



FREQUENTLY ASKED QUESTIONS

ASSESSMENT COORDINATION DEPARTMENT

STATE OF ARKANSAS

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TABLE OF CONTENTS

Chapter	Title	Page
	Introduction:	3
	Chapter 1: Arkansas Property Tax in General	4
	Chapter 2: ACD Authority and Responsibilities	8
	Chapter 3: Authority and Responsibilities of the Assessor	10
	Chapter 4: Taxpayer's Rights and Responsibilities	15
	Chapter 5: Real Property Issues	18
	Chapter 6: Personal Property Issues	20
	Chapter 7: Agricultural, Pasture, Timber, and Mineral Lands	22
	Chapter 8: Amendment 79 Issues	24
	Chapter 9: Exemptions	32
	Chapter 10: Soldiers and Sailors Act	37
	Chapter 11: Boards of Equalization	39
	Chapter 12: Appeals	45
	Chapter 13: Payments and Collections	48
	Chapter 14: Refunds	50

INTRODUCTION

The body of law relating to the assessment of property for tax purposes in the state of Arkansas is unique and complex. Its basis is found in the Arkansas Constitution but it has evolved and developed through court decisions and legislation over the years. The Assessment Coordination Department receives daily inquiries concerning the law appertaining to many different fact situations. These inquiries usually are accompanied by a request for a legal citation to support the answer. The department has attempted to identify and draw together as many of these questions as possible and group them according to subject matter and follow each answer with one or more legal citations. These "FAQs" are available on the department website (www.arkansas.gov/ACD/) and may be downloaded by any interested person.

If any answer involves an interpretation of a particular law it is only the opinion of the department. It does reflect the policy of the department but it does not carry the same weight as an actual statute or court decision. In addition, a formal opinion of the state Attorney General has precedence over an opinion of this department.

[Constitution of the State of Arkansas](#)

[Arkansas Code \(Laws\)](#)

[Arkansas Supreme Court Appellate Reports](#)

[Arkansas Attorney General Opinions](#)

[Arkansas Assessment Coordination Department Rules](#)

Chapter 1

ARKANSAS PROPERTY TAX IN GENERAL

1. **What property in this state is subject to taxation?** All property, that is not exempt under the constitution, whether real or personal, [ACA 26-3-201](#).
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. Constitution, Article 16, Sec. 5](#). All property assessments shall be made in relative proportion to the true and full value thereof, [ACA 26-24-104](#), [ACA 26-26-303](#).
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, [ACA 26-26-303](#).
4. **How is the amount of the tax on a taxpayer's real property in the state of Arkansas determined?**
 - a) All properties in the county must be listed, [ACA 26-26-903](#).
 - b) The property is appraised by mass appraisers professionally designated by the State of Arkansas. The appraisers determine the market value, aka 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.

- c) A determination is made as to whether the property qualifies for an exemption under the Arkansas Constitution or whether the property is owned by an instrumentality of the federal government and thus immune from local property tax.
- d) The full assessed value is determined by multiplying the market value by the Arkansas assessment rate level of 20%.
- 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 thereafter 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.
- 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 thereafter 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.
- 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 or future 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, [ACA 26-26-303](#).
- i) If applicable, a homestead tax credit of up to three hundred and fifty dollars (\$350.00) is applied, [ACA 26-26-1118](#), [Amd. 79 Sec. 3](#).
- 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, [ACA 26-26-903](#).
- b) Using procedures established by the Arkansas Assessment Coordination Department, 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%. [ACA 26-26-303](#). The resulting number is the assessed value of the property.
- d) Following the completion of all appeal proceedings, the tax is arrived at by multiplying the assessed value by the prevailing millage rate, [ACA 26-26-303](#).
- e) The resulting dollar amount is the amount of taxes due on the property.

6. Are property taxes in Arkansas paid the same year they are assessed? No, beginning with the taxes for the year 2010, they are paid on or before October 15, the following year, [ACA 26-36-201](#).

7. What is the last day for listing all real and non-household tangible personal property for assessment? May 31 of each year, [ACA 26-26-201](#).

8. Is there is a penalty on all persons and property delinquent in listing real and non-household tangible personal property for assessment? Yes, ten percent (10%) of all taxes due, in addition, there is a charge of fifty cents (\$.50) to go to the assessor's office for each delinquent listing, [ACA 26-26-201](#).

9. What is the last day for paying real and personal property tax, without penalty, in the state of in Arkansas? Beginning with the taxes for the year 2010, 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, [ACA 26-36-201](#).

10. **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 following the Saturday, Sunday, or holiday upon which October 15th fell, [ACA 26-36-201](#).
11. **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. [ACA 26-26-903](#).
12. **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, [ACA 26-26-904](#).
13. **Is all real and personal property in the state of Arkansas assessed and taxed every year?** Yes, real property, [ACA 26-26-1101](#), and personal property, [ACA 26-26-1408](#).
14. **In what jurisdiction in the state is property assessed?** In the taxing district where the property is located and kept, [ACA 26-26-1102](#).
15. **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, [ACA 26-34-101](#), [AG Opinion No. 2010-134](#).
16. **Who is real or personal property, held under a lease, assessed to?** If the lease is for a term of 10 years and the property belongs to the state or 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, [ACA 26-26-905](#), and if not, it is assessed to the owner of the property, [ACA 26-3-201](#).

17. **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, [ACA 26-34-101](#), [Bridewell v. Morton, 46 Ark.73 \(1885\)](#); [First Natl. Bank v. Tribble, 155 Ark. 264, 244 S.W. 33 \(1922\)](#); [AG Opinion No. 2010-134](#). However, if the new owner is a governmental entity it is immune and cannot be sued for delinquent taxes, [Arkansas Constitution, Article 5, Section 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, [AG Opinion No. 2008-23](#).
18. **Is there a statute of limitations on the collection of fully assessed delinquent real or personal property taxes?** **No**, [ACA 26-34-101](#). 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, [ACA 26-34-105](#).

[Back to Top](#)

Chapter 2

ACD AUTHORITY AND RESPONSIBILITIES

1. **Does the Arkansas Assessment Coordination Department (ACD) have full power and authority in the administration of the property tax laws of the state? Yes, [ACA 26-24-102](#).** The ACD is the successor Department to the Public Service Commission (PSC) under a type 2 transfer, [ACA 25-28-102](#). All power and authority in the area of property tax laws of the PSC, except that involving the property of public carriers and utilities, was transferred to the ACD, [ACA 25-28-103](#).
2. **Does the ACD have authority in the administration of tax laws over all county officials having responsibility in the property tax assessment area? Yes,** to exercise general and complete supervision and control over, confer with, advise and direct all county assessors, county boards of equalization, county judges, county clerks, and county collectors of the state and county, [ACA 26-24-105](#).
3. **Does the ACD have the duty and authority to make rules and regulations to carry out its duties and responsibilities under the law? Yes , [ACA 26-26-1905](#), [ACA 25-15-203](#).**
4. **Does the ACD have the duty and authority to answer questions that may arise in the construction of any statute affecting the assessment,**

equalization, or collection of property taxes? Yes, in accordance with the advice and opinion of the Attorney General, [ACA 26-24-106](#).

5. **Are such opinions and rules and regulations, orders, and instructions of the ACD binding upon all officers in the property tax area? Yes**, until they are reversed, annulled, or modified by a court of competent jurisdiction, [ACA 26-24-106](#).

6. **Does the ACD have the power and duty to equalize the assessment of all property in the state between districts, cities, and townships of the same county, and between the different counties? Yes**, [ACA 26-27-201](#).

