



ARKANSAS DEPARTMENT OF
FINANCE & ADMINISTRATION

ASSESSMENT COORDINATION DIVISION

FREQUENTLY ASKED QUESTIONS

The Frequently Asked Questions that follow are intended to provide guidance in response to common questions raised by taxpayers, government officials and members of the public. These frequently asked questions do not address all aspects of property tax law or the appraisal process used for ad valorem taxation purposes. What follows is intended only as informative guidance; it is not “law” nor agency rule or regulation. The Assessment Coordination Division is not offering legal advice, and the information that follows neither constitutes nor serves as a substitute for legal advice. Questions about the meaning or interpretation of statute, notice requirements and other matters in law or in these frequently asked questions should be, as necessary, directed to a private attorney.

Ad valorem taxation has always been a part of Arkansas government and society, appearing in every version of the State’s Constitution. While the constitutional standard governing taxation remains consistent, tax laws are complex and subject to change over time either as a result of legislation, caselaw, or a change in agency rule. If there is a conflict between the law and the frequently asked questions which follow, any decisions will be based on the law and not the Frequently Asked Questions.

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Chapter 1

ARKANSAS PROPERTY TAX IN GENERAL

- 1. What property in this state is subject to taxation?** In general, all property in the State of Arkansas is subject to taxation. Ark. Const. Art. 16, § 5. Based on the use of certain property, the following are exempt from taxation under the Arkansas Constitution: (1) public property used exclusively for public purposes; (2) churches used as such; (3) cemeteries used exclusively as such; (4) school buildings and apparatus; (5) libraries and grounds used exclusively for school purposes; and (6) buildings and grounds and material used exclusively for charity, (7) all capital invested in a textile mill for the manufacture of cotton and fiber goods in any manner is exempt for seven years from the date of the location of said mill, (8) Intangible personal property may be designated as one or more classes of personal property and such class or classes may be exempted by the legislature. The Arkansas General Assembly exempted all intangible personal property from taxation. Ark. Code Ann. § 26-3-302. Household furniture and furnishings, clothing, appliances, and other personal property within the home, if not held for sale, rental, or other commercial or professional use, are also exempt from taxation. Ark. Const., Amend. 71.

NOTE: The entire subject of exemptions including exceptions to and conflicts with the above generalizations are treated more fully in Chapter 10 hereunder.

- 2. What is property tax in Arkansas based upon?** All real and tangible personal property subject to taxation shall be taxable according to its value. Ark. Const. Art. 16, § 5. All property assessments shall be made in relative proportion to the true and full value thereof. Ark. Code Ann. § 26-24-104, § 26-26-303. The Arkansas Supreme Court has interpreted the word “value” in Art. 16, § 5 as meaning current market value.
- 3. What is the current assessment rate to be used in property tax assessment in the state of Arkansas?** The assessment rate is 20% of true, actual, or market value. Ark. Code Ann. § 26-26-303(c).
- 4. How is the amount of the tax on a taxpayer’s real property in the state of Arkansas determined?**
 - a. Each county assessor must accurately describe and list all properties in his or her county. Ark. Code Ann. § 26-26-717, § 26-26-903.

- b. Computer assisted mass appraisers professionally designated by the State of Arkansas appraise each parcel of property in Arkansas. ACD Rule 4.15. The appraisers determine the market value, defined as the true value or full appraised value. This value is arrived at by determining the properties' most probable selling price or current value estimate as of the statutory valuation date, January 1 of the applicable tax year. Ark. Code Ann. § 26-26-1201; ACD Rule 4.08.2.
- c. County assessors determine whether the property qualifies for an exemption taxation under Arkansas law or if the property is owned by an instrumentality of the federal or state government and is thus immune from taxation.
- d. The full assessed value is determined by multiplying the market value by the Arkansas assessment rate level of 20%. Ark. Code Ann. § 26-26-303; ACD Rule 4.08.2
- e. If the parcel is not a taxpayer's homestead used as the taxpayer's principal place of residence, then for the first assessment following reappraisal, any increase in the taxable assessed value of the parcel shall be limited to not more than ten percent (10%) of the taxable assessed value of the parcel for the previous year. In each year there-after the taxable assessed value shall increase by an additional ten percent (10%) of the taxable assessed value of the parcel for the year prior to the first assessment that resulted from reappraisal but shall not exceed the full assessed value determined by the most recent reappraisal. Ark. Const. Amend. 79.
- f. Except as provided in paragraph (g), if the parcel is a taxpayer's homestead used as the taxpayer's principal place of residence, then for the first assessment following reappraisal, any increase in the taxable assessed value of the parcel shall be limited to not more than five percent (5%) of the taxable assessed value of the parcel for the previous year. In each year there-after the taxable assessed value shall increase by an additional five percent (5%) of the taxable assessed value of the parcel for the year prior to the first assessment that resulted from reappraisal but shall not exceed the full assessed value as determined by the most recent reappraisal. Ark. Const. Amend. 79.
- g. If a homestead owner's taxable assessed value was frozen prior to the current assessment year, it will only change in the following circumstances: the current or a subsequent reassessment establishes that the taxable assessed value of his/her property has decreased; the current owner no longer qualifies under Amendment 79 for the freeze: the full assessed value of any substantial improvement, as defined in ACD Rule 4.08.2, will be added to the taxable assessed value of the property.
- h. Following the completion of all appeal proceedings, the tax is determined by multiplying the taxable assessed value by the current prevailing millage rates. Ark. Code Ann. § 26-26-303.

- i. If applicable, the assessor will apply a homestead tax credit of up to three hundred and seventy-five dollars (\$375.00) for assessment year. Ark. Code Ann. § 26-26-1118.
 - j. The resulting dollar amount is the amount of taxes due on the property.
- 5. How is the amount of tax on a taxpayer’s personal property in the state of Arkansas determined?**
- a. Every person of full age and sound mind shall list the non-household tangible personal property of which he is the owner with the assessor. Ark. Code Ann. 26-26-903.
 - b. Using guidance provided by the Assessment Coordination Division, the assessor appraises the property to determine the true market value.
 - c. The assessed value is determined by multiplying the true market value of the property by the assessment level of twenty percent (20%). The resulting number is the assessed value of the property.
 - d. Following the completion of any appeal proceedings, the tax is arrived at by multiplying the assessed value by the prevailing millage rate. Ark. Code Ann. § 26-26-303.
 - e. The resulting dollar amount is the amount of taxes due on the property.
- 6. What is meant by the term “county-wide reappraisal”?** A cyclical computer assisted county-wide appraisal system that began pursuant to the terms of the Uniform System of Real Property Assessment, Act 1185, Acts of 1999, codified at Ark. Code Ann. § 26-26-1901 et. seq.
- 7. How often does a county have to conduct a county-wide reappraisal?** County-wide reappraisals occur every three (3) years or every five (5) years depending on the rate of growth of the market value of the real estate assessment in the county. Ark. Code Ann. § 26-26-1902.
- 8. Are property taxes in Arkansas paid the same year they are assessed?** No. Taxes for real and personal property are due and payable beginning on the first business day in March and October 15 for assessments made during the previous year. Ark. Code Ann. § 26-25-501.
- 9. What is the last day for paying real and personal property tax, without penalty, in the state of in Arkansas?** All property taxes that are not paid by October 15 are delinquent. The county collector will extend a penalty of ten percent (10%) if payment is not made October 15. Ark. Code Ann. § 26-36-202.

- 10. If October 15th falls on Saturday, Sunday, or holiday observed by the United States Post Office is the deadline for paying taxes extended?** Yes. If October 15 falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, the taxes shall be due and payable the following business day. Ark. Code Ann. § 26-36-202.
- 11. What is the last day for listing all real and non-household tangible personal property for assessment?** May 31 of each assessment year. Ark. Code Ann. § 26-26-201.
- 12. Is there is a penalty on all persons and property delinquent in listing real and non-household tangible personal property for assessment?** Yes, the penalty is ten percent (10%) of all taxes due. In addition, there is a charge of fifty cents which goes to the assessor's office for each delinquent listing. Ark. Code Ann. § 26-26-201.
- 13. Who must list, with the assessor, all real and non-household tangible personal property they own in the county?** Every owner of full age and sound mind of property except that the assessor may relieve them of this duty by using a list from the previous year. Ark. Code Ann. § 26-26-903. It is unlawful for a taxpayer to refuse to give an assessor the taxpayer's name and an accurate and complete description of his or her property. Ark. Code Ann. § 26-26-202.
- 14. Who must list or assess property for persons not of full age or sound mind or others?** The property of a ward must be listed by his guardian; the property of a minor, idiot, or lunatic having no guardian must be listed by his father if living, and if not, by his mother if living, and if not by the person having charge of the property; by the trustee for property of a trust held for a beneficiary; by the executor or administrator of an estate; by the president, principal accounting officer, partner or agent of any company, firm, body politic, or corporation. Ark. Code Ann. § 26-26-904.
- 15. Who must list property held under a lease?** The owner of the property unless the lease is for a term exceeding (10) years and the property belongs to a scientific or benevolent society or institution, school, seminary, saline or other lands, then it shall be listed by the lessee. Ark. Code Ann. § 26-26-905.
- 16. Is all real and personal property in the state of Arkansas assessed and taxed every year?** Yes, real and personal property are both taxed annually. Ark. Code Ann. § 26-26-1101, § 26-26-1408.
- 17. When do property taxes become a lien on personal property?** Property taxes become a lien upon and bind the assessed property on the first Monday in January of the year the assessment is made. The lien continues until the taxes are paid. The lien does not "attach" to real property until the third Monday in August or personal property on July 31. Ark. Code Ann. § 26-34-101; § 26-27-716.
- 18. Does the taxpayer have the option of paying real and personal taxes in installments?** Yes, according to the following schedule: the first installment of 1/4 of the taxes due is payable between the first business day in March and the third Monday in April inclusive; a

second installment of 1/4 of the taxes due or a first installment of 1/2 if no payment was made before the third Monday in April is payable between the third Monday in April and the third Monday in July inclusive; a third installment of 1/2 is payable between the third Monday in July and October 15 inclusive. In addition, the county collector may authorize the county's taxpayers to pay current real property taxes and personal property taxes in installments in any amount between the first business day in March and October 15 inclusive. Ark. Code Ann. §6-35-501.

