

Taxpayer Bill of Rights

(SB 177, Act 431, 1999 Session)

Act 431 was signed April 30, 1999 with a January 1, 2000 effective date.

The bill has two main thrusts:

- prevention of indirect tax increases resulting from increases to existing property values in county due to inflation,
- an enhancement of an individual property owner's rights when objecting to and appealing an increase made by a county board of tax assessors to the value of the owner's property.

- **Rules for Rollback of Millage Rate When Digest Value Increased by Reassessments**

The Revenue Commissioner has developed new rules and regulations that became effective on November 14, 2000, to implement the terms and provisions of Act 431.

- **Prevention of Indirect Tax Increases**

Each year there are two types of value increases made to a county tax digest, increases due to inflation, and increases due to new or improved properties. The new law imposes no additional requirements if the levying authority (county commissioners, local school board, or city council) rolls back the millage rate each year to offset any inflationary increases in the digest. If it does not, a local levying authority must notify the public that taxes are being increased. Local levying authorities would include the county governing authorities, school boards and municipal governing authorities.

The Revenue Commissioner will not authorize the collection of taxes on any digest without a showing by the official submitting the digest that the local levying authorities have complied with the new law.

- **Rollback of Millage Rate to Offset Inflationary Increases**

When the total digest of taxable property is prepared, Georgia Law requires that a rollback millage rate must be computed that will produce the same total revenue on the current year's new digest that last year's millage rate would have produced had no reassessments occurred.

If the county elects to set their millage rate higher than the rollback rate, then the new law imposes some new requirements. The new requirements are to hold three public hearings, place notices of the increase in the paper and issue press releases.

- **Notification of Tax Increase With Three Public Hearings**

The levying authority must hold three public hearings allowing the public input into the proposed increase in taxes. Two of these public hearings may coincide with other required hearings associated with the millage rate process, such as the public hearing required by O.C.G.A Section 36-81-5 when the budget is advertised, and the public hearing required by O.C.G.A. Section 48-5-32 when the millage rate is finalized. One of the three public hearings must begin between 6:00 PM and 7:00 PM in the evening.

- **Publish Notice in Paper One Week Before Each Hearing**

The levying authority must publish a notice in the paper one week in advance of each of these three public hearings.

- **Press Release to Explain Tax Increase**

The levying authority must issue a release to the press explaining its intent to increase the taxes.

- **Enhanced Taxpayer Rights During Appeal**

Act 431 significantly increased the rights of property owners whose values are changed by the board of tax assessors. The highlights of these changes are listed below.

- **Explanation With Change of Assessment Notice**

The change of assessment notice must give the property owner a name and telephone number of a knowledgeable person to call if they have questions about the value change or appeal procedures. If the increase exceeds 15%, the notice must include a simple, non-technical explanation of the basis for the change along with a statement informing the property owner that they may view, or have inexpensive copies made of those tax records used by the assessors to determine the value change.

- **Assessors Must Provide Grounds for Rejection of Property Owner's Appeal**

When a property owner elects to assert a position as the basis for their appeal and the board of tax assessors rejects this position, the board must include in their rejection notice back to the property owner the grounds for the rejection. Thereafter, the board of tax assessors must stick to those grounds and not assert new grounds later in the appeal process. If the property owner asserts a new position, the board of tax assessors may assert new grounds for rejecting the new position.

- **Burden of Proof on the Board of Tax Assessors**

When the board of tax assessors changes the value returned by a property owner, the new law places on the board the burden of proving, by a preponderance of the evidence, the validity of the change. This burden continues to be on the assessors even if the appeal goes to superior court, although the judge is not bound to either the assessors' or the property owner's value when determining, or having determined by a jury, the question of final value.

- **One Time Option to Reschedule Hearing and Superior Court Proceeding**

If the board of equalization, which hears property owner appeals, schedules the appeal at a time inconvenient to the property owner, Act 431 permits a one time option for the owner to request a different and more convenient time, even one occurring as early as 8:00 AM or as late as 7:00 PM. This property owner accommodation is extended to the superior court proceeding, should the appeal go that far, where the owner may request a hearing at a convenient time.

- **Property Owner Could Recover Court Costs and Fees**

In certain instances, the property owner may recover court costs and reasonable attorney fees incurred in the appeal hearing before the superior court. The property owner could recover these costs and fees if the court finds the final value to be 85% or less (80% for commercial property) of the board of equalization's determination of value. This would not apply, however, if the property owner had failed to return the property for taxation.

- **Property Owner Can Record Conversations**

The property owner has the right under Act 431 to make an audio recording of any conversations with assessors or appraisers when such recordings are relative to the owner's assessment, appeal, arbitration or related proceedings. The owner must provide his or her own equipment.

- **Tax Commissioner to Provide Brochure About Property Tax Laws and Procedures**

The new law provides for the tax commissioner, assisted by the board of tax assessors, to develop and make available an informational brochure that explains the county's property tax laws and procedures. This brochure will contain information about exemptions and preferential assessment programs available in the county along with instructions on how to apply. The brochure will be available in the tax offices and will also be mailed to individuals purchasing property. If the Legislature creates a new exemption or preferential assessment program, the brochure will be mailed to everyone who may be eligible for the new program.