7. **Does the ACD have the responsibility to determine whether a county is placed in a five year or a three year reappraisal cycle? Yes**, the placement depends upon the increase or decrease in the market value of real property in the county as compared to the market value of real property in the preceding cycle, [ACA 26-26-1902](#).

8. **Does the 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**, [ACA 26-26-1904](#).

9. **Does the 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**, [ACA 26-26-1905](#).

10. **Does the ACD have the authority to reject a county's reappraisal plan? Yes**, and if the second plan is rejected the department may write a reappraisal plan that the county shall employ and shall enter into a contract with a professional reappraisal company do the reappraisal, [ACA 26-26-1905](#).

11. **Does the ACD have the duty to prepare a sales ratio study for each county completing reassessment?** Yes, the 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, [ACA 26-26-304](#).

12. **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, [ACA 26-26-304](#).

13. **Does the ACD have a duty to call the county out of compliance and order corrective action when the county fails the ratio study?** Yes, [ACA 26-26-304](#).

14. **If the county fails to correct the deficiencies in the reappraisal can the ACD direct that all state funds to the county be withheld?** Yes, [ACA 26-26-304](#).

[Back to Top](#)

Chapter 3

AUTHORITY AND RESPONSIBILITIES OF THE ASSESSOR

- 1. In general, what are the duties of the assessor as set out in the assessors separate oath of office?** To appraise all real and non-household tangible personal property at its actual cash value. To not knowingly omit to demand of any person or corporation, of whom the assessor is required by law to make such demand, a statement of the description and value of their tangible personal property. To in no-way connives to violate or evade any requirement of law relating to the listing or valuation of property, [ACA 14-15-201](#).
- 2. What is the penalty for an assessor who fails to comply with any requirements of the Arkansas Code in regard to assessments?** He/she shall be guilty of malfeasance in office, fined and removed from office, [ACA 26-2-101](#).
- 3. Is there an additional penalty for an assessor who fails or neglects to make appraisals? Yes,** He/she 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, [ACA 26-2-105](#).
- 4. 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, [ACA 26-2-106](#).

5. **Does the assessor have a duty to list on his or her records all persons that have not listed his or her property with the assessor before May 31st 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, [ACA 26-26-201](#).**

6. **Does the assessor have a duty to file, each year between January 1st and June 5th, 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, [ACA 26-26-201](#).**

7. **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, [ACA 26-26-718](#).**

8. **Is the assessor entitled to receive each year from the recorder a list of the names of grantors, in alphabetical order, or a copy of certain documents which were filed during the year? Yes, of 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, [ACA 26-26-708](#).**

9. **Is the assessor entitled 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, [ACA 26-26-707](#).**

10. **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,**

[ACA 26-26-913](#). However, the taxpayer must be given adequate notice of value change and opportunity to appeal, [ACA 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 \(1945\)](#).

11. **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**, and to add to the taxes of the current year the simple taxes of each and every preceding year in which the lands so escaped taxation, [ACA 26-34-105](#). However, no lawsuit to recover overdue taxes may be filed after three (3) years from the date on which the taxes should have been collected. The taxpayer must be given adequate notice of value change and opportunity to appeal, [ACA 26-24-101](#).

12. **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; (b) what leases or mineral deeds are owned and the value thereof as contemplated in [ACA 26-26-1109](#) and [ACA 26-26-1110](#); (c) what timber, deeds, or contracts contemplated by [ACA 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, [ACA 26-26-911](#).

13. **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, [ACA 26-26-910](#).

14. **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, [ACA 26-26-910](#).

15. **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, [ACA 26-26-910](#).

16. **Can the assessor appoint or contract with someone to reassess property in the county?** Yes, and such appointee or contractor shall have all of the powers of deputy assessors, [ACA 26-26-1303](#).

17. **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, [ACA 26-26-1001](#).

18. **What records does the assessor have to keep and for how long?** The list is too lengthy to be set out at this point and the actual statute should be consulted, [ACA 13-4-303](#).

19. **Does the assessor have to take a separate oath in addition to the one all county officials take?** Yes, [ACA 14-15-201](#). However, if the assessor takes the regular county official oath but fails to take the additional oath, the subsequent actions of the assessor remain valid, [Sawyer v. Wilson, 81 Ark. 319, 99 S.W. 389 \(1907\)](#).

20. **Should the references to money, credits, investments in bonds, and stocks, as set out in the assessors special oath as required in ACA 14-15-201 be omitted?** Yes, intangible personal property is now exempt from assessment, [ACA 26-3-302](#), pursuant to [Arkansas Constitution Amd. 57](#).

21. **What is the time period within which the assessor must appraise and assess all real property?** Between the first Monday in January and July 1st, [ACA 26-26-1101](#).

22. **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, [ACA 26-28-111](#). An exception is made where there is a finding of "out of compliance" by the Assessment Coordination Department and changes in value occur pursuant to the execution of a "Plan For Corrective Action", [ACD Rule 3.31](#).

- 23. 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, [ACA 26-34-107](#).

- 24. In the event of a disaster 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, [ACA 26-26-1107](#).

- 25. 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**, [ACA 26-26-910](#), [ACA 26-26-1307](#), [ACA 26-26-1308](#), [ACA 26-23-203](#).

- 26. 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**, [ACA 26-23-203](#).

- 27. 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 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, [ACA 26-28-111](#).

- 28. 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 actual and obvious errors on the tax books and related records. Such errors are restricted to extension errors, erroneous property descriptions, classifications, or listings and 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 the correction of the error, [ACA 26-28-111](#).
- 29. 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, [ACA 26-23-203](#).
- 30. Do assessors' offices receive any funds from the state for the administration of Amendment 79 to the Arkansas Constitution? Yes,** 1% of surplus funds in the Property Tax Relief Fund go to the assessors' offices for that purpose, [ACA 26-26-310](#).
- 31. Can an assessor be paid based upon a per centum of the valuation or assessment of property they do? No,** [Arkansas Constitution Article 7, Sec. 46](#).
- 32. Who makes the decision as to whether or not a property is exempt? The assessor and the assessor alone has the full and sole authority to make the decision but their decision is subject to appeal,** [Hilger v. Harding College, 231 Ark. 685, 331 S.W.2d 851 \(1960\)](#).
- 33. Must the assessor 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," [ACA 26-27-313](#).

34. 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, [ACA 26-61-111](#).

[Back to Top](#)

Chapter 4

TAXPAYER'S RIGHTS AND RESPONSIBILITIES

- 1. What is goal or objective of the Taxpayers Bill of Rights?** That the taxpayer 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. However no person or entity shall have a civil cause of action for any breach of this provision, [ACA 26-23-202](#).
- 2. When does a reappraisal of real property have to be completed?** July 1 of the reappraisal completion year. [ACA 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, [ACA 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. [ACA 26-23-203](#).
5. **Does a property owner have a legal duty to list with the assessor all of his real and non-household tangible personal property situated in the county?** **Yes**, [ACA 26-26-903](#). The period for listing is from January 1 through May 31st. [ACA 26-26-1408](#).
6. **Is there is a penalty on all persons and property delinquent in assessment (listing) of property?** **Yes**, 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 one thousand dollars (\$1,000.00), [ACA 26-26-201](#).
7. **In the case of personal property, is there an exception to the requirement that such personal property must be assessed (listed) by May 31st?** **Yes**, property acquired between May 2nd and May 31st may be assessed within 30 days following the date of acquisition without penalty, [ACA 26-26-1408](#).
8. **Is the listing of real and personal property by the taxpayer conclusive?** **No**, the assessor may require proof and may enter on the premises to inspect the property and then give notice of any change, [ACA 26-26-910](#).
9. **What is the last day for paying real and personal property tax, without penalty, in the state of in Arkansas?** Beginning with the taxes for the year 2010, 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, [ACA 26-36-201](#).
10. **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 following October 15th, [ACA 26-36-201](#).

