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Washington Department of Revenue Property Tax Division

2016 Review of the Lewis County Board of Equalization



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Overview

Introduction

The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Lewis County Board of Equalization (Clerk) and one Lewis County Board of Equalization member. The interview focused on the Lewis County Board of Equalization's (Board) processes and procedures.

Purpose

The primary purpose of this review by the Department is to assist the Board in their processes and procedures to ensure compliance with state statutes and regulations.

An effective review of the methods employed by the Board in administering the assessment appeal process will promote fair, timely, and uniform property tax assessments.

Scope of Review

The review is limited in scope. We focused on the Clerk's process for notifying the Lewis County Assessor (Assessor) of petitions received, scheduling hearings, and issuing board orders after the hearing.

Information Reviewed

To complete our review, we gathered information about the administration of the Board through an interview, documents provided by the Clerk, and independent verification. The areas we reviewed included, but were not limited to:

- Notifying the Assessor of petitions received
- Hearing procedures – scheduling and notification
- Board orders – writing, reviewing, and timeliness
- Accuracy of orders

Acknowledgment

We thank the Board and Clerk for their cooperation throughout our review. We commend the Board for their willingness to look at opportunities to improve the uniformity and administration of property tax.

Executive Summary

About this Review

On April 28, 2016, the Department conducted an on-site visit to the Board of Equalization office. We interviewed the Clerk and one Board member about the processes and procedures used in receiving petitions and notifying the Assessor, scheduling hearings, writing, reviewing, and issuing board orders.

An administrative review of this type is prone to underscore problem areas even in a county that is doing well. Though we may have observed processes or procedures employed that could be considered "best practices," those items may not be reflected in this report.

Categories of Results

The Department has completed its review and grouped the results into two categories:

- The first category, *Requirements*, is of the greatest urgency for effective administration by the Clerk and the Board. A change is required to adhere to the law.
- The second category, *Recommendations*, the Department believes the Board could improve their performance and service to the public by making voluntary changes in procedure.

The Department based the requirements and recommendations contained in this report on our review of the administrative procedures employed, existing state statutes and regulations, and areas we saw opportunities to improve processes, procedures, and communication.

Results

The Department identified five requirements and five recommendations directed toward improving the Board's methods. A summary of these items follows.

Executive Summary, continued

Requirements

1. The Board is required to issue notice of their decision (board order) to the appellant and Assessor following the hearing. (WAC 458-14-116(3))
2. The Clerk is required to keep and publish a record of the Board's proceedings. (RCW 84.48.010 and WAC 458-14-095(5))
3. The Board is required to include a copy of the value change notice or other determination with all petitions filed after July 1. (RCW 84.40.038 and WAC 458-14-056)
4. The Clerk is required to date stamp petitions to document they are received timely and the envelope with postmark must be included in the file. (RCW 84.40.038 and WAC 458-14-056(4))
5. The Clerk is required to provide notice of the hearing date to the Assessor and appellant at least 15 business days before the hearings, unless all parties agree to a shorter time period. (WAC 458-14-076)

Recommendations

1. The Department recommends the Board remove the statement "The Board's decision is based on the conclusion of the law" from their order.
2. The Department recommends the Board implement a document review process to reduce the number of errors in spelling, grammar, punctuation, and factual accuracy.
3. The Department recommends the Board does not delay scheduling hearings for the sole purpose of waiting for the Assessor to issue a response to the appellant's petition.
4. The Department recommends the Clerk take notes during the hearing and deliberation and uses those notes when writing orders instead of listening to the recording.
5. The Department recommends the Clerk send timely filed and complete petitions to the Assessor as soon as possible to ensure the Assessor can provide the valuation information within 60 days of the appellant's request. (WAC 458-14-066)

Requirements

For the items listed as *Requirements*, the Board must make changes in procedure to comply with law.

This section contains the items we identified in our interview.

