the Legislature and provided for property tax reform. Act 388 included:
 - **Sales Tax Increase:** A one-cent increase in state sales tax.
 - **Property Tax Relief:** Homeowners exempted from paying property taxes for school operating purposes on 100% of the FMV of owner-occupied residential property, but did not eliminate property taxes for general obligation debt.



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Act 388

School District Revenue: Revenue from the new penny sales tax goes to the Homestead Exemption Fund to reimburse school districts for the lost property taxes. If the Homestead Exemption Fund is not sufficient to pay the reimbursements, the State's General Fund must cover the difference.



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Act 388

- **Millage Cap:** Except in extraordinary circumstances, local governments, including school boards, may only increase the millage rate for operations based on the CPI for the preceding calendar year, plus the increase in population. See SC Code §6-1-320.
- **Limits on Property Tax Valuation:** Unless an “assessable transfer of interest” occurs, the increase in the FMV of property for purposes of ad valorem taxation may not exceed 15% in a five year period. This provision was enacted through a constitutional amendment approved by voters. The “Cap” is codified at SC Code §12-37-3140.

Act 388

- The economic downturn in the mid-2000's impacted the effects of Act 388.



Act 388

- Tim Smith, writing in the Greenville News in March 2015, said that Act 388 has cost the state \$866 million in money taken from the General Fund to make up the shortfall in the sales tax for property tax swap. Greenville News, March 1, 2015.



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“SC Infrastructure and Economic Development Reform Act” Act 40, 2017

- The “Roads Bill” passed in 2017 to address funding for repair and construction of roads in South Carolina.
- Increased the gas tax and funneled additional funds to Department of Transportation for infrastructure needs including road and bridge repair.
- Changed some “taxes” into “fees” and sent the fees to Department of Motor Vehicles for a percentage to be transferred to the Department of Transportation for infrastructure needs.
- Moved taxation of Motor Carriers to DMV, as a fee, instead of SCDOR.
- Some income tax changes—Earned Income Tax Credit, Two Wage Earner Credit, Tuition Tax Credit changed.



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“SC Infrastructure and Economic Development Reform Act” Act 40, 2017

- New Manufacturing Property Tax Exemption (PVE). Effect of this exemption is to grant a partial exemption of the value of the property. The effect is as if the 10.5 % tax rate were lowered to 9% over six years. (Now amended again with Act 228, 2022)
- Change in composition of Commission of the Department of Transportation.
- Some parts of the Act were effective July 1, 2017, other parts have different effective dates.

Act 228, 2022

- Increased the Manufacturing Property Tax Exemption (PVE). Again, the effect of this exemption is to grant a partial exemption of the value of the manufacturing property. The effect is as if the 10.5 % tax rate were lowered to 6%. Tax bills will still show 10.5% assessment ratio for manufacturing property.
- The taxing entities (including counties and school districts) are to be reimbursed for the projected loss of income up to \$170,000,000. If the reimbursement amount exceeds this amount, then the exemption amount available to the manufacturers, and the reimbursement to the governmental entities, are proportionally reduced.

Act 265 of 2018

- Amends several sections Chapter 60 of Title 12 to require SCDOR to notify the counties of the receipt and progress of property tax appeals.
- For appeals relating to manufacturing, utilities, organization exempt applications, etc., the Department will notify the county administrator, county auditor, county treasurer and county assessor of the receipt of a protest (appeal) or a claim for refund.
- The Litigation section will notify the county when the Department Determination is issued.
- In the case of a claim for refund, the county auditor is to notify the other taxing entities involved of the requested refund.



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Act 236, 2022

- Act 236 of 2022 added several items to state law:
 - There is a provision for the surviving spouse of a disabled veteran to claim the exemption even if the spouse did not directly inherit the home from the disabled veteran.
 - Section 2 of this Act amended SC Code Section 6-1-300 to address the issues ruled on by the SC Supreme Court in Burns v. Greenville in 2021. The amendment allowed counties to once again impose a user fee even if the public at large benefits.
 - In addition, the Act amended 6-1-330, providing that a governing body may impose a new fee, outlining the required public notice and public comment, and specifying that any county that had repealed a road maintenance fee after the Burns v. Greenville decision, could re-impose the user fee, but should repeal any millage increases that were established after the Burns v. Greenville decision.
 - This part of the Act took effect upon the Governor's signature and applied retroactively to any service or user fees imposed after December 31, 1996.



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Act 236, 2022

- Section 3 of the Act amended 12-39-250 (B) that allows the County Tax Assessor, or the County Board of Assessment Appeals, upon application of the Taxpayer to order the county auditor to adjust the tax duplicate for the valuation and assessment of property that sustains damage as a result of fire, flooding, hurricane or wind event. The application for adjustment must be made prior to the payment of the tax.
- Previously, 12-39-250 (B) only allowed the adjustment in the event of fire damage.