- 19. May the county collector accept payment of delinquent real property taxes without requiring that all delinquent personal property taxes are paid in full?** No. County collectors generally cannot accept payment of real property taxes without payment of personal property taxes that are also due and payable. Ark. Code Ann. § 26-35-601.
- 20. Is it necessary to the validity of an assessment or a sale of real or personal property for delinquent taxes that the property is assessed to the true owner?** No, the taxes are a charge upon the property regardless of to whom it is assessed. A sale of such property will vest title, encumbered by the tax lien, in the purchaser without regard to who owned it when assessed or when sold. Ark. Code Ann. § 26-34-102.
- 21. Do personal property taxes have to be paid at the same time real property taxes are paid.** Yes. County collectors generally cannot accept payment of taxes due on real property from a taxpayer who has not paid taxes due on the taxpayer's personal property.
- 22. In what jurisdiction in the state is property assessed?** In the taxing district where the property is located and kept for use. Ark. Code Ann. § 26-26-1102.
- 23. What is the lien date and what does it mean?** All property taxes shall be a lien upon and bind the property assessed from the first Monday in January of the year in which the assessment was made and continue until the taxes, with any accrued penalty shall be paid. The taxes shall be a preference over all judgments, executions, encumbrances, or liens when-so-ever created. Ark. Code Ann. § 26-34-101.
- 24. Who is real or personal property, held under a lease, assessed to?** If the lease is for a term exceeding 10 years and the property belongs to the any religious, scientific, or benevolent society or institution, whether incorporated or not, and school, seminary, saline, or other lands, it shall be assessed to the lease holder, Ark. Code Ann. § 26-26-905, and if not, it is assessed to the owner of the property. Ark. Code Ann. § 26-3-201. For the purpose of assessing and collecting property tax, if the property is owned by the state and

leased out for commercial or residential purposes for actual use or occupation that exceeds (90) days, the property is considered the property of the lessee. The state shall provide written notification of such lease to the county assessor. For exceptions to the above see Ark. Code Ann. § 26-26-905.

- 25. If real property, or improvements thereon, are damaged by fire, flood, tornado, or other acts of God, is the assessor required to revalue and assess the damaged property?** Yes, if the damage occurred prior to the date the county assessor is required to deliver his or her report of assessment to the County clerk. Ark. Code Ann. § 26-26-1107.
- 26. Does any entity have the power to terminate or waive a legally assessed property tax and thereby extinguish the lien thereof?** No, the lien stays with the property no matter whose hands it passes into. Ark. Code Ann. § 26-34-101; *Bridewell v. Morton*, 46 Ark. 73 (1885); *First. Natl. Bank v. Tribble*, 155 Ark. 264, 244 S.W. 33 (1922). But if the new owner is a governmental entity, the property may be immune from taxation and the owner cannot be sued for delinquent taxes. Ark. Const., Art. 5, § 20. The lien remains in effect while the government owns the property but will be collectable from anyone who takes a transfer of the property from such governmental entity. A remedy available to the county against the governmental entity, that may or may not be successful, is to pursue the claim before the state claims commission. Ark. Attorney General Op. No. 2008-023.
- 27. Is there a statute of limitations on the collection of fully assessed delinquent real or personal property taxes?** No. However, no suit may be brought for the recovery of overdue taxes accruing because of the underassessment of tangible personal and real property resulting from an error of the county assessor after three (3) years from the date on which the taxes should have been collected in regular course. Ark. Code Ann. § 26-34-105.

Chapter 2

ACD AUTHORITY AND RESPONSIBILITIES

- 1. Is ACD charged with responsibility, appropriate and consistent with the objectives of ACT 1185 of 1999, to do what is necessary and appropriate regarding the reappraisal of real property in the counties?** Yes. Ark. Code Ann. § 26-26-1905. ACD's objective is to establish and promote a uniform system of real property assessment within each county of the state and among the counties, among others. Ark. Code Ann. § 26-26-1904.
- 2. Is ACD required to develop and implement rules relating to procedures to be followed by the counties respecting discovery, listing and valuation of real property for reappraisal purposes?** Yes. Ark. Code Ann. § 26-26-1905(a).
- 3. Does ACD have a duty and authority to promulgate rules and regulations governing assessment of property for ad valorem taxation?** Yes. Ark. Code Ann. § 26-24-107 and § 26-26-1905.
- 4. Is ACD required to develop and implement rules relating to training, experience, and testing requirements for determining whether a person is qualified to manage reappraisals?** Ark. Code Ann. § 26-26-1905.
- 5. Is ACD required to establish procedures for counties to follow in preparing their reappraisal management plans?** Ark. Code Ann. § 26-26-1905.
- 6. Does ACD have the responsibility to assure that appraisers have the training and certification necessary to perform accurate, high-quality countywide reappraisals in the state?** Yes. Ark. Code Ann. § 26-26-1905.
- 7. Does ACD have the duty to establish and implement rules to be followed by counties relating to the plan and procedures to be used during countywide reappraisal of real property in the county and for training, testing and certifying persons to manage such reappraisals?** Yes. Ark. Code Ann. § 26-26-1905.
- 8. Does ACD have the authority to reject a county's reappraisal plan?** Yes. If ACD rejects the county's second plan, ACD may write a reappraisal plan that the county shall employ and shall enter into a contract with a professional reappraisal company do the reappraisal. Ark. Code Ann. § 26-26-1905.
- 9. Does ACD have the duty to prepare a sales ratio study for each county completing reassessment?** Yes. The sales ratio study shall be based upon the average ratio of full assessed value to the true and full market or actual value of real property, by

classification, in each of the several counties and school districts of the state. Ark. Code Ann. § 26-26-304.

- 10. What is the purpose of the ratio study?** To determine if the countywide reappraisal of real property is accurate and reliable within the statutory tolerances. Ark. Code Ann. § 26-26-304.
- 11. Does ACD have a duty to call the county out of compliance and order corrective action when the county fails the ratio study?** Yes. Ark. Code Ann. § 26-26-304.
- 12. If the county fails to correct the deficiencies in the reappraisal can ACD direct that all state funds to the county be withheld?** Yes. Ark. Code Ann. § 26-26-304.
- 13. Does ACD have the responsibility to approve or disapprove an in-house reappraisal management plan submitted by the county?** Yes, and, if it does not comply with ACD rules, in-house plans will be rejected, and the county has thirty (30) to submit an alternate plan. If the alternative plan is rejected the county must contract out the reappraisal. Ark. Code Ann. § 26-26-1905.
- 14. Does ACD have the responsibility to approve or disapprove a reappraisal management plan that calls for the reappraisal to be contracted out?** Yes, and if such plan does not comply with the rules, it will be rejected, and an alternate plan may be submitted. Ark. Code Ann. § 26-26-1905.
- 15. Are there circumstances when ACD is required to take over the reappraisal for a county?** Yes. When the initial reappraisal plan is rejected and the alternate plan is also rejected, ACD shall write a plan and contract out the reappraisal on behalf of the taxing units in the county. Ark. Code Ann. § 26-26-1905. In addition, ACD shall take over and contract out the reappraisal when it finds that proper reappraisal procedures are not being followed and the reappraisal is not brought back into compliance within thirty (30) days. Ark. Code Ann. § 26-26-1905.
- 16. Does ACD have the responsibility to monitor all funds expended by the state for reappraisal services?** Yes. ACD must measure progress and performance so that only those services that are within the guidelines are compensated. Only reappraisal costs and expenses that are necessary, prudent, and reasonable are to be paid. Ark. Code Ann. § 26-26-1904.
- 17. May the director of ACD suspend or terminate the contract of any appraisal firm or county?** Yes. Ark. Code Ann. 26-26-1907.

Chapter 3

AUTHORITY AND RESPONSIBILITIES

OF THE ASSESSOR

- 1. Are Assessors required to take a separate oath of office in addition to the oath prescribed in Ark. Const. Art. 19, § 20 for all county officials?** Yes. The separate oath reads as follows “I....., assessor forCounty, do solemnly swear that the value of all real and personal property, moneys, stocks, joint-stock companies, of which statement may be made to me by persons required by law, will be appraised at its actual cash value, that in no case will I knowingly, omit to demand of any person, or corporation, of whom by law I may be required to make such demand, a statement of the description and value of personal property, or the amount of moneys and credits, investments in bonds, stocks, joint-stock companies, or otherwise, which he or she may be required to list or in any way connive at any violation or evasion of any of the requirements of the law or laws in relation to the listing or valuation of property, credits, investments in bonds, stocks joint stock companies or otherwise, of any kind for taxation. Ark. Code Ann. § 14-15-201. Ark. Code Ann. § 14-15-201. Provisions of this additional oath relating to intangible personal property have been rendered moot by Ark. Const. Amend. 59. Ark. Code Ann. § 26-3-302.
- 2. If an assessor fails to take and subscribe to the oath prescribed in § 14-15-201 at the time therein, are the acts of the assessor invalid?** No. But the assessor must take the oath before entering upon the discharge of his or her duties. Ark. Code Ann. § 14-15-202.
- 3. What is the penalty for an assessor who fails to comply with any requirements of the Arkansas Code in regard to assessments?** An assessor who fails to comply with the requirements of law shall be guilty of malfeasance in office, fined and removed from office. Ark. Code Ann. § 26-2-101 et seq.
- 4. Is there an additional penalty for an assessor who fails or neglects to make appraisals?** Yes. The assessor shall forfeit all pay as assessor; be forever disqualified from holding any office of profit or trust in this state; be fined not exceeding one thousand dollars (\$1,000.00); and be imprisoned in the penitentiary not to exceed one (1) year. The foregoing shall not relieve him/her from any penalties for perjury. Ark. Code Ann. § 26-2-105.
- 5. Is an assessor who knowingly and willfully fails or refuses to list and value any item of taxable property subject to a penalty?** Yes, in a civil action for \$500.00 for each offense with a statute of limitation of one year. Ark. Code Ann. § 26-2-106.
- 6. Does the assessor have a duty to designate on his or her record all persons delinquent in listing their property by May 31 of each year?** Yes, so the clerk may know each item of property and all persons so delinquent and extend a penalty of ten

percent (10%) of all taxes due to be collected by the collector and paid into the general fund. In addition, such delinquent persons shall be required to pay an additional \$.50 cents to be utilized by the assessor to help pay for the expense of assessing property, subject to appropriation by the quorum court. Ark. Code Ann. § 26-26-201.

