

ARKANSAS COUNTY ASSESSORS

2018 PROCEDURES MANUAL



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FOREWORD

This County Assessor's procedures manual was compiled by the Association of Arkansas Counties staff and reviewed by AAC staff. It reflects the current law through the 2017 legislative session and includes a description of the duties, responsibilities, and procedures of the Assessor's office. It is not to be construed as legal advice. It presents the law for your information and guidance, but specific legal questions should be directed to your county attorney.

We hope this procedures manual will be of help to you as you do the day-to-day business of your county.

A handwritten signature in black ink, appearing to read "Chris Villines".

Chris Villines
Executive Director

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Chapter One - INTRODUCTION TO COUNTY GOVERNMENT

County government is a political subdivision of the state. County government provides services to all of the citizens of the county, and every resident of Arkansas lives in a county. The services that every county must provide include: (1) the administration of justice through the courts; (2) law enforcement protection and the operation of the jail; (3) real and personal property tax administration, including assessments, collection, and custody of tax proceeds; (4) court and public records management; and (5) the required services prescribed by state law provided through the various elected county officers or departments of county government—such as providing and managing a county road system, elections and financial management—just to name a few. Counties may provide for the establishment of any service or performance of any function that is not expressly prohibited by law. These services and functions include, but are not limited to, things like agricultural extension services; community and rural development services; libraries; park and recreation services; emergency medical services; fire prevention and protection services; solid waste collection and disposal services; public health services; and any other services related to county affairs (ACA 14-14-802).

County government elects nine executive officers and a countywide legislative body called the Quorum Court to provide these various services. The nine elected officials are county judge, sheriff, county clerk, circuit clerk, collector, assessor, treasurer, coroner and surveyor. Some counties combine two of these offices into one, such as county clerk/circuit clerk, sheriff/collector, or treasurer/collector. Also, not all counties elect a surveyor, and in the counties that do elect them, this job is usually not a full-time position. The county legislative body is entitled the Quorum Court and is composed of 9-15 members called Justices of the Peace. These justices of the peace are district officers and not county officials because they represent districts within the county.

The chief executive officer for county government in Arkansas is the county judge. As chief executive, the judge authorizes and approves the disbursement of all appropriated county funds, operates the system of county roads, administers ordinances enacted by the quorum court, has custody of county property, accepts grants from federal, state, public and private sources, hires county employees except those persons employed by other elected officials of the county, and presides over the quorum court without a vote, but with the power of veto (ACA 14-14-1101 - 1102).

All powers not vested in the county judge as the chief executive officer of the county shall continue to be exercised and administered by the county court, over which the county judge shall preside. The county court, in fact, is the county judge sitting in a judicial role.

The county court of each county has exclusive original jurisdiction in all matters relating to:

1. County Taxes: Including real and personal ad valorem taxes collected by county government. The county court's authority in this area includes jurisdiction over the assessment of property, equalization of assessments on appeal, tax levies, tax collections, and the distribution of tax proceeds.
2. Paupers: The court's jurisdiction includes all county administrative actions affecting the conduct of human services programs serving indigent residents of the county where such services are financed in total or in part by county funds.
3. Jurisdiction in each other case that may be necessary to the internal improvement and local concerns of the respective counties including county financial activities and works of general public utility or advantage designed to promote intercommunication, trade and commerce, transportation of persons and property, or the development of natural resources, which are not otherwise transferred to the county judges to be administered in an executive capacity.
4. The county court shall have all other jurisdiction now vested by law in the county court except with respect to those powers formerly vested in the county court under the provisions of Section 28 of Article 7 of the Constitution which were transferred to the county judge under the provisions of Section 3 of Amendment 55 to the Arkansas Constitution, (and those powers removed by Amendment 67 as they pertain to the apprenticeship of minors. (ACA 14-14-1105)

In addition to the duties of the county court, the county judge is responsible for coordinating the day-to-day intergovernmental relations between the various state and federal agencies operating at the county level. The judge must also apply for all federal and state assistance moneys for which the county is eligible, and appoints the members to all administrative and advisory boards in the county, some of which have to be confirmed by the quorum court.

The county sheriff is the sheriff of the courts, maintains public peace, and has custody of the county jail. As chief enforcement officer of the circuit courts, the sheriff's office, which includes the sheriff and deputies, is charged by constitutional and statutory laws with the execution of summons, enforcement of judgments, orders, injunctions, garnishments, attachments, and the making of arrests on warrants issued by the courts. The sheriff also opens and attends each term of circuit court, notifies residents selected to jury duty and assists in handling witnesses and prisoners during a given court term.

The sheriff, or a member of that staff, often prepares and assembles evidence of the Prosecuting Attorney's case against defendants charged with both felonies and misdemeanors. The sheriff also transports convicted prisoners and others declared by the court to the various penal and mental institutions of the state.

The sheriff in every county has the custody, rule, and charge of the county jail and all prisoners committed in his county (ACA 12-41-502). The sheriff shall be conservator of the peace in his county (ACA 14-15-501). It shall be the duty of each sheriff to quell and suppress all assaults and batteries, affrays, insurrections, and unlawful assemblies; and he shall apprehend and commit to jail all felons and other offenders (ACA 14-14-1301). The sheriff also works with the various local municipal law enforcement officials or other state and federal officials charged with law enforcement.

The county clerk is the official bookkeeper of county government and serves as the clerk for the county, quorum and probate courts.

As clerk of the county court, the clerk has the duty of keeping a regular account between the treasurer and the county. The clerk charges the treasurer with all moneys received and credits the treasurer with all moneys dispersed. In addition, the clerk keeps an accurate account of all financial transactions within the county and files all documents, vouchers, and other papers pertaining to the settlement of any account to which the county is involved. It is the responsibility of the county clerk to prepare all checks on the treasury for moneys ordered to be paid by the county court and to keep complete and accurate records of all these financial transactions ready for the court's inspection at any time (ACA 16-20-402). [An alternate method of the county treasurer issuing checks, allowed by ACA 14-24-204, is used by many counties].

The county clerk shall serve, unless otherwise designated by county ordinance, as the secretariat of the quorum court. These duties involve keeping a complete permanent record of the proceedings of the Quorum Court including minutes, ordinances, resolutions and an index to provide easy access to the information (ACA 14-14-902 and 14-14-903).

As clerk to the probate court, the clerk files all instruments making them a matter of record in decedent estate cases, and swears in all witnesses in contested estates. The clerk, also in this capacity, maintains all records relative to adoptions and guardianship cases within the county.

The county clerk, or the clerk's designee, serves as the secretary of the Board of Equalization and records the minutes of their meetings (ACA 26-27-307). Also, if the clerk is the preparer of tax books for the county, the clerk is responsible for extending the taxes in the information provided by the assessor and the Board of Equalization (ACA 26-28-101 through 26-28-108).

The clerk became the official voter registrar with the adoption of Amendment 51 to the Arkansas Constitution in

1966. The clerk maintains an accurate and up-to-date voter registration list within the office and stores the ballot boxes between elections. In addition, the clerk is the custodian of absentee ballots and is responsible for early voting. It is common practice in many counties for the county clerk to assist the county election commission in the overall performance of the election process. With the increasing complexity of elections, however, there is an increasing trend towards the hiring of election coordinators to aid the county election commission and the county clerk in their respective election responsibilities (ACA 7-5-401 et seq.).

The clerk issues marriage licenses (ACA 9-11-201), and keeps a record of all firms in the county which have incorporated (ACA 4-26-1201). The clerk issues special licenses allowing certain activities (ACA 26-76-102).

The circuit clerk is the clerk of the circuit court and juvenile court and usually acts as the ex-officio recorder of the county.

Unless otherwise provided by law, the county recorder is the circuit clerk of the county. In a county that under law has assigned the duties of the county recorder to the county clerk, all Code references to circuit clerk that concern recording functions shall mean the county clerk.

The administrative duties of the circuit clerk are to maintain a record of all proceedings of the circuit courts to enter docket number and name of the defendant and to prepare the dockets for these courts (ACA 16-20-102). The circuit clerk prepares summons, warrants, orders, judgments, and injunctions authorized by the circuit court for delivery by the county sheriff. The circuit clerk also maintains a file of all cases pending in either court, as well as a record of all past court cases and their disposition (ACA 16-20-303 and 16-20-304). The clerk has 20 days before commencement of each of the dockets in all cases. In addition, the circuit clerk acts as a secretary to the jury commission by keeping a list of all prospective jurors (ACA 16-32-101 et seq.).

The circuit clerk is also the ex-officio county recorder and is responsible for recording deeds, mortgages, liens, and surety bonds, and many other orders and instruments which involve property within the county (ACA 14-15-401 et seq.). The circuit clerk maintains a record of many miscellaneous items and files certain licenses. The circuit clerk also swears in all notaries public and files regulations of state agencies which license trade or professional workers.

The county collector is the collector of taxes for the county and collects municipal, county, school and improvement district taxes and turns them over to the county treasurer. The collector is responsible for collecting all property taxes from the first day of March to the fifteenth day of October during the calendar year after they are assessed. By statute, the collector is required to turn over all tax revenue to the treasurer at least once a month (ACA 26-39-201). The County Depository Board may require the collector and other county officials to settle with the county treasurer

more frequently than once a month (ACA 19-8-106). Taxpayers may pay their taxes in installments, with one-fourth of the total being due between March and April, one-fourth being due between April and July, and the remaining one-half between July and October 15 (ACA 26-35-501).

Any real or personal property taxes not paid by the fifteenth day of October, and not within one of the exceptions to the requirement that taxes be paid by October 15 of each year (i.e., postmarked prior to October 15 or paid after October 15 if the fifteenth falls on a weekend or holiday), are considered delinquent, and the collector extends a 10% penalty against the taxpayer (ACA 26-36-201). Before December 1 of each year, the collector of taxes shall prepare a list of delinquent personal property taxes and deliver a copy of the list to a legal newspaper in the county. Within seven (7) days thereafter, the newspaper shall publish the list. If there is no newspaper in the county or district, the publication shall be in the nearest newspaper having a general circulation in the county or districts for which the list is being published (ACA 26-36-203).

The duty of the county assessor is to appraise and assess all real property between the first Monday of January and the first of July, and all personal property between the first Monday in January and the thirty-first of May (ACA 26-26-1408 and 26-26-1101). All property in the state shall be assessed according to its value on the first of January except merchants and manufacturers inventory that is assessed at its average value during the year immediately preceding the first of January (ACA 26-26-1201).

The assessor must make an abstract of assessment showing the total assessed value of the county. On August 1, the assessor turns over to the County Equalization Board his/her Real Property Assessment Book and his/her Personal Property Assessment Book.

The assessor is required to maintain current appraisal and assessment records by securing necessary filed data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year (ACA 26-26-715).

The county treasurer is the disbursement officer of the county, and is the unofficial or quasi comptroller. A few counties do have a county comptroller. The treasurer is responsible for the custody and disbursement of all county funds and school district funds. The treasurer, therefore, receives county property tax collections, county sales tax collections, county turnback funds, grant funds, fees and fines from other county officials and departments, and revenues from various other sources. The treasurer, after receiving this revenue, distributes the money to the various taxing entities and the other units of the county. The county treasurer signs checks, prepared and signed by the county clerk indicating that the expenditure has been authorized by the county court, to pay employees and creditors of the county. A copy of each check serves as a warrant and is filed in the county financial records. ACA 14-

24-204 provides for an alternate method whereby the county treasurer prepares and issues the check.

The treasurer must keep an accurate and detailed account of all receipts and disbursements of the county (ACA 14-15-807). The treasurer is required to make a monthly financial report to the quorum court on the fiscal condition of the county (ACA 14-20-105).

The county treasurer is required to charge a two percent commission on all funds coming to his/her office. There are a few exceptions. No commission is allowed for the handling of borrowed money, proceeds of school bond sales, the teacher's salary fund, money collected from insurance on losses, fire protection premium taxes (Act 833 funds for fire departments, but inactive fire departments will not receive funding under this section) and all non-revenue receipts, which is defined as reimbursement of all or a part of a payment made by a county (ACA 21-6-302, 6-17-908, 6-20-221 and 14-284-403). Also, the county treasurer is allowed a smaller commission, 1/4 of 1%, on funds from school districts that employ their own treasurer (ACA 6-13-701) and 1/8 of 1% on funds from municipal improvement districts (ACA 14-90-913). The commission is not kept by the treasurer but is intended to create a source of revenue accruing to the office from which the salary and operation of the office is paid. Any excess treasurer's commission shall be redistributed to the various entities that were charged on a pro-rata basis (AG Opinion #78-112).

The county coroner is charged with the responsibility of determining the cause of death for those deaths properly the responsibility of the coroner. Although the duties of the county coroner are, necessarily, intermittent, the office is a full-time position. The coroner is tasked with the investigation of deaths occurring within the county 24 hours a day, 7 days a week and 365 days per year. At any time the coroner is required to investigate deaths. When a death is reported to the coroner, he shall conduct an investigation concerning the circumstances surrounding the death of an individual and gather and review background information, including but not limited to, medical information and any other information which may be helpful in determining the cause and manner of death (ACA 14-15-301). These duties are mandated to be completed in very short timeframes.

The county surveyor locates boundaries of specific properties at the request of the assessor, and establishes disputed property lines upon request of the county, circuit or chancery court (ACA 14-15-702). The surveyor is also county timber inspector and determines the amount of timber cut, records the log markings, and prosecutes persons who remove timber from state owned lands (ACA 15-32-201).

A constable is a constitutional township official, not a county official as some might think. A constable is charged, by law, to conserve the peace in his township (ACA 16-19-301). In order for a constable to have access to information from the Arkansas Crime Information Center

and to carry a firearm, the officer must receive required training. Uniform and vehicle requirements are also mandated for constables in the performance of official duties (ACA 14-14-1314).

The legislative body of county government is called the quorum court and is composed of 9, 11, 13 or 15 members, depending on the population of the county. The quorum court members are called justices of the peace and are elected for two-year terms from districts within the county. These district officials meet each month—more often if necessary—to conduct county business and review ordinances and resolutions for passage. The county judge is the presiding officer over the quorum court without a vote, but with the power of veto. This veto can be overridden with a 3/5ths vote of the total membership of the quorum court (See generally ACA 14-14-801 et seq and 14-14-901 et seq.).

As provided by Amendment No. 55 to the Arkansas Constitution, a county government acting through its quorum court may exercise local legislative authority not expressly prohibited by the Constitution or by law for the affairs of the county (ACA 14-14-801). Some limitations are: The quorum court cannot declare any act a felony (felonies are covered by the State Criminal Code); quorum courts may not participate in the day-to-day administration

of county executive branch offices, and may exercise no authority unrelated to county affairs (ACA 14-14-806).

The quorum court's powers include, but are not limited to, the power to: A) Levy taxes in manner prescribed by law; B) appropriate public funds for the expenses of the county in a manner prescribed by ordinance; C) preserve the peace and order and secure freedom from dangerous or noxious activities—provided, however, that no act may be declared a felony; D) for any public purpose, contract, or join with another county, or with any political subdivision or with the United States; E) create, consolidate, separate, revise, or abandon any elected office or offices except during the term thereof; provided, however, that a majority of those voting on the question at a general election have approved said action; F) fix the number and compensation of deputies and county employees; G) fix the compensation of each county officer with a minimum and maximum to be determined by law; H) fill vacancies in elected county offices; I) provide for any service or performance of any function relating to county affairs; J) to exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions (ACA 14-14-801).

Chapter Two - DUTIES OF THE OFFICE

The county assessor is an elected official in county government. The Constitution of the State of Arkansas provides for the election of the Assessor to a four-year term of office with the requirements that he/she be a qualified elector and resident of the county. In the event of a vacancy in the office, the quorum court fills the vacancy by appointment, the appointee serving until the next general election, when a successor is elected and qualified. An appointee cannot run to succeed herself. Before beginning his/her duties, the assessor must enter into official bond to guarantee his/her proper performance of the duties. This may be accomplished either through the State Fidelity Bond Program, which covers all employees on the payroll, or a Fidelity Bond purchased for the officer. The county assessor must also take the constitutional oath of office.

The county assessor is entitled to that salary fixed for his/her office by applicable law and quorum court appropriation, but he/she cannot keep the various commissions and fees collected in the performance of his duties as the assessor, as in that respect, he/she is only an agent or trustee for the county treasury.

To assist the assessor in the performance of his/her duties, the Assessor may appoint such number of appraisers/deputies as the quorum court may approve. The assessor generally supervises the appraisers/deputies and may discharge them and regulate their employment, within the guidelines established by the quorum court.

The office of the county assessor is to be operated according to the office budget which is established annually by the quorum court of the County.

In general, the duty of the county assessor is to appraise and assess all real property between the first Monday in January and July 1 (ACA 26-26-1101). On and after January 1, 1991, taxpayers shall annually assess their tangible personal property for ad valorem taxes during the period from January 1 through May 31 (ACA 26-26-1408). Taxable tangible personal property of new residents and new businesses established between January 1 and May 31, and taxable tangible personal property acquired by residents during the period from January 1 through May 31, except tangible personal property acquired during the period of May 2 through May 31, shall be assessable without delinquency within thirty (30) days following the date of its acquisition. All taxable tangible personal property assessable during this period shall be assessed according to its market value as of January 1 of the year of the assessment (ACA 26-26-1408). The ten percent (10%) penalty for delinquent assessment shall not apply to tangible personal property becoming

eligible for assessment through May 31, if the property is assessed on or before May 31, except that the tangible personal property acquired during the period of May 2 through May 31, shall be assessable without penalty within thirty (30) days following the date of its acquisition. (ACA 26-26-1408). All property in the state shall be assessed according to its value on January 1, except merchants and manufacturers inventories—which are assessed at their average value during the year immediately preceding January 1 (ACA 26-26-1201)—and motor vehicle dealer inventories, which are determined by calculating the monthly average of the number of sales of new and used motor vehicles by the dealer and multiplying the average by the unit inventory value (ACA 26-26-1207).