Board Orders

Requirement

The Board is required to issue notice of their decision (board order) to the appellant and Assessor following the hearing. (WAC 458-14-116(3))

What the law says

If a board of equalization adjusts or sustains the valuation of a parcel of real property or an item of personal property, they must issue notice of their decision to the appellant and assessor. If the value is reduced, the new valuation takes effect immediately. If the value is increased, the new valuation becomes effective thirty days after the order is issued, unless a petition is filed with the board of tax appeals on or before the effective date. (WAC 458-14-116(3)(a)(b))

What we found

The Board has not been issuing orders in a timely fashion following the hearing. Of the files we examined some orders have taken as long as 147 days from the hearing to be issued. During the interview, the Clerk stated she has a goal to get orders issued within 60 days of the hearing. We examined 12 petition files from 2013 and nine files from 2014. Out of the petitions reviewed eight files from 2013 and six from 2014 resulted in orders being issued. Of the petitions reviewed, we determined the majority of orders are issued more than 60 days after the date of the hearing. The table below shows the time it took for these orders to be issued.

| 2013 Assessment Year | | |
|----------------------|--------------|-----------|
| Hearing date | Order signed | # of days |
| 08/28/2014 | 09/04/2014 | 7 |
| 08/28/2014 | 10/14/2014 | 47 |
| 07/31/2014 | 10/02/2014 | 63 |
| 06/26/2014 | 09/09/2014 | 75 |
| 07/10/2014 | 09/23/2014 | 75 |
| 01/29/2015 | 04/30/2015 | 91 |
| 10/23/2014 | 02/26/2015 | 126 |
| 09/11/2014 | 02/05/2015 | 147 |
| 2014 Assessment Year | | |
| Hearing date | Order signed | # of days |
| 08/20/2015 | 10/23/2015 | 64 |
| 07/09/2015 | 09/15/2015 | 68 |
| 07/30/2015 | 10/13/2015 | 75 |
| 05/21/2015 | 08/18/2015 | 89 |
| 10/15/2015 | 01/29/2016 | 106 |
| 08/27/2015 | 12/18/2015 | 113 |

Board Orders, continued

Action needed to meet requirement

The Board must:

- Issue an accurate order in a timely manner.
- Place equal priority on issuing orders as on holding hearings.

During the interview, the Clerk stated that her goal is to have orders issued 60 days from the hearing. The Department believes 60 days is an appropriate turn-around time to issue orders.

Why it's important

Neither statute nor rule specifies a timeline when an order must be issued after the hearing date. However, Washington State's property tax system has numerous processes that are interdependent on each other. Delays in one process, such as a delay in issuing orders, prevents other processes from being completed in a timely manner.

Without an order the appellant, assessor, and treasurer are unable to take any of the subsequent actions associated with an order. This includes correcting assessed values, refunding property taxes, or appealing to the board of tax appeals.

Board Clerk's Record of Hearing

Requirement

The Clerk is required to keep and publish a record of the Board's proceedings. (RCW 84.48.010 and WAC 458-14-095(5))

What the law says

The statute requires the clerk to maintain a journal or record of the board of equalization's proceedings and orders. The record must be published in the same manner as other proceedings of the county legislative authority.

What we found

The appeal files examined did not contain the Board Clerk's Record of Hearing as required by RCW 84.48.010. During the interview, the Clerk stated she was not aware of the form or the requirement to post the Record of Hearing.

Action needed to meet requirement

The Clerk must complete the Board Clerk's Record of Hearing (REV 60 0002) and include it in each appeal file. The Clerk must publish the form in the same manner as other county legislative authority proceedings. The Lewis County Legislative Authority publishes their minutes on the county website. The Clerk must also post this information on the county website. We encourage the Clerk to use our form as required by statute.

Why it's important

The record serves as a public summary of the actions taken by a board for each hearing.

Value Change or Other Determination Notice to Accompany Petition

Requirement

The Board is required to include a copy of the value change notice or other determination with all petitions filed after July 1. (RCW 84.40.038 and WAC 458-14-056)

What the law says

Boards of equalization can only consider complete and timely filed taxpayer petitions. Petitions must be made on a form prescribed or approved by the Department. Any petitions not conforming to the requirements on the form cannot be considered complete.

What we found

During the review of the Board's files, we discovered the petitions filed after July 1 did not include a copy of the value change notice or other determination notice made by the Assessor as required on the petition form.

Action needed to meet requirement

Petitions made after July 1 that do not include a value change notice or other determination notice must be returned to the taxpayer with a letter explaining it is unclear if the petition was filed timely or not. The letter should include a reasonable deadline for the taxpayer to return the petition with the appropriate value change notice or other determination notice. If the petition is not returned by the deadline stated, the petition must be rejected.