- 7. Does the assessor have a duty to file, each year between January 1 and June 5, a sworn statement with the office of the State Treasurer that he or she will list on the records all persons and property that are delinquent in filing?** Yes, if he or she fails to do so the State Treasurer shall withhold county turn-back funds until the statement is received. Ark. Code Ann. § 26-26-201.

- 8. Does the assessor have a duty to account for and correctly describe, according to ownership, each parcel of real property in the county?** Yes, and if the property is exempt the assessor must note it on the assessment roll and give the reason for the exemption. Ark. Code Ann. § 26-26-718.

- 9. Are county recorders required to annually provide assessors with a list deeds, mortgages, and other conveyances with the names of grantors, in alphabetical order, or a copy of certain documents which were filed during the year?** Yes. The county recorder is required to file with the assessor each year the deeds, mortgages, contracts for sale of real property, timber deeds or contracts, mineral deeds or royalty deeds and all leases or contracts of every kind, whether oil and gas or other things leased. Ark. Code Ann. § 26-26-708.

- 10. Are assessors justified in expecting to receive each year from the city clerks of all cities and municipalities in the county, a list of all building permits issued each year?** Yes. Ark. Code Ann. § 26-26-707.

- 11. If the assessor discovers that any property has been omitted, for any cause from the tax rolls, is it his or her duty to immediately assess the property?** Yes, and if it is before the collector closes his books for the year the assessor shall file it with the county clerk who shall put it upon the books and extend the taxes and penalty for the year and the collector shall collect it as required by law. Ark. Code Ann. § 26-26-913. But the taxpayer must be given adequate notice of value change and opportunity to appeal. Ark. Code Ann. § 26-24-101. This section does not authorize additional assessments of the taxpayer's personal property after the collector's books for the tax years involved have been closed. *Jenson v. Dierks Lumber & Coal Co.*, 209 Ark. 262, 190 S.W.2d 5 (1945).

- 12. When the preparer of the tax books, through inadvertence or mistake, in any year, omits or fails to put any real property on the books is it his or her duty to enter them on the tax books of the next succeeding year?** Yes. The assessor shall add to the taxes of the current year the simple taxes of each preceding year in which the lands so escaped taxation. Ark. Code Ann. § 26-28-105. But no lawsuit to recover overdue taxes accruing because of underassessment of tangible property and real property resulting from an error of the assessor may be brought after three (3) years from the date on which the taxes should have been collected. Ark. Code Ann. § 26-34-105. The taxpayer must be given adequate notice of value change and opportunity to appeal pursuant to the Arkansas Property Taxpayer Bill of Rights. Ark. Code Ann. § 26-23-101 et seq.
- 13. Is the assessor required to ask a person who lists their property for assessment certain specific questions about property he or she may own?** Yes, (a) the number, kind, and value of each automobile they own or in depository and in or out of state; (b) what leases or mineral deeds are owned and the value thereof as contemplated in § 26-26-1109 and § 26-26-1110(c) what timber, deeds, or contracts contemplated by § 26-3-205 they own and the value thereof; (d) any other property of any kind that has a value about which questions have not been asked. Ark. Code Ann. § 26-26-911.
- 14. Can the assessor require the taxpayer to answer upon oath any questions about his property, or that of another, and furnish proof pertaining thereto?** Yes, as to all information pertaining to the location, amount, kind, and value of his/her property or that of another. Ark. Code Ann. § 26-26-910.
- 15. When a property owner lists his or her property with the assessor is the assessor required to consider the list conclusive?** No, and the assessor may make such assessment of the property as he or she deems just and equitable. Ark. Code Ann. § 26-26-910.
- 16. May the assessor enter upon and make a personal inspection of property?** Yes, the assessor may do so as he or she deems necessary in order to determine the just and equitable values of the property. Ark. Code Ann. § 26-26-910.
- 17. Is the assessor required, on or before August 1 of each year, to deliver to the clerk of the county equalization board his or her completed assessment tax record and any other information requested by the board?** Yes. Ark. Code Ann § 26-26-1103.
- 18. Can the assessor appoint or contract with someone to reassess property in the county?** Yes, and such appointee or contractor shall have all the powers of deputy assessors. Ark. Code Ann. § 26-26-1303.
- 19. Is the assessor required, at the time of the assessment, to make a separate list giving pertinent descriptions of all real properties exempt under the constitution?** Yes. If the property is used for other than a public purpose, the assessor shall state by whom or how it is held. Ark. Code Ann. § 26-26-1001.

- 20. May the assessor, in a later year, upon discovery of property that was omitted from the list of exempt property during a particular year, make such a list with the value of such properties and file it with the county clerk?** Yes, and the revised list will have the same force and effect as if it was made and filed at the proper time. Ark. Code Ann. § 26-26-1002.
- 21. What records are assessors required to keep and for how long?** Counties are required to maintain extensive county tax and assessment records. Assessors must consult Ark. Code Ann. § 13-4-303 for a list of records and retention rates.
- 22. What is the time period within which the assessor must appraise and assess all real property?** Between the first Monday in January and July 1. Ark. Code Ann. § 26-26-1101.
- 23. Can the value of a particular parcel of real property be reduced after July 1st?** Yes, but not by the assessor (except as set out below). In no case shall any reduction in the valuation of any real property be made except such as has been ordered by the equalization board, the county court, the circuit court, or the Supreme Court or be caused by the correction of an open and obvious error in accordance with the “Correction of Error” statute. Ark. Code Ann. § 26-28-111. An exception is made where there is a finding that a county is out of compliance with applicable standards by the Assessment Coordination Division and changes in value occur pursuant to the execution of a plan for corrective action. ACD Rule 3.31.
- 24. After property value has been assessed and full payment of the tax has been made, can the value on which the tax is based be reappraised?** No, except for actual fraud. Failure to assess taxes as required by law shall be prima facie evidence of fraud. Ark. Code Ann. § 26-34-107.
- 25. In the event of fire, flood, tornado, or other act of God resulting to damage to property must the assessor lower the value of the property accordingly?** Yes, prior to the date the tax books are turned over to the clerk the assessor shall revalue the property and enter it on the books. Ark. Code Ann. § 26-26-1107.
- 26. Must the assessor always give the taxpayer a notice and an opportunity to appeal when such assessor reassesses the property, or for any reason, increases the value of a taxpayer’s property?** Yes. Ark. Code Ann. § 26-26-910.
- 27. Is the assessor required to honor a request by the property owner to have an informal hearing with the assessor, or his representative, concerning a change in value before he petitions the county Board of Equalization for a formal hearing?** Yes. Ark. Code Ann. § 26-23-203.
- 28. How and when can an error on the property tax records, not involving value, be corrected by the assessor?** The assessor can make justified technical corrections of factual errors at any time until the tax books are turned over to the collector. The assessor must note on the record the reason for the change and the date the change was made and initial the note. Ark. Code Ann. § 26-28-111.

- 29. After the tax books have been delivered to the collector, can an error on the property tax records, not involving value, be corrected?** Yes, if an error is discovered on the tax books and related records the procedure outlined in the correction of error statute shall be used. The statute is applicable only to the correction of extension errors, erroneous property descriptions, classifications, or listings. This procedure shall not be utilized to make any changes in the valuation of any real or personal property other than a change in valuation necessitated by these factual errors. Ark. Code Ann. § 26-28-111.
- 30. Does the assessor or his representative have to conduct any informal hearings after normal business hours in order to accommodate working property owners?** Yes, at least one day per week. Ark. Code Ann. § 26-23-203.
- 31. Do assessors' offices receive any funds from the state for the administration of Amendment 79 to the Arkansas Constitution?** Yes. Surplus funds in the Property Tax Relief Fund go to the assessors' offices for purpose of administering Amendment 79. Ark. Code Ann. § 26-26-310.
- 32. Can an assessor be paid based upon a per centum of the valuation or assessment of property they do?** No. Ark. Const. Art. 7, § 46 ("no per centum shall ever be paid to assessors upon the valuation or assessment of property by them.").
- 33. What office determines whether a property is exempt from taxation?** The office of the county assessor, but the assessor's decision is appealable. *Hilger v. Harding College*, 231 Ark. 685, 331 S.W.2d 851 (1960).
- 34. Must the assessor or his or her deputy attend all meetings of the Equalization Board?** Yes. "It is the imperative duty of the county assessor or his deputy to attend each session of the county equalization board." Ark. Code Ann. § 26-27-313.
- 35. What is the role of the county judge as pertaining to the reassessment process?** Pursuant to Amendment 55 to the Arkansas Constitution, the county judge shall preside over the quorum court without a vote but with the power of veto. He shall approve disbursement of appropriated county funds and administer ordinances enacted by the quorum court and hire county employees, except those persons employed by other elected officials of the county. The county judge is the chief executive officer of the county. Ark. Code Ann. § 14-14-502. The county judge is authorized to enter into necessary contracts to obligate county funds. Ark. Code Ann. § 14-14-1102. County assessors have specific authority to enter into a contract for reappraisal of the property in the county when the reappraisal management plan has been approved by the ACD. Ark. Code Ann. § 26-26-1905. ACD rules require both the signature of the county assessor and the county judge on reappraisal contracts. In-house reappraisal plans must bear the notarized signatures of the county assessor, county judge, and the appraisal manager. ACD Rule 3.18. Reappraisal plans using contracted professionals must bear the notarized signatures of the county assessor, county judge, a principal of the reappraisal company, and the appraisal manager. ACD Rule 3.19.

