

SALT LAKE COUNTY
COUNTYWIDE POLICY AND PROCEDURE
ON
ERRONEOUS OR ILLEGAL ASSESSMENTS

Purpose -

To establish guidelines for determining whether property has been erroneously or illegally assessed pursuant to Utah Code Ann. §59-2-1321. A finding of conformance with the requirements of this policy must be made before granting a reduction or refund in taxes levied or paid. No request will be considered under this policy that appropriately falls under the jurisdiction of the Salt Lake County Board of Equalization or other tax assessment appeal body.

1.0 Definitions

- 1.1 **Erroneous or illegal tax** - An erroneous or illegal tax is one levied without statutory authority, upon property exempt in whole or part from taxation, by some officer having no authority to levy the tax, or one which in some other similar respect is specifically contrary to law or unsupported by existing statutory or case law.
- 1.2 **Illegal assessment** - An illegal assessment is the fixing of value and placement on the official assessment roll of property that does not exist, which is exempt in whole or in part from taxation, or, in the case of property which is subject to assessment, is not within the jurisdiction of the assessing authority.
- 1.3 **Erroneous assessment** - An erroneous assessment is an assessment in excess of fair market value as a result of a clerical mistake on the part of the assessing authority. The claim of erroneous assessment arises solely in circumstances where the assessment is at odds with the records of the assessing authority and accordingly reflects a clerical error. Where a taxpayer provides information to the Assessor and the valuation is predicated upon that information or where a taxpayer and the Assessor both rely upon information which each believes to be correct, subsequent discovery of mistakes in the underlying facts will not give rise to a claim of erroneous assessment. Judgments based on reliable information, reasonably relied upon by the assessing authority as to the amount, description, and nature of the property taxable, when made without malice, fraud or willful misconduct, are neither erroneous nor illegal and must be brought to the annual review of the Board of Equalization.
- 1.4 **Duplicate Assessment or double tax** - A duplicate assessment or double tax is one in which the same, or identical property, as opposed to a similar type of property, is assessed or taxed twice.
- 1.5 **Clerical error** - A Clerical error is limited to data input and processing mistakes. Appraisal judgment does not qualify as a clerical mistake.

- 1.6 Overpayment - An overpayment is an actual payment by or on behalf of a taxpayer of an amount in excess of the amount of the tax levied on the property taxable. Inadvertent overpayment of a tax properly levied does not constitute an erroneous or illegal assessment or collection. No interest shall be allowed or paid on amounts refunded due to overpayments.

2.0 Procedures

- 2.1 All requests for adjustment under this policy, either a reduction in taxes levied or refund of taxes previously paid, must be submitted in writing to the Chair of the Property Tax Committee, and shall be supported by a complete statement of all relevant facts and legal argument.
- 2.2 Requests for relief may be made by the taxpayer, an agent acting on behalf of the taxpayer, or a county agency discovering circumstances supporting such a request.
- 2.3 A recommendation may be forwarded directly to the Council by an individual office where specific authority has been granted, subject to such limits, conditions, and reporting requirements as are established by the Salt Lake County Council. Full documentation with respect to each request shall be maintained in the office making the recommendation.

3.0 Eligible Party

- 3.1 An eligible party must have paid the tax or have the current obligation to pay the tax in order to be entitled to a refund or reduction of tax. A subsequent owner who did not pay the original tax can make no claim for refund as he would have suffered no injury from the erroneous or illegal assessment.

4.0 Burden of Proof

- 4.1 All assessments not appealed to the Board of Equalization are presumed to be correct. In order to establish that an erroneous or illegal assessment or tax exists, sufficient evidence must be presented.
- 4.2 The appellant shall have the burden of proof of establishing such errors exist in the assessing authority's records as well as the burden of establishing the fair market value for each year in question.

5.0 Minimum Evidence Requirements


- 5.1 Once it is determined the assessment was either erroneous or illegal, the standard for establishing fair market value will follow the minimum evidence requirements established by the Board of Equalization for each year in question. (See Board of Equalization Administrative Rules) Requests failing to identify the specific error in market value will be issued an intent to dismiss with 30 days to provide evidence to support the claim.

6.0 Calculation of Refunds

- 6.1 . Illegal - tax or assessment of a specific dollar amount. Relief for an illegal tax or assessment is based upon a refund of the monies illegally levied and collected or an abatement of the illegal tax if taxes have not already been paid.
- 6.2 Erroneous - assessment. An erroneous assessment is a deviation from fair market value arising as a result of a clerical error. The measure of relief for an erroneous or illegal assessment is based upon the amount in excess of the fair market value generated by the mistake. To the extent that mistakes fail to generate a value in excess of fair market value no refund will be made.
- 6.3 Refunds - Refunds shall be made according to existing law, County Ordinance, and policies and procedures adopted by the county legislative body.
 - 6.3.1 Refunds shall not exceed the statute of limitations for years eligible as set out in §78-12-25.
 - 6.3.2 Refunds will be based on the net change in tax for all years eligible for consideration under this policy.
 - 6.3.3 Interest paid with refunds shall be considered from the date of demand or the date of payment whichever is later.
 - 6.3.4 Refunds shall first be applied to any known existing delinquency on property in the name of the same owner consistent with County Ordinance.

APPROVED AND PASSED THIS 21 DAY OF August, 2001.

SALT LAKE COUNTY COUNCIL


Marvin Hendrickson, Chair

ATTEST:



Sherrie Swensen, County Clerk

CHIEF DEPUTY COUNTY CLERK

APPROVED AS TO FORM:



District Attorney's Office Date 8-15-01