Why it's important

Without a copy of the value change notice or other determination notice when the petition is received after July 1, it is impossible to determine if the petition has been filed timely. Only complete and timely filed petitions can be granted a hearing.

Date Stamp Petitions and Attach Envelope

Requirement

The Clerk is required to date stamp petitions to document they are received timely and the envelope with postmark must be included in the file. (RCW 84.40.038 and WAC 458-14-056(4))

What the law says

Owners or persons responsible for payment of taxes may petition county boards of equalization for a change in the assessed value placed on the property. Unless the filing deadline is waived, petitions must be filed with the board on or before July 1 of the assessment year or within 30 days after the date of the change of value notice or other determination notice was issued (up to 60 days in those counties that the county legislative authority has extended the deadline).

If a petition is filed by mail, it must be postmarked no later than the filing deadline. If the petition is hand delivered, it should be date stamped with the date received.

What we found

In an email from the Clerk she stated, *“The only time I keep envelopes is if I have to prove that it was postmarked timely”*. It is unclear to the Department how you can prove the petition was filed timely when the envelope is not retained. Of the 25 petitions that we reviewed, 11 petitions were not stamped with the date they were received and none included the envelope the petition was mailed in. The petitions were signed and there is a date on the signature line, but without a date stamp or postmarked envelope, it is unclear when these petitions were received.

Action needed to meet requirement

The Clerk must date stamp all petitions with the date received and if mailed, the envelope must be included to show the postmark date.

Why it's important

Only timely filed and complete petitions can be considered by the board. To ensure the board is only holding hearings on timely filed petitions, the petition file must include the envelope used to mail the petition, with postmark date, and the date stamped petition form indicating when the petition was received.

Hearing Notice

Requirement

The Clerk is required to provide notice of the hearing date to the Assessor and appellant at least 15 business days before the hearings, unless all parties agree to a shorter time period. (WAC 458-14-076)

What the law says

The clerk must notify the assessor and appellant of the hearing at least 15 business days before the hearing, unless all parties agree to a shorter time period.

What we found

Of the 25 petition files we reviewed, 15 resulted in a hearing. Three of the files with hearings scheduled did not contain a Notice of Hearing letter. One had a Notice of Hearing letter that did not meet the 15 business day notice requirement. The letter did not include a statement that all parties agreed to a shorter notice of hearing period. The Notice of Hearing letters we reviewed ranged from 13 to 30 days notice prior to the hearing.

Action needed to meet requirement

The Clerk must provide notice of the hearing to both the Assessor and appellant at least 15 business days prior to the hearing.

Why it's important

Without proper hearing notification, the assessor may not be able to meet their statutory deadline to provide the appellant and board with their market based evidence at least 14 business days before the hearing. While the minimum 15 business days meets the statutory requirement, a greater notification period could be of benefit to the assessor and appellant to complete their market analysis, and potentially resolve appeals prior to the hearing.

Recommendations

For the items listed as *Recommendations*, the Department believes the Board could improve program compliance and service to the public by making voluntary changes in procedure.

This section contains the items we identified in our interview.

Motion Section of the Order

Recommendation

The Department recommends the Board remove the statement “The Board’s decision is based on the conclusion of the law” from their order.

What we found

During the examination of orders submitted by the Clerk, we found the following language used in the Motion section:

“The Board’s decision is based on the conclusion of the law.”

It is unclear to the Department which law the Board is referencing.

Action recommended

Change the standard language used by the Board in the motion section of the order so it better explains the reason the Board made their decision. The motion should state that the decision was made based on market evidence provided by the parties of the appeal. For example, “The Board’s decision is based on clear, cogent, and convincing evidence presented by the appellant to overrule the Assessor’s valuation.”

Why it’s important

A well-written, accurate order assists both parties of the appeal to understand the decision reached by the board.

Accuracy of Documents

Recommendation

The Department recommends the Board implement a document review process to reduce the number of errors in spelling, grammar, punctuation, and factual accuracy.

What we found

Of the 25 files the Department reviewed, all of the files contained errors, such as grammar, spelling, and punctuation. Many of the letters and orders contained errors in content such as appellant name, hearing date, incorrect or no adjusted value, parcel number or address, etc.