- 36. What is the role of the quorum court as pertaining to the reassessment process?** Quorum courts are authorized to override the veto of the county judge by a vote of three-fifths of the membership and fix the numbers and compensation of deputies and county employees. Ark. Const. Amend. 55, § 4. The quorum court is vested with the legislative authority for the county. Ark. Code Ann. § 14-14-502. County budgets must be authorized by the quorum court by the passage of appropriation ordinances. Ark. Code Ann. § 14-14-907. Reappraisal plans must be approved by a quorum court via appropriation ordinance. ACD Rule 3.18–3.19.
- 37. What is the role of the BOE as pertaining to the reassessment process?** When the reappraisal records have been turned over to the BOE they shall hear appeals by taxpayers and raise or lower the valuation of any property in order to bring about a complete equalization. Ark. Code Ann. § 26-27-317. The BOE, after October 1 and before the third Monday in November, may go into special session to complete its work or review or extend its work and may employ qualified appraisers, abstractors, or other persons as needed to appraise properties, in the discharge of its duties. Ark. Code Ann. § 26-27-311.
- 38. Does the assessor have a duty to report to the State Forester the number of acres of timberland in the county?** Yes, as reflected in the reappraisal of real property in the county. Ark. Code Ann. § 26-61-111(c).

Chapter 4

TAXPAYER'S RIGHTS AND RESPONSIBILITIES

- 1. What is the goal or objective of the Taxpayers Bill of Rights?** For the Arkansas taxpayer to be taxed fairly and assessed equitably throughout the state. To have access to information concerning how the system of property taxation works and how their tax dollars are spent. To participate in determining tax rates and millage rates. To receive fair and courteous treatment. To review reassessments and methodology used in determining the value of their property. To be sent a notice setting forth: the amount of any change in the value of their property; the right of the taxpayer to appeal such a change; and the procedure which must be followed on appeal, including the name, title, address, and telephone number of the secretary of the county equalization board; to whom the appeal and any supporting documentation should be directed; the deadline for requesting a hearing and proof required for adjustment of value. But no person or entity shall have a civil cause of action for any breach of this provision. Ark. Code Ann. § 26-23-202.
- 2. When does a reappraisal of real property have to be completed?** July 1 of the reappraisal completion year. Ark. Code Ann. § 26-23-203.
- 3. When do the original valuations of newly discovered and newly constructed real property have to be completed?** July 1 of each assessment year. Ark. Code Ann. § 26-23-203.
- 4. When do notices of value change have to be sent to property owners?** No later than 10 business days after July 1 of the assessment year. Ark. Code Ann. § 26-23-203.
- 5. Does a property owner have a legal duty to list with the assessor all his real and non-household tangible personal property situated in the county?** Yes. Ark. Code Ann. § 26-26-903. The period for listing begins January 1 and ends May 31 or the next business day thereafter. Ark. Code Ann. § 26-26-1408.
- 6. Is there is a penalty on all persons and property delinquent in assessment (listing) of property?** Yes, calculated at ten percent (10%) of all taxes due. There is also a charge of fifty cents (\$.50) to go to the assessor for administrative costs and it shall be collected by the tax collector in the usual manner. In addition, if the neglect is willful the delinquent owner shall be deemed guilty of a misdemeanor and fined up to \$1,000.00. Ark. Code Ann. § 26-26-201.

- 7. What information is required to be included on the tax statement that the collector must send to the property owner?** (1) The dollar amount of the total tax bill distributed to each taxing unit in the county where the taxpayer's property is taxed; (2) The millage rate levied by each taxing unit used to determine the tax distribution to each taxing unit and the percentage of the full value of the taxpayer's property that each millage rate levy represents; (3) The percentage of the full value of the taxpayer's property shall be calculated by multiplying the legal assessment level by the appropriate millage levy; (4) The sum of the millage rates levied by each taxing unit, the percentage of the full value of the millage rate levies represents, and the total dollar amount due and billed; and (5) The internet address for the county official website Ark. Code Ann. § 26-23-204.
- 8. In the case of personal property only, is there another exception to the requirement that such personal property must be assessed (listed) by May 31st?** Yes, such property acquired between May 2nd and May 31st may be assessed within 30 days following the date of acquisition without penalty. Ark. Code Ann. § 26-26-1408.
- 9. Is the listing of real and personal property by the taxpayer conclusive?** No, the assessor may make the assessment of the property as he or she may deem just and equitable. In doing so the assessor may require proof and may enter on the premises to inspect the property and then give notice of any change. Ark. Code Ann. § 26-26-910.
- 10. What is the last day for paying real and personal property tax without penalty?** Taxes are due and payable from the first business day in March to and including October 15th. The collector will extend a penalty of ten percent (10%) if payment is not made within the specified time. There shall be an additional penalty of ten percent (10%) charged against all delinquent taxpayers that have not paid by Oct. 15th following the purchase of a business or the assets, goods, chattels, inventory, or equipment of a business not in the ordinary course of business. Ark. Code Ann. § 26-36-201.
- 11. If October 15th falls on Saturday, Sunday or a holiday observed by the United States Post Office is the deadline for paying taxes extended?** Yes, the taxpayer will have up to and including the next business day, that is not a holiday, following October 15th. Ark. Code Ann. § 26-36-201.
- 12. Is there a penalty for anyone who violates any provision of law intended to secure the assessment or equalization of property for which a penalty has not otherwise been provided?** Yes, a fine from ten (\$10.00) dollars up to one hundred (\$100.00) dollars for each violation. Ark. Code Ann. § 26-2-104.
- 13. May a taxpayer, in order to avoid property tax assessment, sell, give away, or otherwise dispose of property, subject to an understanding that it will be re-conveyed at a later time?** No, it is a criminal offense, and a conviction carries a fine of from \$500.00 to \$1,000.00. Ark. Code Ann. § 26-2-207.

- 14. After property value has been assessed and full payment of the tax has been made, can the value on which the tax is based be reappraised?** No, except for actual fraud of the taxpayer.
- 15. Must the purchaser of real property notify the assessor of any new use of the property?** Yes, and the notification may be by affidavit provided by the purchaser or on a form provided by the county assessor. Ark. Code Ann. § 26-26-1118.
- 16. Must the property owner register proof of eligibility for the “homestead” tax credit with the county assessor?** Yes, on or before October 15th of the year after the assessment. The registration may be attached to the deed or other instrument conveying an interest in real property and filed with the circuit clerk who shall remit it to the county assessor, or the taxpayer may submit the registration directly to the assessor. Ark. Code Ann. § 26-26-1118.
- 17. By law, does the taxpayer have to notify the assessor of his eligibility for a freeze on the assessed value of his homestead?** No, but the assessor would ordinarily have no way of knowing that the taxpayer is eligible for the freeze unless the taxpayer makes his claim to the assessor. The collector shall yearly send a notice to taxpayers of his or her rights under Amendment 79 and it shall contain the Assessor’s contact information. Ark. Code Ann. § 26-23-205.
- 18. Does a property owner have a responsibility to pay his real and personal property tax by a time or be subject to a penalty?** Yes, taxes are due and payable from the first business day in March to and including October 15th of the year following the assessment year. The collector will extend a penalty of ten percent (10%) if payment is not made within the specified time. Ark. Code Ann. § 26-36-201.
- 19. Must the collector accept payment of property taxes without a penalty if October 15th falls on Saturday, Sunday or a holiday observed by the United States Post Office?** Yes. Ark. Code Ann. § 26-36-201.

Chapter 5

REAL PROPERTY ISSUES

1. **What is the definition of real property?** Not only the land itself, whether laid out in town lots or otherwise, with all things therein contained, but also all buildings, structures, improvements, and other fixtures of whatever kind thereon and all rights and privileges belonging or in anywise appertaining thereto. Ark. Code Ann. § 26-1-101.
2. **Are mobile homes assessed as real property?** Yes. Ark. Code Ann. § 26-3-203.
3. **Are mineral rights classified and assessed as real property?** Yes. Ark. Code Ann. § 26-26-1110.
4. **For assessment purposes, is the status (value, use, exemption), of real property established as of January 1st of the assessment year?** Yes, and this is true even if the property is sold or otherwise transferred. The assessor records the new owner and the selling price, and the use of the property and on January 1st the following year the taxes are assessed consistent with the new status in the name of the new owner. Ark. Code Ann. § 26-26-1201.
5. **If a new home did not exist on January 1st, but was built and occupied by the time it was appraised for assessment, will taxes for that home be owed for that year?** No, it is the situation that existed on the ground on January 1st of the assessment year that is determinative. It is picked up and listed as new construction and it goes on the tax books and is taxable as of January 1st, the following year. However, any partial construction on the site as of January 1st may add value to the land and would be included in the assessment. Ark. Code Ann. § 26-26-1201.
6. **How often is a county-wide reappraisal of real property done?** Every four years. Ark. Code Ann. § 26-26-1902.
7. **Is it necessary to the validity of an assessment or a sale of land for taxes that it is assessed to the true owner?** No, the taxes are a charge upon the real and personal property and will vest title in the purchaser without regard to who owned it when assessed or when sold. Ark. Code Ann. § 26-34-102.
8. **Are severed mineral rights assessed separate from the land?** Yes. Ark. Code Ann. § 26-26-1110.