- 11. 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 dollars, [ACA 26-2-107](#).**
- 12. 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, [ACA 26-34-107](#).
- 13. Must the purchaser of real property notify the assessor of any change in 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, [ACA 26-26-1118](#).
- 14. 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, [ACA 26-26-1118](#).
- 15. By law, does the taxpayer have to notify the assessor of his eligibility for a freeze on the assessed value of his homestead? No**, however the assessor would normally have no way to know 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 Amd. 79 and it shall contain the assessors contact information, [ACA 26-23-205](#).
- 16. Does a property owner have a responsibility to pay his real and personal property tax by a particular time or be subject to a penalty? Yes**, beginning with the taxes for the year 2010, 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, [ACA 26-36-201](#).

17. **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, [ACA 26-36-201](#).**

18. **Is there a statute of limitations on the collection of fully assessed delinquent real or personal property taxes? No, [ACA 26-34-101](#).** 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, [ACA 26-34-105](#).

[Back to Top](#)

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, [ACA 26-1-101](#).
2. **Are mobile homes assessed as real property?** Yes, [ACA 26-3-203](#).
3. **Are mineral rights classified and assessed as real property?** Yes, [ACA 26-1-101](#), [ACA 26-3-201](#), [ACA 26-26-718](#), [ACA 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, [ACA 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 January 1st may add value to the land and would be included in the assessment, [ACA 26-26-1201](#).
6. **How often is a county-wide reappraisal of real property done?** Every three or five years depending upon whether the county is a fast growth county or a slow growth county, [ACA 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. [ACA 26-34-102](#).
8. **Are severed mineral rights assessed separate from the land?** Yes, [ACA 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, [ACA 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-mineral rights are owned separate from the fee simple interest there is no property tax on the mineral interest, [ACA 26-26-1110](#).

11. What if a non-producing mineral right begins producing? It will be assessed according to the rules of the ACD, [ACA 26-26-1110](#).

12. How is land enrolled in the federal Wetland Reserve Program (W.R.P.) classified for tax assessment purposes? As agricultural land, pasture land, or timber land for purposes of evaluation, [ACA 26-26-407\(b\)\(2\)](#).

[Back to Top](#)

Chapter 6

PERSONAL PROPERTY ISSUES

- 1. What is the definition of “personal property”?** Every tangible thing being the subject of ownership, and not forming a part of any real property, [ACA 26-1-101](#). Intangible personal property is exempt, [ACA 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, [Arkansas Constitution Amd. 71](#).
- 2. Are livestock, recreational vehicles, and all farm, construction, manufacturing, and other equipment classified as personal property for taxation purposes?** Yes, [ACA 26-1-101](#).
- 3. 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, [ACA 26-3-203](#).
- 4. What is the period of time within which to assess all tangible non-household personal property?** From January 1 through May 31st. [ACA 26-26-1408](#).

5. **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, [ACA 26-26-1408](#).

6. **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, [ACA 26-26-1408](#).

7. **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,** [ACA 26-26-1102](#).

8. **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, [ACA 26-26-1203](#).

9. **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?** Calculate the monthly average of the number of sales of new and used motor vehicles by the dealer and multiply the average by the unit inventory value, [ACA 26-26-1207](#).

10. If timber is sold separate and apart from the land on which it stands is it classed as personal property for taxation purposes? **Yes**, and it is assessed and the taxes collected thereon in the county where the timber is located, [ACA 26-3-205](#).
11. 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, [ACA 26-34-101](#), [Bridewell v. Morton, 46 Ark.73 \(1885\)](#), [First Natl. Bank v. Tribble, 155 Ark. 264, 244 S.W. 33 \(1922\)](#), [AG Opinion No. 2010-134](#).
12. 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 under [ACA 26-36-201\(e\)](#) and there is no statute of limitations on the collection of the tax, [ACA 26-34-101](#).

[Back to Top](#)

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, [ACA 26-26-407](#). A copy of current guidelines is found at

http://www.arkansas.gov/acd/publications_rural_iv.html.

Any error as to soil type or valuation tables should be referred to the ACD.

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, pasture land, or timber land?** The BOE may reclassify land upon proof of change in use of the land or upon proof that the land is not eligible for classification under this section. Neither the BOE nor the county court may change the value of such land because the value is established by the ACD, [ACA 16-26-407](#).
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**, such land, by Amd. 79 definition, 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. Constitution Amd. 79 Sec. 1\(b\)\(1\)](#). This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property, [Ark. Constitution Amd. 79 Sec. 1\(b\)\(2\)](#).

4. **Does the assessed value of a taxpayers 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. Constitution Amd. 79 Sec. 1\(d\)\(1\)\(A\)](#).

5. **What gives counties in the state of Arkansas the right to assess and tax mineral interests?** The state constitution provides that all real and tangible personal property subject to taxation shall be taxed according to its value, [Arkansas Constitution Article 5, Section 6](#). “Real property and lands” mean not only the land itself but all things contained therein and all rights and privileges belonging or in anywise appertaining thereto, [ACA 26-26-101](#). All property, whether real or personal, in this state and the value thereof shall be entered on the list of taxable property for that purpose, [ACA 26-3-201](#).

6. **What is the “Forest Fire Protection Tax Act of 1969”?** It is an act that requires owners to pay a special tax of fifteen cents (\$0.15) upon each acre of timberland they own that is neither a timber severance tax nor an ad valorem tax. 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, [ACA 26-61-103](#), [ACA 26-61-104](#), [ACA 26-61-105](#).

[Back to Top](#)

Chapter 8

AMENDMENT 79 ISSUES

- 1. What are the four benefits that may accrue to the taxpayer as a result of the passage of [Amd. 79 to the Arkansas Constitution](#)?** (1) A 10% limit on the increase in value of non-homestead property, [Sec.1](#); (2) A 5% limit on the increase in value of a homestead property, [Sec.1](#); (3) A freeze on the value of homestead property owned by a person 65 years or older or disabled, [Sec.1](#); and (4) A \$350.00 tax credit on a taxpayer's "homestead", [Sec. 3](#).
- 2. What does the term "disabled" mean in the context of Amd. 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, [ACA 26-26-1120](#).
- 3. What does the term "homestead" mean in the context of Subchapter 26 of the Arkansas Code and Amd. 79?** The dwelling of person that is used as his principal place of residence with the contiguous land, excluding all land valued as agricultural land, pasture land, or timber land. It shall also mean a dwelling owned by a revocable trust and used as the principal place of residence of a person who formed the trust, [ACA 26-26-1122\(a\) \(1\) \(A\) and \(B\)](#).
- 4. What does the term "property owner" mean in the context of Subchapter 26 of the Arkansas Code and Amd. 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, [ACA 26-26-1122 \(a\)\(4\)\(A\)](#). It shall also include 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, [ACA 26-26-1122 \(a\)\(4\)\(B\)](#).