The assessor must make an abstract of assessments showing the total assessed value of the county. On or before the third Monday in August, the assessor turns over to the county clerk his Real Property Assessment Book and on or before July 31, the assessor shall deliver the Personal Property Assessment Book likewise to the county clerk (ACA 26-26-716). The county assessor has the legal authority to make any error corrections in the real or personal property tax books after they have been delivered to the county collector provided that the proper pre-numbered triplicate form is used (ACA 26-28-111).

The Assessor is required to maintain current appraisal and assessment records by securing necessary field data and making changes in valuations as they occur in land use and improvements. He/she is also charged with staying abreast of all property transactions within the county and keeping a file on all properties updated throughout the year.

The records of the county assessor's office constitute the report of or appraisal of all the taxable property and persons in the county; therefore, it is necessary that they be accurately recorded and well maintained.

Chapter Three - TIMETABLE

This section was included to assist newly elected county assessors by outlining the most important activities of the office and placing them in a calendar format. This allows the assessor or a member of his/her staff to review the major activities of the office.

The various activities are listed in the month in which they should take place and the Arkansas Code Annotated reference is listed for each.

JANUARY

Assess all property at its value the first day of January, except merchants', manufacturers' and automobile dealers' inventories (ACA 26-26-1201).

Assess at the average stock in possession or under control for valuation of merchants' and manufacturers' inventories during the year immediately preceding the first day of January (ACA 26-26-1203).

Assess automobile dealers' inventories by calculating the monthly average of the number of sales of new and used automobiles by the dealer and multiplying the average by the unit inventory value (ACA 26-26-1207).

Receive from the county clerk, on or before the first day of January of each year, all lists, blanks, and records to be used in the assessment of all real and personal property for the year prepared by the Assessment Coordination Department (ACA 26-26-701).

Record on the assessment records the list of delinquent land tax redeemed or purchased on January of each year (ACA 26-26-721).

Begin appraising and assessing all real property on the first day in January (ACA 26-26-1101).

Begin appraising and assessing all tangible personal property on the first Monday in January (ACA 26-26-1408).

A taxpayer may assess personal property by mail or by telephone or in person (ACA 26-26-1114).

An assessor shall permit assessment of real and personal property of individuals by telephone without a signature verification under oath (ACA 26-26-1114).

FEBRUARY

Report utility and carrier taxes to the Public Service Commission (ACA 26-26-1602).

MARCH

APRIL

MAY

Deadline for assessing and appraising all tangible personal property that is required to be listed for taxation is May 31 of each year (ACA 26-26-1408).

On and after January 1, 1991, taxpayers shall annually assess their tangible personal property for ad valorem taxes during the period from January 1 through May 31. Taxable tangible personal property of new residents and new businesses established between January 1 and May 31, and taxable tangible personal property acquired by residents during the period from January 1 through May 31 shall be assessable without delinquency within thirty (30) days following the date of its acquisition. All taxable tangible personal property assessable during this period shall be assessed according to its market value as of the first day of January of the year of the assessment.

JUNE

The ten percent (10%) penalty for delinquent assessment through May 31, if the tangible personal property is assessed on or before May 31, except that the property acquired during the period of May 2 through May 31, shall be assessable without penalty within thirty (30) working days following the date of its acquisition (ACA 26-26-1408).

JULY

Deadline for appraising and assessing all real property, by the first day of July (ACA 26-26-1101).

On or before July 31, the assessor shall deliver the personal property assessment report or roll book to the county clerk to be arranged in alphabetical order the persons residing outside of incorporated cities and towns of the same school district (ACA 26-26-716).

AUGUST

Equalization Board meets to determine the equability of assessments from August 1 to October 1. However, if August 1 falls on a Saturday, Sunday, or a legal holiday, the meeting shall be held on the next business day (ACA 26-27-309)

Deliver to the clerk of the Board of Equalization the completed assessment tax records on or before the first day of August of each year. However, if August 1 falls on a Saturday, Sunday, or legal holiday, the meeting shall be held on the next business day (ACA 26-26-1103).

Report to the Arkansas Assessment Coordination Department on or before the first day of August of each year, the total assessment of the county (ACA 26-26-304).

Report to the Arkansas Public Service Commission, on or before the third Monday in August of each year, the total assessment of the county (ACA 26-26-1103).

File with the County Clerk on or before the third Monday in August a report of the assessment of all assessable real property in the county (ACA 26-26-716).

SEPTEMBER

OCTOBER

Appeals of the action of the equalization board must be filed on or before the second Monday in October and shall be heard and an order made on or before the fifteenth day of November (ACA 26-27-318).

NOVEMBER

DECEMBER

The Treasurer of State is authorized to withhold the monthly distribution of county turnback aid from counties that do not provide, in a timely manner, information to the State Department of Education concerning the annual abstract of assessment for each school district located wholly or in part in the county (ACA 6-17-917 and ACA 19-5-602(b)).

AD VALOREM TAX CALENDAR

ACTION	FIRST YEAR												SECOND YEAR												
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug					
Sep Oct Nov Dec																									
TAXPAYER -																									
* Assess both Real and tangible personal property from Jan. 1 to May 31. New Residents, new businesses and newly acquired taxable personal property not assessed shall be assessable without delinquency within thirty (30) working days following the date of its acquisition and shall be assessed by May 31 (ACA 26-26-1408).																									
ASSESSOR -																									
- Assesses all real property from the first Monday in January to May 31. (ACA 26-26-1408)																									
* Assess all personal property from the first day of Jan. to May 31. (ACA 26-26-1408)																									
- Report to Assessment Coordination Dept. the total Assessment on the first day of August (ACA 26-26-304).																									
UTILITIES - CARRIERS																									
- Report utility and carrier taxes to the Public Service Comm'n by March 1 and Carrier assessments by March 31 (ACA 26-26-1602).																									
TAX DIVISION -																									
- Report to Counties and Revenue Department by July 15 (ACA 26-26-1612).																									
AD VALOREM TAX CALENDAR																									

AD VALOREM TAX CALENDAR

Responsibilities of the Individual Owner of Real and Personal Property

The Taxpayer

The individual taxpayer has the legal responsibility of reporting to the assessor all of his property between the first Monday in January and the May 31 of each year. For any assessment of personal property taxes, a taxpayer may assess the personal property taxes by mail, by telephone or in person (ACA 26-26-1114). Most people are not aware of this requirement, and they usually assess when they buy their automobile tags. The law requires a "Proof of Assessment" card before one can purchase auto tags. The assessor shall mail to individuals assessing personal property by telephone, within five (five) working days from the date of assessment by telephone, an assessment containing a certification, which shall be provided by the tax collector, indicating whether all required personal property taxes have been paid. The assessor shall provide, if requested, proof of assessment for each motor vehicle assessed and proof of said payment information appropriate for motor vehicle registration renewal by mail (ACA 26-26-1114). A vehicle owner may request a multiyear personal-use vehicle registration for a period of two (2) or three (3) years. It would then be necessary for the assessor to provide the Office of Motor Vehicle with proof of assessment and payment (ACA 27-14-612).

The assessor is required to attach a ten percent (10%) penalty to anyone who does not assess by May 31, except that personal property acquired during the period of May 2 through May 31 shall be assessable without penalty within thirty (30) working days allowing the date of acquisition. (ACA 26-26-1408).

Responsibility of the County Assessor

It is the duty of the assessor to appraise and assess all real property between the first Monday in January and July 1 (ACA 26-26-1101), and all tangible personal property between January 1 and May 31 (ACA 26-26-1408).

The Assessor shall, on or before August 1 of each year, deliver to the clerk of the board of equalization his/her completed assessment tax record, showing the total assessment of the county as made by the assessor. The assessor shall also furnish such other information as the board may request of the assessor. On or before August 1 of each year, the county assessor shall report to the Assessment Coordination Department by total of items and value the total assessment of the county as made by the county assessor. The county assessor shall, on or before the third Monday in August of each year, report to the Arkansas Public Service Commission, by total of items and value, the total assessment of the county as made by the assessor and the commission and in the manner as directed by the commission, as to kind, character, number, and value of all tangible property assessed for taxation in the county and

such other information as the commission may demand of the assessor.

All property in this State shall be assessed according to its value on January 1 except:

Merchants and manufacturers inventories - Assessed at its average value during the year immediately preceding the first of January, and motor vehicle dealers inventories which are determined by calculating the monthly average of the number retail sales of new and used motor vehicles by the dealer and multiplying the average by the unit inventory value (ACA 26-26-1203, 26-26-1205, and 26-26-1207).

On or before July 31, the assessor must make an abstract of assessments, showing the total assessed value of the County. On or before July 31, the Assessor turns over to the county clerk his Real Property Assessment Book and his Personal Property Assessment Book. After July 31, the Assessor has no legal authority to make value changes in any of the assessment books, but is authorized to correct, through proper procedures of the county court, any errors which might exist.

When any county assessor shall determine that the information on tax delinquent parcels is erroneous, whether by legal description, name of record owner, double assessment, or other cause, he/she shall inform the county collector of the change, and the county collector shall forward a cancellation or correction certificate to the Commissioner of Lands (ACA 22-6-116).

When the county assessor discovers extension errors, erroneous property descriptions, classifications, or listings in the real or personal property tax books before the tax books have been delivered to the county collector, the county assessor shall correct the error directly on the tax books and shall maintain a record of the correction in the county assessor's records (ACA 26-28-111(d)).

Responsibility of the Tax Division of the Public Service Commission

The Tax Division of the Public Service Commission is a State agency which is charged with the responsibility of assessing all property, both real and personal, used and/or held for use in the operation of a company, such as: carriers, pipeline, inter-county motor freight, airline, ferry, inter-urban, toll bridge, toll road, or water transportation, and by similar carriers, all telegraph, telephone, electric power, gas water, and other similar companies.

All companies in the above categories are required to report all of their property to the Tax Division by March 1 of each year. The Tax Division compiles this information, makes the appropriate assessments and forwards this information to the various Assessors by July 15 of each year.

The Tax Division assesses approximately ten percent (10%) of all property in the State, and in excess of \$57,000,000 in

county, city, and school revenues is generated each year from these assessments (ACA 26-26-1601 through 1616).

Responsibilities of the Assessment Coordination Department

The Assessment Coordination Department is required each year to run a ratio of assessed value to market value in the assessment year reappraised values are placed on the assessment rolls in each taxing unit in the State, whether county, city, or school district. Property should be assessed at 20% of market value. If a taxing unit falls below 18% of true and full market value on its ratio, it is subject to loose state turnback funds, unless the problem ratio is corrected. By August 1, the county assessor reports to the department the total number of items and value the total assessment of the county. The Assessment Coordination Department reports its initial ratio study by September 15. If the county-wide ratio is below 18%, a second ratio is reported for that county on December 31 (ACA 26-26-304).

If the September 15 ratio for the classifications of market value real estate, personal property (business), or personal property (auto and other) falls below eighteen percent (18%) or above twenty-two percent (22%) of full fair market value for the second consecutive August 1 ratio study, the county shall be deemed to have failed the ratio study and shall be subject to penalties and corrective actions.

Further, where the weighted coefficient of dispersion about the median ratio, as defined by the Assessment Coordination Department, for market value real estate exceeds twenty (20) for the second consecutive August 1 ratio study, the county shall be deemed to have failed the ratio study and will be subject to penalties and corrective actions or the withholding of five percent (5%) of all state turnback funds for all taxing units in the county, whichever is greater (Ark. Admin. Code 177.00.1-4.04.1e).

This shall be effective beginning with the August preliminary ratio study for 1998 (ACA 26-26-304).

No later than January 31 of every year, all counties shall report, by electronic transmission, sales data to the Assessment Coordination Department. The sales data shall include a listing of each property transferred under a warranty or special warranty deed, the consideration paid, the date of the sale, the parcel number, the legal description, the names of the grantor and grantee, the most recent assessed value of the property, and the other data prescribed by the Assessment Coordination Department (ACA 26-26-304).

Responsibilities of the County Equalization Board

As its name implies, the Equalization Board is charged with the responsibility of equalizing assessments within the county. The obligation of an equalization board member is to strive for a balance of countywide equality for a fair tax assessment on all types of property in all the geographic areas of the county. The county equalization board of each county shall consist of five (5) members. However, in

counties having a population in excess of seventy-nine thousand (79,000) persons, according to the most recent federal decennial census, the board may consist of nine (9) members (ACA 26-27-303). The county clerk, or his or her designee, serves as the Secretary of the Equalization Board, and he/she usually handles all reports required of the Equalization Board (ACA 26-27-307).

Where the equalization board consists of five (5) members: one (1) is appointed by the county judge, one (1) is selected by the schools, one (1) is selected by the cities, and two (2) members are appointed by the county quorum court. The quorum court shall appoint a licensed real estate appraiser to a least one (1) of these two (2) positions, but if a licensed real estate appraiser is not available or willing to serve, the quorum court may appoint a licensed real estate broker. If a licensed real estate broker is not available or willing to serve, the quorum court may appoint a licensed real estate salesperson. If a licensed real estate salesperson is not available or willing to serve, the quorum court may appoint any qualified elector of the county. The five (5) members shall be selected from different sections of the county. Where the board consists of nine (9) members: two (2) shall be selected by the school districts; two (2) shall be selected by the cities; two (2) shall be appointed by the county judge; three (3) shall be appointed by the quorum court in the following manner: The quorum court shall appoint a licensed real estate appraiser to at least one (1) of these three (3) positions, but if licensed real estate appraiser is not available or willing to serve, the quorum court may appoint a licensed real estate broker; if a licensed real estate broker is not available or willing to serve, the quorum court may appoint a licensed real estate salesperson; if a licensed real estate sales person is not available or willing to serve, the quorum court may appoint any qualified elector of the county. The selecting or appointing agency in each instance shall select or appoint the members from different sections of the county (ACA 26-27-304).

Each member of a county equalization board shall complete the education and training course overseen by the Director of the Assessment Coordination Department. This course covers the duties and procedures of board members, and it must be completed every three (3) years. Therefore, 1/3 of the board of equalization is required to attend the training each year. The director may waive this requirement for licensed appraisers and attorneys. If a member of a county equalization board fails to meet these requirements, that member may not participate in a hearing before the board until the member becomes certified (ACA 26-27-324).

On or before August 1, the assessor gives to the Board of Equalization his completed assessment records. These records remain with the Equalization Board while they are in session, and they alone have the power to change them during this period.

The duration of the Equalization Board session depends on several factors. If the county ratio study reveals a ratio of 18% or above, and the work load is normal, the Board will meet from August 1 through October 1. An abnormal work load will probably require the Equalization Board to hold a

special session which may last through the first Monday in October. If the ratio is below 18%, the special session may be extended through the third Monday in November. If the ratio problem is so acute that reappraisal is authorized by county officials, the special session could be extended even further, possibly until the first of August of the following year (ACA 26-27-301 through 26-27-312).

The Director of the Assessment Coordination Department shall establish uniform hearing procedures for county equalization boards. An equalization board shall adopt these rules at its initial organization meeting and post them in a conspicuous place. If a member of a county equalization board violates a law or procedure regarding the conducting of county equalization board hearings before or during a hearing, the member of the county equalization board shall recuse from further participation in that hearing, and the county judge will appoint a replacement (ACA 26-27-325).

The Due Process Procedure

If a property owner is not satisfied with his assessment, he must follow a procedure called "Due Process."

The time required for "Due Process" procedure depends upon the length of the Equalization Board session.

Any property owner or an agent of a property owner may apply in person, by petition, or letter to the secretary of the county equalization board on or before the third Monday in August of every year for the adjustment of the county assessor's assessed value on the property owner's property or the property of another person.

A property owner or an agent of the property owner may personally appear before the equalization board or pursue the appeal by supplying written documentation as to the adjustment desired. However, the equalization board does not have jurisdiction over and may not accept or consider a petition for the adjustment of: a county assessor's determination of a property's tax exempt status under the constitution; or the valuation of agricultural land, pasture land, or timberland derived by methods set by ACD (ACA 26-27-317).

The property owner or an agent of the property owner shall notify the secretary who shall schedule a hearing and, if practicable, the hearing shall be held at the convenience of the property owner.

The equalization board shall begin hearing appeals no later than the second Monday in August. On at least one (1) day each week, appeals shall be heard after normal business hours to accommodate working property owners. At the hearing, the assessor presents evidence first, regarding how she came to the valuation of the property that is the subject of the hearing. The appealing property owner then presents any evidence of why the valuation should be different, and the assessor may then rebut that evidence. The board then considers all the evidence and decides to either accept or change the valuation set by the assessor (ACA 26-27-317(d)).

The county equalization board shall decide the merits of an adjustment of assessment application and notify the property owner of its decision in writing at least ten (10) business days after the hearing.

The board's notification shall include the board's decision, the right of the property owner to appeal the board's decision to the county court; the deadline for petitioning the county court for a hearing; and a statement that a petition filed in county court for a hearing on behalf of a corporation, limited liability company, or other business entity shall be signed and filed by an attorney licensed to practice law in Arkansas (ACA 26-27-317).