9. **If the owner of a severed mineral estate drills a well for the purpose of extracting minerals, is there a presumption that the surface estate owner has suffered diminished utility decreasing the value of his surface estate?** Yes, unless market evidence indicates an increase in the value of the surface estate. The presumption of diminished utility shall not exceed one (1) acre per well and that acre shall be assessed in an amount not to exceed twenty-five percent (25%) less than surrounding comparable property. Ark. Code Ann. § 26-26-407.
10. **Is there a statewide standard for assessing non-producing mineral rights?** Yes, because of the difficulty of ascertaining the value and in order to insure equal and uniform taxation throughout the state, the value is set at zero (0) and it is included in the fee simple interest assessed. If the non-producing mineral rights are owned separate from the fee simple interest, there is no property tax on the mineral interest. Ark. Code Ann. § 26-26-1110.
11. **How often are producing mineral interests assessed?** Distributors of proceeds derived from sale of minerals are required to provide the County Assessor by March 31st of each year a division order reflecting ownership interests of the mineral rights. Ark. Code Ann. § 26-26-1110.
12. **What if a non-producing mineral right begins producing?** Producing mineral interests will be taxed according to their value consistent with Arkansas law. Ark. Code Ann. § 26-26-1110.
13. **How is land enrolled in federal land conservation programs classified for tax assessment purposes?** As agricultural land, pasture, land, or timber land for purposes of valuation. Ark. Code Ann. § 26-26-407.

Chapter 6

PERSONAL PROPERTY ISSUES

- 1. What personal property in this state is subject to taxation?** All tangible personal property, that is not exempt under the constitution, is subject to taxation. Ark. Code Ann. § 26-3-201. All intangible personal property is exempted from taxation. Ark. Code Ann. § 26-3-302. Household furniture and furnishings, clothing, appliances, and other personal property within the home, if not held for sale, rental, or other commercial or professional use, are exempt. Ark. Const. Amend. 71.
- 2. In what jurisdiction in the state is personal property assessed?** In the taxing district where the property is located and kept for use. Ark. Code Ann. § 26-26-1102.
- 3. What is the definition of “personal property”?** Every tangible thing being the subject of ownership, and not forming a part of any real property. Ark. Code Ann. § 26-1-101. Intangible personal property is exempt. Ark. Code Ann. § 26-3-302. Household furniture and furnishings, clothing, appliances, and other personal property within the home, if not held for sale, rental, or other commercial or professional use is exempt. Ark. Const. Amend. 71.
- 4. Are livestock, recreational vehicles, and all farm, construction, manufacturing, and other equipment classified as personal property for taxation purposes?** Yes. Ark. Code Ann. § 26-1-101.
- 5. Are house boats and camper trailers considered as personal property for tax assessment purposes?** Yes, whereas mobile homes, by law, are classed as real property, for tax purposes. Ark. Code Ann. § 26-3-203.
- 6. What is the period of time within which a taxpayer must assess all tangible non-household personal property?** From January 1 through May 31st. Taxable tangible personal property of a new resident and a new business established between January 1 and May 31, except tangible personal property acquired during the period the period of May 2 and May 31, shall be assessable without delinquency within thirty days following the date of its acquisition. All taxable tangible personal property assessable during this period shall be assessed according to its market value as of (i) January 1 of the year of assessment;(ii) The date acquisition if the tangible personal property was acquired during the period of January 2 through May 31 of the year if assessment. Ark. Code Ann. § 26-26-1408.

7. **Is there a penalty for failure to assess personal property by May 31st?** Yes, 10% except property acquired between May 2nd and May 31st may be assessed within 30 days following the date of acquisition without penalty. Ark. Code Ann. § 26-26-1408.
8. **If a taxpayer moves out of state taking his personal property with him or if he disposes of personal property assessed between January 1 and May 31st is the property removed from the assessment rolls?** Yes, if the taxpayer shows proof, and if not assessed the property shall be deemed un-assessable for that year. Before removal from the rolls the owner must notify the assessor and show proof of the disposal if requested. Ark. Code Ann. § 26-26-1408.
9. **Is personal property in transit through this state and property manufactured or processed or refined in this state and stored for shipment outside the state, taxable in this state?** No. Ark. Code Ann. § 26-26-1102.
10. **In valuing off-premises advertising signs, how is the market value determined?** *See* Ark. Code Ann. § 26-26-1308.
11. **How is the property belonging to a merchant for the purpose of sale valued?** By calculating the average value of the property in his possession during the year immediately preceding January 1 of the assessment year. Ark. Code Ann. § 26-26-1203.
12. **Recognizing that motor vehicles are unique in the personal property tax field, what is the method of determining the average value of inventory of a motor vehicle dealer?** *See* Ark. Code Ann. § 26-26-1207.
13. **Do personal property taxes have to be paid at the same time real property taxes are paid?** Yes, any county collector willfully accepting payment of general real estate taxes without requiring the payment of personal property taxes that are due as shown on the tax records shall be deemed guilty of a misdemeanor and fined accordingly. Ark. Code Ann. § 26-35-601.
14. **Does a legally assessed tax on personal property follow the property?** Yes, the tax and any late penalties constitute a lien on the property and stays with it no matter whose hands it passes into. The taxes shall be a preference over all judgments, executions, encumbrances,

or liens when-so-ever created. Ark. Code Ann. § 26-34-101; *Bridewell v. Morton*, 46 Ark. 73 (1885); Ark. Attorney General Op. No. 2010-134; No. 2019-015.

- 15. If a taxpayer owes personal property tax on an automobile but moves out of state and licenses the automobile in another state, does he still owe the tax in Arkansas?**
Yes, along with any accrued penalty. But no penalty shall be charged against a member of the armed services, reserves, or the National Guard during the taxpayer's deployment plus one year after the deployment ends. Ark. Code Ann. § 26-36-201.

Chapter 7

AGRICULTURAL, PASTURE, TIMBER, AND

MINERAL LANDS

- 1. How are agricultural lands valued?** Agricultural land, pasture land, and timber land valuation is based upon the productivity of the agricultural land, pasture land or timber land soil. The ACD provides mandatory guidelines based upon the typical or most probable use of the soils in the region and annually updated tables for the valuation and assessment of such lands. Ark. Code Ann. § 26-26-407. A copy of current guidelines is found at www.arkansasassessment.com/real-property/agriculture-real-estate/
- 2. What jurisdiction do the BOE, and the county court have to hear appeals of taxpayers who disagree with the county assessor as to the assessment on their agricultural land, pastureland, or timber land?** The BOE lacks jurisdiction to hear appeals of the valuation of agricultural land, pastureland, or timberland derived pursuant to ACD guidelines. Ark. Code Ann. § 26-27-317(a)(3).
- 3. If a taxpayer's agricultural land, pasture land or timber land goes up in value as a result of a reappraisal, are his taxes based upon 20% of the total value of such property, including the increase?** No, agricultural land could not qualify as homestead property, and therefore any increase in assessed value is limited (capped) to not increase annually more than ten percent (10%) of the assessed value of the property for the previous year, but it shall increase by an additional ten percent (10%) each year until it reaches that full assessed value. Ark. Const. Amend. 79, § 1(b)(1). This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property. Ark. Const. Amend. 79, § 1(b)(2).
- 4. Does the assessed value of a taxpayer's agricultural land, pasture land or timber land cease to increase (freeze) over and above the amount it was immediately before he purchased the property or became disabled or sixty-five (65) years of age?** No, by Amd. 79 definition, agricultural land, pasture land or timber land is not homestead property and therefore the freeze does not apply. Ark. Const. Amend. 79, § 1(b)(1)(A).
- 5. What is the "Forest Fire Protection Act of 1969"?** The Act levies an annual tax of twenty cents upon each acre of timberland. The tax is neither a timber severance tax nor an ad valorem tax. If unpaid, the tax is a lien upon the land and is levied to assist in defraying the cost of a statewide program of forest fire protection. Ark. Code Ann. § 26-61-101 et seq.

AMENDMENT 79 ISSUES

- 1. What are the four benefits to taxpayers of Amendment 79?** (1) The amendment places a 10% limit on year-to-year increase in value of non-homestead property. (2) The amendment places a 5% limit on year-to-year increase in value of a homestead property. (3) The amendment freezes the value of homestead property owned by a person 65 years or older or disabled. (4) And the amendment grants a property tax credit on a taxpayer's "homestead." Ark. Const. Amend. 79; Ark. Code Ann. § 26-26-1120–1124.
- 2. What does the term “disabled” mean in the context of Amendment 79?** It means a person who is: (1) disabled for purposes of Subchapter XIX of the Social Security Act in effect on January 1, 2003, for any period during the calendar year; (2) a veteran who is permanently and totally disabled as defined in 38 C.F.R. Part IV, as in effect on January 1 2003; or (3) has received permanent and total disability insurance benefits for any period of time during the calendar year. Ark. Code Ann. § 26-26-1120.
- 3. What does the term “homestead” mean in the context of Title 26 of the Arkansas Code and Amendment 79?** The dwelling of person that is used as his or her principal place of residence with the contiguous land, excluding all land valued as agricultural land, pastureland, or timber land. It shall also mean a dwelling owned by a revocable or irrevocable trust and used as the principal place of residence of a person who formed the trust and a dwelling owned by an irrevocable trust and used as the principal place of residence of a beneficiary of the trust. Ark. Code Ann. § 26-26-1122.
- 4. What does the term “property owner” mean in the context of Title 26 of the Arkansas Code and Amendment 79?** It means a person who is the owner of record of real property or a mortgagee of real property; a buyer under a recorded contract to purchase real property; and a person holding a recorded life estate in real property. Ark. Code Ann. § 26-26-1122. It also includes a previous record owner of tax-delinquent real property that has vested in the state of Arkansas if the previous record owner continues to occupy the residence subject to his/her right of redemption. Ark. Code Ann. § 26-26-1122.