- 5. If a person makes an 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 fact that it is deeded to an irrevocable trust is irrelevant. 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, [ACA 26-26-1118](#), [ACA 26-26-1122](#).
- 6. What does the term “new construction” mean in the context of Subchapter 26 of the Arkansas Code and Amd. 79?** New construction means changes to real property that have occurred to real property already on the assessment roll, [ACA 26-26-1122](#). The term, as contained in Arkansas Constitution Article 16 Sec. 12 and Amd. 79 also includes change in use, [ACD Rule 4.08.2 \(1\)](#).
- 7. What does the term “newly discovered” mean in the context of Subchapter 26 of the Arkansas Code and Amd. 79?** It means real property that has never been on the assessment rolls or that has changed use, [ACA 26-26-1122](#), [ACD Rule 4.08.2 \(1\)](#).
- 8. What does the term “substantial improvement” mean in the context of Subchapter 26 of the Arkansas Code and Amd. 79?** The Assessment Coordination Department may by rule define the term “substantial improvement”, [ACA 26-26-1122](#).

 - 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. Newly constructed and newly discovered property is assessed at full value, [ACD Rule 4.08.2](#).

9. **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. Constitution Amd. 79 Sec. 1\(b\)\(1\)](#). This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property, [Ark. Constitution Amd. 79 Sec. 1\(b\)\(2\)](#).

10. **Is the increase in assessed value of agricultural land, pasture land and timber land also capped at ten percent (10%) of the assessed value of the property for the previous year? Yes**, such land, by Amd. 79 definition, is not homestead property and would therefore be capped at ten percent (10%), [Ark. Constitution Amd. 79 Sec. 1\(b\)\(1\)](#).

11. **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, [Ark.](#)

[Constitution Amd. 79 Sec. 1\(c\)\(1\)](#). This provision does not apply to newly discovered real property, new construction, or substantial improvement to real property, [Ark. Constitution Amd. 79 Sec. 1\(c\)\(2\)](#).

12. **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, [ACA 26-26-1122](#).

13. **If a taxpayer who is disabled or sixty-five (65) years of age or older purchases or constructs a homestead does the assessed value of his/her homestead cease to increase (freeze) over and above the amount it was immediately before he bought or constructed it? Yes**, [Ark. Constitution Amd. 79 Sec. 1 \(d\)\(1\)\(A\)](#). 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, [Arkansas Constitution Amd. 79 Sec. 1\(d\)\(1\)\(C\)\(4\)](#).

14. **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**, [Arkansas Constitution Amd. 79 Sec. 1\(d\)\(2\)](#).

15. **If a homeowner, whose homestead value is frozen, deeds the homestead to a revocable 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 Amd. 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, [ACA 26-26-1122 \(a\)\(1\)\(B\)](#).

16. **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, [ACA 26-26-1123](#).

17. Are property owners to be notified that the assessed value of a homestead of a taxpayer who is disabled or sixty-five years of age or older shall be the lower of the assessed value at the time the taxpayer qualified for the property tax relief or a later assessed value? Yes, the notice is to be sent yearly by the county collector, [ACA 26-23-205](#).

18. Is a property owner who, for any reason, does not notify the assessor of his/her eligibility for a “freeze” on the assessed value of his/her homestead entitled to a refund of any taxes he/she paid that were over and above the amount he/she would have paid based on the frozen value? No, the assessor will reflect on the books when the taxpayer became eligible for the freeze and what the assessed value was at that time. Current and future taxes will be based on that frozen amount with the exception that the assessed value of any substantial improvements, new construction, or newly discovered real property, as provided in [ACD Rule 4.08.2](#), is added to the frozen assessed value and the new assessed value is then refrozen, [Ark. Constitution Amd. 79 Sec. 1\(d\)\(1\)\(A\) and \(B\)](#), also see [AG Opinion No. 2004-300 and No. 2007-244](#). However, no refund is applicable because the error was not open and obvious on the books and records of the assessor as required under [ACA 26-28-111](#) and under Arkansas law the taxes are considered voluntarily paid, [Mertz v. Pappas 320 Ark. 368, 896 S.W.2d 593 \(1995\)](#).

19. Is an otherwise qualified homestead owner disqualified for a freeze on the assessed value of his homestead based on the fact that he owns the property jointly with another person who may or may not live there No, [Ark. Constitution Amd. 79 Sec. 1\(d\)\(1\)\(C\)\(3\)](#).

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, and the difference between the old assessed value and the new assessed value will be added in annual increments at the rate of five percent (5%) or ten

percent (10%) of the previous assessed value depending upon whether or not the property is being used as a homestead by the new owner, [ACA 26-26-1123](#).

- 21. In situations where property is purchased and there is no freeze on the assessed value the buyer uses the property as his principal place of residence, is an existing five percent (5%) or ten percent (10%) growth cap removed and the property assessed at 20% of full value as of January 1, the following year? Yes**, because it is a “sale” of property under the full market value statute, [ACA 26-26-1123](#) applies, [AG Opinion No. 2005-144](#). 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?
- 22. If a parent transfers title to a parcel of real property to his or her child, without actual consideration being given, are any existing caps removed and the property assessed at 20% of full value as of January 1, the following year? No**, only a “sale” of property triggers the application of the full market value statute, [ACA 26-26-1123](#), and the same is true if the child inherits the property, [AG Opinion No. 2005-144](#).
- 23. 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 because the owner and the property are not qualified for the freeze or the cap, [ACA 26-26-1122](#).
- 24. 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? No**, the property continues to be qualified for the freeze at that level as long as it is used as a homestead and it is sold by a qualified seller and bought by a qualified purchaser. The frozen assessed value will continue at that level, unless there is substantial improvement. This can continue indefinitely. The tax bill will not increase unless there is substantial improvement or an increase in the millage rate, [Ark. Constitution Amd. 79 Sec. 1\(d\)\(1\)\(A\) and \(B\)](#), [ACA 26-26-1122](#), [AG Opinion No. 2007-244](#).

- 25. 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 assessed value is frozen at the level it was just prior to the purchase. It will continue at that level as long as the property is used as a homestead and it is sold by a qualified seller and bought by a qualified purchaser. However, the assessed value of any substantial improvement will be added to the frozen value and the total refrozen. This can continue indefinitely. The tax bill will not increase unless there has been substantial improvement or an increase in the millage rate, [Ark. Constitution Amd. 79](#), [ACA 26-26-1122](#).
- 26. What are the limits on the amount of the homestead tax credit?** Up to \$350.00 but not more than the amount of the ad valorem tax owed, [ACA 26-26-1118](#).
- 27. Must the property owner register proof of eligibility for the homestead tax credit with the county assessor? Yes**, on or before October 10th 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, [ACA 26-26-1118](#).
- 28. 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, [ACA 26-26-1118](#).
- 29. May the parties to a transfer of the real property prorate the homestead tax credit as between themselves? Yes**, [ACA 26-26-1118](#).

- 30. 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, [ACA 26-26-1118](#).
- 31. 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. [ACA 26-26-1119](#).
- 32. 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. However, they may do so if they can each show substantial proof that they are separated, preferably by court order, and each separately files a claim for credit on the parcel they own and occupy as their separate principal place of residence, [ACA 26-26-1118](#).
- 33. 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, [ACA 26-26-1119](#).
- 34. If a woman owns a homestead and receives a homestead credit on it and she marries a man who has an exempt homestead because he is a disabled veteran and they begin living together, can he continue to receive the D.A.V. exemption and she continue to receive the credit? No**, they can have only one principal place of residence. If each puts the name of their spouse on their respective titles it does not change the answer. They cannot change the

answer by claiming that they spend equal time in each home. One home has to be the principal place of residence, [ACA 26-26-1118](#), [ACA 26-3-306](#).