The assessor or any property owner who may feel aggrieved at the action of the Equalization Board may appeal the Equalization Board's action to the county court by filing a petition of appeal with the county clerk. The appeal must be filed on or before the second Monday in October of each year and shall be heard and an order made on or before November 15. The petitioner will have the burden of proving, by the preponderance of the evidence, that his valuation of the property is correct. A presumption of correctness does not attach to the assessor or the board (ACA 26-27-318).

Responsibility of the Preparer of the Tax Book

After receiving statements of the rates and sums of money to be levied for the current year from the Auditor of State and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, the preparer of tax books shall immediately determine the sums to be levied upon each tract or lot of real property in his or her county, adding the taxes of any previous year that may have been omitted and the sums to be levied upon the amount of personal property listed in his or her county in the name of each person, company, or corporation, which shall be assessed equally on all real and personal property subject to those taxes (ACA 26-28-103).

Responsibility of the County Collector

Property owners may pay their taxes between the first business day of March and October 15. If October 15 is a Saturday, Sunday, or postal holiday, a property tax balance payment is timely received if mailed and postmarked through the United States Postal Service the following business day. (ACA 26-36-201). This period falls in the second year of the "Two Year Ad Valorem Tax Cycle." If they wish, property owners may pay their taxes by installment with two payments of 1/4 and one payment of 1/2 (ACA 26-35-501). No later than July 1 of each year, the sheriff or collector shall be required to mail statements of taxes due by any taxpayer (ACA 26-35-705). When a taxpayer is delinquent in assessing, the county collector is responsible for collecting an additional fifty cents (50¢) for each list the taxpayer is delinquent from. This money will go into the assessor's late assessment fee fund (ACA 26-26-201(d)).

Responsibility of Circuit Clerk and Recorder

The recorder of deeds and mortgages in each county shall, each year, prepare and file with the county assessor a list, alphabetically arranged in the name of the grantor, or a copy of the following which were recorded during the year: all deeds, mortgages, and contracts for the sale of realty; all timber deeds, or contracts, or mineral or royalty deeds; and all eases or contracts of every kind, whether oil and gas or other things leased. The list shall reflect the last known business address or the person owning the rights under the contract, deed, or lease, the date, and the consideration (ACA 26-26-708).

Uniform System of Real Property Assessment

Approximately one-third (1/3) of the state's counties shall complete reappraisal in the year 2002, approximately one-third (1/3) of the state's counties shall complete reappraisal in the year 2003, and approximately one-third (1/3) of the state's counties shall complete reappraisal in the year 2004, as set forth in ACA 26-26-1903.

Except as provided in subdivision (b)(2), any county that has completed a reappraisal under subsection (a) or completed a reappraisal between the years 2002 through 2004 shall not be required to commence or complete an additional reappraisal under the three-year cycle but shall be required to appraise all real property normally assessed by the county assessor at its full and fair market value at a minimum of one (1) time every five (5) years from the previous assessment.

The Assessment Coordination Department shall determine which counties shall be required to complete reappraisals in the years stated in ACA 26-26-1902(b), based on the following criteria: the length of time since the last county-wide reappraisal; the level and quality of assessment within the county; the parcel counts within each county; and the cost of reappraisal (ACA 26-26-1902 and 26-26-1903).

County-wide Reappraisal

Each county in the State of Arkansas shall be required to appraise all market value real estate normally assessed by the county assessor at its full and fair market value at a minimum of one (1) time every three (3) years or one (1) time every five (5) years from the previous assessment as follows:

If, as a result of a three-year reappraisal cycle, the new market value real estate assessment is greater than fifteen percent (15%) from the market value real estate assessment in the county in the year preceding the beginning of the reappraisal cycle, the county shall be required to complete its next reappraisal at a minimum of one (1) time every three (3) years from the previous assessment until the new market value real estate assessment is less than fifteen percent (15%) from the market value real estate assessment in the year preceding the beginning of the reappraisal cycle, at which point the county shall be placed into a five-year reappraisal cycle.

If a county in a five-year reappraisal cycle has a new market value real estate assessment that is twenty-five percent (25%) greater than the market value real estate assessment

in the county in the year preceding the beginning of the reappraisal cycle, the county shall be required to complete its next reappraisal at a minimum of one (1) time every three (3) years from the previous assessment until the new market value real estate assessment is less than fifteen percent (15%) from the market value real estate assessment in the year preceding the beginning of the reappraisal cycle, at which point the county shall be placed into a five-year reappraisal cycle.

The market value real estate assessments shall be calculated by comparing the total values, unadjusted for the assessment increase limitations required under Arkansas Constitution, Amendment 79.

At the time that a county submits its market value real estate assessments to the Assessment Coordination Department (hereafter referred to as the department), the county may appeal its new or continued placement into a three-year reappraisal cycle if the increased market value real estate assessment is a result of a single property improvement.

The department shall place a county in a five-year reappraisal cycle if the department concludes that the increase in the new real estate market value assessment is a result of a single property improvement in the county.

This decision by the department shall be made within thirty (30) calendar days after receiving the appeal.

Each county shall provide the department with the previous and new market value real estate assessments on or before October 1 of the year in which it is required to have completed reappraisal.

The county assessor or other official or officials designated by law shall compare the assessed value of each parcel under a reappraisal or reassessment that is completed in 1999 or later to the assessed value of the parcel for the previous year.

In the first county-wide reappraisal performed after January 1, 2001, by counties subject to Arkansas Constitution, Amendment 79, § 2:

If the assessed value of the parcel increased, then the assessed value of the parcel for the year in which the parcel is reappraised or reassessed shall be adjusted by adding one-third (1/3) of the increase to the assessed value for the year prior to the reappraisal or reassessment; and

An additional one-third (1/3) of the increase shall be added in each of the next two (2) years. (ACA 26-26-1902)

The Objectives of Reappraisal

To establish and promote a uniform system of real property assessments within each county of the state and among the counties;

To provide for the certification of appraisers who perform services under this subchapter and to assure that each has

the training determined by the Assessment Coordination Department to be necessary to perform accurate estimations of the valuation of market-value real property and to conduct county-wide reappraisals which are of a high quality to aid the state in its realization of the objectives of this subchapter;

To establish planning and quality assurance guidelines in each county to ensure that all laws and regulations are met, standards of appraisal accuracy are maintained, work is finished on time, and staff and resources are used wisely;

To furnish materials to aid appraisers in assessing real property;

To pay the costs and expenses of reappraisals as determined by the department to be necessary, prudent, and reasonable in the implementation of this subchapter; and

To ensure that all funds expended by the state for reappraisal services are monitored by the department and only that progress and performance of those services as measured by the department to be within the guidelines established by the department are to be compensated by the state (ACA 26-26-1904).

Rules Relating to Reappraisal Procedure:

To carry out the provisions of this subchapter, the Assessment Coordination Department, as it deems necessary, appropriate, and consistent with the objectives of this subchapter, shall:

Develop and implement rules relating to reappraisal procedures to be followed by counties, specifying annual objectives with respect to the discovery, listing, and valuation of real property for assessment purposes;

Develop and implement rules relating to training, experience, and testing requirements for determining whether a person is qualified to manage a reappraisal.

Any department personnel responsible for approving reappraisal plans or property values resulting from those reappraisals shall be required to meet the same criteria;

Enter into contracts with private entities for appraisal services on behalf of counties on such terms and conditions as the department deems are consistent with the provisions of this subchapter and are necessary and appropriate in its implementation. Title 19, Chapter 11, shall not apply to contracts made under this subchapter and to the expenditure of funds from the Arkansas Real Property Reappraisal Fund.

Each county shall follow the reappraisal procedures established by the department and file a reappraisal management plan with the department no later than November 1 of the year preceding the commencement of the reappraisal.

The plan shall specify a proposed budget, personnel needs, and projected annual progress with respect to the discovery, listing, and valuation of property.

The department shall follow pre-established department rules to determine whether a reappraisal management plan is approved or rejected.

The department shall establish training, experience, testing requirements, and such other criteria as it deems necessary to determine whether a person is qualified to manage a reappraisal performed under this subchapter.

The department shall not approve a reappraisal management plan that does not name a qualified manager.

Employees of the county assessor may be used to reappraise the county and the county assessor or a designated employee may manage the reappraisal if the assessor or the designated employee meets the qualifications established in this subchapter and the rules established under this subchapter.

If the initial reappraisal plan required in subsection (b) of this section as submitted by the county assessor is rejected by the department, the county assessor shall be allowed to submit an alternate plan within thirty (30) days of the rejection of the initial plan.

If the alternate reappraisal management plan is rejected by the department, the county shall employ and enter into a contract for professional services with a professional reappraisal company on behalf of all taxing units in the county as set forth in subsection (f) of this section.

The county assessor may enter into a contract for professional services with a professional reappraisal company when both the proposed contract and the reappraisal management plan submitted by the contractor have been approved by the department.

If the initial reappraisal plan submitted by the contractor is rejected by the department, the contractor shall be allowed to submit an alternate plan. If the second reappraisal management plan is rejected by the department, it shall write a reappraisal management plan that the county shall employ and enter into a contract for professional services with a professional reappraisal company on behalf of all taxing units in the county.

The reappraisal contract must be accompanied by an approved reappraisal management plan. (ACA 26-26-1905)

Computer-assisted Mass Appraisal Systems:

County assessors or those otherwise responsible for the valuation of real property for assessment purposes shall employ computer-assisted mass appraisal systems approved by the Assessment Coordination Department. Information stored in the electronic database used in the computer-assisted mass appraisal system shall include, but not be limited to, pertinent physical characteristics and historical

sales prices of each property in the county. The department shall have access to view and obtain the data stored in each county's computer-assisted mass appraisal system via common-use technologies as determined by the department, including without limitation:

- The Internet;
- Network technologies;
- Phone line and modem technologies;
- Compact disk technologies;
- Magnetic tape technologies; or
- Other similar common-use technologies.

(ACA 26-26-1906)

Applicability of Relation to Ad Valorem Tax:

The provisions of ACA 26-26-401 - 26-26-410 relative to the adjustment or rollback of millage levied for ad valorem tax purposes shall be applicable when a county-wide reappraisal of property is completed as provided in the reappraisal process previously described (ACA 26-26-1908).

Relation to Previous Requirements:

Implementation of the reappraisal process does not relieve a county of any previous requirements for reappraisal (ACA 26-26-1909).

Scope:

The provisions of this reappraisal process shall not affect either the duties of the equalization board or the county assessor's duties in relation to the assessment of personal property or any other responsibilities of the county assessors not directly addressed in this subchapter (ACA 26-26-1910).

The Authority of the Assessment Coordination Department:

The Assessment Coordination Department shall promulgate regulations for the implementation of this reappraisal process (ACA 26-26-1911).

Notice of Reappraisal:

Prior to any county-wide reappraisal of property for ad valorem tax purposes, the county assessor or the assessor's employees or agents shall notify the property owners of the assessor's intent to reappraise at least forty-five (45) calendar days prior to the reappraisal.

Prior to any reappraisal of an individual's property for ad valorem tax purposes other than a county-wide reappraisal, the county assessor or the assessor's employees or agents shall give the property owner reasonable notice of the assessor's intent to reappraise his or her property.

The notice may be accomplished by publication in newspapers, by radio, by television, by direct mail, or by any other reasonable means.

If a reappraisal results in an increase in the assessed value of the property, the county assessor shall note in writing on

the assessment records the justification for the increase, the date the property was inspected, and the details of the inspection. The records of the appraisal shall be public records subject to inspection under the Freedom of Information Act of 1967, as amended (See ACA 25-19-101 et seq.).

Any property owner whose property is reappraised may appeal to the county board of equalization, and the county board is required to grant an adequate hearing on the appeal (ACA 26-26-1307).

Rules Relating to Reappraisal Procedures:

The reappraisal management plan shall specify a proposed budget, personnel needs, and projected annual progress with respect to the discovery, listing, and valuation of property.

Arkansas Real Property Reappraisal Fund

The State has created a fund known as the "Arkansas Real Property Reappraisal Fund."

The proceeds of the fund shall be used to pay counties and professional reappraisal companies for the reappraisal of real property and shall be in lieu of real property reappraisal funding by the local taxing units in each county of this state.

For cause and after an opportunity for a hearing, the Director of the Assessment Coordination Department may suspend or terminate the contract of any appraisal firm or county.

The fund proceeds shall be distributed monthly, except when there is a determination by the Assessment Coordination Department that proper reappraisal procedures established by the department are not being followed.

Upon a finding by the department that proper reappraisal procedures are not being followed, the county assessor or contractor shall be notified that the reappraisal is out of compliance with accepted guidelines as established.

The department shall notify the county assessor or contractor in writing that the county assessor or contractor has thirty (30) days in which to bring the reappraisal into compliance.

If there is a further finding that proper reappraisal procedures are not being followed, the contract shall be promptly terminated and the department shall negotiate another contract and reappraisal management plan for the completion of the reappraisal project.

Based on its expertise and the criteria and requirements set forth by law, the department shall establish by rule the findings that indicate proper reappraisal procedures are not being followed.

At the end of each countywide reappraisal, the department shall issue a report of the status of the county (ACA 26-26-1907).

Implementation of a county-wide reappraisal does not relieve a county of any previous requirement for a reappraisal and shall not affect either the duties of the county equalization board or the county assessor's duties in relation to the assessment of personal property or any other responsibilities of the county assessors not directly addressed under the law and rules pertaining to county-wide reappraisals. The Assessment Coordination Department shall promulgate regulations for the implementation of countywide reappraisals under this subchapter (ACA 26-26-1909 through 1911).

Limitations on Reappraisals:

Property shall not be reappraised for ad valorem tax purposes more than once every five (5) years unless the reappraisal is the result of a county-wide reappraisal.

Except as provided in the next paragraph, property shall not be reappraised for ad valorem tax purposes more than one (1) time every five (5) years unless the reappraisal is the result of a countywide appraisal.

Producing mineral interests shall be reappraised annually for ad valorem tax purposes.

In the event that there is a county-wide reappraisal of property for ad valorem tax purposes in any county, taxes shall not be assessed on the basis of the reappraised value of any property in the county until all taxable property in the county has been reappraised.

When a county-wide reappraisal of property is completed in any county and taxes are first assessed on the newly reappraised values, the provisions of Arkansas Constitution,

Amendment 59 and ACA 26-26-401 through ACA 26-26-410 relative to the adjustment or rollback of millage levied for ad valorem tax purposes shall be applicable.

Newly discovered real property, new construction and improvements to real property, and personal property shall be listed, appraised, and assessed as otherwise provided by law until the county-wide reappraisal of property is completed (ACA 26-26-1308).

Property Tax Relief Trust Fund.

On or before December 31 of each year, the Chief Fiscal Officer of the State, in cooperation with the Legislative Council and the Legislative Auditor, shall determine that portion of the balance remaining in the Property Tax Relief Trust Fund that is in excess of the required reimbursement to the counties and shall certify the excess to the Treasurer of State. Beginning December 31, 2005, and on December 31 of each subsequent year, the Treasurer shall: calculate an amount equal to one percent (1%) of the amount of the excess funds certified; calculate each county's proportionate share of the amount calculated based on the proportions used to reimburse the county for property tax reductions; and transfer the amount calculated to the county treasurer for allocation to the county assessor. These funds shall be used by the county treasurer for the costs—including personnel, equipment, services, and postage—used in the administration of Arkansas Constitution, Amendment 79. The Legislative Auditor shall audit the books and records of the county assessor, etc. to ensure that the amount of the property tax reduction certified by the county collector is accurate (ACA 26-26-310).

Chapter Four - DESCRIPTION OF RECORD FILES - (BOOKS)

This section was included to assist newly elected county assessors by described the commonly kept record files in the office of the assessor. The following is a description of the records that are kept in some assessors' offices around the state. These records are not necessarily required by law to be kept in this format, but are kept in this manner as a practice of good office management.

DESCRIPTION OF RECORD FILES

PERSONAL PROPERTY CARD FILE - This is a card file listed in alphabetical order by last name of taxpayer and by school district or city. Also, listed on this card is the last year that a person assessed taxes and the school district where the property is located.

MILLAGE CHART - This is a chart which could be placed on the wall for all taxpayers to see. It lists each taxing unit in the county and the appropriate millage to be levied for each unit.

PERSONAL PROPERTY ASSESSMENT SHEET - This is a form provided by the Assessment Coordination Department which is filled out on every taxpayer owning personal property in the county. A copy of this sheet is kept in the Assessor's office for each taxpayer for the last five years. These sheets serve as the basis for the assessed valuation of each taxpayer's personal property. The sheets need to be filed alphabetically by the last name of the taxpayer and by the school district or city-rural.

INACTIVE PERSONAL PROPERTY FILE - The assessor should maintain an inactive file of people who may have changed address, died or just forgotten to assess. This file should be worked to try to locate these taxpayers and keep this file as small as possible. If a taxpayer did forget to assess, this assessment should be added to the assessment book along with a 10% penalty if it was after May 31.

LISTING OF AUTOS LICENSED - The Motor Vehicle Division provides each Assessor a yearly listing of every car or truck licensed in the county. This list contains the license number, the name and address of the person, expiration date or license, and the make and model of the car.