Act 236, 2022

- In addition, Act 236 amended Section 12-13-220(B)(14) to allow an exemption to agricultural structures and farm buildings structures that are owned by a producer in the state, and are used to house livestock, poultry, crops, farm equipment, or farm supplies and all farm machinery and equipment, except for motor vehicles.
- The previous exemption only applied to machinery and equipment.
- This section of the Act also took effect upon approval of the Governor and applies to property tax years beginning after 2021.

THE PROPERTY TAX PROCESS

AN OVERVIEW OF PROPERTY TAXES IN SOUTH CAROLINA

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WHO ADMINISTERS PROPERTY TAX IN SOUTH CAROLINA?

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COUNTY ASSESSOR

1. Appraise Real Property, 12-37-90:
 - A) Residential—Assessed at 4% if owner-occupied
 - B) Commercial—Assessed at 6%
 - C) Agricultural—Agricultural use values and calculate rollback taxes
2. Determine Legal Residence and Agricultural Use Classifications, see 12-43-220, when applications are submitted.
3. Map, measure and appraise new properties.
4. Defend values before county appeals board and Administrative Law Court.



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COUNTY AUDITOR See 12-39-10 and following

1. Personal Property Valuation:
 - A) Business personal property (not under SCDOR jurisdiction)
 - B) Vehicles
 - C) Boats
 - D) Aircraft
2. Receive and process homestead applications, See 12-37-250.



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COUNTY AUDITOR

See 12-39-10 and following

3. Central repository for all assessments. This is called the “duplicate.” See 12-39-150. When Council is setting operating millage, they will work closely with the County Auditor, because the County Auditor has all the numbers, including the Assessor’s values, SCDOR values, personal property, etc.
4. Prepares bills for all county taxes.
5. Computes millage for bonded indebtedness.
6. Handles appeals for personal property, see 12-60-2910.
7. Prepares listing of all taxable property (duplicate).



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1. Valuation and assessment of the following per 12-4-540:
 - A) Manufacturing property (real and personal)
 - B) Utility property (real and personal)
 - C) Railroad property (real and personal)
 - D) Carlines (personal)
 - E) Airlines (personal)
 - F) ~~Motor carrier (personal)~~ Now moved to DMV as of 01/01/19
 - G) Business personal property
 - H) Assessment guides (cars, trucks and motorcycles)
 - I) Fee-in-lieu properties



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SC DEPARTMENT OF REVENUE

2. Determine property tax exemptions, See 12-4-710 and following (process for applying), and 12-37-220 (list of exemptions).
3. Calculate sales ratio studies.
4. Calculate Index of Taxpaying Ability.
5. Provide technical assistance to counties, 12-4-520.
6. Process and pay requests for reimbursement, sending money to school districts and counties to make up for the loss of property tax revenue.



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COUNTY TREASURER See 12-45-15 and following

1. Collects taxes for county, school and others, 12-45-70.
2. Invests county funds, 12-45-220.
3. Biennial collection of taxes and registration, (vehicles) 12-37-2650.
4. Disburses county and school funds, 12-45-260 and 12-45-280.



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COUNTY DELINQUENT TAX COLLECTOR

1. Attempts to collect when taxpayer is delinquent, 12-45-400.
2. Levies on real and personal properties, 12-51-40.
3. Conducts tax sales of real property, 12-51-40 and following.

COUNTY COUNCIL

See Title 4 and Title 6 of SC Code of Laws

1. Sets county budget.
2. Sets operating millage.



WHAT PROPERTY IS TAXED IN SOUTH CAROLINA?

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REAL PROPERTY

1. Residences—Owner-occupied is 4%
2. Commercial property—6%
3. Rental property and 2nd homes—6%
4. Manufacturing property—10.5%, unless in a FILOT
5. Utilities—10.5%
6. Railroads—9.5%
7. Agricultural (use value)—4% or 6% of use value

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PERSONAL PROPERTY

1. Business personal property
2. Vehicles
3. Boats
4. Aircraft
5. Airlines
6. Carlines
7. ~~Motor Carriers~~, now a fee through DMV
8. Machinery and equipment of manufacturers



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WHAT PROPERTIES ARE EXEMPT FROM PROPERTY TAX?

1. Real property, with SCDOR approved exemption as required, see 12-37-220 for list of available exemptions.
2. Personal property, with SCDOR approved exemption as required, see 12-37-220.
3. Exemption process:
 - a. Apply with SCDOR by filing a PT 401-I (individuals) or PT 401-O (organizations) with required supporting documentation.
 - b. Exempt property section will notify applicant and county if exemption is approved.



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WHAT PROPERTIES ARE EXEMPT FROM PROPERTY TAX?