- 35. 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 if the first claim was lawful it remains lawful 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, [ACA 26-26-1119](#).
- 36. Is there a statute of limitations for imposition of penalty or repayment against the property owner for unlawfully claiming a second property tax credit? Yes**, three (3) years, [ACA 26-26-1119](#).
- 37. Can a property owner claim a homestead credit based upon: (a) ownership of record; (b) a recorded life estate; (c) a recorded contract to purchase; (e) a mortgagee; (f) a maker of a revocable trust with the property of the trust as his principal place of residence; (g) a holder of a right to redemption still living on the property? Yes**, [ACA 26-26-1122](#).
- 38. If a person has a homestead but resides in a nursing home can he/she claim a credit? Yes**, a person can be temporarily away from his or her home but still intend for the property to remain their principal place of residence and if the property is maintained in such a way that he or she could and would return when their temporary absence was concluded they may claim the credit, [ACA 26-26-1122](#).
- 39. Can a person who lives part of the year in one location and part of the year in another location claim a homestead credit? Yes**, but there can only be one principal place of residence. The property owner has the burden of proving that the property upon which they are attempting to claim a credit is in fact their principal place of residence. Some of the factors that may be considered are: whether or not they claim a homestead in the other location; the location in which the owner spends most of his or her time; whether or not the property is rented

out part of the year; where the owner is registered to vote; where the owner assesses his or her personal property; where the owner registers his or her automobiles; where the owner receives his or her mail; if the owner has an Arkansas driver's license, [ACA 26-26-1122](#).

40. **If a person has a homestead, and is otherwise qualified, is he/she disqualified from receiving, or continuing to receive, a freeze on the assessed value of her homestead by reason of residing in a nursing home?** **No**, Residing in a nursing home shall not disqualify a person from receiving or continuing to receive a freeze on the assessed value of their homestead, [Arkansas Constitution Amd. 79 1\(d\)\(2\)](#). However, this does not mean that anyone in a nursing home can receive or continue to receive a freeze on the assessed value of their property. If the property is rental or commercial in nature it will not qualify. It must be property that he or she would live in if he or she were not in a nursing home, [ACA 26-26-1122](#).
41. **If a person has a homestead but is sent to prison can he claim a credit and/or a freeze?** There is no direct authority as to the answer to this question, however, if the prisoner's sentence was short term and he/she continues to maintain the home as his/her principal place of residence so that he/she could return at the time allowed, the answer would probably be **Yes**. If the sentence was long or the property was rented out or otherwise situated such that it could no longer be his/her principle place of residence the answer would probably be **No**, [ACA 26-26-1122](#).

[Back to Top](#)

Chapter 9

EXEMPTIONS

- 1. Who makes the decision as to whether a property is exempt or not?** The assessor and the assessor alone has the full and sole authority to make the decision, but the decision is subject to appeal, [Hilger v. Harding College, 231 Ark. 685, 331 S.W.2d 851 \(1960\).](#)
- 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. Constitution Art. 16 Sec. 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, [Arkansas Constitution Amd. 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, [Arkansas Constitution Amd. 57.](#) All intangible personal property has been exempted by the legislature, [ACA 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, [Arkansas Constitution Amd. 71.](#)
- 3. Are there any uses of property not contained in the constitution that are exempt?** **No**, all laws exempting property from taxation, other than as provided in the constitution, shall be void, [Arkansas Constitution Art.16 Sec. 6.](#) This section is a limitation upon the legislature to exempt property, [Brodie v. Fitzgerald, 57 Ark. 445, 22 S.W. 29 \(1893\), Wayland v. Snapp, 232 Ark 57, 334 S.W.2d 633 \(1960\).](#)

4. **Is the property of disabled veterans exempt from property tax?** Probably not, as such exemption is not one listed in the constitution as is required by law, [Arkansas Constitution Art. 16, Sec.6](#). There is no case law addressing the subject at this time but at some point the exemption may be challenged. There is a statutory provision providing that such property is exempt, [ACA 26-3-306](#).

5. **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 Memorial Hosp., 250 Ark. 485, 465 S.W.2d 693 \(1971\)](#).

6. **How much proof does the taxpayer have to present in order obtain an exemption for his property?** He must establish entitlement “beyond a reasonable doubt” and there is a strong presumption in favor of the taxing power, [Pledger v. C.B. Form Co., 316 Ark. 22, 871 S.W.2d 333 \(1994\)](#).

7. **What is the most pertinent question with regard to a property’s taxable status?** The primary and predominant use to which the property is put, [Arkansas Conference Assn. of Seventh Day Adventist, Inc. v. Benton County Bd. Of Equalization, 304 Ark. 95, 800 S.W.2d 426 \(1990\)](#).

8. **If any property is held or used with a “view toward profit” are there any circumstances whereby it could be exempt? No,** it is not necessary to the rule that the organization make a profit but just that it uses the property with a view toward profit, [Ponder v. Richardson, 213 Ark. 238, 210 S.W.2d 316 \(1948\)](#); [Miller County v Opportunities, Inc. 334 Ark. 88, 971 S.W.2d 781 \(1998\)](#).

9. **Are lands exempt that were purchased by an otherwise exempt organization and held solely for sale or rent for the sake of profit? No,** [School District of Fort Smith v. Howe, 62 Ark. 481, 37 S.W. 717 \(1896\)](#).

10. **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*, 319 Ark. 12, 888 S.W.2d 652 \(1994\).](#)

11. **May private schools be exempt? Yes**, but they cannot be operated with a view toward profit, [*Sebastian County v. Educare Centers of Arkansas, Inc.*, 296 Ark. 538, 758 S.W.2d 413 \(1988\).](#)
12. **Where property that might otherwise be exempt is leased out at market rate, may the property be 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, [*Arkansas Conference Assn. of Seventh Day Adventist, Inc. v. Benton County Bd. Of Equalization*, 304 Ark. 95, 800 S.W.2d 426 \(1990\).](#)
13. **Where 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, may the property, in fact, be exempt? Yes**, [*Arkansas Conference Assn. of Seventh Day Adventist, Inc. v. Benton County Bd. Of Equalization*, 304 Ark. 95, 800 S.W.2d 426 \(1990\).](#)
14. **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 \(1995\).](#)
15. **If a producing mineral interest is owned by an entity such as a county, church, school, or charity, whose property is ordinarily exempt, is the mineral interest also exempt? No**, [*Arkansas Constitution Article 16 Section 5, and Section 6.*](#) To qualify, the mineral interest would have to be used directly and exclusively for the same exempt purpose as that of the entity. In this case the primary use is for business. Even if the income is used to support the exempt

entity, it 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 \(1960\).](#)

- 16. Is property owned by an instrumentality of the federal government exempt?** **No**, however, it is immune from state and local taxation, *U.S. Const. Article VI Clause 2 (the "Supremacy Clause")*. The result is about the same except there is no requirement that the property be used for a public purpose.
- 17. Is property owned by the Federal Land Bank immune?** **Yes**, but the U.S. Congress has waived immunity for the banks real property. However, its personal property remains immune, *12 U.S.C. Sec. 2098*.
- 18. Is real property owned by H.U.D. exempt?** **No**, *12 USCS 714, Byram Holding Co. v. Bogren, 2 N.J. Super. 331, 63 A.2d 822 (1949)*. However, personal property owned by HUD is exempt, *United States v. County of San Diego, 249 F. Supp. 321 (S.D. Ca. 1966)*.
- 19. 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, [City of Little Rock v. McIntosh, 319 Ark. 423, 892 S.W.2d 462 \(1995\).](#)
- 20. If a 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. [ACA 26-34-101, AG Opinion No. 2008-23.](#)
- 21. 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 it is immune and cannot

be sued for delinquent taxes. The county may pursue their claim before the state claims commission, [AG Opinion No. 2008-23](#).