ASSESSMENT LIST - After May 31 of each year, the assessor should develop a list of people who assessed last year, but did not assess in the current year. Notice (postcard) should then be sent to those persons who have not assessed to make them aware that they have not assessed and that a 10% penalty will be added to their assessment. This postcard notification allows the assessor to purge his files of people who have moved. If no response is received after the post card, the assessor checks with the post office for any forwarding addresses, the telephone book, the voter registration, the city water hookups, or the motor vehicle division to try to locate the taxpayer.

PERSONAL PROPERTY MANUAL - This manual is provided by the Assessment Coordination Department of the Public Service Commission and it lists the market valuation of personal property. It contains values on all types of motor vehicles, aircraft, boats, farm equipment, household goods, and livestock. The assessed valuation of the motor vehicles is based on the age of the motor vehicle, so the older model of the vehicle, the less valuation. This depreciation schedule drops vehicles off their schedule after 10 years. Some assessors have developed their own depreciation schedules which will keep those older vehicles on the same rate of depreciation until they reach a minimum value. The logic is that as long as a person licenses a vehicle it will be driven and utilized by that person and thus represents value to him/her.

REAL ESTATE CARDS - A record of each piece of real estate (land, home, business, etc.) is kept by the assessor. This information is usually kept on real estate cards. These cards are divided into five types: Rural Real Estate - Residential Real Estate - Commercial Real Estate - Urban Real Estate - Industrial Real Estate.

The information these cards contain include: a listing of all improvements to the property-i.e. fences, structures, roads, etc.; a drawing of each structure and the type of materials used in construction; and the legal description, recent sales history on the property, condition of the property, and what crop is currently being grown on the property.

ASSESSOR'S REAL ESTATE TAX BOOK - The official book in which the various parcels of the county are assessed and a valuation added. This book contains the parcel number, the name of the property owner, a parcel description, land value, improvement value, total value, school district in which parcel is located, and timber acreage.

CROSS INDEX CARD FILE - This file is kept by the assessor and lists the name of the taxpayer alphabetically by last name and by school district or city where the property is located. This card lists all of the parcel numbers of property owned by a particular taxpayer and the household valuation of each.

PLATS - The assessor must keep a plat map of all land in the county. It should be drawn by subdivision and updated if any new developments have grown up in the county. All property should be easy to locate using the section-township-range.

AERIAL PHOTOS - A set of updated aerial photos make the work of the assessor, and especially the outside appraiser, much easier. These photos show all the structures, improvements, and timber located on each parcel of land in the county. Aerial photos are very expensive to make and can only be made on very clear days in the fall and spring. The Arkansas Soil Conservation Service and the Arkansas Highway and Transportation Department utilize aerial

photography from time to time, so when your county is considering a new set of photos, check with these agencies.

OWNERSHIP MAP - It is very helpful for the assessor to keep a plat map which shows the owner of each parcel of real property within the county.

Chapter Five - RECORD RETENTION SCHEDULE

13-4-201. Electronic reproduction of court records.

Court clerks and any other public officers whose duty it is to make and maintain court records are authorized to use and employ an approved system of photographic recording, photostatic recording, microfilm, microcard, miniature photographic recording, digital compact disc, optical disc, and any other process that accurately reproduces or forms a durable medium for reproducing the original.

13-4-202. Requirements for format and storage of records.

When equipment necessary for such methods of recording is used to record court records, it shall meet all of the following requirements:

(1) The information retained shall be in a usable and accessible format capable of accurately reproducing the original over the time periods specified in § 13-4-301 et seq.;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect those records against media destruction or deterioration and information loss; and

(4) A retention conversion-review schedule shall be established to ensure that electronically or optically stored information is reviewed for data conversion or recertification at least one (1) time every five (5) years or more frequently when necessary to prevent the physical loss of data or technological obsolescence of the medium.

13-4-204. Destruction of original.

(a) When any document is recorded by the means prescribed by § 13-4-201, the paper original may be destroyed unless the document is over fifty (50) years old and handwritten or has been determined to be of historical value by the Arkansas State Archives.

(b) If the paper original does not meet these criteria, the electronically stored document shall be considered the "original" document and shall be treated as such when proffered with the recorder's certification.

13-4-301. - Retention required — Destruction.

(a) A county shall maintain the records named in this subchapter for the period of time provided for herein, after which time the records may be destroyed, but in no case shall said records be destroyed until at least one (1) year after an audit by Arkansas Legislative Audit or any private auditor is completed and approved. A record named in this subchapter that is over fifty (50) years old shall not be destroyed before written notice by the custodian of the records and describing the scope and nature of the records in question has been furnished to the Arkansas State Archives, at least sixty (60) days before the destruction of the records.

(b) If a record is photographically or electronically transferred to other media of a permanent nature, the

original documents may be destroyed, except that no handwritten records over fifty (50) years old shall be destroyed. A county record that is photographically or electronically transferred to other media of a permanent nature shall be transferred by a process that accurately reproduces or forms a durable medium for reproducing the original.

(c) When county records are transferred to other media of a permanent nature, the resulting transfer shall meet the following requirements:

(1) The information in the county record retained shall be transferred into a usable and accessible format capable of accurately reproducing the original over the time periods specified in this section and §§ 13-4-302 – 13-4-308;

(2) Operational procedures shall ensure that the authenticity, confidentiality, accuracy, reliability, and appropriate level of security are provided to safeguard the integrity of the information in the county record;

(3) Procedures shall be available for the backup, recovery, and storage of records to protect the records against media destruction or deterioration and information loss; and

(4) A retention conversion-and-review schedule shall be established by each county official to ensure that electronically or optically stored information, for records required to be kept permanently, is reviewed for data conversion at least one (1) time every four (4) years or more frequently when necessary to prevent the physical loss of data or loss due to technological obsolescence of the medium.

(d) Before any record shall be destroyed, the custodian of the record shall document the date and type of document.

(e) Records not addressed explicitly under this subchapter may be destroyed no sooner than three (3) years after an audit by Arkansas Legislative Audit or any private auditor is completed and approved.

13-4-302. Court records.

If a county of the State of Arkansas maintains records for the county courts, the county shall maintain these records as follows:

(1)(A) For circuit court, civil and criminal, domestic relations, juvenile, and probate records:

(i) Permanently maintain:

(a) Complete case files and written exhibits for all courts;

(b) Case indices for all courts;

(c) Case dockets for all courts;

(d) Grand jury reports;

(e) Grand juror lists;

(f) Petit jury lists in criminal cases;

(g) Original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a criminal case; and

(h) All probate records required to be maintained under § 28-1-108;

- (ii) Maintain for ten (10) years, after audit by Arkansas Legislative Audit:
- (a) Records and reports of costs; and
 - (b) Fees assessed and collected; and
- (iii) Maintain for three (3) years, after audit by Arkansas Legislative Audit:
- (a) Canceled checks;
 - (b) Bank statements; and
 - (c) Petit jury lists in civil cases and original records, documents, and transcripts relating to the summoning of jurors and jury selection for a petit jury in a civil case; and
 - (d) Served and quashed warrants.
- (B) The county shall maintain records of the juvenile division of circuit court, in accordance with § 9-27-309 and other provisions of Title 9 and the Arkansas Juvenile Code of 1989, § 9-27-301 et seq.;
- (2) For county court records:
- (A) Permanently maintain:
- (i) County court records;
 - (ii) Cemetery permits;
 - (iii) Statement of receipt and expenditures; and
 - (iv) County improvement district reports; and
- (B) Maintain for ten (10) years, after audit by Arkansas Legislative Audit:
- (i) County court files;
 - (ii) County general claims docket;
 - (iii) County road claims docket;
 - (iv) Contracts for lease-purchase on rental payments;
 - (v) County school board financial reports;
 - (vi) Solid waste disposal revenue bonds; and
 - (vii) Allocation of state funds for solid waste disposal; and
- (3) For quorum court records:
- (A) Permanently maintain:
- (i) Ordinance, appropriation ordinance, and resolution registers;
 - (ii) Record of proceedings;
 - (iii) Codification of ordinances;
 - (iv) Registers of county advisory and administrative boards;
 - (v) Appointments to subordinate service districts; and
 - (vi) Quorum court minutes; and
- (B) Maintain for one (1) year the county treasurer's monthly financial report.

13-4-303. Tax and assessment records.

All counties of the State of Arkansas shall maintain county tax and assessment records as follows, if they are currently being maintained:

- (1) For tax and assessment records:
- (A) Permanently maintain:
- (i) Real estate, personal, and mineral tax book;
 - (ii) Delinquent real estate;
 - (iii) Personal property list;
- (iv) Lands forfeited to the state, and minerals;
- (v) Land book of state and federally owned lands;
- (vi) Clerk's deed of land sold for taxes;
- (vii) Journal of proceedings of the county equalization board;
- (viii) Final settlement of tax books; and
- (ix) Original charge for all taxing units and certification;
- (B) Maintain for seven (7) years:
- (i) Real estate and personal assessment record;
 - (ii) Real estate and personal tax receipts recorded in tax books; and
 - (iii) Redemption certificate;
- (C) Maintain for five (5) years after rollback is complete: Certification of tax adjustment for public utilities and regulated carriers (computation of utility tax);
- (D) Maintain for three (3) years:
- (i) Delinquent personal tax settlement;
 - (ii) Land redemption report;
 - (iii) State lands distribution; and
 - (iv) Monthly tax distribution;
- (E) Maintain for one (1) year, after audit by the Division of Legislative Audit:
- (i) Valuation of real and personal property of utilities; and
 - (ii) Real and personal property tax correction forms;
- (2)(A) For county assessor's records, maintain for five (5) years:
- (i) Real estate appraisal card after reappraisal;
 - (ii) Lists of names of taxpayers furnished to assessor by school boards;
 - (iii) The personal, commercial, and industrial assessment forms; and
 - (iv) Inactive homestead credit documents.
- (B) Prior to destruction of these forms, the documents shall be made available to the county collector;
- (3) For county collector's records:
- (A) Maintain permanently:
- (i) Certified delinquent real estate list with publication certificate;
 - (ii) Certified delinquent list for real estate forfeited to the Commissioner of State Lands with publication certification;
 - (iii) Personal property tax book;
 - (iv) Certified delinquent personal property list; and
 - (v) Delinquent ad valorem tax lists for oil and gas interests;
- (B) Maintain for ten (10) years: Tax settlements;
- (C) Maintain for seven (7) years:
- (i) Real estate redemption certificates;
 - (ii) Cash receipts and disbursement journal; and
 - (iii) Collector's copy of tax receipts; and

- (D) Maintain for three (3) years:
 - (i) Daily collection reports; and
 - (ii) Distraint of goods and garnishment to pay delinquent personal taxes.

13-4-304. Financial records.

All counties of the State of Arkansas shall maintain financial records for the county as follows, if they are currently being maintained:

- (1) FICA – Social Security and federal income tax records maintained per federal regulations;
- (2) State Income Tax records maintained per state law and regulations;
- (3) Wage garnishments maintained until after a lien is satisfied;
- (4) (A) Maintain for seventy-five (75) years:
 - (i) Payroll records and ledger; and
 - (ii) Retirement records;
- (B) Maintain for ten (10) years:
 - (i) Appropriation journal (record of disbursements); and
 - (ii) Warrant register or check disbursement record;
- (C) Maintain for seven (7) years:
 - (i) County general claims certificate or invoice;
 - (ii) County road claims certificate or invoice; and
 - (iii) County school claims certificate or invoice;
- (D) Maintain for five (5) years:
 - (i) Unemployment insurance state contribution; and
 - (ii) Workers' compensation insurance payment; and
- (E) Maintain for three (3) years:
 - (i) Warrants or checks, or both, with documentation;
 - (ii) Bank records for trust, agency, fee, and court accounts (bank statements and canceled checks); and
 - (iii) Receipt books and disbursement journal;

(5) For county treasurer's records:

- (A) Maintain permanently:
 - (i) Treasurer's operating and clearing account ledgers;
 - (ii) Treasurer's trust and agency account ledgers;
 - (iii) Treasurer's city account ledgers;
 - (iv) Treasurer's improvement district account ledgers; and
 - (v) Treasurer's school district account ledgers;
- (B) Maintain for seven (7) years:
 - (i) Land redemption receipts;
 - (ii) Annual settlement with county court; and
 - (iii) Record of school bond indebtedness and matured school district bonds; and
- (C) Maintain for three (3) years:

- (i) Receipt books;
- (ii) Bank statements and canceled checks;
- (iii) Canceled warrants;
- (iv) Treasurer's monthly reconciliation;
- (v) Treasurer's monthly report to quorum court;
- (vi) Delinquent land redemption distribution reports;
- (vii) Delinquent personal distribution reports;
- (viii) County officials' monthly reports;
- (ix) Municipal court monthly reports;
- (x) Treasurer's monthly report to prosecuting attorney;
- (xi) School district bank statements;
- (xii) Annual report to county school supervisor;
- (xiii) Register of school warrants;
- (xiv) Teachers and school employee contracts; and
- (xv) Surety bond of school district treasurer and superintendent.

13-4-305. Recorder's records.

All counties of the State of Arkansas shall maintain county recorder's records for the county as follows, if they are currently being maintained:

- (1) Maintain permanently:
 - (A) Deeds, mortgages, assignments, and all other conveyance records;
 - (B) Forfeited land records;
 - (C) Timber, mineral, oil and gas deeds and leases;
 - (D) Surveys;
 - (E) Subdivision plats;
 - (F) Lien records;
 - (G) Military discharge records; and
 - (H) Indices to all records; and
- (2) Maintain for ten (10) years: Notary public bonds and official appointment bonds.

13-4-306. Voter registration and election records.

All counties of the State of Arkansas shall maintain county voter registration and election records for the county as follows, if they are currently being:

- (1) Maintain permanently:
 - (A) Voter registration record files;
 - (B) Maps of election precincts from the county election commissioners;
 - (C) Certificate of election; and
 - (D) Ordinance election results; and
- (2) (A) Maintain for ten (10) years, after canceled: A person's voter registration record and reason for cancellation of a person's voter registration.
- (B) Maintained for ten (10) years:
 - (i) Minutes of the board of election commissioners; and
 - (ii) Election files.
- (C) Maintain for five (5) years:
 - (i) Petition, certificate, and notices for ordinance;
 - (ii) Political practice pledge;

- (iii) Campaign contribution and expenditure sheets;
- (iv) Code of ethics statements; and
- (v) Financial disclosures.

(D) Maintained for two (2) years:

- (i) Acknowledgement notices giving the disposition of a person's voter registration application;
- (ii) Precinct voter registration lists prepared for each election;
- (iii) Confirmation notices mailed by a county clerk to confirm a voter's change of residence or name;
- (iv) Confirmation return cards received in response to a confirmation notice;
- (v) Absentee ballot applications and lists, except where litigation follows or federal law governs; and
- (vi) Voter registration cards; and

(E) Until an election is certified to the Secretary of State under § 7-5-701, all unused ballots.

13-4-307. Marriage records — License and bond records.

All counties of the State of Arkansas shall maintain county marriage records, licenses, and bonds records for the county as follows, if they are currently being maintained:

(1) Maintain permanently:

- (A) Marriage record and index;
- (B) Clerical licenses and credentials;
- (C) Medical license for physicians, physical therapists, podiatrists, osteopaths, and chiropractors; and
- (D) Record of marks and brands;

(2) Maintain for seven (7) years:

- (A) Surety bonds for county and township officials (until 1986);
- (B) County employees blanket bonds;
- (C) Oaths and bonds of county officials, deputies, school supervisors, etc.; and

(3) Maintain for one (1) year:

- (A) Notice of intention to wed;
- (B) Going-out-of-business sale license;
- (C) Bond for going-out-of-business sale license;
- (D) Transient merchant license;
- (E) Transient merchant license bond;

- (F) Garnishment bonds; and
- (G) Mercury refiner's license.

13-4-308. Corporation records.

All counties of the State of Arkansas shall maintain corporation records for the county, if they are currently being maintained, permanently as follows:

- (1) Articles of incorporation;
- (2) Certificate of business under assumed name;
- (3) Articles of amendment;
- (4) Registration of fictitious names of corporation;
- (5) Articles of merger or consolidation;
- (6) Change of registered office or agent;
- (7) Authorized share of stock;
- (8) Cancellation of shares; and
- (9) Certificate of dissolution of corporation.

28-1-108. Records.

The following records of the court shall be maintained:

(1) An index in which files pertaining to estates of deceased persons shall be indexed under the name of the decedent, and those pertaining to guardianships under the name of the ward. The file and docket number shall be shown after the name of each file;

(2) A docket in which shall be listed in chronological order under the name of the decedent or ward all documents filed or issued and all orders made pertaining to the estate, including:

- (A) The dates thereof;
- (B) The names and addresses of fiduciaries and of attorneys for parties in interest when and as known to the clerk;
- (C) Reference to the volume and page of any record which shall have been made of the document or order; and
- (D) Other data as the court may direct;

(3) A record of wills, properly indexed, in which shall be recorded all wills admitted to probate with the certificate of probate thereof;

(4) Other records as may be required by law or the court.

Chapter Six - WORK PROCESS DESCRIPTIONS

This section of the manual is designed to assist county assessors, newly elected and experienced alike, with daily office operations. The processes enumerated were selected because they comprise the major functions of the county assessor's office.

In reading the work processes described on the following pages, it should be remembered that these are only examples of ways to perform the functions and not the only way to perform them.

NEW TAXPAYER IN THE COUNTY/CITY

When a new taxpayer moves into the county and assesses his/her property, he/she usually wants to know what his/her taxes will be for the next year. The assessor should review the assessment with the taxpayer and tell him/her that the assessor only arrives at a value of property and not the tax due. The assessor should then provide the taxpayer with an estimate of taxes which will be due but reminding the taxpayer that the millage rate is subject to change with voter approval and/or levy of the quorum court.