We also reviewed several orders provided by the Assessor. Attached to the orders were copies of Motion for Clarification and/or Correction(s) documents identifying factual errors in the orders. Upon the advice of the Lewis County Prosecuting Attorney's Office, the Assessor files the Motion for Clarification and/or Correction forms with the Board, the appellant, and the State Board of Tax Appeals when the order has inaccurate information and they are unclear how to implement the order.

Having to clarify the information requires additional work by the Clerk, and may prevent her from completing other duties.

Action recommended

The Clerk should have a Board member or other staff review letters and orders for accuracy before they are issued.

Why it's important

The appellants, the assessor, and the board of tax appeals rely on the information contained in board documents, and many of the board's processes require written notification. The board's document must be written clearly and contain accurate information. The credibility of the board is at risk when they issue orders with incorrect information.

Scheduling Board Hearings

Recommendation

The Department recommends the Board does not delay scheduling hearings for the sole purpose of waiting for the Assessor to issue a response to the appellant's petition.

What we found

During the interview, the Clerk stated she waits for the Assessor's response to the petition before she schedules hearings. She also stated she has scheduled a few hearings without receiving the Assessor's response, but some 2014 assessment year petitions have not been heard because she has not received the Assessor's response.

Action recommended

The Board should not delay scheduling hearings due to not having the Assessor's response or waiting for additional supporting data from either the appellant or the Assessor. The Assessor is not statutorily required to offer a response to the appellant's petition.

Why it's important

When the board waits for the assessor's response to the petition, the appellant could perceive that the assessor has an undue influence over the board's hearing schedule.

Waiting for a response from the assessor before a hearing is scheduled does not demonstrate the separation between the assessor's office and the board.

Use of Notes vs. Recording to Write Orders

Recommendation

The Department recommends the Clerk take notes during the hearing and deliberation and use those notes when writing orders instead of listening to the recording.

What we found

The Clerk stated she uses the recording from a hearing to fill in the decision and conclusion in the order. The Department listened to one of the recordings and found it is not always clear and that may be contributing to the number of errors made in the orders.

Using written notes from the hearing may reduce the time spent writing the order in addition to improving the accuracy of the orders.

Action recommended

The Clerk should take notes during the hearing and deliberation to capture all the relevant information used to write the board order. Relying on a recording is time consuming, and may make it difficult to capture the correct values and other valuable information.

Why it's important

The information in the order must be accurate to ensure the appellant and assessor each have a clear understanding of the board's decision. It may also reduce the amount of time needed to write orders, resulting in more orders being issued in a shorter period.

Forwarding Petitions to the Assessor

Recommendation

The Department recommends the Clerk send timely filed and complete petitions to the Assessor as soon as possible to ensure the Assessor can provide the valuation information within 60 days of the appellant's request. (WAC 458-14-066)

What we found

When a taxpayer requests a copy of the information used by the assessor to determine the market value of the subject property, that information must be provided to the taxpayer and board within 60 days of the request but at least 14 business days, excluding legal holidays, prior to the taxpayer's appearance before the board of equalization.

We found that the majority of the petitions we reviewed were not sent to the Assessor for several weeks after receipt. Out of 25 petitions reviewed, only five were sent to the Assessor within two weeks.

Action recommended

The Clerk should place a priority on reviewing the petitions as soon as they are received to ensure they are timely filed and complete. Those petitions that meet these criteria should be forwarded to the Assessor as soon as possible.

Why it's important

When petitions are not forwarded to the assessor timely, it prevents the assessor from supplying the appellant and board of equalization with the sales information as required by law.

Next Steps

Prioritizing Requirements and Recommendations

Once the Clerk and Board receive a final copy of this review, the Department will (if requested) consult with them to prioritize the items listed in the report.

Follow-up

The Department will follow up in six months to review the changes implemented. This will give the Board an opportunity to provide information to the Department about any issues they encountered during the implementation process.

Questions

For questions about specific requirements or recommendations in our report, please contact a contributing staff member listed below:

| | | | |
|-------------------------|-------------|----------------------------------------------------------|----------------|
| BOE and Levy Specialist | Diann Locke | diannl@dor.wa.gov | (360) 534-1427 |
| County Review Auditor | Julie Herr | julieh@dor.wa.gov | (360) 534-1363 |

For additional information contact:

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