4. Fee-in-lieu of property—SCDOR calculates the payment based on the millage stated in the agreement. The distribution is handled by the county.
5. Legal residences for school operating, per 12-37-220(B)(47). No application needed.
6. Certain manufacturing properties (manufacturer's abatement, PVE, pollution control, etc.) Sometimes application is needed and sometimes not. See 12-4-720 for list of exemptions not requiring an application.



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HOW ARE PROPERTY TAXES COMPUTED IN SOUTH CAROLINA?

1. Appraised value (market value/depreciated value).
2. Assessment ratio, set by state constitution and statutes.
3. Assessed value:
$$\text{Market Value} \times \text{Assessment Ratio} = \text{Assessed Value}$$
4. Millage:
$$\text{Assessed Value} \times \text{Millage} = \text{Tax}$$



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OVERVIEW OF EACH PROPERTY TAX

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REAL PROPERTY

1. Who do we tax? Generally, the owner of record on 12/31 of the prior property tax year
2. Concept of FMV: “Willing buyer/willing seller”
3. Information needed
 - a) Size of land
 - b) Square footage of building
 - c) Type of construction
 - d) Location

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REAL PROPERTY

4. Three approaches to value

- a) Cost
- b) Income
- c) Market

5. Concept of Mass Appraisal: valuing a group of properties on a set date, using specific data.

6. Valuation of utility and railroad properties (Unit Concept).



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PERSONAL PROPERTY

1. Business personal property

- a) Jurisdiction
- b) How to value
- c) Return: Now required to use the SCDOR BPP form for all BPP filings.

2. Vehicles, 12-37-2610

- a) Vehicle Guide, Auditor is required to use, 12-37-2680, SCDOR uses the loan value to calculate
- b) Auditor's role
- c) Formula
- d) Interaction with DMV



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PERSONAL PROPERTY

3. Boats and Aircraft

- a) Valuation
- b) Auditor's role
- c) Formula



4. Airlines

- a) Valuation
- b) Formula
- c) Who sends bill
- d) Who gets tax dollars: Amendment in 2021 sends the tax dollars to the State Aviation Fund, with a phase-in period in 2021-2022.



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PERSONAL PROPERTY

5. Carlines, 12-37-2110

- a) Valuation
- b) Formula
- c) Who sends bill?
- d) Who gets tax dollars?



6. Motor Carrier, 12-37-2810 (Amendments effective Jan. 1, 2019 transferred Motor Carriers to DMV to pay a fee, instead of a tax)

- a) Valuation
- b) Interaction with DMV
- c) Formula
- d) How billed?
- e) Who gets fees?



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TAXPAYER APPEAL RIGHTS

1. What can taxpayer appeal?

- a) Real property, 12-60-2110 (property appraised by SCDOR) and 12-60-2510 (property appraised and assessed by the County Assessor.)
- b) Personal property, or denial of homestead exemption, 12-60-2910
- c) Denial of exemption by SCDOR, 12-60-2110

2. Appeal Process

- a) Real property under county jurisdiction
- b) Real property under SCDOR
- c) Personal property under county jurisdiction
- d) Personal property under SCDOR

3. Refunds and Abatements



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MILLAGE SETTING

1. General Operating Millage:

Who is responsible for setting – local governing body

2. Limitations on Operating Millage, See 6-1-320:

- a) Rollback in a reassessment implementation year
- b) CPI increase
- c) Percent increase in population

3. May add millage allowed but not imposed for 3 prior years.

4. The limitations imposed may be suspended and the millage increased with a 2/3 vote of the governing body.



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MILLAGE SETTING

4. Exceptions:

- a) **deficiency of the preceding year;**
- b) **any catastrophic event outside the control of the governing body such as a natural disaster, severe weather event, act of God, or act of terrorism, fire, war, or riot;**
- c) **compliance with a court order;**
- d) **10 % loss in revenue by a taxpayer closure;**
- e) **compliance with federal or state regulation or statute;**
- f) Real estate purchase (military base);
- g) Purchase capital equipment (acquisition cost of \$50,000 or more, county has less than 100,000 population and at least 40,000 acres state or national forest land);
- h) Fire districts in existence 01/01/14 and serving less than 700 homes may pass a referendum to suspend millage limitations;
- i) Mental health facilities establish .6 of a mil



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MILLAGE SETTING

5. Information to be included on tax statement

- a) If tax is levied for items a – e under exceptions:
 - i. Must be listed as a separate surcharge
 - ii. Listing must have explanation of surcharge
 - iii. Surcharge continues only for years necessary to pay

6. Millage limitations do not apply to:

- a) Revenues, Fees or Grants not derived from property taxes
- b) Bonded indebtedness
- c) Lease-purchase for real property
- d) Millage imposed to maintain a reserve account—It may be best to have a percentage spelled out in the county ordinance or resolution
- e) Caps that are more restrictive, such as legislatively imposed caps for school districts.