It is good for an assessor, as well as for any other county official, to be aware of the activities that go on in the courthouse. The assessor especially needs to know about the various instruments which can transfer title to property. Examples of these instruments could be a deed which is filed in the circuit clerk's office, a will or probate court record found in the county clerk's office, or a divorce settlement which would be in the circuit clerk's office.

ANNEXATIONS

Annexations to a city or school district can cause a great deal of work for the assessor's office. If the land that is annexed is a subdivision which is already plotted it should not be a difficult task. If the annexation doesn't follow an established landmark or straight line it can be a very time-consuming process. The assessor will need to replat all of the land taken in by the annexation, assess and appraise the land, and separate out the surrounding lands. Rural lands are measured in metes and bounds, whereas city land is measured in lots and subdivisions (ACA 14-40-201, et al; 14-14-301 et al; 14-40-609; and 26-26-1108).

COMPILING THE PERSONAL PROPERTY AND REAL ESTATE ASSESSMENT BOOKS

The Assessor is required by law to appraise and assess all real property between the first Monday in January and July 1, and all personal property between January 1 and May 31 (ACA 26-26-1101 and 26-26-1408).

Some counties are automated, and this process may be a lot easier to accomplish in those counties since they may just

input property changes during the past year and not have to recreate an entire file.

The process for the personal property and real estate assessment books is almost identical, but it is more difficult to compile the real estate books.

STEP 1 The Assessor or his/her staff begins this process after May 31 by pulling the current assessment sheets for each taxpayer out of the file—which is already in alphabetical order—and listing the name, address, taxing unit, and total valuation. This is compiled in alphabetical order by taxing unit.

The process is repeated on the real estate book, except the individual cards are pulled from the file and the same information is listed, such as name, address, taxing unit, and total valuation. If a taxpayer owns property in more than one district, his/her name is usually just listed once and the combined valuations are listed with it.

STEP 2 The Tax Division of the Public Service Commission assesses and appraises the public utilities and common carriers of this state. The information on the valuation is then sent to each assessor across the state to be added to the assessment books. This includes both personal property and real estate property valuation. These valuations are added to the valuations of the various taxing units on the assessment books.

STEP 3 The valuation of each taxing unit and of the total personal and real estate is tabulated.

COMPILED THE ABSTRACT OF ASSESSMENTS

The Assessor is required to develop an abstract of assessments showing the total assessed value of the county. This must be submitted to the Assessment Coordination Department by August 1 of each year (ACA 26-26-304).

STEP 1 Most of the work has been completed on this abstract once the personal property and real estate assessment books have been compiled. The real estate book should be examined closely and notation made of property owners who own property in more than one taxing unit.

STEP 2 A proper form should be obtained from the Assessment Coordination Department.

STEP 3 These properties should be divided and the valuation on each separated to the various taxing units where the property is located.

STEP 4 A double check should be made by reviewing the cross-index file which lists multiple properties

of each land owner. Also, the deed file should be examined to make certain all transactions were noted.

STEP 5 The valuation for each taxing unit is now available by adding the valuations for each.

STEP 6 Each taxing unit is now sent the total valuation of the property within their taxing unit to assist them in planning a budget for the upcoming year.

RECEIVING DEEDS FROM CIRCUIT CLERK

STEP 1 The recorder of deeds and mortgages in each county shall, each year, prepare and file with the county assessor a list, alphabetically arranged in the name of the grantor, or a copy of the following which were recorded during the year: all deeds, mortgages, and contracts for the sale of realty; all timber deeds or contracts, or mineral or royalty deeds; and all leases or contracts of every kind, whether oil and gas or other things leased. The list shall reflect the last known business address of the person owning the rights under the contract, deed, or lease; the date; and the consideration.

STEP 2 The Assessor or staff accepts the copy and makes the appropriate change on the tax book. If the property was split off from a larger acreage, a notation is made, the property is assigned a parcel number, the name is changed on the property record (work cards), and the cross index file is changed.

STEP 3 The Assessor or staff changes the assessment on the property with reference to the deed and a new appraisal is made.

STEP 4 A file is maintained on all deeds received from the circuit clerk to be used as support documentation for the change made in the tax book (ACA 26-26-708).

ASSESSMENT OF PERSONAL PROPERTY

Taxpayers in the county are responsible for assessing their personal property between January 1 and May 31 each year (ACA 26-26-1408).

STEP 1 In most counties, the taxpayer walks into the Assessor's office and asks to assess his/her property. This is probably not the case in a lot of instances where the taxpayer says he/she has to assess his/her personal property to get his/her car licensed.

STEP 2 The Assessor or his/her assistant asks the name and address as well as the school district where the taxpayer's lives or where his/her property is located. The file is pulled which contains the taxpayer's last year assessment sheet. Most counties use different colored assessment sheets for each year. This makes it easier to locate a particular year's assessment sheet.

STEP 3

The assistant or deputy reviews the sheet with the taxpayer with questions like: Do you still have your 1989 Chevrolet Caprice? Do you still have your boat and motor? Do you still reside at 517 Main Street?

The Assessor or assistant completes a new assessment sheet while he/she reviews the information with the taxpayer. If the taxpayer is a merchant or businessperson, he/she is asked to fill out the appropriate form, designed by the Assessment Coordination Department, regarding commercial and industrial property owners.

STEP 4

The assessment sheet is signed and dated by the taxpayer and the Assessor. The original is kept by the Assessor's office and the taxpayer gets the duplicate copy for his/her assessment records (ACA 26-26-1408).

STEP 5

A taxpayer may assess his/her personal property taxes by mail, or telephone, or in person. The assessor shall permit assessment of real and personal property of individuals by telephone without written verification under oath. The assessor shall mail to individuals assessing personal property by telephone, within five (5) working days from the date of assessment by telephone, and assessment containing a certification, which shall be provided by the tax collector, indicating whether all required personal property taxes have been paid. The assessor shall provide, if requested, proof of assessment for each motor vehicle assessed and proof of said payment information appropriate for motor vehicle registration renewal by mail (ACA 26-26-1114).

STEPS NECESSARY TO CERTIFY DELINQUENT REAL ESTATE TO THE STATE

STEP 1

All real estate upon which the taxes have not been paid for one (1) year following the October 15 due date, shall be forfeited to the State of Arkansas and transmitted by certification to the Commissioner of State Lands for collection or sale.

STEP 2

Date to transmit delinquent lands to the State must be no later than July 1 of the following year after the date of delinquency.

STEP 3

Not less than thirty (30) days, nor more than forty (40) days prior to certification the County Collector must publish in a local newspaper the following:

- a list of all real property not previously redeemed;
- the names of the owners of record;
- the amount of taxes, penalties, interest and costs owed;
- the date on which the period of redemption expires; and
- notice that unless redeemed, the lands will be forfeited to the State

STEP 4

Prior to certification to the Commissioner of State Lands, the County Assessor must:

- verify the assessment to establish value on all parcels to be certified;
- verify the name and last known address of the owner of record of the tax delinquent land; and
- determine whether the tax delinquent land exists--and if it is found to be nonexistent, remove the delinquent entry from the assessment rolls.
- no tax delinquent lands shall be transmitted to the Commissioner of State Lands without the Assessors' verification (ACA 26-37-101 through 26-37-103).

j. Recommend a registered list of appraisers and/or appraisal firms who are qualified to accomplish county-wide reappraisal projects for the purpose of assessment evaluations, to the officials and/or appointed agents of units of government considering such appraisal projects.

k. Approve or disapprove the work of appraisers or appraisal firms employed by taxing unit officials.

The Assessment Coordination Department's goal is to ensure fair and equitable valuation of property for ad valorem tax purposes. All real and personal property, except that specifically exempted by the state constitution, is taxable in Arkansas. The Department provides consultation, education and audit services to county assessors.

Substantial changes in property assessment and taxation administration have occurred over the last several years leaving assessors, the ACD and other county offices challenged to build systems implementing these changes. The ACD works with advisory groups consisting of county assessors, employees and contractors to develop policy, rules and proposed legislation to help build these systems. These include the Ad Valorem Workgroup, Rules Committee, and nine "Best Practices Advisory Groups" which consist of: Mass Appraisal-Residential; Mass Appraisal-Commercial; Mass Appraisal-Agricultural; Mass Appraisal-Mineral; Personal Property; Mapping; CAMA and Records Management; Procedural Audit and Sales Ratio Study; Education and Public Relations (AAC 177.00.1-1.06).

Each County in Arkansas is required by law to conduct a real estate reappraisal on a three or five year cycle either by contracting or performing the work in-house. The ACD assists counties with writing the reappraisal plan and bid specification and performs ongoing procedural audits and annual ratio studies to ensure the quality of work. State funds are used to defer the cost of the reappraisal, and ACD is responsible for distributing and overseeing the use of those funds (AAC 177.00.1-3.17).

The ACD, as directed by Act 48 of 1980, administers a Training and Designation Program for appraisers employed by state and county officials in the field of ad valorem tax appraisal. All appraisers are mandated to have a certain level of education and experience to perform work in the counties. The program requires 183 classroom hours (some tested) and then 30 hours of continuing education every three years, which the Department makes available. All education offered is free, including some expenses, for county officials and their staff the first time attending a course. There are also special education offerings for equalization boards and other county offices when necessary.

For more information on the Assessment Coordination Department, please visit the website at www.arkansas.gov/acd.

ASSESSMENT COORDINATION DEPARTMENT

The Assessment Coordination Department is an agency with which each assessor should become familiar. The basic functions and powers of the Assessment Coordination Department are described as follows:

- a. Prepare and promulgate real estate and personal property assessment manuals for the use and guidance of County Assessors and County Equalization Boards.
- b. Prescribe and furnish appraisal, assessment and record forms for the uniform use of County Assessors throughout the State.
- c. Visit, confer with and advise the County Assessors and County Equalization Boards.
- d. Hold and conduct such schools or instructional meetings for County Assessors and their deputies as may be deemed necessary.
- e. Prepare a ratio study for the purpose of determining the average ratio of assessed value to the true and full market or actual value of real and personal property, by classifications, in each of the several taxing units.
- f. Compare the Equalization Board's abstract with the Assessor's Abstract to determine if the Equalization Board has complied with the "less than 5% deviation."
- g. Certify, on December 31 of each year, to the County Judge, the County Assessor and the fiscal officers of this State that disburse all state aid or turnback to such county, the percentage of assessed valuation of the county.
- h. Re-certify any taxing unit which was originally certified below the accepted minimum at such time, within the legal time period, as the said unit shows compliance.
- i. Perform such other duties and furnish such other assistance to County Assessors and County Equalization Boards as may be deemed necessary to the proper administration of the Act, including the furnishing of maps and aerial photographs.

Chapter Seven - PENALTIES AND FEES CHARGED BY THE ASSESSOR

<u>Arkansas Code Annotated Reference</u>	Description of Service	Fee
ACA 26-26-712	Penalty for failure to furnish employees names on demand of Assessor.	Not less than \$10 nor more than \$100
ACA 26-26-201	Penalty due on all persons and property delinquent in assessment.	10% or at least \$1
ACA 26-26-201	Penalty collected for willful delinquency.	Not more than \$1000
ACA 26-26-201	Fee for each list, in addition to the penalty for not assessing.	50¢
ACA 26-26-202	Penalty collected from any person refusing to give name or description of property.	Not less than \$10 nor more than \$25.
ACA 26-26-1505	Penalty for willful neglect/refusal of corporation to file statement.	Not more than than \$100 or imprisonment not exceeding 3 months or both
ACA 26-37-313	Fee for reassessment of - parcels of land upon depreciation since forfeiture.	\$1 (per application)
ACA 26-2-104	Penalty for violation of law governing assessment or equalization of property.	Not less than \$10 nor more than \$100

PENALTIES FOR NEGLECT OF DUTY

<u>Arkansas Code Annotated Reference</u>	<u>Description of Service</u>	<u>Fee</u>
ACA 26-26-713	Penalty for failure of duty to file lists.	Not less than \$100 nor more than \$1,000
ACA 26-26-706 Act 974 of 1997	Penalty for divulging contents of lists of owners of motor vehicles except in assessing personal property for tax purposes or for law enforcement purposes.	Not less than \$50 nor more than \$500
ACA 26-2-105	Penalty for knowing/willful failure or negligence in making appraisals.	Forfeit all pay as assessor and be forever disqualified from any office of profit or trust in the state and be fined not more than \$1,000 and imprisoned not to exceed 1 year
ACA 26-2-106	Penalty for knowing/ willful failure to list property subject to taxation.	\$500 (each offense)
ACA 26-2-108	Penalty for refusal or knowing negligence in performing duties (non-performance of duties)	Not less than \$100 nor more than \$5000

Chapter Eight- FAQ POSITIONS AND TOPICS

FAQ Positions and Topics

This section presents some FAQs (Frequently asked questions) in general and specifically for county assessors. Please refer to the Association of Arkansas Counties website for more exhaustive answers and for additional FAQs (<http://www.arcounties.org/faq/>).

General FAQs:

- ***Do county elected officials and county employees receive retirement credit for a bonus or lump sum payment?***

Yes, anyone on a county payroll that is otherwise eligible for retirement credit in the Arkansas Public Employees Retirement System should receive credit for a bonus or lump sum payment.

The county should pay into the retirement system the contribution percentage that has been set by the APERS Board of Trustees, and the employee, if they are a member of the contributory system, will pay into the retirement system – through payroll deduction – the percentage that has been set by state law.

It has only been since July 1, 2009, that a bonus or lump sum payment has been used in the calculation of compensation for retirement purposes for elected officials and employees of counties. Prior to that time, compensation for retirement purposes was defined in A.C.A. 24-4-101(11)(A) as “recurring remuneration paid a member by public employers for personal services rendered by a member in a position covered by an employer participating in the Arkansas Public Employees’ Retirement System.”

The law does set a limit on the amount of the bonus or lump-sum payment that can be counted as compensation during the last year of an employee’s employment. A.C.A. 24-4-101(11)(B)(iii)(b) says, “The maximum amount of the bonus or lump-sum payment that will be considered to be compensation during the last year of a member’s employment is the lesser of five percent (5%) of the current year’s salary or the amount of the bonus or lump-sum payment that was received by the member during the previous year of employment.”

- ***Who in county government is responsible for maintaining custody of the titles to county owned vehicles and equipment?***

Arkansas law does not directly answer that question. I cannot point you to an Arkansas code that says that a certain county official or office shall have custody of titles to county owned vehicles and equipment. However, I would like to call your attention to several laws that help us draw a reasonable conclusion. They are:

Arkansas Code Annotated 14-25-106. Fixed asset records.

Amendment 55, Article 3 of the Arkansas Constitution

Arkansas Code Annotated 14-14-1101. Powers of county judge generally.

Arkansas Code Annotated 14-14-1102. Exercise of powers by county judge.

It is my conclusion that the law is definitive that the County Judge exercises the executive power of “custody of county property” and is also the only county official with the authority to “sell or dispose of county property.” Therefore it is reasonable to conclude that the County Judge should maintain custody of all titles to county vehicles and equipment since these are lawful instruments needed to: (1) prove custody; and (2) convey or transfer ownership if the County Judge exercises his or her right to sell or dispose of said county property.

- ***Is county government exempt from paying sales taxes?***

No. As a general rule, the seventy-five (75) county governments of Arkansas are subject to the sales and use tax laws – paying sales taxes properly billed on invoices and submitting use taxes to the Department of Finance and Administration on purchases made from out-of-state vendors that do not charge, bill and remit out-of-state sales taxes.

There are a couple of exceptions. County government in Arkansas is exempt from paying sales taxes on “motor vehicles” and on “jail food” (or in certain circumstances food for other uses).

- *Is a county liable for paying the normal fees to a county employee for serving as a juror or a prospective juror? If so, is the county allowed to deduct those fees from the regular salary of the county employee? Does the county have to bear all of the cost?*

Yes, a county employee should be paid the per diem compensation for serving as a juror just like any other person.

Arkansas Code Annotated 16-34-103(a)(1)(2) says, “Any person who receives official notice that he or she has been selected as a prospective juror or who is chosen as a juror is eligible to receive per diem compensation for service if: (1) The person actually appears at the location to which the juror or prospective juror was summoned; and (2) The person’s appearance is duly noted by the circuit clerk.”

The per diem compensation, as established by A.C.A. 16-34-103(b)(1)(2), is \$50.00 per day for a person who is selected and seated to serve as a member of a grand jury or petit jury. Those who are excused or otherwise not selected and seated as a member of the jury are provided per diem compensation of not less than \$15.00 as established by ordinance of the county quorum court for each day that they are required to appear at the location to which they were summoned.

In addition to the per diem established for jurors and prospective jurors, A.C.A. 16-34-104 establishes an avenue for mileage reimbursement in the event and to the extent that a county quorum court adopts by ordinance a policy for reimbursement of mileage costs for jurors. The mileage reimbursement payment is allowed only to those whose primary place of residence is outside the city limits of the court that summoned them for duty and is paid from and to his or her home by the most direct and practicable route at the rate prescribed by the county.

A county may be reimbursed by the State of Arkansas on a quarterly basis for the \$50.00 per diem fees paid to persons selected and seated to serve as a member of a grand jury or petit jury. The reimbursement process and time-line is set forth in A.C.A. 16-34-106.