5. **If a person makes a revocable or irrevocable trust and deeds property to it but retains a life estate in the home and continues to occupy it as his/her principal place of residence, does the property qualify for the homestead tax credit?** Yes. The important factors are that it is his/her principal place of residence and that he/she is the owner by way of a retained life estate or beneficiary of the trust. Ark. Code Ann. § 26-26-1118 and 26-26-1122.
6. **How will a county assessor learn if the maker of the trust dies?** The Division of Vital Statistics of the department of Health is required by law to send the assessors by electronic mail a monthly report listing the residents of the county who have died. Ark. Code Ann. § 26-26-1118(b)(7).
7. **What does the term “new construction” mean in the context of Title 26 of the Arkansas Code and Amendment 79?** New construction means changes to real property already on the assessment roll. Ark. Code Ann. Ark. Code Ann. 26-26-1122(a)(3). New construction includes change in use of the property. ACD Rule 4.08.2.
8. **What does the term “newly discovered” mean in the context of Title 26 of the Arkansas Code and Amendment 79?** It means real property that has never been on the assessment rolls or that has changed use. Ark. Code Ann. § 26-26-1122(a)(4); ACD Rule 4.08.2.
9. **What does the term “substantial improvement” mean in the context of Title 26 of the Arkansas Code and Amendment 79?** ACD has defined the term in Rule 4.08.2:
 - a. Renovation, reconstruction, and refurbishment occurring to further a change in the use and/or class of an improvement. Upon completion of the renovation, reconstruction, or refurbishment the assessor shall note the change in use and reappraise the improvement based upon its prevailing market value in the following assessment year. If multiple improvements reside on the parcel, only those that have been renovated, reconstructed, or refurbished shall be reappraised and the remainder shall continue to be valued in accordance with Amendment 79, Sections 1(b)(1), 1(c)(1) or 2(b) whichever is appropriate.
 - b. Renovation, reconstruction, and refurbishment occurring that will add 25% or more to the contributory value of an improvement to the property. Upon completion of the renovation, reconstruction, or refurbishment the assessor shall note and document the contributory value increase and reappraise the improvement based upon its prevailing market value in the following assessment year. If multiple improvements reside on the parcel, only those that have been renovated, reconstructed, or refurbished shall be reappraised and the remainder shall continue to be valued in accordance with Amendment 79, Sections 1(b)(1), 1(c)(1) or 2(b) whichever is appropriate.
 - c. Newly constructed and newly discovered property is assessed at full value.

- 10. If a taxpayer's non-homestead property goes up in value as a result of a reappraisal are his taxes based upon 20% of the total value of his property, including the increase?** No, any increase in assessed value is limited (capped) to not increase more than ten percent (10%) of the assessed value of the property for the previous year, but it shall increase by an additional ten percent (10%) each year until it reaches that full assessed value. Ark. Const. Amend. 79, § 1(b)(1). This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property. Ark. Const. Amend. 79, § 1(b)(2).
- 11. Is the increase in assessed value of agricultural land, pastureland and timber land also capped at ten percent (10%) of the assessed value of the property for the previous year?** Yes, agricultural land is not homestead property and is therefore capped at ten percent (10%). Ark. Const. Amend. 79, § 1.
- 12. If a homeowner's principal place of residence (homestead), goes up in assessed value as a result of a reappraisal, are his taxes based upon 20% of the total value of his property, including the increase?** No, any increase in value is limited (capped) to not more than five percent (5%) of the assessed value of the property for the previous year, but it shall increase by an additional five percent (5%) each year until it reaches that full assessed value. This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property. Ark. Const. Amend. 79, § 1.
- 13. If the assessed value of a property has either a five percent (5%) or a ten percent (10%) cap but the owner adds an improvement, does his value increase more than the applicable five (5%) or ten (10%) would provide for?** Yes, the applicable current five (5%) or ten percent (10%) increase would be added to the previous assessed value and twenty percent (20%) of the value of the improvement would be added to the taxpayer's assessed value of his property and taxed accordingly. Ark. Code Ann. § 26-26-1122.
- 14. If a taxpayer who is disabled or sixty-five (65) years of age or older purchases or constructs a new homestead, how does the assessed value of his/her new homestead cease to increase (freeze)?** The property shall be assessed at its actual value as of the following January 1 after the purchase or construction date and any applicable freeze would be imposed after that January 1 reassessment date. Ark. Code Ann. § 26-26-1123. The assessed value of any substantial improvements to real property, as defined in ACD Rule 4.08.2, is added to the frozen assessed value and the new assessed value is then frozen. Ark. Code Ann. § 26-26-1124.
- 15. Is a person who would otherwise qualify for receiving, or continuing to receive, a freeze on the assessed value of his/her homestead property automatically disqualified because he/she resides in a nursing home?** No, pursuant to Ark. Const. Amend. 79, § 1(d)(2); Ark. Code Ann. § 26-26-1124(b).

- 16. If a homeowner, whose homestead value is frozen, conveys the homestead to a revocable or irrevocable trust which he/she formed and continues to maintain the property as a principal place of residence, is the freeze removed?** No, the transfer was to an entity that qualified for the freeze because the term “homestead” as used in Amendment 79 includes a dwelling owned by a revocable trust and is used as the principal place of residence of the person who formed the trust. Ark. Code Ann. § 26-26-1122.
- 17. If a homeowner, whose homestead value is frozen, transfers the homestead to a third person but retains a life estate interest in the property and continues to maintain the property as his/her principal place of residence, should the freeze be removed?** No. Ark. Code Ann. § 26-26-1123.
- 18. If an owner becomes qualified for a freeze on the assessed value of his property at any time before July 1, is the value frozen at the previous year’s assessed value or at the current year’s assessed value? The current year’s assessed value.** Once the assessments are complete on July 1, the assessed value of the property will relate back to January 1 and the assessed value on the date of qualification will be known and is the value to be frozen. Ark. Code Ann. § 26-26-1305.
- 19. A parcel of real property with a freeze on assessed value is sold to a buyer who is not qualified for a freeze and in the same year that person sells it to a person who is qualified, what happens to the assessed value of the property?** The property had a freeze on it and the taxes for the year were established as of January 1 and will not change until January 1 of the next year. When the qualified buyer bought the property, it had a frozen value and that value continued interrupted for that year. Ark. Const. Amend. 79, § 1(d)(1).
- 20. Where property not involving an assessed value freeze situation is purchased and the property has a five percent (5%) or ten percent (10%) growth cap at the time of purchase, are such caps removed and the property assessed at 20% of full value as of January 1, the following year?** Yes. Ark. Code Ann. § 26-26-1123.
- 21. If a homeowner conveys a future interest in the real property while retaining a life-estate for himself, are any existing caps removed and the property assessed at 20% of full value as of January 1, the following year?** No. Ark. Code Ann. § 26-26-1123(c).
- 22. When the assessed value of a property has a freeze or a five percent (5%) or ten percent (10%) cap on it and the property is purchased by a person who does not use it as his/her homestead or is not sixty-five (65) years of age or disabled is the freeze or cap lifted and the property assessed at twenty percent (20%) of full market value?** Yes, on January 1 the following year. Ark. Code Ann. § 26-26-1122.
- 23. When the assessed value of a property is frozen and the property is purchased by a person who uses it as his homestead and is sixty-five (65) years of age or disabled, is the freeze lifted and the property assessed at twenty percent (20%) of full market value?** Yes. The purchaser may be entitled to a freeze, but the new freeze will be at twenty percent of market value on the following January 1 Ark. Code Ann. § 26-26-1123–1124.

- 24. When the assessed value of a property is not frozen but does have a five percent (5%) or ten percent (10%) cap and the property is purchased by a person who uses it as his/her homestead and is sixty-five (65) years of age or disabled does the assessed value continue to go up at the rate of five percent (5%) or ten (10%) a year?** No. The assessor shall assess the real property at its full market value as of the following January 1 unadjusted by any limitation in the assessed value in Amendment 79. Ark. Code Ann. § 26-26-1124.
- 25. What are the limits on the amount of the homestead tax credit? Credit amount is determined by the General Assembly, but taxpayer may not receive more than the amount of tax owed.** Ark. Code Ann. § 26-26-1118.
- 26. Must the property owner register proof of eligibility for the homestead tax credit with the county assessor?** Yes, on or before October 15 of the year after the assessment. The registration may be attached to the deed or other instrument conveying an interest in real property and filed with the circuit clerk, who shall remit it to the county assessor; or the taxpayer may submit the registration directly to the assessor. The property must qualify for the credit before January 1 of the year following the assessment year. Ark. Code Ann. § 26-26-1118.
- 27. Is the homestead tax credit personal to the property owner?** No, it attaches to the property and relates back to January 1 and stays attached to the property for the entire year regardless of any change in use of the property and regardless of whose hands the property passes into and regardless of who gets the tax bill or who pays the tax. Ark. Code Ann. § 26-26-1118(b).
- 28. If a person purchases a parcel of real estate that has a tax credit on it, does the credit remain on the property even though the new owner does not use it as his principal place of residence?** Yes, once a parcel of real property is determined to be eligible for the property tax credit, the parcel shall remain eligible for that year regardless of a change in use during that year. Ark. Code Ann. § 26-26-1118(b)(4). The assessor will remove the credit the following January 1.
- 29. If there is no tax credit on a parcel of real property and it is purchased by a person who has not claimed a credit on another parcel of real property and he files a claim with the assessor and lives on the property as his principal place of residence, are the taxes for that year adjusted to reflect the credit?** Yes, once a parcel of real property is determined to be eligible for the property tax credit, the parcel shall remain eligible for that year regardless of a change in use during that year. Ark. Code Ann. § 26-26-1118(b)(4).
- 30. If a property owner has claimed a homestead tax credit for the year but he buys another parcel that he uses as his principal place of residence, is he entitled to claim a homestead tax credit on the new property the same year?** No, a property owner shall claim no more than one homestead tax credit for any one year. Ark. Code Ann. § 26-26-1119.