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ACT 388 OF 2006

Highlights:

1. Additional 1% sales tax (Effective June 2007).
2. Grocery sales tax reduced to 3%.
3. Establishes Homestead Exemption Fund (school operating portion of homestead, PTR fund (Property Tax Relief Fund) and extra 1% sales tax).
4. Exempts school operating portion of millage for legal residence.
5. School districts reimbursed for lost revenue \$ for \$ year 1.
6. Millage increases limited to CPI plus growth in population.
7. Valuation increase because of reassessment limited to 15%.
8. Valuation goes to full market value year after an assessable transfer of interest.
9. 25% Exemption for ATI of 6% property, if a timely application and taxpayer qualifies. (Added in 2011.)



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COMPUTING TAXES IN SOUTH CAROLINA

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COMPUTING TAXES IN SOUTH CAROLINA

Calculation of taxes on a residential home.

Assume the following:

- Home is valued for \$150,000
- Property owner is qualified for Homestead Exemption
- County has adopted Local Option Sales Tax (LOST) (Factor of .001023)
- Total Millage for all purposes: 325 mills (School operating 175 mills)



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COMPUTING TAXES

- \$150,000 value X .04 ratio = \$6,000 assessed value
- \$6,000 X 325 mills = **\$1,950 tax liability**
- Property Tax Relief:
 $\$150,000 \text{ (value)} \times .04 \text{ (ratio)} \times 175 \text{ mills (school operating)} =$
\$1,050 credit
- Homestead Exemption: \$50,000 (homestead exemption amount) X
.04 X 150 mills (325 total mills– 175 school mills) = **\$300 credit**
- LOST: calculated on taxable amount of \$100,000 (Total value, less
homestead exemption) X .001023 factor = **\$102.30 credit**



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COMPUTING TAXES

\$ 1,950.00 Total tax liability

-\$1050.00 Credit for Property Tax Relief
(School operations)

- \$300.00 Credit for Homestead

- \$102.30 Credit for LOST

\$497.70 Total Taxes due after all Credits



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MILLAGE SETTING

Given the following information:

| | |
|--------------------------|-----------------|
| Prior year's millage: | 100 mills |
| CPI + growth: | 2.8%+.2% = 3.0% |
| Budget for current year: | \$3,621,000 |

Millage allowed, but not imposed from:

| | |
|---------|-----------|
| CY - 1: | 1.1 mills |
| CY - 2: | 2.0 mills |
| CY - 3: | 1.8 mills |



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MILLAGE SETTING

Assessed values for (considered collectible):

| | |
|--|--------------------|
| Legal residences (include mobile homes): | \$10,400,000 |
| All other property@ 6% (include mobile homes): | \$6,300,000 |
| Ag use (4% and 6%): | \$500,000 |
| Watercraft and aircraft: | \$50,000 |
| Business personal property (County and SCDOR): | \$900,000 |
| Manufacturing property: | \$5,000,000 |
| Utilities and railroads: | \$2,150,000 |
| Vehicles (millage rate change in new calendar year): | <u>\$6,700,000</u> |

Total Assessed Value: \$32,000,000



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MILLAGE SETTING

Other sources of budget support (Real Dollars):

| | |
|----------------------|-----------------|
| Fee in lieu: | \$280,000 |
| Motor carriers: | \$25,000 |
| Merchants inventory: | <u>\$30,000</u> |

Total payments from other sources: \$335,000



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MILLAGE SETTING

What is the maximum millage rate for the current year?

| | |
|-------------------------|---------------|
| Prior year's millage: | 100 Mills |
| (CPI 2.8 + growth .2) | X <u>1.03</u> |
| Max Allowed Current Yr. | 103 Mills |



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MILLAGE SETTING

Of the current year's budget, how many dollars need to be generated from the property tax base?

\$3,621,000 Current budget
- 335,000 Other revenue sources
\$3,286,000 Revenue needed from property tax



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MILLAGE SETTING

Assuming the property tax assessment base is collectible at 100%, how many dollars can be generated from the assessment base using the maximum millage?

32,000,000 Total collectible assessed value
X .103 Millage allowed for current year
\$3,296,000 Tax collections



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MILLAGE SETTING

Is the allowed maximum millage of 103 mills enough to satisfy the current year's budget?

Yes

\$3,296,000 Collections
- 3,286,000 Needed from property taxes
\$ 10,000 "Excess" collections



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MILLAGE SETTING

What is the value of a mill?