The deduction of jury duty fees from the salary of a county employee is prohibited by state law. A.C.A. 21-5-104(a) says, “No state, county, or municipal employer in this state shall deduct from the usual compensation of any employee, all or any part of the fees or compensation received by the employee for appearing for grand or petit jury duty or serving on any grand or petit jury in any court in this state.” In fact, a county employer who violates the provision of A.C.A. 21-5-104 is guilty of a misdemeanor and upon conviction can be fined up to \$250.00 and the violation constitutes grounds for dismissal of the employer from his or her office or position of public employment.

- *May a retiring county official or employee keep county health care insurance coverage upon and during retirement? Can they keep dependent coverage and is it mandatory for the county to allow retirees continued health care insurance coverage?*

To summarize and specifically answer your questions – a retiring county official or county employee may elect to continue to participate in the county health care plan if: (1) they are at least 55 years old and vested in the County Division of APERS; or (2) they have 30 or more years of actual service in the County Division of APERS regardless of age; or (3) they have at least 35 years of credited service in the County Division of APERS regardless of age. They must also pay the entire health care plan premium.

The coverage that retirees are entitled to retain under the authority of A.C.A. 24-12-128 is the same coverage that active employees receive. If the county health care plan includes dental, vision, life insurance and dependent coverage, such coverage may be retained by the retiree as long as they pay the entire premium.

It is mandatory on the part of the county to allow the qualifying retiree to participate in the county health care plan. The discretionary term “may” found in A.C.A. 24-12-128 applies to the retiree, rather than the county. This provision leaves the decision as to whether to continue to participate in the county health care plan wholly within the discretion of the qualifying retiree. Because the qualifying retiree has full discretion to choose to participate, it follows that the county is required to permit that retiree to participate.

- *Is it correct that a county can only appropriate 90% of the anticipated revenues of the county each year and, if so, why? What happens to the 10% of the revenue that is not appropriated?*

Counties of Arkansas have operated under the “90% Rule” since 1879 as outlined in Arkansas Code Annotated 14-20-103. A few exceptions to the 90% limitation have been adopted over the years.

The crux of A.C.A. 14-20-103 states, “the county quorum court shall specify the amount of appropriations for each purpose in dollars and cents,....the total amount of appropriations for all county purposes for any one (1) year shall not exceed ninety percent

(90%) of the anticipated revenues for that year.....” The few exceptions to the 90% rule that have been added to the code over the years are:

A county can appropriate 100% of a federal or state grant. However, a county must be able to demonstrate that the state or federal agency issuing the funding characterized the revenues as a grant.

Any county that is declared a disaster area by the Governor or the U.S. government may appropriate in excess of the 90% anticipated.

Any county that has a dedicated sales tax – one that is dedicated by ballot title – may appropriate up to 100% of that dedicated sales tax. [This exception does not apply to dedicated revenues that have been pledged for bonds; or general sales and use tax revenues].

In any county in which the quorum court deems it financially necessary, the quorum court may appropriate for any one (1) year in excess of ninety percent (90%) of the commissions and tax revenues anticipated for that year for the county general fund operation of the offices of assessor, collector, and treasurer (A.C.A. 14-20-103).

The reasoning behind the original law (and the exceptions are not a part of the original law) is at least two-fold: (1) the projected revenues are just that – projected – a calculated estimate based on past and present financial data and trends. The 90% rule allows for some margin of error; and (2) a large percentage of county government revenue is received in the final half of the year. Using the 90% rule allows for a carry-over cash balance which provides cash flow in the first part of the year when actual (current year) revenue received is less.

The “10% set-aside” is not set-aside forever. It does get used. For most counties, the carry-over cash balance of any account becomes a part of the projected revenues for the following year. The carry-over cash balance includes the 10% set-aside, revenues in excess of projections, and revenues remaining from unspent appropriations. Of course, the ideal operation would not even depend on the 10% set-aside for budgeting and actually set those amounts aside as a “reserve” for emergencies.

- ***On what property can a county levy taxes? Is there a maximum amount of tax that a county can levy? Do the registered voters of a county have to approve the tax levy?***

According to Article 16, Section 5 of the Arkansas Constitution, both real and personal property is taxable.

The maximum rates that can be levied on real and personal property by the county for county use are 5 mills for general use; 3 mills for road purposes; and 5 mills for operation and maintenance of the county library. The county quorum court is required to levy ad valorem tax rates at its regular meeting in November of each year for collection the following year [A.C.A. 14-14-904(b)(1)(A)(i)]. The Director of the Assessment Coordination Department may authorize an extension of up to 60 days of the date for levy of taxes if there is good cause shown resulting from reappraisal or rollback of taxes. The application for extension must be filed by the County Judge and County Clerk. [Note: 1 mill = a tenth of 1%]

The electorate does not have to approve the levy of general and road taxes for the county. The county is given the authority to levy up to 5 mills for general (all) purposes in Article 16, Section 9 of the Arkansas Constitution – “No county shall levy a tax to exceed one-half of one per cent (5 mills) for all purposes.....” Amendment 61 to the state constitution says, “County quorum courts may annually levy a county road tax not to exceed three (3) mills on the dollar on all taxable real and personal property within their respective counties.....” Amendment 61 repealed Arkansas Constitution, Amendment 3, which also allowed a maximum 3 mill road tax, but under Amendment 3 the tax had to appear on the ballot every general election. Every November the quorum court has the authority to levy a county general tax up to 5 mills and a road tax up to 3 mills.

A county is also authorized to levy a county library tax by Amendment 38 of the Arkansas Constitution (amended by Amendment 72 and incorporated into Amendment 38 by amending Sections 1 and 3 and adding Section 5). However, this tax must be voted on by the electors of the county, and the tax rate cannot exceed five mills on the dollar for maintenance and operation of the library (Amendment 38, Section 1). Section 5 of Amendment 38 (added by Amendment 72) provides for an election for a special library tax, in addition to the maintenance and operation tax, to pay bonded indebtedness to finance capital improvements to or construction of a county library or county library service or system.

- ***Real property reappraisals are required to be conducted on a cyclical basis by county governments in Arkansas. What is the history of these reappraisals and how are the reappraisals paid for under current law?***

The beginning of ad valorem taxation in Arkansas starts with the Arkansas Constitution of 1874. Article 16, Section 5 of the Constitution, as amended, provides that: “All real and tangible personal property subject to taxation shall be taxed according to its value, that value to be ascertained in such manner as the General Assembly shall direct, making the same equal and uniform throughout the State.”

Because of a court case in the late 1970's that ruled that ad valorem taxation in Arkansas was not "equal and uniform throughout the State," the court ordered reassessment of all real estate in Arkansas. Amendment 59 to the Constitution was passed by the electorate in 1980 due to the court-ordered reassessment to keep real property taxes from rising exorbitantly. Act 848 of 1981 [A.C.A. 26-26-401 et. seq.] was adopted by the Arkansas legislature as the enabling legislation for Amendment 59.

Each of the 75 counties in the State of Arkansas is now responsible for a cyclical county-wide reappraisal. Each county is required to appraise all market value real estate normally assessed by the county assessor at its full and fair market value in accordance with A.C.A. 26-26-1902. Depending on the real property value growth – a county is either on a 3 year or a 5 year cycle for a complete reappraisal of real property.

The reappraisal is paid for from the Arkansas Real Property Reappraisal Fund – established by Act 1185 of 1999 and codified as A.C.A. 26-26-1907. The proceeds of the fund are used to pay counties and professional reappraisal companies for the reappraisal of real property in lieu of real property reappraisal funding by the local taxing units in each county of the state.

In reality the tax entities are still paying for nearly all of the reappraisal since the funding source of \$14,250,000 of the cost is withheld from state funds that would otherwise flow to schools, counties and cities. The State Treasurer withholds 76% of the amount from the Department of Education Public School Fund Account; 16% of the amount from the County Aid Fund; and 8% of the amount from the Municipal Aid Fund and credits the amounts to the Arkansas Real Property Reappraisal Fund [Act 98 of 2018, Section 7 Special Language – included in the Arkansas Assessment Coordination Department budget act each year]. The other \$1.5 million of the current fiscal year (2018) appropriation of \$15,750,000 for Real Property Reappraisal will come from the State of Arkansas Miscellaneous Agencies Fund [Act 98 of 2018, Section 9 Special Language]. However, the proportion that an entity pays is not necessarily the same proportion that the entity would pay if they were reimbursing the county direct for their share of the reappraisal costs.

Funding to any county for property reappraisal is for actual appraisal cost, up to a maximum of \$7 per parcel, per year. Counties must use other taxing unit sources of revenue to provide for the cost of real property reappraisals if the cost exceeds \$7 per parcel [Act 98 of 2018, Section 8 Special Language – special language of this sort is found in each annual budget Act of ACD].

There is nothing in the law to prohibit a county from charging each tax entity their proportionate share of the cost exceeding \$7 per parcel on a monthly basis in order to keep the County Property Reappraisal Fund from running a negative balance. There is no need for the county to suffer the burden of paying the excess cost of reappraisal until the "final tax settlement" is made in December. Charge each entity their share on a monthly basis.

- ***How many years can a county legally go back to make a refund of property taxes paid in error?***

As a general rule tax refunds must be made within three (3) years from the date the taxes were paid. A.C.A. 26-35-901 is the primary state code dealing with real or personal property taxes erroneously assessed and paid. After providing satisfactory proof to the county court [the county judge in his/her judicial capacity with exclusive original jurisdiction in all matters relating to county taxes / A.C.A. 14-14-1105] the county court issues a county court order directing the county treasurer to refund the person the amount of taxes erroneously assessed and paid. If the claim is for erroneous assessments made in two (2) or more tax years, the county court may order that the refund be made in up to two (2) equal installments by the end of each year. The claim for refund at the county level has to be made within 3 years from the date the taxes were paid. And the claim of erroneously assessed and paid taxes must fall within the definition of "erroneously assessed" as defined in A.C.A. 26-28-111(c).

The refund is normally paid from the general fund of the county and the general fund is then reimbursed by transfer from funds of the respective taxing units. The amount contributed by each taxing unit will be the amount of the erroneous payment received by the taxing unit. All of the pertinent information for the tax refund transaction should be contained in the county court order. [Some counties accomplish the refund by making the appropriate transfers from each tax entity to the Collector's Unapportioned Account and the county treasurer issues the county check from the Collector's Unapportioned Account].

There is a possibility that a refund could be made for up to a five (5) year period. A.C.A. 26-39-220 [Adjustment of errors.] says the county court has the duty to reconsider and adjust the settlement of any county officer for any error discovered within 3 years from the date of the settlement. If the error in a settlement is discovered after three (3) years, but within five (5) years from the date of the settlement, the county judge (county court) has the duty to petition the chancery court (now circuit court under Amendment 80) to obtain an order to correct the error or errors [See AG Op. #1992-357].

- ***Counties are sometimes told they cannot pay late charges or a penalty on overdue bills. Is it true that counties cannot pay penalties on bills that are past due?***

I will preface the answer to this question with the statement that a county should not get in the situation of having to pay penalties because of the late payment of a bill. County government should exercise diligence in taking care of tax payer money – including timely payment of claims so as to avoid the wasteful payment of penalties.

However, if a county finds itself in the position of paying an overdue invoice to which a penalty has been applied – I do not believe there is any law that forbids the payment of an actual “penalty.” Some people tend to view “interest” and “penalty” in the same light – when, in fact they are different animals. A county cannot pay interest (except in certain instances)…but there is no state law prohibition against paying a penalty.

“Interest” is legally defined as “the compensation fixed by agreement or allowed by law for the use of money.” Article 16, Section 1 of the Arkansas Constitution says, “Neither the State nor any city, county, town or other municipality in this State shall ever lend its credit for any purposes whatever; nor shall any county, city or town or municipality ever issue any interest bearing evidences of indebtedness, except such bonds as may be authorized by law……” Amendment 78, Article 2 of the Arkansas Constitution provides for short-term financing for counties and cities allowing the payment of interest. Amendments 62, 65 and 72 also allow various types of bond issues and debt obligations, which entail interest.

However, a “penalty” is legally defined as “an extra charge against a party who violates a contractual provision.” When a county makes a purchase from a vendor they automatically agree to the terms of payment. If those terms are not met, then the county is subject to paying the penalty just like anyone else. I have found no law or AG Opinion to the contrary.

- ***Does the Quorum Court have any authority to add extra duties to the established duties of county constitutional officers and if so is there any limitation on that authority?***

As a general rule we think of the duties and responsibilities of the county constitutional officers [county elected officials] being set forth by the Arkansas Constitution and state law as enacted by the state legislature. However, Amendment 55 to the Arkansas Constitution gave some latitude in that area to the quorum court – the legislative body of county government.

Amendment 55, Section 1(a), states that “a county acting through its Quorum Court may exercise local legislative authority not denied by the Constitution or by law.” The enabling legislation of Amendment 55, Act 742 of 1977, sheds quite a bit of light on the question of the authority of a quorum court to add extra duties to an elected official. Section 69 of Act 742 of 1977, codified as A.C.A. 14-14-801, simply restated Amendment 55, Section 1(a) saying that “county government, acting through its county quorum court, may exercise local legislative authority not expressly prohibited by the Arkansas Constitution or by law for the affairs of the county.” There is not a state law or constitutional provision expressly prohibiting a quorum court from prescribing additional duties to elected county officials. A.C.A. §§ 14-14-801(b)(10) & (13) go on to say, respectively, that the quorum court’s legislative authority includes the power to “provide for any service or performance of any function relating to county affairs;” and to “exercise other powers, not inconsistent with law, necessary for effective administration of authorized services and functions.”

The authority of a quorum court to add or assign duties to an elected official is more clearly delineated in a couple of other codes which were also a part of the enabling legislation of Amendment 55. Section 108 of Act 742 of 1977, provisions pertaining to the compensation of elected county officers state that the annual salary includes compensation “for all other services performed as provided by the Arkansas Constitution, by law, or by county ordinances.” And plainly, under A.C.A. 14-14-702(2) [Act 742 of 1977, Section 100] “any function or duty assigned by statute may be reassigned by ordinance.”

How far can a quorum court go in reassigning or adding duties to an elected official? Each case would require consideration of the office and additional duties assigned. There are a couple of issues in particular to be concerned about. First, a county quorum court cannot completely reorganize county government by simply reassigning duties. Although Amendment 55, Section 2(b) allows for the reorganization of county government, there is a procedure to follow as set out in A.C.A. § 14-14-6. Secondly, there would be a limitation based upon the separation of powers doctrine. The Quorum Court is the legislative branch of county government – and as such cannot micro-manage or significantly interfere with executive powers.

- ***Can a quorum court set salaries of elected county officials as long as the salary is between the minimum and maximum set by the legislature even they choose to decrease the salaries?***

The answer to the question is answered by Section 5 of Amendment 55 which provides that “compensation of each county officer shall be fixed by the Quorum Court within a minimum and maximum to be determined by law. Compensation may not be decreased during a current term……”

The minimums and maximums have been established by the legislature in A.C.A. 14-14-1204 for the following county constitutional officers: (1) county judge; (2) sheriff and ex officio collector of taxes; (3) collector of taxes, where established by law; (4) circuit clerk; (5) county clerk, where established by law; (6) assessor; (7) treasurer; (8) coroner; and (9) surveyor. Also, A.C.A. 14-

14-1210 enacted by Act 320 of 2009 provides for a cost-of-living adjustment to be added to the minimums and maximums. This COLA became effective with the 2011 county budget year and does NOT automatically require an increase in salary. The provisions of A.C.A. 14-14-1210 simply provide a process for adjusting or indexing the minimum and maximum salaries to be paid to county officials.

The quorum court does have the authority to set salaries of these elected county officials anywhere between the minimums and maximums established by law. However, under the language of Amendment 55, those salaries may not be decreased during a current term. A.C.A. 14-14-1203(d) provides for the implementation of a legal decrease in salary stating, “Any decrease in the annual salary or compensation of a county officer shall not become effective until January 1 following a general election held after such decrease shall have been fixed by the quorum court of the county.”

- *What is excess commission and is the term actually found in Arkansas code? If so, what is the basis for calculating and distributing excess commission and who is responsible for seeing that the task is performed?*

When the term “excess commission” is used in the arena of Arkansas county government, reference is being made to the amount of commission in excess of the level of commission it takes to cover the expenses of the county collector and county treasurer. For example, if a county collector earns \$250,000.00 in annual commission and the cost for the operation of the office for that year is \$175,000.00 the excess commission is \$75,000.00. The same principal applies concerning the county treasurer.

A.C.A. 21-6-302 and 21-6-305 are the primary commission codes for county treasurers and county collectors respectively. These codes provide the commission formula to be charged against the funds coming through the hands of these county constitutional officers, as well as any restrictions, exclusions or anomalies to the normal commission structure.

Until recent years, the term “excess commission” was not found in the Arkansas Code. However, it was dealt with in case law dating back to the early 1900’s and in Attorney General Opinions. Since 1997 the term “excess commission” has been added to four Arkansas codes – three of those additions were made in 2009, and none of them define the term, nor do they deal with the calculation or distribution of the excess commissions.

