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Board of Tax Appeals

Laura Kelly, Governor

MEMORANDUM

To: Senate Assessment & Taxation Committee
Re: Request for Research on Statewide Uniformity of Valuation
Date: March 15, 2022

Chair Tyson, Vice Chair Peck, and Members of the Assessment & Taxation Committee,

The Board of Tax Appeals submits this Memorandum in response to an email received from Legislative Research on March 10, 2022 requesting information on statewide uniformity in valuation. Legislative Research requested a report detailing the types of issues that repeatedly appear before the Board for classification or valuation disputes, or a report noting the frequency of types of cases before the Board. The Board does not maintain any formal reports that would answer these questions but has gathered the following data in response.

Valuation Matters Filed on a Calendar Year Basis Since 2017

Along with this Memorandum the Board is submitting an Excel spreadsheet that provides a variety of information about valuation appeals filed since January 1, 2017. This spreadsheet is provided to the Committee for representative purposes only, it is not intended to be an exact duplicate of the Board's data.

The spreadsheet reflects valuation cases filed in both regular and small claims divisions since January 1, 2017. The first table reflects the raw data. The second table reflects the total number of valuation cases filed per year. The third table reflects the number of cases per county for that five-year period as well as what types of properties, based upon land-use codes, were involved in those matters. The land-use codes are taken from the LBCS (Land-Based Classification System) devised by the American Planning Association, which is information provided by the County during the appeal process. The following figures may be of particular interest to the Committee:

Number of Valuation Appeals per Calendar Year:

Year	Number of Appeals
2017	4,387
2018	4,737
2019	4,636
2020	5,437
2021	4,391
2022	128
Total =	23,716

Top Ten Counties per Number of Valuation Appeals:

County	Appeals since Jan. 1, 2017
Johnson	9,018
Morris	3,402
Sedgwick	3,109
Wyandotte	2,976
Shawnee	631
Douglas	579
Butler	374
Neosho	340
Saline	327
Leavenworth	248

Highest Number of Cases by Land Use Code:

Land Use	Appeals Since Jan. 1, 2017
Apartment Unit Single Family	1,755
Commercial Highest & Best Use	423
County Club Golf Course	252
Dept. Store/Warehouse/Superstore 8	246
Duplex	694
Farming/Ranch Land (no improvements)	334
Farming/Ranch Land (ag improvements)	49
Farming/Ranch Land (with improvements)	404
General Apartment Complex	580
General Office Building 1-4 stories	594
General Office Building 5+ stories	155
Manufactured Home Site	495
Oil and Gas Lease	643
Residential Highest & Best Use	1,128
Single-Family Residence	7,803
Strip Store	670
Warehouse/Office	522

Valuation Appeals by County Compared to County Share of State Parcel IDs

BOTA has created an additional Excel spreadsheet that shows each county's percentage share of total market value appeals filed in each of the past five years, as compared to that county's percentage share of total parcel IDs in the state. As the report generally shows, the greater a county's share of the total parcel IDs in the state, the greater the county's share of the number of appeals filed. There are some counties, however, that generate a larger percentage of appeals to BOTA despite their share of total parcel IDs: for example, Wyandotte County has four percent of the state's total parcel IDs, but generates on average 12 percent of BOTA's valuation appeals. Likewise, Sedgwick County contains 14 percent of the state's parcel IDs and generates 17 percent of appeals, Johnson County

contains 13 percent of the state’s parcel IDs and generates 24 percent of appeals, Douglas County contains one percent of the state’s parcel IDs and generates five percent of appeals, and Butler County contains one percent of the state’s parcel IDs and generates three percent of appeals.

Overall Case Filings per Fiscal Year

The Board regularly maintains data on its total case filings per fiscal year, which it submits with its annual budget requests. The Board breaks down cases filed into eleven broad categories: Division of Taxation (DT), Economic Development Exemption (EDX), Equalization (EQ), Industrial Revenue Bond (IRB), Industrial Revenue Bond Exemption (IRBX), No Fund Warrant (NFW), Protest (PR), Property Valuation (PV), Tax Grievance (TG), Tax Exemption (TX). The tables below show the total number of filings docketed and processed by the Board’s regular and small claims divisions since FY 2015. Most valuation appeals would be filed in either the Equalization or Protest category. The Protest category would also include any illegal levy protests, which are discussed in greater detail below.