- 22. If a qualified Disabled American Veteran becomes the owner of real property on or after January 1 and uses it as his homestead does the DAV exemption take effect immediately upon acquisition? No**, the status of the property is established as of January 1 and does not change until January 1 the following year, [ACA 26-34-101](#). No one has the power to waive the tax and the lien thereof stays with the property, [AG Opinion No. 2008-23](#). However, if the DAV bought the property from a person who had a DAV exemption on the property at the time of sale there would be no interruption of the exemption, [ACA 26-3-306](#).
- 23. Is property financed, purchased or constructed with Act 9 bond funds exempt from property tax? Yes**, [ACA 14-164-701](#). However, it must be used exclusively for a public purpose as provided in the constitution and the property must be public property, that is, it must be owned by a governmental entity or an arm of that entity. An example is the property owned by the Arkansas Development Finance Authority that issues bonds under Act 9, [Wayland v. Snapp, 232 Ark. 57, 334 S.W.2d 633 \(1960\)](#).
- 24. Does maturity and payment in full of Act 9 Bonds independently trigger the end of the public purpose and the end of the exemption of the property from ad valorem taxation? No**, a determination has to be made, and where the governmental entity under which the bonds were issued adopts an ordinance to the effect that the public purpose continues in effect because of jobs and other benefits to the community, the exemption continues in effect, [Pulaski County v. Jacuzzi Bros. Div., 332 Ark 91, 964 S.W.2d 788 \(1998\)](#).
- 25. Does it matter who owns a school in order for it to be exempt? No**, ownership is not an issue. It is the use of the property that determines the exemption question, [Sebastian County v. Educare Centers of Arkansas, Inc., 296 Ark. 538, 758 S.W.2d 413 \(1988\)](#).

- 26. How do you determine whether a particular property is used as a school and therefore qualifies for an exemption?** Factors to be considered are whether classes are being taught on the property and whether certified teachers are provided. Using these criteria a day care facility will not qualify. See [Hilger v. Harding College, 231 Ark. 685, 331 S.W.2d 851, \(1960\).](#)
- 27. Are all libraries, not operated with a view toward profit, exempt?** No, only those that are used exclusively for school purposes, [Arkansas Constitution Art. 16, Sec. 5.](#)
- 28. 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. It must be open to the general public. No one may be refused benefits because of inability to pay. Any funds that are generated must be used for operation, maintenance and capital improvement. If the owner is not the charity the rent must be only nominal [Burgess v. Four States Hospital, 250 Ark 485, 465 S.W.2d 693 \(1971\).](#)
- 29. 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, [AG Opinion No. 91-265.](#)
- 30. What is meant by the term “church purposes”?** The use must be reasonably related to public worship, [AG Opinion No. 91-265.](#)
- 31. Must property used primarily and predominantly for church purposes be owned by the church in order to be exempt?** No, ownership by the church is not a condition for tax-exempt status under the constitution; use is the determining factor, [Phillips v. Mission Fellowship Bible Church, 59 Ark. App. 242, 955 S.W.2d 917 \(1997\).](#)
- 32. Is real or personal property owned by a church and held for, or used for, commercial, business, rental, or investment purposes exempt?** No, the provision in [ACA 26-3-301](#) relating to the exemption of property used “partially for church purposes and partially for investment or other commercial business

purposes” is contrary to [Article 16 Sec. 5 of the constitution](#), [AG Opinion No. 91-265](#).

33. **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, [ACA 26-26-1113](#).**

[Back to Top](#)

Chapter 10

SOLDIERS AND SAILORS ACT

- 1. May an assessor assess ad valorem taxes against an automobile or any other personal property belonging to a non-resident member of the U.S. military assigned on orders to active duty in Arkansas? No**, state and local personal property tax is forbidden by federal law, *50 U.S.C.A. 501, 510, 525, 574*. This is true even though the member may purchase an Arkansas automobile license, *Snapp v. Neal, 382 U.S. 397 (1966)*.
- 2. May an assessor assess ad valorem taxes against a motor vehicle, or any other personal property, of a non-resident active duty member of the U.S. military not assigned on orders to duty in Arkansas but who is physically present in Arkansas? No**, under Section 574 of 50 U.S.C.A. all required is that the member be physically present when away from his/her own residence or domicile regardless of whether he/she is serving in compliance with such orders, *California v. Buzard, 382 U.S. 386 (1966)*.
- 3. May an assessor assess an automobile of a non-resident active duty member of the U.S. military or his/her spouse while the member is out of the state on duty but the spouse has the automobile in Arkansas and wants to purchase an Arkansas automobile license? No**, the statute applies equally to the spouse of such member, unless they are separated, *50 U.S.C.A. 501, 510, 525, 526, and 574, Leflar, Conflicts of Law, Section 11*.
- 4. May an assessor assess an automobile or other personal property, of a resident active duty member of the U.S. military who is out of the state but leaves the automobile, or other personal property, in Arkansas? Yes**, the

statute does not prohibit ad valorem taxation of a resident active duty member of the military, *50 U.S.C.A. 574*.

5. **May an assessor assess automobiles, or other personal property, of active duty members of the U.S. military who are residents of Arkansas but who are out of state and have their vehicles or other personal property with them? Yes**, military personnel are not deemed to have lost residence or domicile in any state, solely by reason of being absent there from. A person is presumed to have domicile in the last place of domicile until a new domicile is clearly established, *Leflar, Conflicts of Law, Section 10*.

6. **May an assessor assess real property belonging to an active duty member of the U.S. military or his/her co-tenant? Yes**, but the property may not be declared delinquent or sold by the Commissioner of State Lands when taxes are unpaid, and the member, or his/her co-tenant, has two years after the end of his/her active military duty to redeem the property or bring suit to set aside any tax sale of the property, *50 U.S.C.A. 526*, [*Small v. Kulesa, 90 Ark. App. 108, 204 S.W.3d 99 \(2005\)*](#).

7. **Do military retirees, persons on inactive reserve status, civilian defense workers, or merchant seamen qualify under the act? No**, *50 U.S.C.A. 501, 510, 525, 526, and 574*.

[Back to Top](#)

Chapter 11

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, [ACA 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, [ACA 26-27-303](#).
- 3. May the county judge select all of the BOE members?** No, for 5 member boards: only one is selected by the county judge; 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, [ACA 26-27-304](#). For nine (9) member boards consult the statute.
- 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, [ACA 26-27-304](#).
- 5. How long is the term for each member?** Terms are for three years staggered according to the statute in such a way as to have as many experienced members on the board as possible at all times, [ACA 26-27-305](#).
- 6. Are BOE members required to subscribe and swear to an oath before taking office?** Yes, as prescribed in [Article 19 Section 20 of the Constitution ACA 26-27-306](#).