- 31. Must a parcel of real property qualify as a homestead prior to January 1 of the year after the assessment to be eligible for the homestead credit?** Yes, but once it qualifies it remains eligible for the entire year regardless of a change in ownership or a change in use and regardless of who or what entity pays the tax. Ark. Code Ann. § 26-26-1118.
- 32. May the parties to a transfer of the real property prorate the homestead tax credit as between themselves?** Yes. Ark. Code Ann. § 26-26-1118.
- 33. Must the purchaser of real property notify the assessor of any new use of the property?** Yes, and the notification may be by affidavit provided by the purchaser, or a form provided by the county assessor. Ark. Code Ann. § 26-26-1118.
- 34. Can a taxpayer claim more than one homestead tax credit in any one year?** No, if a taxpayer has a credit on a homestead and buys another and uses it as his/her homestead, he/she is precluded from claiming a credit on the second homestead. However, if the second property already has a credit on it when he/she buys it, the credit stays, and he/she is not guilty of claiming two credits in one year. Ark. Code Ann. § 26-26-1119.
- 35. Can a husband claim a homestead credit on one residence and his wife claim a homestead credit on another residence, even if one property is titled in the name of one spouse and the other is titled in the name of the other spouse?** No, because one of the properties would not be the principal residence of the owner. Ark. Code Ann. § 26-26-1118.
- 36. Is one tenant in common precluded from claiming a homestead credit on the residence he/she occupies as his/her principal place of residence just because the other tenant in common already has a residence that he/she receives a homestead credit on?** No, as long as one tenant in common can prove that he/she maintains one of the homes as his/her principal place of residence and the other tenant in common can prove that he/she maintains the other home as his/her principal place of residence, and they separately claim a credit for their respective homes. Ark. Code Ann. § 26-26-1119.
- 37. Must the county assessor apply penalties to the taxpayer who claims a homestead tax credit on a second parcel of real property?** Yes, however, it is the second claim that is the offense, and the penalty is applied to the second property. The decision of the assessor is appealable within 30 days to the county court and the decision of the county court is appealable within 30 days by the taxpayer or the assessor to the circuit court. Ark. Code Ann. § 26-26-1119.

Chapter 9

EXEMPTIONS

- 1. Who makes the decision as to whether a property is exempt from property taxes?**
County assessors determine property tax exemptions.

- 2. What property in Arkansas is exempt from taxation?** (1) public property used exclusively for public purposes; (2) churches used as such; (3) cemeteries used exclusively as such; (4) school buildings and apparatus; (5) libraries and grounds used exclusively for school purposes; and (6) buildings and grounds and material used exclusively for charity, Ark. Const. Art. 16, § 5, (7) all capital invested in a textile mill for the manufacture of cotton and fiber goods in any manner is exempt for seven years from the date of the location of said mill, Ark. Const. Amend. 12, (8) intangible personal property may be designated as one or more classes of personal property and such class or classes may be exempted by the legislature, Ark. Const. Amend. 57, (9) all intangible personal property has been exempted by the legislature. Ark. Code Ann. § 26-3-302. Household furniture and furnishings, clothing, appliances, and other personal property within the home, if not held for sale, rental, or other commercial or professional use, are exempt. Ark. Const. Amend. 71. Ark. Code Ann. § 26-3-306 exempts from taxation property owned by a qualified disabled veteran.

- 3. If part of the property is utilized for a proper exempt use and part is utilized for a non-exempt use, can the property be divided into two parcels for tax purposes, one exempt and one taxable?** Yes. *Burgess v. Four States Mem. Hosp.*, 250 Ark. 485, 465 S.W.2d 693 (1971).

- 4. What must an applicant prove to qualify for an exemption from taxation for the applicant's property?** The applicant must establish entitlement under Arkansas law to an exemption beyond a reasonable doubt. *Ark. Teacher Retirement Sys. V. Short*, 2011 Ark. 263, 381 S.W.3d 834.

- 5. What factors should a county assessor consider when determining a property's tax-exempt status?** The primary and predominant factor assessors should consider is the actual use of the property. *Ark. Conf. Ass'n Of Seventh Day Adventists v. Benton County Bd. of Equalization*, 304 Ark. 95, 800 S.W.2d 426 (1990).

- 6. If any property is held or used with a "view toward profit" are there any circumstances whereby it could be exempt?** No. Property used for commercial, business, rental or investment purposes are not exempt from taxation and shall thus be assessed and taxed at the same rate as other property. Ark. Code Ann. § 26-3-206(a).

7. **If a nonprofit charitable organization has a thrift shop and uses the income to pay disabled workers and/or uses the income to operate and expand the charity and further its goals is its property exempt?** Yes, the property must be used primarily and predominantly for charitable purposes, and owner must be a “charitable organization” and the business must not be operated with a view toward profit. *Burgess v. Four States Mem. Hosp.*, 250 Ark. 485, 465 S.W.2d 693 (1971).

8. **Are lands exempt that were purchased by an otherwise exempt organization and held solely for sale or rent for the sake of profit?** No. *Ark. Teacher Retirement Sys. v. Short*, 2011 Ark. 263, 381 S.W.3d 834.

9. **Where lots are held by an improvement district for sale only to recoup delinquent improvement district taxes owed to the district, may the lots be exempt?** Yes, the district is using the lots for a public purpose and not for a proprietary purpose. *Pulaski County v. Carriage Creek Prop. Owners Imp. Dist. No. 619*, 319 Ark. 12, 888 S.W.2d 652 (1994).

10. **May private schools be exempt?** Yes, but they cannot be operated with a view toward profit. *Phillips Co. v. Sister Estelle*, 42 Ark. 536 (1884); *see also Sebastian County v. Educare Centers of Ark., Inc.*, 296 Ark. 538, 758 S.W.2d 413 (1988).

11. **When property that might otherwise be exempt is leased out at market rate, does the property remain exempt?** No, the primary use of the property is for business and that is not authorized by the constitution. This is true even if the lessee uses the property for a normally exempt purpose. It is the primary use that is determinative. *Ark. Conf. Ass’n Of Seventh Day Adventists v. Benton County Bd. of Equalization*, 304 Ark. 95, 800 S.W.2d 426 (1990).

12. **When property that might otherwise be exempt is leased out at a nominal rate and the lessee and the use of the property would ordinarily be exempt, does the property remain exempt?** Yes. *Ark. Conf. Ass’n Of Seventh Day Adventists v. Benton County Bd. of Equalization*, 304 Ark. 95, 800 S.W.2d 426 (1990).

13. **Does the word “exclusively” as it is used in Article 16 Section 5 of the Arkansas Constitution, mean that the property absolutely cannot be used for any other purpose?** No, there can be some nonconforming incidental use, as long as the property is used primarily and predominantly for one of the listed exempt purposes. *City of Little Rock v. McIntosh*, 319 Ark. 423, 892 S.W.2d 462 (1995).

- 14. If a producing mineral interest is owned by an entity such as a county, the State of Arkansas, a church, school, or charity, whose property is ordinarily exempt, is the mineral interest also exempt?** No. The primary use of the mineral interest is for business purposes. Even if the income is used to support the exempt entity, the mineral interest is not exempt because the exempt use of the entity would be secondary. The secondary use, no matter how meritorious, is irrelevant. *Hilger v. Harding College, Inc.*, 231 Ark. 685, 331 S.W.2d 851 (1960).
- 15. Is property owned by an instrumentality of the federal government exempt?** No, but federally owned property is immune from state and local taxation.
- 16. Is property owned by the Federal Land Bank immune?** Yes, but the U.S. Congress has waived immunity for the bank's real property. The federal Land Bank's personal property remains immune. 12 U.S.C.A. § 2098.
- 17. What is required for a public use exemption?** The property must be owned by a public (governmental) entity and used exclusively for a public purpose. *Ark. Teacher Retirement Sys. v. Short*, 2011 Ark. 263, 381 S.W.3d 834.
- 18. If a state governmental entity, church, charity, school, library, or cemetery becomes the owner of any property, after January 1, and uses it for an exempt purpose, does the exemption take effect immediately upon acquisition?** No, the status of the property is established as of the January 1 and does not change until January 1 of the following year. Ark. Code Ann. § 26-34-101.
- 19. If, after January 1, a governmental entity acquires any real or personal property and uses it for a public purpose and claims an exemption, can the county collect from the governmental entity the taxes that had accrued as of January 1 of that year?** No, a governmental entity is immune from taxation and cannot be sued for delinquent taxes. The county may pursue their claim before the state claims commission.
- 20. Is property financed, purchased, or constructed with Act 9 bond funds exempt from property tax?** Yes. Ark. Code Ann. § 14-164-701.
- 21. Is record title demonstrating property ownership determinative of exempt status for a church or school?** No. Actual ownership of the property is not determinative of entitlement to an exemption. *Phillips v. Mission Fellowship Bible Church*, 59 Ark. App. 242, 955 S.W.2d 917 (1997); *Sebastian County v. Educare Centers of Arkansas, Inc.*, 296 Ark. 538, 758 S.W.2d 413 (1998).
- 22. What is required for a property to qualify for the charitable exemption?** The purpose of the organization must be for charity and property must be used exclusively for charitable

purposes. The property must be open to the public. *Burgess v. Four States Hosp.*, 250 Ark. 485, 465 S.W.2d 693 (1971).

- 23. What is required for property to qualify for a church exemption?** The property, including parsonages, automobiles, etc., must be used primarily and predominantly for church purposes. Ark. Code Ann. § 26-3-206.
- 24. What is meant by the term “church purposes”?** The property must be dedicated as a place of worship and includes administrative and missional purposes, all church parsonages, church activity and educational buildings. Ark. Code Ann. § 26-3-301(12).
- 25. Between the first Monday in January and May 31 of each year, must a church list all property held or used for commercial, business, rental, or investment purposes with the assessor?** Yes. Ark. Code Ann. § 26-26-1113.