The term “excess commission” or “excess commissions” can be found in the following Arkansas codes with the term inserted by the referenced Arkansas Act:

A.C.A. 26-36-209(d) – Act 213 of 1997
A.C.A. 6-20-2305(C)(ii)(a) – Act 1186 of 2009
A.C.A. 6-20-2303(17)(A)(iv) – Act 1397 of 2009
A.C.A. 26-80-101(3)(D) – Act 1397 of 2009

At least five (5) court cases were cited in AG Op. No. 78-112 as well as Article 16, Section 11 of the Arkansas Constitution, which provides that, “No tax shall be levied except in pursuance of the law, and every law imposing a tax shall state distinctly the object of the same; and no moneys arising from a tax levied for one purpose shall be used for any other purpose.” In summarizing the opinion the Attorney General said, “From the foregoing decisions and the cases cited we are of the opinion that the excess commissions over the operating expenses of the collector’s and treasurer’s office should be returned to the taxing units pro rata.” Of course, we know and understand that the Treasurer’s office commissions some accounts that are not taxing units – but nevertheless each account commissioned should get their pro rata share of the excess.

To prorate or pro rata is defined by Black’s Law Dictionary – “to divide or distribute proportionately; according to an exact rate.” In other words, each taxing entity or fund account that is commissioned will receive its share of the excess commission based on that fund’s percentage of the whole commission. Although there is more than one mathematical way to arrive at the correct conclusion – here is an easy way to make the calculation: Total commission earned in accordance with A.C.A. 21-6-302 or A.C.A. 21-6-305 less the actual office expense of the particular office = the Excess Commission. Divide the excess commission amount by the total commission earned (carried to at least 9 places). This factor will be used to multiply against the commission amount charged each entity to calculate each entity’s share of the excess commission.

Now we get down to the question of whose responsibility is it to calculate and distribute the excess commissions. Although you will find it nowhere in “black letter law,” the same AG Opinion which we have referenced in answering these questions, AG Op. #78-112, says that it is the responsibility of the county treasurer to calculate and distribute the excess commissions. The Attorney General opined, “Since according to Arkansas Statute 84-1401[A.C.A. 21-6-302 - this was prior to the laws being codified and referenced as codes – circa 1987] all funds received by the various county officers including the County Treasurer and County Collector are required to be paid into the treasury, it would appear that the responsibility of returning the excess commissions to the respective units from which they were assessed would inure to the County Treasurer.”

- *When a county receives unclaimed property proceeds from the Auditor of States office, which county fund should it be received to, how can the money be used, and does the county have any future liability for the unclaimed proceeds?*

You will find the Unclaimed Property Act codified in Arkansas Law as A.C.A. 18-28-201 through 18-28-230. As you read this code section you will note that after a county (any office or department of county government) submits “unclaimed property” to the State of Arkansas, the State tries to find the lawful owner of the property. At least one time each year the State transfers to the treasurer of the reporting county all funds collected from that county that have not been claimed and that have been held for a full three (3) years at the state level [A.C.A. 18-28-213(c)(i)].

The funds received by the county treasurer are to be deposited into the general fund of the county. The county may use the funds for any purpose for which it may use general revenues – which is any legal county expense [A.C.A. 18-28-213(c)(ii)(iii)].

After the State remits the “unclaimed property” from the Unclaimed Property Proceeds Trust Fund to the county, the State is released from any indemnity, and the liability of payment to the rightful owner becomes a responsibility of the county. The county receiving the funds must maintain an accounting of the funds in perpetuity, unless payment upon a valid claim is made. If the rightful owner or the owner’s heirs or assigns ever appear and petition the county for the return of the funds, after providing proof of ownership, the county has to pay the rightful owner from the general fund of the county. The law says that “proof of ownership means a finding by a court of competent jurisdiction that the person petitioning the county is, in fact, the rightful owner, heir or assignee” [A.C.A. 18-28-213(B)(i)(ii)(iii)(iv)].

It is unusual for a claim of ownership to surface after the “unclaimed property” comes back to the county. By then, both the county and state have exercised “due diligence” in trying to find the rightful owner. Note: The disposition of “unclaimed” or “abandoned” mineral proceeds is handled separately under A.C.A. 18-28-401 through 18-28-403.

All mineral proceeds that are owed by the holder and that have remained unclaimed by the owner for longer than five (5) years after the mineral proceeds became payable are presumed abandoned and are subject to the unclaimed provisions of the Uniform Disposition of Unclaimed Property Act, A.C.A. 18-28-201 et seq., except that funds received by the Auditor of State are deposited in a special trust fund known as the “abandoned Mineral Proceeds Trust Fund” [A.C.A. 18-28-403(a)(1)(A)(B)].

The Abandoned Mineral Proceeds Trust Fund is used by the Auditor of State to pay the claims of persons establishing ownership of any mineral proceeds that are in the possession of the state. At least one (1) time each year, the Auditor of State transfers to the County Aid Fund in the State Treasury all funds in the Abandoned Mineral Proceeds Trust Fund in excess of an amount that the Auditor of State determines to be sufficient to pay the anticipated expenses and claims of the trust fund [A.C.A. 18-28-403(b)].

The funds that are credited to the County Aid Fund are distributed equally among the 75 counties of Arkansas by the Treasurer of State. Upon receipt, the county treasurer credits the funds to the general fund of the county [A.C.A. 18-28-403(c)(1)(2)].

- *Assessors in Arkansas receive funding from the end-of-the-year certified excess funds in the State Property Tax Relief Fund. How should these funds be handled at the county level? If the county level fund has a balance at the end of the year does it carry over?*

Act 1892 of 2005 amended A.C.A. 26-26-310 to provide that 1% of the certified surplus funds in the State Property Tax Relief Fund would be allocated to the County Assessors for the purpose of administering Arkansas Constitution, Amendment 79. Amendment 79, of course, is the Real Property Tax Relief amendment – currently allowing up to one \$350 homestead credit on an individual’s real estate taxes. A.C.A. 26-26-1122 defines “assessed value” in this instance as “twenty percent (20%) of the appraised value of the real property.”

The pertinent part of Act 1892 of 2005 amended A.C.A. 26-26-310 to calculate 1% of the amount of excess funds in the State Property Tax Relief Trust Fund as of December 31 each year (starting December 31, 2005). Each January, after the calculation is made, each county receives a proportionate share based on the proportions used to reimburse the county for property tax reductions the previous year. These funds are sent to the County Treasurer by the State Treasurer for “allocation to the County Assessor.” This makes these funds “restricted use” funds. In fact, the law goes on to say that “these funds shall be used by the County Assessor for costs of administering Arkansas Constitution, Amendment 79. These costs include personnel, equipment, services, and postage used in the administration of Arkansas Constitution, Amendment 79.”

Since these are “restricted” or “special revenue” funds, they should be set up in a separate fund on the books of the County Treasurer. These funds are subject to the normal county accounting laws. That means: (1) revenue for the fund should be projected; (2) the funds should be budgeted at no more than 90% of the projected revenue; (3) the funds must be appropriated by the Quorum Court; and (4) the funds must be expended through the normal claims process.

Any fund balance at the end of the year should remain with the fund because the funds are “special revenue” and can be spent only for specific purposes. The funds do NOT inure to County General or any other fund. The carry-over balance will become a part of the projected revenue for the fund for the following year and the process starts all over – project, budget, appropriate and expend.

A “Best Practices” scenario for this funding for the Assessor’s office would include:

- The establishment of a “special revenue” account on the books of the County Treasurer. A good entity title for this account is “Assessor’s Amendment 79 Fund.”
 - Appropriate and expend directly from this fund.
 - Expenditures from this fund should be restricted to expenditures for the administration of Amendment 79 as outlined in the law to include the costs of “personnel, equipment, services and postage.”
 - Any monies not used in any given year should be allowed to accumulate for appropriation and expending in a future year.
 - A separate checking account is NOT necessary. These funds can simply be a part of the county’s conglomerated bank balance – but accounted for separately through “fund accounting” just like County General, Road & Bridge, County Recorder’s Cost Fund, County Library, etc.
 - DO NOT recoup any expenditure from this fund in the “Final Tax Settlement” [This fund is separate and apart from the general operation of the Tax Assessor’s office which is funded on a pro-rata basis by the taxing entities of the county – so neither should the expenses from this fund be deducted from the general operation expenses of the Assessor’s office when pro-rating expenses during the Final Tax Settlement].
- ***Do personal property taxes have to be collected at the same time that real estate taxes are collected? If so, are there any exceptions?***

As a general rule the answer to the question is “yes” – personal property taxes should be collected by the collector at the same time real property taxes are collected.

A.C.A. 26-35-601 [Personal property taxes to be collected with real estate taxes] is rather straight forward in subsection (a) in stating that “Each county collector in this state shall be charged with the responsibility of collecting personal property taxes shown to be due by the taxpayer as reflected by the records in the county collector’s office at the time the taxpayer pays the general taxes due on real estate.” In fact, subsection (b) of A.C.A. 26-35-601 imposes a penalty for a collector that willfully accepts payment of general real estate taxes without requiring the payment of personal property taxes due. The law says that the collector, under these circumstances, is deemed guilty of a misdemeanor and, upon conviction, shall be fined.

However, there are some exceptions to the general rule. A.C.A. 26-35-601(c)(1) sets the stage for the exceptions, but first reiterates in even more direct language the intent of the main theme of the law which is “to require the collection of personal property taxes as reflected by the records of the office of the county collector and to prevent a taxpayer from paying and the county collector from receiving payment of general real estate taxes without payment of personal property taxes if any personal property taxes are shown to be due.”

The exceptions to the rule are explained in Subsection (c)(2)-(4) of A.C.A. 26-35-601. They are as follows:

Any person, firm, partnership, or corporation can pay the general real estate taxes on property that is securing the payment of indebtedness due the person, firm, partnership, or corporation. In this type of situation, the lender is allowed to protect the security of the debt owed to them without paying the personal property taxes of the person who owes the debt. [This exception was a part of the original law.]

A.C.A. 26-35-601(c)(3) addresses the payment of real property taxes at the time of property transfer or conveyance. This exception was made with the passage of Act 994 of 1999 and requires the county collector to accept the payment of real estate property taxes at the time of property transfer as long as the taxpayer transferring title to the property has paid all delinquent personal property taxes. A transferor of property is obligated to pay only delinquent, as opposed to currently due, personal property taxes in conjunction with payment of general real estate taxes upon conveying title to real property. To quote from Attorney General Opinion No. 2000-118 in respect to the transfer of real estate, “On its face, [subsection (c)(3)] absolutely requires the collector to accept payment of general real estate taxes so long as delinquent personal property taxes have been paid. Nothing in the statute authorizes the collector to further demand payment of personal property tax due but not delinquent. Indeed, in my opinion any such demand would directly contravene the statute, which affords the collector no discretion to refuse payment of general real estate taxes when there is no delinquency in personal property taxes.”

A purchaser in a foreclosure sale is not responsible for the payment of the personal property taxes required to be paid by A.C.A. 26-35-601(a)(c)(1). This latest exception to the general rule was enacted with the passage of Act 1286 of 2001 which amended A.C.A. 26-35-601 to add subsection (c)(4).

In summary, in accordance with A.C.A. 26-35-601(a), taxpayers must pay their personal property taxes before the collector may accept payment of general real estate taxes with the caveat of the three (3) exceptions listed above.

- *May a newspaper charge for other parts of the required publication of delinquent taxes, such as headers and etc., in addition to the legal fees of \$1.50 per tract per insertion for delinquent real estate and \$1.25 per name per insertion for delinquent personal?*

No. Although newspapers set their advertising rates and the rates vary from paper to paper, the publication costs for publishing delinquent tax lists are set by state law. A.C.A. 26-37-107 details the requirements for publication of the delinquent real property list, and A.C.A. 26-36-203 details the requirements for publication of the delinquent personal property tax list. A.C.A. 26-37-107(c)(1) says, “The legal fee for each required publication of delinquent real property tax lists shall be one dollar and cents (\$1.50) per tract, per insertion.” In the case of delinquent personal property, A.C.A. 26-36-203(c)(1) says, “The newspaper publishing this list shall receive as publication cost the sum of one dollar and twenty-five cents (\$1.25) per name, per insertion.....”

The Attorney General has opined, in the case of delinquent real estate, that a newspaper may not charge a fee greater than the amount specified by law for the publication of the list [AG Opinion No. 2005-072]. The Attorney General hinged the opinion on the ruling in a court case that basically said that a court will first look to the plain and ordinary language of a statute. If the code is clear and unambiguous on a plain and ordinary reading of the language, there is no need to resort to further statutory analysis. According to this AG Opinion, A.C.A. 26-37-104 “is clear and unambiguous.” The newspaper may only charge \$1.50 per tract per insertion for the publication of the list of delinquent real property.

This same premise would apply to the publication of the delinquent personal property tax list. The law concerning the delinquent personal property tax list is written in the same manner as the law pertaining to the delinquent real property tax list – it is clear and unambiguous.

- ***How do I subscribe to County Lines Magazine?***

County Lines annual subscriptions are available for \$18. County Lines is a quarterly magazine. Interested individuals or organizations are encouraged to contact Christy Smith, County Lines managing editor, at (501) 372-7550 or e-mail her at csmith@arcounties.org to start your subscription today!

- ***How do I submit news and story ideas for County Lines, the AAC's quarterly magazine?***

Contact Christy Smith, communication director, at csmith@arcounties.org or call her at (501) 372-7550.

Chapter Nine- ATTORNEY GENERAL OPINIONS AND COUNTY LINES ARTICLES

Personnel Records:

The Attorney General's Office has created a body of opinions concerning the Freedom of Information Act ("FOIA") in application to county offices and public records of county officials. The subject of the request and the published opinion by number are provided below. These opinions may greatly assist the office in your county in making decisions concerning the FOIA. You may review and retrieve the entire opinion identified by going to the Attorney General's website: <http://www.arkansasag.gov/opinions/>. Additionally, this section provides other helpful Attorney General opinions regarding the elected position discussed in this manual.

Assessor Records

See Ops. Att'y Gen. 97-071 (Application/Exemption)
See Ops. Att'y Gen. 2004-023 (Electronic records)
See Ops. Att'y Gen. 99-133 (Fees)
See Ops. Att'y Gen. 2002-238 (Personnel records)
See Ops. Att'y Gen. 2002-256 (Personnel records)

FOIA Generally

See Ops. Att'y Gen. 2003-006 (Inapplicability of ACA 25-19-108 to counties)
See Ops. Att'y Gen. 2005-298 (Response to absence of records)
See Ops. Att'y Gen. 2008-162 (Digital pictures of records)
See Ops. Att'y Gen. 99-134 (Records on county web site/fees)
See Ops. Att'y Gen. 2000-096 (Discussion of "meetings" under FOIA)
See Ops. Att'y Gen. 2001-382 (Location/Access to meetings)
See Ops. Att'y Gen. 2002-092 (Meetings)
See Ops. Att'y Gen. 2016-053 (Oil and Gas Division Order likely exempt from FOIA)

FOIA – Personnel Records Generally

See Ops. Att'y Gen. 1999-398 (Job applications and resumes)
See Ops. Att'y Gen. 2000-058 (Harassment complaints)
See Ops. Att'y Gen. 2000-201 (Internal affairs investigatory files)
See Ops. Att'y Gen. 2000-242 (Suspension letters)
See Ops. Att'y Gen. 2001-130 (Access)
See Ops. Att'y Gen. 2001-368 (Employee objections to release)
See Ops. Att'y Gen. 2002-043 (Payroll, status change, benefits package information)
See Ops. Att'y Gen. 2003-055 (Privacy interests)
See Ops. Att'y Gen. 2003-352 (Time cards)
See Ops. Att'y Gen. 99-168 (Notification to subject of records)

Other Attorney General Opinions:

AG Opinion No. 2017-067: The public property-tax exemption under Arkansas Constitution, Article 16, section 5(b) does not take effect until January 1 of the tax year immediately following the tax year in which the property was purchased or otherwise becomes eligible for exemption.

AG Opinion No. 2017-107: When a school district dissolves, the statutes that governed school district dissolution at the time of the dissolution will determine the property interests of the surrounding school districts (successor districts). Distribution of the old district's account to the successor district would be done either through the county-claims process or a circuit-court interpleader of funds (ACA 14-23-101 and Ark. R. Civ. P. 22).

AG Opinion No. 2016-072: The quorum court may appropriate a bonus or lump-sum payment to county officials or employees of the county, including on the basis of longevity. However, a quorum court cannot appropriate themselves a bonus or lump-sum payment without violating ACA 14-14-1205. That statute specifically limits compensation and expenses to be provided quorum court members to compensation provided in the same subchapter.

AG Opinion No. 2016-074: Arkansas law does not preclude an Arkansas property owner who claims a homestead property tax credit in another state from claiming a homestead property tax credit in a county within Arkansas during the same calendar year. Therefore, the county assessor is not tasked under Ark. Code Ann. 26-26-1118(b) with checking outside of the State of Arkansas for other homestead property tax credits claimed in the same calendar year by an Arkansas property owner who has applied for a homestead property tax credit within the assessor's county. However, a property owner is, by definition, in violation of some law if he claims homestead credits in two states at once.

AG Opinion No. 2015-143: SIDs are subject to FOIA, and a district voter list that a SID keeps is likely subject to FOIA. A SID does not have the authority to waive an Assessment of Benefits levy if the order providing for the levy of the tax has been entered.

A SID does not actually adjust lot lines or re-zone or re-classify property like a city. But it may well be appropriate, if not necessary, for the SID to consider lot sizes and different use

classifications when assessing or equalizing benefits accruing to the real property within the district by reason of the improvements or facilities.

The county collector is responsible for collecting assessments if a SID is less than 5,000 acres. When a SID assessment is delinquent, the SID may certify the delinquency to the Commissioner of Lands or enforce collection through court proceedings. If the SID chooses to go through the court proceedings, a 25% penalty will be applied to the delinquency according to ACA 14-94-122.