7. **If a BOE is not properly constituted, a member is not qualified, a member does not take the required oath, or the board is otherwise legally defective, are the acts of the board void, voidable, or illegal?** **No**, as long as the members assumed office under color of appointment and act in good faith their acts are valid, [Pennington v. Oliver, 245 Ark. 251, 431 S.W.2d 843 \(1968\)](#).
8. **Is the BOE independent?** **Yes**, except that the ACD has full power and authority over the assessment, equalization, and collection of property taxes and the county boards of equalization themselves, [ACA 26-24-102](#). There is no law that provides that the county assessor or the county judge or the quorum court has any authority over the board. 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 \(1968\)](#).
9. **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, [ACA 26-27-309](#). In addition, the board may meet monthly during the year, [ACA 26-27-311](#).
10. **How often is the BOE required to meet?** As often as is necessary to hear and act on all appeals, [ACA 26-27-309](#).
11. **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. [ACA 26-27-310](#).
12. **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 it's equalization meetings from August 1 through October 1 but not beyond the third Monday in November, [ACA 26-27-311](#).

13. **Can the BOE, in special session, employ professionals to aid them in the discharge of their duties? Yes, [ACA 26-27-311](#).**
14. **May the county assessor appeal the decision of the BOE? Yes, [ACA 26-27-318](#).**
15. **Does the county assessor have to furnish the BOE all his/her data and information concerning assessments and attend all BOE meetings? Yes, however he may send his deputy to the meetings in his place, [ACA 26-27-313](#).**
16. **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, [ACA 26-27-317](#). However, he must appear if he has been duly summoned, [ACA 26-27-316](#).**
17. **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, [ACA 26-27-317](#). In a particular meritorious situation, assuming appropriate facilities and equipment are available, the board might well elect to do so.**
18. **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, [ACA 26-27-316](#).**
19. **Does the taxpayer have the burden of proof when appealing an assessment? Yes, if he 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 \(1992\)](#).**
20. **What is the standard of review in tax assessment cases? The protestant must prove that the assessment is “manifestly excessive or clearly erroneous or confiscatory”, [IBM Credit Corporation v. Pulaski County, 316 Ark. 580, 873 S.W. 2d 161 \(1994\)](#).**
21. **Does any member of the BOE have free access to the records of the county clerk and the circuit clerk? Yes, [ACA 26-27-316](#).**

- 22. May the BOE enter upon and view property in connection with their work?** Yes, [ACA 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, [ACA 26-27-317](#). There is no provision in the law for the board to refuse to hear a timely filed appeal. However general law will require that the appellant and the BOE members be required to act in good faith at all stages of the proceedings.
- 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, [ACA 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, [ACA 26-2-106](#). In addition the board has the authority to classify personal property and zone and classify real property to determine the average value so they may equalize assessments, [ACA 26-27-315](#). However, the BOE may not change the value of crop land, pasture land, or timber land, [ACA 26-26-407](#).
- 25. How are agricultural lands valued?** Crop land, pasture land, and timber land valuation is based upon the productivity of the crop 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 updates tables for the valuation and assessment of such lands. It is for this reason that neither the BOE nor the county court may change the value of such land, [ACA 26-26-407](#). Any error as to soil type or valuation tables should be referred to the ACD.
- 26. 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 crop land, pasture land, or timber land?** The BOE may reclassify land upon proof of change in use of the land or upon proof that the land is not eligible for classification under this section, [ACA 26-26-407](#).
- 27. Is there a penalty if the board does not list and value any property subject to taxation that they know is not listed for value for that year?** Yes, and if they knowingly and willfully fail or refuse to do so, they shall be subject to a penalty of five hundred dollars (\$500.00) for each offense, to be recovered by a civil action in the name of the state, [ACA 26-2-106](#).

- 28. When comparable sales are presented to the BOE by the property owner, or his appraiser, in support of the property owner's request for relief, may current sales be used? No**, only those valid sales that have been time adjusted to equal market value as of January 1 of the reappraisal year may be used, [ACD Rule 4.04.1b](#).
- 29. May the BOE adjust a property owner's value at any time it believes the property is incorrectly valued? No**, they may only adjust a value during the current assessment year and pursuant to a timely appeal by the taxpayer, [ACA 26-27-317](#). The board shall use comparable sales and only those valid sales that have been time adjusted to equal market value as of January 1 of the reappraisal year may be used, [ACD Rule 4.04.1d](#). In addition, the board must review all similarly situated properties in the county and if the same reasons exist the values of those properties must likewise be raised or lowered and the owners given notice and an opportunity to be heard, [ACA 26-27-315](#).
- 30. If a taxpayer fails to appeal in the year of the assessment or even if he does appeal may he appeal his value again the next year or in a subsequent year? Yes**, but the adjustment must be only for the year in which he appeals and not a previous year, [ACA 26-27-309](#). Only those valid sales that have been time adjusted to equal market value as of January 1 of the reappraisal year may be used, [ACD Rule 4.04.1b](#). In addition, the board must review all similarly situated properties and if the same reasons exist the values of those properties must likewise be raised or lowered and the owners given notice and an opportunity to be heard, [ACA 26-27-315](#).
- 31. May the BOE reduce values of groups of real estate properties between regular cyclical reappraisals? Yes**, in some circumstances. If in the judgment of the board, or the county judge, a number of real estate parcels in the county may have decreased in market value since the last countywide reappraisal the board may meet in special session to determine the action to be taken. Actions by the board must be in accordance with [ACA 26-27-315](#) and [ACD Rule 4.29, ACA 26-27-322](#).
- 32. Who is the secretary for the BOE and what are his or her duties?** The clerk of the county court or his or her designee. The secretary shall keep a complete record of the proceedings and generally carry out the responsibilities required of any secretary of an organization. In addition he or she shall report to the

Assessment Coordination Department the names and addresses of the members of the board, [ACA 26-27-307](#).

33. **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, [ACA 26-27-317](#).
34. **Are BOE meetings and records subject to the Freedom of Information Act requirements? Yes**, the board may not go into executive session to discuss and decide an appeal, [ACA 25-19-106](#), [AG Opinion No. 2000-287](#).
35. **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, [ACA 26-27-315](#).
36. **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. [ACA 26-27-315](#).
37. **Can the BOE hear appeals of the decisions of the county assessor as to exemptions and Amend 79 issues?** The law is unclear. The best procedure is to allow the appeal. There is one opinion by the attorney general that approves the procedure for exemption decisions, [AG Opinion No. 97-324](#).
38. **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, [ACA 26-27-317](#).
39. **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. [ACA 26-27-318](#).
40. **Do BOE members have personal immunity from liability and law suits for damages while serving on the board? Yes**, except to the extent they may be covered by liability insurance, [ACA 21-9-301](#). However such immunity does not apply to intentional acts, [City of Fayetteville v. Romine, 373 Ark. 318, 284 S.W.3d 10 \(2008\)](#).

[Back to Top](#)

Chapter 12

APPEALS

1. 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, [ACA 26-23-203](#).
2. Does the county assessor or his/her representative have to conduct informal hearings after normal business hours in order to accommodate working property owners? Yes, at least one day per week, [ACA 26-23-203](#).
3. Can a taxpayer appeal the decision of an assessor denying an exemption request? The law is not entirely clear, [ACA 26-27-315](#). However, the state attorney general has opined that it is appropriate, [AG Opinion No. 2010-134](#).
4. If a taxpayer disagrees with an assessment on his property may he appeal the decision of the county assessor? Yes, and he/she must apply in person or by letter or petition to the secretary of the county board of equalization on or before the third Monday in August of every year. He/she may be represented or appear in person before the board or supply written documentation as to the adjustment desired. [ACA 26-27-317](#).
5. Does the taxpayer have the burden of proof when appealing an assessment? Yes, [Summers Chevrolet, Inc. v. Yell County, 310 Ark. 1, 832 S.W.2d 486 \(1992\)](#).