Chapter 10

BOARD OF EQUALIZATION

- 1. What are the qualifications for members of the county board of equalization?** They must be qualified electors of the county and be a property owner in the county for at least one (1) year. Ark. Code Ann. § 26-27-302.
- 2. How many members may serve on a county board of equalization?** Nine (9) members for counties of seventy-nine thousand persons (79,000) or more, and five (5) for all other counties. Ark. Code Ann. § 26-27-303.
- 3. May the county judge select all of the BOE members?** No. For 5 member boards the county judge selects one member; one is selected by all of the school districts together; one is selected by all cities and incorporated towns together; two are selected by the quorum court. Ark. Code Ann. § 26-27-304. For nine (9) member boards consult the statute or the Assessment Coordination Division.
- 4. Does at least one of the members selected by the quorum court have to be a licensed real estate appraiser?** Yes, but if not available the following professionals may be substituted: if available, a real estate broker; if not available, a real estate salesman; if not available, a qualified elector of the county. Ark. Code Ann. § 26-27-304.
- 5. How long is the term for each member?** **Three years.** Terms of the members are staggered. Ark. Code Ann. § 26-27-305.
- 6. Are BOE members required to subscribe and swear an oath before taking office?** **Yes**, as prescribed in Art. 19, § 2 of the Arkansas Constitution. Ark. Code Ann. § 26-27-306.
- 7. Is the BOE independent?** Yes. The board is required to act in good faith, give due process and equal protection to those that appear before them and carry out their duties under state and federal law. *Pennington v. Oliver*, 245 Ark. 251, 431 S.W.2d 843 (1968).
- 8. Where and when does the BOE meet?** At the office of the county clerk or the assessor on August 1 and continuing through October 1 of each year unless August 1 falls on a Saturday, a Sunday, or a legal holiday, in which case they shall meet on the next business day. If the county has been called out of compliance by the ACD the board shall continue to meet until all property assessments are equalized and all requests for adjustment of assessments have been considered but not to be extended beyond the third Monday in November. Ark. Code Ann. § 26-27-309. In addition, the board may meet monthly during the year. Ark. Code Ann. § 26-27-311.
- 9. How often is the BOE required to meet?** As often as is necessary to hear and act on all appeals. Ark. Code Ann. § 26-27-309.

- 10. May the BOE organize into working groups?** Yes, boards consisting of 9 members may divide into groups of 3 for investigation and recommendations to be presented to and voted on by the entire board sitting in banc. Ark. Code Ann. § 26-27-310.
- 11. May the board go into special session and when and for what purpose?** Yes, for the purpose of reviewing or extending or completing its work of equalization and for planning it may go into special session after any regular monthly meeting or after its equalization meetings from August 1 through October 1 but not beyond the third Monday in November. Ark. Code Ann. § 26-27-311.
- 12. Can the BOE, in special session, employ professionals to aid them in the discharge of their duties?** Yes. Ark. Code Ann. § 26-27-311.
- 13. May the county assessor appeal the decision of the BOE?** Yes. Ark. Code Ann. § 26-27-318.
- 14. Must the county assessor furnish the BOE all his/her data and information concerning assessments and attend all BOE meetings?** Yes, although the assessor may send a deputy to the meetings instead of personally attending. Ark. Code Ann. § 26-27-313.
- 15. Does the BOE have the jurisdiction to accept or consider a valuation or appeal by an owner of a producing mineral right or agricultural land?** No. Ark. Code Ann. § 26-27-317.
- 16. Are there disclosure requirements for certain property valuation appeals before the BOE?** Yes, appellants of commercial and industrial properties must disclose evidence the appellant intends to proffer at least five days before the hearing. Ark. Code Ann. § 26-27-317.
- 17. Does the taxpayer have to attend the hearing?** No, the taxpayer may appear by an agent or may submit written documentation as to the adjustment desired. Ark. Code Ann. § 26-27-317. The taxpayer must appear if the taxpayer has been duly summoned pursuant to Ark. Code Ann. § 26-27-316.
- 18. Is the board required to have the hearing by telephone if requested?** No, there is no such requirement, and likewise there is no prohibition against it. The board is required to schedule hearings, if practicable, at the convenience of the property owner. Ark. Code Ann. § 26-27-317(b)(2). In a particular meritorious situation, assuming appropriate facilities and equipment are available, the board might well elect to do so.
- 19. Does the BOE have the power to require any person to appear at a hearing and testify under oath and does the board have the authority to administer the oath?** Yes, the person must appear and testify if summoned by the secretary at the direction of the board. Ark. Code Ann. § 26-27-316.

- 20. Does the taxpayer have the burden of proof when appealing an assessment?** Yes, if he / she does not appear in person or by an agent and does not provide documentation then he has not met his burden of proof and he should be denied the relief sought. *Summers Chevrolet, Inc. v. Yell County*, 310 Ark. 1, 832 S.W.2d 486 (1992).
- 21. Does any member of the BOE have free access to the records of the county clerk and the circuit clerk?** Yes. Ark. Code Ann. § 26-27-316.
- 22. May the BOE enter upon and view property in connection with their work?** Yes. Ark. Code Ann. § 26-27-316.
- 23. May the BOE refuse to hear a timely filed appeal?** No, any owner or his agent may apply, within the time allowed, by petition or letter to adjust the assessment on his own property or that of another. Ark. Code Ann. § 26-27-317. There is no provision in the law for the board to refuse to hear a timely filed appeal.
- 24. What is the purpose and function of the BOE?** To raise or lower the valuation of property to bring about a complete equalization of properties in the county. Ark. Code Ann. § 26-27-315. The board also has a duty to list and value any property subject to taxation that they know is not listed for value for that year. Ark. Code Ann. § 26-2-106. The board in addition has the authority to classify personal property and zone and classify real property to determine the value so they may equalize assessments. Ark. Code Ann. § 26-27-315.
- 25. Is the BOE required to schedule hearings at the convenience of the property owner or his agent?** Yes, when practicable, and at least one day a week after regular business hours to accommodate working property owners. Ark. Code Ann. § 26-27-317.
- 26. Does the BOE have jurisdiction over the Assessors determination of Property tax-exempt status under Art. 16 Sec. 5 of the state constitution.** No. Ark. Code Ann. § 26-27-317.
- 27. Does the BOE have jurisdiction over the Assessors valuation of agricultural land, pastureland, or timber land derived by guidelines and methods set forth by ACD under ACD 26-26-407?** No. Ark. Code Ann. § 26-27-317.
- 28. At a hearing before the BOE, is the county assessor required to first present any evidence that was considered when determining the valuation of the property that is the subject of the hearing?** Yes. Ark. Code Ann. § 26-27-317.
- 29. Are BOE meetings and records subject to the Freedom of Information Act requirements?** Yes, the BOE meetings shall be public, and the board may not go into executive session to discuss and decide an appeal. Ark. Code Ann. § 25-19-106.
- 30. Must the BOE document the reason for raising or lowering the valuation of any property?** Yes, and they must attach it to the record card. Ark. Code Ann. § 26-27-315.
- 31. Are the reasons the BOE may raise, or lower values limited to certain circumstances?** Yes, they are the assessment is unfair compared to other properties of the same kind similarly situated; the assessment is clearly erroneous; or the assessment is manifestly excessive. Ark. Code Ann. § 26-27-315.
- 32. How long does the BOE have to notify the property owner of their decision as to his appeal?** In writing at least 10 business days after the hearing. Ark. Code Ann. § 26-27-317.

- 33. Do BOE members have to attend appeal hearings before the county judge?** Yes, the clerk of the county court shall summon the members of the board and issue such process as the county assessor, the BOE or the county judge may request. Ark. Code Ann. § 26-27-318.
- 34. Do BOE members have personal immunity from liability and lawsuits for damages while serving on the board?** Yes, except to the extent they may be covered by liability insurance. Ark. Code Ann. § 21-9-301.
- 35. Does the property owner have a right to a meeting with the county assessor or his/her representative for a change in value before petitioning the BOE for a hearing?** Yes. Ark. Code Ann. § 26-23-203.
- 36. Does the taxpayer have to appeal to the BOE before he can appeal to the county court?** Yes. Ark. Code Ann. § 26-27-318.

REFUNDS

1. **Are there any situations under Arkansas law where a refund of taxes paid are authorized? Yes**, when property is erroneously assessed. However, the provision is limited to erroneous assessments as defined and described in the correction of error statute. Ark. Code Ann. § 26-28-111; § 26-35-901. After February 1st, when the tax books have been turned over to the collector, any extension errors, erroneous property descriptions, classifications, or listings that are actual and obvious errors appearing on the tax books and related records may be corrected. No reduction in property value may be made except such as shall have ordered by the BOE., the county court, the circuit court, or the Supreme Court, or be caused by the correction of actual and obvious errors under Ark. Code Ann. § 26-28-111.
2. **If it is determined that the taxpayer is entitled to a refund for more than one year, how many years can a refund be given for?** For not more than three (3) years from the date the taxes were paid. Ark. Code Ann. § 26-35-901(a)(2).
3. **If a taxpayer fails to claim an exemption for a particular year and pays the taxes thereon when they become due, is the county required to refund the taxes so paid when the taxpayer later requests it?** No, the payment of the tax was voluntarily made. *Rutherford v. Barnes*, 312 Ark. 177, 847 S.W.2d 689 (1993).
4. **If a taxpayer turns in to the assessor a rendition (a list of property owned) and pays the taxes based thereon when they become due and later discovers that they had made an error on the rendition in favor of the county, are they entitled to refund of any taxes they paid over and above what would have been owed if the rendition had been correct?** No, Arkansas is a voluntary assessment state and when the taxpayer identifies, quantifies, and establishes the value of the property, the assessor may rely upon that information and there can be no recovery of voluntarily paid taxes, (except where a recovery is authorized by statute). *Mertz v. Pappas*, 320 Ark. 368, 896 S.W.2d 593 (1995).
5. **Who can order a refund?** Upon satisfactory proof of an erroneous assessment, as defined in Ark. Code Ann. § 26-28-111, being adduced to the county court, the court shall order a refund. Ark. Code Ann. § 26-35-901. County courts have exclusive original jurisdiction in such cases. Ark. Const. Art. 7, § 28.