\$3,296,000 collected from property taxes
103 Allowed Millage

= \$32,000

OR

\$32,000,000 Total collectible assessed value
X .001 Mill
\$32,000



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MILLAGE SETTING

Example #2

Budget increased to: \$3,689,000

Other revenue sources: -\$ 335,000

Budget from property tax: \$3,354,000

Taxes with CPI plus growth: \$3,296,000

Budget Shortfall: (\$58,000)



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MILLAGE SETTING

Budget shortfall: \$58,000 (divided by) = 1.8125 mills

Value of one mill: \$32,000

- 1.8125 mills needed to fund budget properly. (I.e. Need more than 1.8 mills.)
- Rounded to 1.9 mills needed to fund budget.
- Millage allowed, but not imposed from:
 - CY - 1: 1.1 mills
 - CY - 2: 2.0 mills
 - CY - 3: 1.8 mills
- Pick up 1.8 mills from CR -3, and .1 mills from CY – 2 (leaving 1.9 mills for CY – 2 and 1.1. mills from CY – 1 for future use.)



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MILLAGE SETTING

Millage with CPI plus Growth: 103

Prior Millage from CY – 3 and CY – 2 (“Look Back Millage”): + 1.9

New Millage, including Look Back: 104.9 mills

Total Assessed Value: \$32,000,000

x 104.9 mills

Total Collections: \$3,356,800



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MILLAGE SETTING

| | |
|-------------------------------------|---------------------|
| Budget Needs for Example #2 | \$ 3,689,000 |
| Other Sources of Budget Support: | <u>- \$ 335,000</u> |
| Revenue needed from Property Taxes: | \$3,354,000 |
| Tax Collections with 104.9 mills: | \$ 3,356,800 |

By picking up the prior years' millage, we have fully funded our budget needs:

| | |
|-----------------------|---------------------|
| Total Collections: | \$ 3,356,800 |
| Budget Needs: | <u>-\$3,354,000</u> |
| "Excess" Collections: | \$ 2,800 |



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County Property Tax Rates for 2023/SCAC Property Tax Rates by County Revised

| | County | Value of a Mill for County Operating | County | Value of a Mill for County Operating |
|---|--------------|---|--------------|---|
| Based on Figures from Dec. 2022 for County Operating Millage only | Abbeville | \$72,743 | Greenwood | \$211,621 |
| | Aiken | \$840,000 | Hampton | \$57,388 |
| | Allendale | \$19,807 | Horry | \$3,040,000 |
| | Anderson | \$989,663 | Jasper | \$224,4651 |
| | Bamberg | \$30,850 | Kershaw | \$302,000 |
| | Barnwell | \$61,911 | Lancaster | \$480,415 |
| | Beaufort | \$2,651,702 | Laurens | \$186,480 |
| | Berkeley | \$1,400,000 | Lee | \$42,000 |
| | Calhoun | \$60,569 | Lexington | \$1,476,267 |
| | Charleston | \$4,903,717 | Marion | \$78,139 |
| | Cherokee | \$214,724 | Marlboro | \$65,000 |
| | Chester | \$116,536 | McCormick | \$51,179 |
| | Chesterfield | \$146,972 | Newberry | \$164,645 |
| | Clarendon | \$126,156 | Oconee | \$640,128 |
| | Colleton | \$218,841 | Orangeburg | \$311,108 |
| See full report: 2023 South Carolina Property Tax Rates by County; https://www.scccounties.org/research/information/property-tax-rates | Darlington | \$263,770 | Pickens | \$667,335 |
| | Dillon | \$78,789 | Richland | \$1,840,000 |
| | Dorchester | \$822,633 | Saluda | \$73,320 |
| | Edgefield | \$100,750 | Spartanburg | \$1,792,247 |
| | Fairfield | \$152,338 | Sumter | \$317,413 |
| | Florence | \$555,241 | Union | \$74,000 |
| | Georgetown | Not Reported | Williamsburg | \$109,408 |
| | Greenville | \$2,982,763 | York | \$1,714,194 |



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Legal Residence Issues

What is the lost revenue to the county for legal residence abuse?

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Legal Residence Requirements, 12-43-220

- Legal residence and domicile.
- Not more than 5 acres, contiguous to legal residence.
- Owned totally or in part in fee or by life estate.
- Occupied by the owner of the interest.
- Must complete application and certification at county assessor's office.
- Burden of proof on applicant.
- Assessor can request proof, including tax returns.
- Not rented more than 72 days in a calendar year.

12-43-220(c)(2)(ii)

CERTIFICATION:

“UNDER PENALTY OF PERJURY I CERTIFY THAT:

(A) THE RESIDENCE WHICH IS THE SUBJECT OF THIS APPLICATION IS MY LEGAL RESIDENCE AND WHERE I AM DOMICILED AT THE TIME OF THIS APPLICATION AND THAT NEITHER I, NOR ANY MEMBER OF MY HOUSEHOLD, CLAIM TO BE A LEGAL RESIDENT OF A JURISDICTION OTHER THAN SOUTH CAROLINA FOR ANY PURPOSE; AND

(B) THAT NEITHER I, NOR A MEMBER OF MY HOUSEHOLD, CLAIM THE SPECIAL ASSESSMENT RATIO ALLOWED BY THIS SECTION ON ANOTHER RESIDENCE.” (Emphasis added.)