- 6. What is the standard for review in tax assessment cases?** The protestant must prove that the assessment is “manifestly excessive or clearly erroneous or confiscatory”, [IBM Credit Corporation v. Pulaski County, 316 Ark. 580, 873 S.W. 2d 161 \(1994\).](#)
- 7. When does the BOE required to begin hearing appeals?** No later than the second Monday in August. [ACA 26-27-317.](#) They continue in regular session until October 1st, unless the county is found to be out of compliance with the rules of the Assessment Coordination Department and is required to do additional work. [ACA 26-27-309.](#)
- 8. How often is the BOE required to meet?** As often as is necessary to consider the equalization of all property assessments and all requests for adjustments of assessments of taxpayers, [ACA 26-27-309.](#)
- 9. In order to accommodate the working taxpayer is the BOE required to have some hearings after business hours?** Yes, on at least one day each week, [ACA 26-26-317.](#)
- 10. If all appeals are not completed during the time set for regular meetings can such appeals still be completed?** Yes, From August 1 each year through October 1 and before the third Monday in November of each year the BOE may go into special session to complete and review its work, [ACA 26-27-311.](#)
- 11. When and how must the BOE notify the taxpayer of their decision?** At least 10 business days after the hearing, and in writing, unless the taxpayer or his agent is present at the time of the decision, [ACA 26-27-317.](#)
- 12. What is the BOE decision notification required to contain?** The decision; the right of the taxpayer to appeal to the county court; and the deadline for petitioning the county court for a hearing. [ACA 26-26-317.](#)

13. **Does the taxpayer have to appeal to the BOE before he can appeal to the county court? Yes**, unless he was not a sent a notice of value change as required by [ACA 26-23-203](#), [ACA 26-27-318](#).
14. **When is the deadline to file an appeal from the decision of the BOE to the County Court?** On or before the second Monday in October, [ACA 26-27-317](#).
15. **What happens in the event the taxpayer has appealed the decision of the county assessor increasing the value of his/her property but the BOE fails to hold a hearing and render a decision in its regular or special sessions?** The BOE is required to reduce all such increases to the assessed levels of the previous year, [ACA 26-27-315](#).
16. **Must the taxpayer complete the appeal process with both the BOE and the county court before he can appeal to the circuit court, Yes**, this process is known as “exhausting administrative remedies” and is required unless the taxpayer was not sent a notice of value change as required by [ACA 26-23-203](#), [ACA 26-27-318](#).
17. **In a year when the county is not completing reappraisal may a taxpayer appeal his/her value on the grounds that the property has gone down in value because of current economic conditions since the last reappraisal? No**, [ACA 26-27-322](#).

[Back to Top](#)

Chapter 13

PAYMENTS AND COLLECTIONS

- 1. Who has the duty to pay property taxes?** Anyone holding the property, including a life tenant, a holder by curtesy or dower, a guardian, executor or an administrator and an agent or attorney holding the funds to pay them, [ACA 26-35-301](#).
- 2. When are all real and personal property taxes due and payable at the collector's office?** From the first business day in March to and including October 15th and if not paid within that time are deemed delinquent and the collector must extend and collect a penalty of 10% from the taxpayer, [ACA 26-36-201](#).
- 3. If October 15th falls on a Saturday, Sunday, or a holiday observed by the United States Postal Service, shall the taxes become due and payable the following business day that is not a holiday? Yes,** [ACA 26-36-201](#).
- 4. What does the tax bill have to include?** The dollar amount of the taxpayer's total tax bill distributed to each taxing unit; the millage rate levied by each taxing unit; the percentage of the full value of the taxpayer's property shall be calculated by multiplying the legal assessment level by the appropriate millage rate levy; the sum of the millage rates levied by each taxing unit, the percentage of the full value of the taxpayer's property that the sum of the millage rate levies represents, and the total dollar amount due and billed, [ACA 26-23-204](#).

5. **Does the collector have to send taxpayers a yearly notice concerning his or her rights under Amendment 79? Yes**, and the notice must contain a statement that the assessed value of a homestead used as a principal place of residence and owned by a taxpayer who is disabled or sixty-five (65) years of age or older shall be the lower of the assessed value at the time the taxpayer qualified for the property tax relief under Amendment 79, or a later a later assessed value; the county assessor's contact information; and the yearly notice required may be sent with the taxpayer's tax statement or by separate first class mail, [ACA 26-23-205](#).

6. **Can the county go back 3 years to collect overdue taxes resulting from underassessment by the assessor? Yes**, but only 3 years, [ACA 26-34-105](#).

7. **After the assessment and full payment of any property tax, can a proceeding be brought and maintained for the reassessment of the value on which the tax is based. No**, except for actual fraud. The failure to assess as required by law shall be prima facie evidence of fraud, [ACA 26-34-107](#).

8. **Is gross underassessment (listing) by a taxpayer of his or her property or the value thereof evidence of fraud under ACA 26-34-107? No**, [Attorney General v. Anderson-Tulley Co., 186 Ark 170, 53 S.W.2d 17 \(1932\)](#).

9. **Do all real and personal property taxes constitute a lien on personal property? Yes**, and the lien stays on the property into whosoever's hands it passes until it is paid, [ACA 26-34-101](#). In addition property tax liens cannot be waived or terminated by any governmental entity, [AG Opinion No. 2010-134](#).

10. **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 under [ACA 26-36-201\(e\)](#) and there is no statute of limitations on the collection of the tax, [ACA 26-34-101](#).

[Back to Top](#)

Chapter 14

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, [ACA 26-28-111\(a\)\(1\)](#), [ACA 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 this statute, [ACA 26-28-111\(a\) and \(c\)](#).
- 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, [ACA 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. Barns, 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. **Does Arkansas have a refund statute? Yes,** [ACA 26-35-901](#), however it refers directly to the “correction of error” statute. The “correction of error” statute provides that if the error is open and obvious on the tax books and records a correction should be made and an appropriate refund made. However, if the assessor has to look beyond the tax books and records to determine if an error was made there should be no correction or refund, [ACA 26-28-111](#).

6. **What is an “illegal exaction” and is a tax payment based thereon refundable?** It is one either unauthorized or contrary to the law, [Mackey v. McDonald, 255 Ark. 978, 504 S.W.2d 726 \(1974\)](#). There can be no recovery of voluntarily paid taxes, except where a recovery is authorized by statute, even when an illegal exaction claim is based on constitutional grounds, [Mertz v. Pappas, 320 Ark. 368, 896 S.W.2d 593 \(1995\)](#).

7. **Who can order a refund?** Upon satisfactory proof of an erroneous assessment, as defined in [ACA 26-28-111](#), being adduced to the county court, the court shall order a refund, [ACA 26-35-901](#). County courts have exclusive original jurisdiction in such cases, [Arkansas Constitution Art. 7 Sec. 28, ACA 14-14-1105\(b\)\(1\)](#). The Supreme Court of Arkansas has held that the circuit court did not have jurisdiction to hear an illegal exaction suit asking for a refund. The suit must be heard in county court, [Muldoon v. Martin, 103 Ark. App. 64, 286 S.W.3d 201 \(2008\)](#).

8. **How many years of payments shall be refunded?** The number of years the court finds the property was erroneously assessed but not to exceed three (3) years from the last date the taxes were paid, [ACA 26-35-901](#).

[Back to Top](#)