AG Opinion No. 2015-118: The “charitable use” exemption to ad valorem taxation is based on the actual use of the property, not the character of the owner or charitable mission. “It is necessary instead to examine all the surrounding facts and circumstances in order to identify the nature, extent and usage of the property at issue.”

AG Opinion No. 2014-117: County courts or officials do not have the authority to exempt or forgive the taxes due on a property owner’s property.

AG Opinion No. 2014-067: Authorities under the Regional Intermodal Facilities Act are exempt from taxes (ACA 14-143-121). A private entity that enters into a lease with an authority enjoys no tax exemption pursuant to this statute.

AG Opinion No. 2014-032: Act 35 assessments (14-284-201 through -225) are fees, not taxes. These assessment obligations and any increase in assessment caps must be approved by the voters. The authorization to impose flat-fee assessments on parcels contained within a district formed under Act 35 applies only to districts formed after July 3, 1989.

AG Opinion No. 2013-086: The AG provided an extensive historical account of the code and judicial rulings on taxation or exempt status of lots held by Suburban Improvement Districts (“SID”). To obtain tax exempt status under Article 16, § 5 of the Arkansas Constitution, an SID as a public entity must affirmatively show that the lots claimed to be exempt are being “used exclusively for a public purpose.” The AG noted cases holding that where a judicial foreclosure has occurred, lots so conveyed to the SID may be tax exempt. However, the exempt status of lots not judicially foreclosed but instead conveyed to the SID by the lot owners outside a judicial foreclosure decree may not be exempt from taxation.

AG Opinion No. 2012-061: When a property sits on the boundary between two school districts, the assessor should divide the property between the two school districts along the boundary line for assessment and taxation purposes. The assessor should then apply the school districts’ millage rates to the respective sections of the property (citing *Davis v. Holt*, 304 Ark. 619, 804 S.W.2d 362 (1991)).

AG Opinion No. 2010-134: This opinion is of high importance to the counties and delves into the fundamental nature of property tax liens in Arkansas. As a general rule, the Land Commissioner is prohibited from forgiving property taxes. The Land Commissioner is charged to dispose of forfeited lands and the purchaser “shall pay all taxes, penalties and other costs.” See: ACA 22-5-207 and 26-37-201. The waiver of taxes, penalties and interest may only be done in the limited circumstances provided under the Urban Homestead Act, ACA20-80-408(a). Also, the notes for ACA 26-37-101 indicate delinquent lands not sold after (2) two years of unsuccessful public auctions may be sold in the best interests of the State and local taxing units.

Also, when a city acquires tax delinquent lands from the Land Commissioner, there is no mechanism by which the city can convey land free of any existing tax liens. Property tax liens created under ACA 26-34-101 continue until the

property taxes are paid. Property tax liens may not be foreclosed while in the hands of the city, if used for municipal purposes. See: ACA 22-6-501. However, a third-party purchaser from a city (such as a Land Bank) buys the land subject to the existing property tax liens, penalties and interests. A city may not convey property free of an existing property tax lien.

The Attorney General also explained that a city may not donate lands to citizens. Cities are constrained to convey lands in accordance with city sale procedures. Also, Article 12, § 5 of the Arkansas Constitution prohibits cities from appropriating money or lending its credit to any corporation, person or association.

AG Opinion No. 2012-117: A custodian or requesting party seeking to ascertain whether a custodian's decision is consistent with the FOIA under ACA 25-19-105(c) must supply the AG with: (a) a copy of the request or what records specifically are being requested; (b) what records, if any, the custodian intends to release; and (c) what factual determinations went into both the custodian analysis or the requesting party's position. Frequently, the AG is not provided any of the foregoing necessary information and is unable to determine whether the decision of the custodian is consistent with the FOIA. Similarly, under Attorney General Opinion No. 2012-113, the AG was unable to determine if the custodian was acting consistent with the FOIA because no party supplied the documents or information required as explained by Attorney General Opinion No. 2012-117, above. There was apparently blanket request to the former employer for the release of the entire employment file of a former employee. There was apparently a blanket response by the employee that the request was an unwarranted invasion of privacy. Parties seeking rulings by the AG under Attorney General Opinion 2012-117 must supply the necessary information. Under Attorney General Opinion No. 2012-115, the custodian supplied the proper documents and information and was deemed correct in releasing the interview questions submitted to applicants. However, the public has an interest in knowing the most qualified applicant was hired, and therefore the interview scores of the person hired should be released and not redacted. Under Attorney General Opinion No. 2012-123, the AG affirmed, from submission of the necessary information, the custodian's decision to not release an employee evaluation that did not, according to the custodian, play a part in the subject termination. Under Attorney General Opinion No. 2012-144, the AG agreed with the custodian's decision to release a transcription of two emails by a former employee, one to department heads and one to the employees generally, tendering his resignation. However, the AG found that the redactions made by the custodian were inconsistent with the FOIA. Resignation letters are generally subject to release under the FOIA. However, the custodian may be able redact certain information as an unwarranted invasion of privacy. Because the two resignation letters were not provided and the release of information to the requesting party was a transcription of the two emails, the AG could not determine that the custodian acted inconsistent with the FOIA. At a minimum, the amount of information deleted shall be indicated on the released portion of the record, and, if feasible, at the place the redaction was made. The use of a transcription was inconsistent with these methods of disclosure and redaction under the FOIA.

AG Opinion No. 2012-104: expounds on the previous opinion of the AG, Attorney General Opinion No. 2012-010, which made clear that mineral interests of churches' or cemeteries' property are taxable and not exempt under the property tax imposed by the Arkansas Constitution under Article 16, Sections 5; and that all laws seeking to exempt property not specifically exempted are void as per Article 16, Sections 6 of the Arkansas Constitution. The AG further explained that producing mineral interests are not exempt from taxation except minerals owned by the United States or Federal government. State, local and all other entities such as improvement districts, conservation districts, fire departments, non-profit corporations, charities, etc., are not exempt. Also, the AG made clear that a person may not claim exemption of producing mineral interests under the exemptions afforded by the Homestead tax protections under Amendment 79 which applies only to the surface estate used as the taxpayer's principal place of residence--the occupied surface residential premises. Likewise, the AG found that the homestead exemption afforded to disabled veterans under ACA 26-3-306 does not apply to producing mineral interests.

AG Opinion No. 2012-112: Upon request, it is the duty of the Attorney General to determine if a decision of a custodian is consistent with the FOIA. The AG says that records generated as part of an investigation may be considered employee evaluations or job performance records and may be exempt from release under the FOIA and may constitute an unwarranted invasion of privacy. The Attorney General's office and commentators have typically classified that personnel files typically include: employment applications, school transcripts, payroll-related documents such as re-classifications, promotions, demotions, transfer records, health and life insurance forms, performance evaluations, recommendation letters, etc. However, notwithstanding the exemption, ACA 25-19-105(c)(1) provides that employee evaluations may be subject to release upon final administrative resolution of any suspension or termination at which the

records form a basis for the decision to suspend or terminate the employee and there is a compelling public interest. Compelling public interests involve violations of public trust or gross incompetence; the existence of a public controversy; and the employees position within the agency. Custodians may, consistent with the FOIA, clearly withhold employee evaluations of low level employees not suspended or terminated. However, in the context of law enforcement officers, the level or ranking of the employee has less weight and the public interest is greater. Whether or not an employee was directly or indirectly involved in an incident is relevant and may turn on whether there are allegations of a single event or multiple events. See also: Attorney General Opinions 2012-105.

AG Opinions: 2012-111, 2012-110, 2011-156 and 2011-058: Reflect that disclosure of the names of county employees or list of county employees is generally not protected. The AG has explained that the General Assembly has refrained from establishing a protection from releasing an employee's name on the basis of "harassment exception" or "increased risk of harm exception."

AG Opinion No. 2012-143: The Workers Compensation Commission determines whether an employer qualifies as an "extra-hazardous" employer. ACA 11-10-314 provides an exemption for disclosure of the confidential data filed with the Workforce Services Commission concerning "extra-hazardous" employer status. This exception is located under a separate section of the Arkansas Code from the FOIA, Freedom of Information Act, ACA 25-19-101 et seq. The AG noted that in 2009 the General Assembly attempted to mandate that the creation of any new record or public meeting exceptions to the FOIA after July 1, 2009, must explicitly state that the record or meeting is exempt from the FOIA, ACA 25-19-10 et seq. The exception to the FOIA under ACA 11-10-314 is clearly valid since it was adopted prior to July 1, 2009. However, the AG noted that attempts by the legislature to bind subsequent legislatures are called "entrenchment rules"; and that the validity of the 2009 entrenchment rule on the FOIA is questionable.

During the 2013 regular session, Act 411 of 2013 explicitly amended the FOIA, Freedom of Information Act, ACA § 25-19-105(b)(13), concerning examination and copying of public records to protect the personal contact information of nonelected government employees. The amendment specifically exempts from disclosure home or mobile telephone numbers, personal email addresses, and home addresses of nonelected county or government employees. Act 411 seeks to protect privacy of nonelected employees and is effective August 16th as per Attorney General Opinion No. 2013-049.

AG Opinion No. 2010-169: The Attorney General made clear that under the Freedom of Information Act, a county assessor or public official may not charge out-of-county citizens of Arkansas for access and copies to public records on a website maintained by the assessor and not charge county residents. The plan of the custodian to eliminate the fee based solely on whether the persons making the request are in-county residents is inconsistent with the Freedom of Information Act.

AG Opinion No. 2010-159: The question arose as to whether Cherokee Village Improvement District improperly paid property taxes which were assessed in error? A.C.A. § allows for recover of property taxes paid which were "erroneously assessed" if the error is reflected on the face of the tax books and related records. County courts have jurisdiction over granting refunds under ACA 26-35-901 for instances of error in assessment upon "satisfactory proof being adduced to the county court". The Attorney General concluded that legislative clarification is warranted to determine what records may be adduced to establish that an error in assessment occurred. The Attorney General also noted that the assertion that land held by the improvement district following foreclosure were *ipso facto* (in fact) classified as held for public purposes and exempt. He cited the case of *Robinson v. Indiana & Ark Lumber*, 128 Ark. 550 (1917) which held that: "There is a material difference between the use of property exclusively for public purposes and renting it out and applying the proceeds therefrom to the public use. The property under our Constitution must be actually occupied or made use of for a public purpose and our court has recognized the difference between the actual use of the property and the use of the income."¹

AG Opinion No. 2010-093: ACA 26-3-306 provides a homestead and personal property tax exemption for disabled veterans, surviving spouses and dependent children. To be eligible, the disabled veteran shall be in receipt of special monthly compensation for the loss of use of one or more limbs, total blindness in one or more eyes, or for service-

¹ Act 1076 of 2017 clarifies that property owned by the state should be considered the property of the lessee if the property is held under a lease for a term of actual use or occupation for more than ninety (90) days. The lessee of such a property shall pay taxes on that property for any tax year during which the lease for the property is in effect as of January 1 of that tax year.

connected one hundred percent (100%) total and permanent disability. The code requires the person claiming the exemption to furnish the county collector a letter from the VA verifying eligibility. The law is silent as to whether a single letter is required to be supplied annually. The AG advised that the law is unclear and judicial or legislative clarification may be warranted. He also indicated that the practice of many collectors may be justified in requiring an annual letter; however, the status of the eligible disabilities as permanent may result in an adverse court ruling.

AG Opinion No. 2007-059: Is ACA 21-5-107, prohibiting dual elective office holders from deriving compensation from both offices, lawful and constitutional? Yes. ACA 21-5-107 prohibits dual elective office holders from receiving compensation from both offices. The law requires the elected officer to select the office to provide compensation. The question was posed as a result of an elected justice of the peace that is serving as an elected city attorney. The AG concluded that there is no violation of the constitution, the State Minimum Wage Act, or the Fair Labor Standards Act. While the law does classify, it is deemed not to discriminate in violation of the Equal Protection Clause.

The AG opined the intent behind the law may be to avoid duplication of insurance benefits or to avoid seeking dual offices for purely pecuniary gain. Are elected officials or dual-officer holders prohibited from duplicate compensation in the form of inclusion on the health plan of more than one political subdivision?

Chapter Ten - GLOSSARY OF TERMS

ABSTRACT - A condensed history of the title to land, consisting of a summary of the material of all the conveyances which in any manner affect said land, together with a statement of all liens, charges, or liabilities to which the same maybe subject. (ACA 26-26-702)

ADMINISTRATOR - A representative of limited authority whose duties are to collect assets of estate, pay debts, and distribute residue to those entitled. (ACA 26-26-904)

AVERAGE TAX RATE - The total of millage rates for all purposes for each of the several taxing districts of the state for the assessment year, divided by the number of taxing districts of the state. (ACA 26-26-1615)

BOARD OF EQUALIZATION - The County Equalization Board is composed of qualified electors in the county who have been real property owners for at least one (1) year. The board consists of five members, and in counties having a population in excess of 79,000 according to the latest Federal Census, such Board may consist of nine (9) members. (ACA 26-27-302 through 26-27-305)

CAPITAL STOCK - The aggregate value of the corporation's stock in the hands of its stockholders and not the capital of the corporation as represented by its tangible assets. (ACA 26-26-1505)

CONTRACT - A binding agreement. The writing which contains the agreement of parties, with the terms and conditions, and which serves as a proof of the obligation. (ACA 26-26-708)

COUNTY COURT - A court presided over by the county judge which has exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, vagrants, the disbursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective county. (ACA 14-14-1105)

COUNTY-WIDE REAPPRAISAL - a cyclical review program estimating the value of all taxable real property within the county as of a given date within a given time frame. (ACA 26-26-1901)

DEED - A conveyance of realty; a writing signed by grantor, whereby title to realty is transferred from one to another. (ACA 26-26-708)

DEPARTMENT - Assessment Coordination Department. (ACA 26-26-1901)

ESCHEATED REAL ESTATE - Real estate that has been reclaimed by the state. (ACA 28-13-109)

EXEMPT LANDS - Lands of the United States or of the state, or lands otherwise exempt from taxation. (ACA 26-26-703)

GUARDIAN - A person lawfully invested with the power, and charged with the duty, of taking care of a person and managing the property and rights of that person, who, for some peculiarity of status, or defect of age, understanding, or self-control, is considered incapable of administering his own affairs. (ACA 26-26-904)

HOUSE TO HOUSE CANVASS - A visit to each house, shop, store, mill, factory, or other place of business and each dwelling, farm, and all other places of residence within the county for the purpose of ascertaining if all property and persons have been listed for assessment in the manner required by law. (ACA 26-26-912) (Repealed by Act 175 of 2011).

INTANGIBLE PERSONAL PROPERTY - Such property has no intrinsic or marketable value, but is merely the representative or evidence of value, such as certificates of stock, bonds, promissory notes, and franchises. (ACA 26-26-1401)

MANSFIELD'S DIGEST - The following oath shall be endorsed upon the assessment books prior to the delivery to the assessor. I _____, assessor for _____ County, do solemnly swear that the value of all real or personal property, moneys, credits, investments in bonds, stocks, joint stock companies, of which statements may be made to me by persons required by law, will be appraised at this actual cash value that in no case will I, knowingly, omit to demand of any person or corporation, of whom by law I may be required to make such demand, a statement of the description and value of personal property, or the amount of moneys and credits, investments in bonds, stocks, joint stock companies, or otherwise, which he may be required to list, or in any way connive at any violation or evasion of any of the requirements of the law or laws in relation to the listing or valuation of property, credits, investments in bonds, stocks, joint stock companies or otherwise, of any kind for taxation.

MARKET VALUE - The price property would command in the market. (ACA 26-26-1202)

MINERAL DEED - A realty conveyance involving a severance from fee of present title to minerals in place, either affecting such severance in first instance or conveying part of such mineral ownership previously severed from the fee. (ACA 26-26-708)

MORTGAGE - An estate created by a conveyance absolute in its form, but intended to secure the performance of some act, such as the payment of money, and the like, by the grantor or some other person, and to become void if the act is not performed. (ACA 26-26-708)

PERSONAL PROPERTY - The words "personal property" include goods, chattels, things in action and evidences of debt. Every tangible thing being the subject of ownership, whether animate or inanimate, other than money or a part of any parcel of real property. (ACA 26-1-101) (Amendment 57 to the Arkansas Constitution money and other intangible personal property exemptible from ad valorem taxation).

PROPERTY - The word "property" includes both real and personal property. (ACA 26-1-101)

PRO-RATA COSTS - Costs that are figured proportionately according to some exactly calculable factor. (ACA 26-26-606)

REAL PROPERTY AND LANDS - The land itself, whether laid out in town lots or otherwise, with all things therein contained; all buildings, structures and improvements and other fixtures of whatever kind thereon; and all rights and privileges belonging or in any way appertaining thereto. (ACA 26-1-101)

REAPPRAISAL - The estimating of the value of all taxable real property within the county as of a given date within a given time frame. (ACA 26-26-1901)

TAX FORFEITED LANDS - All land, lots and parts of lots that have been certified to the State Land Office for the nonpayment of the delinquent taxes due. (ACA 26-26-721)

TAXABLE PROPERTY - All property, whether real or personal, in this state; all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, of persons residing therein; the property of corporations; and the property of all banks or banking companies and of all bankers and brokers shall be subject to taxation. Such property, moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, or the value thereof, shall be entered on the list of taxable property for that purpose. (ACA 26-3-201)