DEFINITIONS

“FOR PURPOSES . . . OF THIS ITEM, ‘A MEMBER OF MY HOUSEHOLD’ MEANS:

(A) THE OWNER-OCCUPANT’S SPOUSE, EXCEPT WHEN THAT SPOUSE HAS FILED A COMPLAINT FOR SEPARATE SUPPORT AND MAINTENANCE WITH THE APPROPRIATE FAMILY COURT, LIVES SEPARATE AND APART IN A DIFFERENT RESIDENCE, AND NO LONGER COHABITATES AS HUSBAND AND WIFE WITH THE OWNER-OCCUPANT; AND

(B) ANY CHILD UNDER THE AGE OF EIGHTEEN YEARS OF THE OWNER-OCCUPANT CLAIMED OR ELIGIBLE TO BE CLAIMED AS A DEPENDENT ON THE OWNER-OCCUPANT’S FEDERAL INCOME TAX RETURN.

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Legal Residence Requirements, 12-43-220

- In addition to the certification, the burden of proof for eligibility for the four percent assessment ratio is on the owner-occupant, and the applicant must provide proof the assessor requires including, but not limited to:
 - (A) a copy of the owner-occupant's most recently filed South Carolina individual income tax return;
 - (B) copies of South Carolina motor vehicle registrations for all motor vehicles registered in the name of the owner-occupant and registered at the same address of the four percent domicile.
 - (C) other proof required by the assessor necessary to determine eligibility for the assessment ratio allowed by this item.
- “Other proof” may include: Federal tax returns, driver’s license, W-2 forms, utility bills, insurance policies, voter registration, school registrations, etc.



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12-43-220(c)(2)(vi)

- No additional applications needed as long as the current owner continues to meet the requirements, unless the parties have a separate maintenance and support agreement or the applicant is a service member with 2 homes. Then an annual application/recertification is required.
- If a change of ownership occurs, the owner who qualified shall notify the assessor of the change within 6 months of the transfer.
- A new application is required for the new owner to qualify.
- Failure to file within the prescribed timeframe is an abandonment of the right for the legal residence classification for this year, but the local taxing authority may extend the time for reasonable cause.
- Note: County assessor may audit current applications based on law changes.



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Penalties 12-43-220(c)(2)(vii)

- If a person signs the certification, obtains the four percent assessment ratio, and is thereafter found not eligible, or thereafter loses eligibility and fails to notify the assessor within six months, a penalty is imposed equal to **one hundred percent of the tax paid, plus interest on that amount at the rate of one-half of one percent a month**, but in no case less than thirty dollars nor more than the current year's taxes. This penalty and any interest are considered ad valorem taxes due on the property for purposes of collection and enforcement.
- Then, property will be billed at "correct" 6% rate under 12-43-220(e).



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What Is The Cost To The County? (\$240,000 Home)

Assume the following facts:

- Improvement Value: \$240,000
- Lot Value: 60,000
- Total Value: \$300,000

- Total millage for the County: 175 mills
(4% property pays only this)
- Total millage for Schools: 150 mills
(Operating mills)
- Total millage for County and School: 325 mills



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What Is The Cost To The County? (\$240,000 Home)

6 % Assessment

\$300,000 (value) x .06 (ratio) =
\$18,000 Assessed Value

\$18,000 x 325 mills = \$5,850
(School and County Millage)

Total Taxes: \$5,850

4 % Assessment

\$300,000 (value) x .04 (ratio) =
\$12,000 Assessed Value

\$12,000 x 175 mills = \$2,100
(County Millage Only)

Total Taxes: \$2,100



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Lost revenue to county if legal residence is incorrectly claimed for 2 years?

Interest on amount paid (1/2 of 1% per month on amount already paid):

$\$2,100 \times 24 \text{ months} \times .005\%/\text{mo.} = \252

$\$2,100 \times 12 \text{ months} \times .005\%/\text{mo.} = \126

Total Interest: \$378

Property rebilled for the correct amount at 6%:

$\$5,850 \times 2 \text{ (Years LR Claimed Improperly)} = \$11,700$ plus interest of \$378

Amount owed to county once caught:

• **\$12,078**



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What Is The Cost To The County? (\$1,200,000 Home)

Assume the following facts:

- Improvement Value: \$1,200,000
- Lot Value: 300,000
- Total Value: \$ 1,500,000
- Total millage for the County: 175 mills
(4% property pays only this)
- Total millage for Schools: 150 mills
(Operating mills)
- Total millage (County and Schools): 325 mills



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What Is The Cost To The County? (\$1,200,000 Home)

6 % Assessment

\$1,500,000 (Value) x .06 (ratio) =
\$90,000 AV

\$90,000 x 325 mills= \$29,250
(School and County Millage)

Total Taxes: \$29,250

4 % Assessment

\$1,500,000 (Value) x .04 (ratio) =
\$60,000 AV

\$60,000 x 175 mills=\$10,500
(County Millage Only)

Total Taxes: \$10,500



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Lost revenue to county if legal residence is incorrectly claimed for 2 years?

