

## **Tax Provisions—Court of Tax Appeals; Property Tax Valuation; Delinquent Property Taxes; House Sub. for SB 231**

**House Sub. for SB 231** makes a number of changes in the power, duties, and functions of the State Court of Tax Appeals (COTA), especially with regard to property tax valuation appeals; renames that body the State Board of Tax Appeals (BOTA); makes several changes with respect to how property may be valued for taxation purposes; and lowers the interest rate on delinquent property taxes.

### ***Changes in COTA/BOTA Procedures***

A requirement that final orders regarding property tax cases be rendered in writing and served within 120 days after matters have been finally submitted is replaced with a provision requiring a written summary decision be rendered and served within 14 days. Extensions from this deadline can continue to be granted pursuant to the written consent of all parties or for good cause shown. An aggrieved party, within 14 days of having received the summary decision, can request a full and complete BOTA opinion within 90 days. Failure of BOTA to comply with the 14-day or 90-day requirements, absent agreement by the parties or good cause shown, results in all filing fees being returned to the taxpayer.

Aggrieved persons have the right to appeal final orders of BOTA to a district court or the Kansas Court of Appeals, rather than only to the Court of Appeals. Any appeal made to a district court will be a *de novo* trial. All such appeals to district courts will be conducted by the court with jurisdiction in which the property is located; or, if the property in question is located in multiple counties, the appellants have the option of choosing which district court will hear the appeal. A requirement that bonds be given of up to 125 percent of taxes assessed when reviews of property tax cases are being sought is repealed.

A new provision stipulates that one member of BOTA be a licensed and certified general real property appraiser. Additional language limits to 90 days after the expiration of members' terms the maximum amount of time they could continue to serve.

A requirement that those appeals decided by COTA (BOTA) deemed to be "of sufficient importance" be published is replaced with a new mandate that all appeals be made available to the public and published on the body's website within 30 days. A monthly report on all appeals decided, as well as all of those that have not yet been decided and are beyond the new statutory deadlines, is required to be made available to the public and transmitted to all 165 members of the Kansas Legislature.

An additional provision declares legislative intent that all proceedings in front of BOTA be conducted in a fair and impartial manner, and that all taxpayers be entitled to a neutral interpretation of state tax laws. BOTA is prohibited from deciding cases based upon arguments concerning the shifting of tax burdens or upon revenue losses or gains.

Relative to the cases in the small claims division, the chief hearing officer is prohibited from appointing any persons employed by BOTA as hearing officers. The maximum amount of appraised valuation above which cases cannot be considered in the small claims division is

increased from \$2 million to \$3 million. Additional language clarifies that notices of appeal to the small claims division can be signed by either taxpayers or their authorized representatives.

In cases involving leased commercial and industrial property, taxpayers bear the burden of proof unless they have furnished county appraisers with complete income and expense statements for the property, within 30 calendar days on forms regularly maintained by taxpayers in the ordinary course of business for the three years prior to the appeal year in question. Single-property appraisals involving leased commercial and industrial property submitted by taxpayers with an effective date of January 1 are deemed to return the burden of proof to county appraisers.

The salaries of members and the chief hearing officer who are newly appointed after June 30, 2014, will be set at the same amounts paid to administrative law judges until such time as the continuing education requirements have been met, at which point the salaries will be \$2,465 less per year than amounts paid to a Chief Judge of the district court. (The current COTA Chief Judge receives the salary equal to that of a district court's Chief Judge; other COTA judges and the chief hearing officer receive salaries \$2,465 per year below that level.)

Additional provisions prohibit BOTA from determining who may sign appeals forms, who may represent taxpayers, what constitutes the unauthorized practice of law, and whether contingency fee agreements are a violation of public policy. BOTA further is prohibited from impeding any agreement or settlement between a county and a taxpayer.

Relative to cases involving residential real estate and commercial and industrial real property, appraisals made by counties are required to be released through the discovery process to taxpayers or their representatives. Taxpayers in such cases submitting single-property appraisals with an effective date of January 1 that have been conducted by certified general real property appraisers and for which valuations are less than the amounts determined by the county mass appraisals are entitled to have the qualifying single-property appraisals accepted into evidence at BOTA.

New language stipulates filing fees can no longer be charged to taxpayers who have filed appeals for a previous year that have not been decided under the new statutory time deadlines, to taxpayers filing in most cases involving single-family residential property, and for cases of not-for-profit organizations with property valued at less than \$100,000. An additional provision exempts municipalities and political subdivisions from all filing fees.

A statutory requirement that a request for reconsideration of final COTA orders be filed before seeking judicial review is eliminated.

### ***Property Tax Valuation System Changes***

A requirement that appraisals be performed in accordance with certain standards of the Appraisal Foundation in effect as of March 1, 1992, is amended such that the specific date is repealed, effectively requiring all appraisals to be performed prospectively in accordance with that Foundation's most current standards.

The bill prohibits county appraisers from increasing the valuation for two years for certain real property that has had its value reduced by a final determination made pursuant to the

valuation appeals process, unless substantial and compelling reasons have been documented by the appraisers. "Substantial and compelling reasons" are defined generally either to include a change in the use of the property or to include situations involving substantial additions or improvements to the property. Additions or improvements defined as substantial include expansions or enlargements of the physical occupancy of the property or renovations of existing structures or improvements. Specifically excluded from the additions and improvements that can be considered substantial (and therefore be construed as a substantial and compelling reason to increase valuation) are maintenance or repair of existing structures, equipment or improvements on that property, and reconstruction or replacement of existing equipment or components of any existing structures or improvements. (The law had prohibited county appraisers from increasing certain valuations that have been reduced for one year absent the determination of substantial and compelling reasons, which had not been defined.)

### ***Delinquent Property Tax Interest Rate Change***

The interest rate for delinquent property taxes is reduced by 2.0 percent. The rate had been as otherwise determined statutorily by KSA 2013 Supp. 79-2968, plus 2.0 percent; the additional 2.0 percent is eliminated by the bill. (The property tax delinquency rate determined for tax year 2013, which was 6.0 percent, would have been 4.0 percent if this provision had been in effect for that tax year.)

### ***Renaming***

The bill replaces numerous statutory references to COTA with references to BOTA.