Total Regular Division Filings:

Case Type	FY15	FY16	FY17	FY18	FY19	FY20	FY21
DT	28	33	40	33	12	32	9
EDX	22	27	19	7	21	9	18
EQ	1,396	2,498	2,300	2,455	1,842	2,024	2,318
IRB	71	74	87	95	62	76	64
IRBX	35	56	32	45	41	26	33
MRP	53	57	54	21	6	0	0
NFW	2	1	0	1	0	5	1
PR	542	216	508	287	291	260	271
PV	34	3	8	1	11	8	10
TG	266	122	143	89	99	48	56
TX	2,872	2,265	2,234	2,241	1,993	2,058	1,851
Other	11	7	17	2	8	6	2
Total	5,332	5,359	5,442	5,277	4,386	4,552	4,633

Total Small Claims Filings:

Case Type	FY15	FY 16	FY 17	FY18	FY19	FY 20	FY 21
DT	9	12	10	10	5	13	7
EQ	2,211	1,526	1,659	1,486	2,468	2,708	2,013
PR	396	406	341	443	516	425	521
Total	2,616	1,944	2,010	1,939	2,989	3,146	2,541

Illegal Levy Protests

The Board is aware that questions were raised during this Committee’s Hearing on SB 542 regarding the Board’s capacity to handle any new complaints generated by the proposed

amendments to K.S.A. 79-2988. Currently the Board handles complaints regarding illegal tax levies under K.S.A. 79-2005(e); the Board sees the revenue neutral complaint process proposed in SB 542 as a similar process. The Board's review of illegal levy protests since January 1, 2009 shows the following:

- 11 total illegal levy protests were filed.
- 4 matters resulted in a decision on the merits after a hearing.
- 7 matters were dismissed for procedural reasons:
 - One was dismissed as erroneously filed;
 - One was dismissed for lack of jurisdiction after the Board issued a show cause order;
 - Four were dismissed for failure to pay filing fees;
 - One was dismissed at the taxpayer's request.

The two most recent illegal levy protests that resulted in a merits determination after a hearing were docketed and resolved by BOTA in six months. BOTA's review of its general case closure rates indicates a 91.5 percent closure rate for all matters classified under the protest category in FY 2021.

The Board believes SB 542 could result in a greater number of filings because the Bill waives a filing fee for complaints under new K.S.A. 79-2988(c)(2) and places the burden of production on the governing body. As reflected in the Bill's Fiscal Note, the Board does not anticipate the number of additional complaints generated would be so great as to necessitate hiring additional staff. The Board does anticipate that if SB 542 becomes law it will need to devote resources to updating the Board's website to reflect a new filing process and updating the Board's case management system to accommodate a new type of filing. The addition of full-time IT support as well as the addition of funds to re-develop BOTA's website (for which BOTA has sought SPARK funding) would help facilitate those changes.

The Complaint Process

Each equalization appeal, exemption application, grievance, or other matter is evaluated by the Board on a case-by-case basis. The burden to produce evidence in support of the requested property value can rest either on the taxing authority or the taxpayer, depending on the type of case. In regular division cases, once a taxpayer has filed an appeal the matter is generally docketed and scheduled for a hearing. Hearings may be continued one or more times at the request of either the taxpayer or taxing entity. When a hearing is held, both the taxpayer and taxing authority have the opportunity to present witnesses and evidence and cross-examine the other party's witnesses. In certain matters, the parties may submit post-hearing written submissions. Small claims matters are handled more informally but the same principles apply - both sides are allotted time to submit evidence and question the other party's evidence.

Because the Board resolves each matter presented on a case-by-case basis, it does not aggregate data of a statewide nature beyond that which has been discussed above. When the Board is called upon to determine whether a particular property has been valued in an equal and uniform nature with comparatively situated properties, or whether a particular scheme of taxation is applied uniformly and equally, it also makes that determination on a case-by-case basis.

Statewide Uniformity of Valuations

The Board was asked whether it routinely sees cases that call into question the general statewide uniformity of valuations. Because BOTA hears and decides valuation appeals on a case-by-case basis, BOTA does not maintain data (other than that provided above) analyzing differences within or among counties with respect to specific types of valuation. Even when it is specifically authorized by statute to equalize the valuation of property within a county or determine whether a county is in substantial compliance with Kansas law and PVD's guidelines regarding the valuation of property, those determinations would be made on a case-by-case basis. *See* K.S.A. 79-1409 (giving BOTA authority as the state board of equalization); K.S.A. 79-1413a (allowing BOTA to order reappraisal of all or part of the property within a county upon a complaint and determination that the county is not in substantial compliance with the law of the state or guidelines of the PVD).

In contrast, K.S.A. 79-1445 specifies that the Director of PVD shall examine the assessment and appraisal practices of all counties and shall publish a list annually of counties who are and are not in substantial compliance with the requirements of the law to appraise all taxable property at its fair market value. The Kansas Real Estate Ratio Study Act, K.S.A. 79-1485 et seq., further tasks PVD with conducting an annual sales ratio study comparing the appraised value to the sale price of real estate that has sold during that year to determine "the relative level of uniformity of appraisal within and among counties." *See also* <https://www.ksrevenue.gov/pvdratiostats.html>. Consequently, PVD or even the Kansas County Appraisers Association may have more data to assist the Committee to evaluate whether there are areas of concern regarding statewide uniformity that warrant further investigation.

Conclusion

The Board hopes the information provided will be useful to the Committee. If the Committee needs further data on a specific topic the Board is happy to perform that research and will endeavor to provide it to the Committee as soon as possible.

Respectfully submitted,

Kristen Wheeler, Chair

Jody Allen, Executive Director