Interest on amount paid (1/2 of 1% per month on amount already paid):

\$10,500 X 24 months X .005%/mo. = \$1,260

\$10,500 X 12 months X .005%/mo. = \$ 630

Total Interest: \$1,890

Property rebilled for the correct amount at 6%:

\$29,250 X 2 (Years LR Claimed Improperly) = \$58,500 +\$1890 interest

Amount owed to county once caught:

\$60,390



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PROPERTY TAX APPEALS

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Real Property Assessed by County Assessor, 12-60-2510

- A property taxpayer may protest the fair market value, special use value, assessment ratio or property tax assessment by filing a protest with the county assessor.
- The process for protesting/appealing through the assessor's office is outlined in 12-60-2510. There are specific deadlines and processes to follow. For example, if a notice of reassessment is issued, then the appeal deadline is 90 days after the notice. If no notice of reassessment is issued, then the appeal deadline is the first penalty date. (Usually Jan. 16)
- The appeal goes from the county assessor's office to the County Board of Assessment Appeals (BAA).
- County BAA is appointed by County Council, County Legislative Delegation or Governor. Check your local ordinance for specifics.

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“Appeal” Process

- 30 days after written decision by the of Board of Assessment Appeals, either the Taxpayer or County may file a request for a “contested case hearing” at the Administrative Law Court.
- Filing fees can be found on the ALC website: www.scalc.net under the “Rules” tab at Rule 71:
 - County Tax Cases (Residential & Personal Property) \$75
 - County Tax Cases (Commercial) \$350



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Appeals to the County Auditor

- Taxpayer can object to personal property assessment or denial of homestead.
- How? (See 12-60-2910)
- Request in writing any time before the later of:
 1. 30 days after tax notice is mailed, or
 2. Last day the tax levied upon the assessment may be timely paid.
- Request to meet is a notice of objection.



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Appeals to the County Auditor

- If the protest cannot be resolved within the County Auditor's office, then the Taxpayer may request a Contested Case Hearing at the South Carolina Administrative Law Court.
- There is no Board of Assessment Appeals for appeals from the County Auditor's office.

Claims for Refund

- All claims for refund must be filed within the later of 3 years from the date a return was filed, or 2 years from the date of payment of the tax. See § 12-54-85(F).
- An administrative claim for refund is the appropriate means to challenge an excessive millage rate. B&A Dev., Inc. v. Georgetown County, 372 S.C. 261, 641 S.E.2d 888 (2007). Filed at the ALC.
- To claim a refund for taxes paid based on an assessment by the county assessor or auditor, the taxpayer must file the claim with the county official. The county assessor, county treasurer and the county auditor will meet, and a **majority** of these officials will determine the taxpayer's refund, if any, and notify the taxpayer in writing. Sometimes this body is called the "Refund Committee." See § 12-60-2560 and 12-60-2940.
- The taxpayer may appeal a real property refund denial to the County Board of Assessment Appeals within 30 days after the decision is mailed. The appeal is conducted in the same manner as an appeal of an assessment, and may be appealed to the Administrative Law Court as noted. Appeals from the county auditor's office go straight to the ALC.

County tax cases at the ALC

- The Administrative Law Court (ALC) is an agency in the Executive Branch of state government established to provide an independent review of decisions from state agencies. (And, for property tax matters, from county governments.)
- Note, although everyone refers to the case as an “appeal,” it is technically not an “appeal” in the legal sense.
- In a true “appeal,” the Administrative Law Court would be bound by the decision below i.e., the findings by the Board of Assessment Appeals in the event of a county real property tax matter.
- In a “contested case hearing,” such as a county tax matter, the ALC can make its own findings of fact; it is a *de novo* hearing. See, Smith v. Newberry, 350 S.C. 572, 567 S.E.2d 501 (Ct. App. 2002) and Reliance Ins. Co. v. Smith, 327 S.C. 528, 489 S.E.2d 674 (Ct. App. 1997).



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County tax cases at the ALC

- Contested case hearings are held without a jury and in accordance with the ALC Rules and Chapter 23 of Title 1 of the SC Code. SC Code § 12-60-3340.
- The Department may intervene in the contested case hearing in property tax cases if it is not already a party, or the Administrative Law Judge (ALJ) may request that the Department participate in an ALC matter from a county assessor or auditor in order to maintain consistency throughout the state. SC Code § 12-60-3330. I have seen this statute invoked at least once in the last 18 years.



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County tax cases at the ALC

- The contested case hearing is an entirely new hearing at which all evidence must be presented to the Administrative Law Judge (ALJ).
- The ALJ is the finder of fact, and the ALC record becomes the record for subsequent judicial appeals.
- The ALJ will issue a written order, but there is no time frame required for issuance of the order.



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Appeals after an ALC Order

- An adverse decision by the ALC may be appealed to the South Carolina Court of Appeals, as provided in SC Code §§ 12-60-3370 through 12-60-3390.
- The standard of review applied in such appeals is as follows:
 - The appellate court will presume that the factual findings of an administrative agency are correct and will set them aside only if unsupported by substantial evidence in the record. *Hull v. Spartanburg County Assessor*, 372 S.C. 420, 641 S.E.2d 909 (Ct. App. 2007) (holding that, because the valuation of commercial real property as determined by the ALJ was supported by substantial evidence in the record, it would not be overturned on appeal). (Note: the ALC is an executive agency, not a true “court,” so the language about “findings by an administrative agency” also applies to the ALC.)
- If the issue deals with a question of law, the court may review that question without deference to the lower court.



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South Carolina Department of Revenue

SCDOR

In the early 1990's, state government was reorganized and the SC Tax Commission was replaced by the SC Department of Revenue and Taxation.

SCDOR Duties Related to Property Taxes

- Appraisal and assessment of property under its jurisdiction:
 - Manufacturing—real and personal property
 - Utilities—real and personal property
 - Pipelines—real and personal property
 - Railroads—real and personal property
 - Private car lines—real and personal property
 - Business personal property (business inventory is exempt)



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SCDOR Duties Related to Property Taxes

- Creating a handbook to be used by county auditors for valuation of licensed automobiles.
- Approval of property tax exemptions.
- Administering the equitable assessment of property for taxation.
- Conducting annual sales appraisal ratio studies.
- Providing educational courses for treasurers, auditors, assessors and tax collectors.



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SCDOR

- SCDOR is responsible for the administration and enforcement of laws, which produce more than 95 percent of the total revenue of the state, exclusive of federal aid.
- In addition, the agency performs other duties, which do not produce state-wide revenue, such as the assessment of property for the benefit of local subdivisions and the enforcement of laws pertaining to alcoholic beverages licenses, including beer and wine.



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SCDOR

- The S.C. Department of Revenue currently administers and collects tax revenue from more than 32 different taxes and registration fees.
- This is a substantial increase over the number of taxes we were originally created to administer and collect—one.



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SCDOR

- The Government Services Division at SCDOR:
 - Just as before 1922, this office fixes assessments for local tax purposes of all merchants, manufacturing and printers, textile plants, oil mills, fertilizer plants, telephone and telegraph companies, railroads, power companies, and others.
 - Although the State of South Carolina derives no revenue from the property tax, the work of assessment and equalization constitutes one of the major activities of the S. C. Department of Revenue.



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SCDOR

- In June 1993, under government restructuring, the Tax Commission, the Division of Motor Vehicles (from the old Department of Highways and Public Transportation), and the Alcoholic Beverage Control Commission merged to become the **Department of Revenue**, creating an agency of 1700 employees responsible for collecting about 98 percent of the state's revenue.
- In 1996, the Motor Vehicle Division was reassigned to the S.C. Department of Public Safety, but the functions relating to alcoholic beverage licensing and collections remained with SCDOR.
- In May of 2005, the duties of the Comptroller General's Office relating to local government reporting and local government reimbursements were transferred to the Department of Revenue, under the Local Government Services division, now known as "Government Services Division."



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SCDOR

- In December 2012, the Department of Revenue's Main Office in Columbia moved to its new location on Outlet Pointe Boulevard located off of Bush River Road and I-20. Previously, SCDOR was located in downtown Columbia at 301 Gervais Street, in the old Columbia Mill Building, which also houses the SC State Museum.
- With additional Taxpayer Service Centers located statewide in Charleston, Florence, Greenville, Myrtle Beach and Rock Hill, SCDOR personnel are ready to assist individuals Monday through Friday from 8:30 a.m. to 5 p.m. All SCDOR offices are closed to the public on Wednesday mornings, 8:30—9:30, for training. There are also self-help kiosks available in each office.
- To find the nearest Taxpayer Assistance Office in your area, contact the Department of Revenue at (803) 898-8500 or visit www.dor.sc.gov



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SCDOR

- SCDOR also has a free portal, MyDORWAY available 24/7 to file, pay and communicate with SCDOR. Go to: www.mydorway.dor.sc.gov
- In addition, taxpayers may apply for any of the SCDOR-administered property tax exemptions using MYDORWAY, and counties can check on the status of the applied-for exemption through the portal.
- There is also access to a virtual assistant, Dorwin, who can assist with questions on MyDORWAY.



- Click on Dorwin's "Can I help?" button in the top right corner of the screen in MyDORWAY to ask Dorwin a question.



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