

SB 346 SUMMARY
EFFECTIVE JANUARY 1, 2011
(Part VI Effective June 4, 2010)

PART I, Section 1-1 (returns and notices)

Part (a) – method of giving notice

- Requires annual assessment notices for real estate regardless of change in value, i.e. returns are no longer required to force issuances of notices to initiate the appeal process.
- Notices for personal property are required only when the Board of Assessors (BOA) does not accept the taxpayer's return.
- Adds the provision that the taxpayer may elect to receive electronic notices if the BOA makes this method available.

Part (b) – notice content

- Requires state wide uniform notice that is to be established by the commissioner of revenue.
- Requires substantially more detail such as specific contact information for the person handling the appeal, BOA website address, a statement about the availability of documents and records, an estimate of the current years taxes based on the current value and prior year tax rate, the appeal deadline and appeal options.
- The current year tax estimate does not have to reflect eligible exemptions
- The appeal deadline in each county is now 45 days from date of notice
- The notice must state appeal options of which non-binding arbitration is no longer included. Appeal options, which are set forth in Part II, now are (1) Board of Equalization (BOE) with an option to appeal to Superior Court, (2) Arbitration without the option to appeal to Superior Court, and (3) for non-homestead properties valued at over \$1 million, a hearing officer with the option of appealing to Superior Court
- With the exception of corrections and mapping changes, annual notices must be mailed no later than July 1 (Note: There are no negative consequences stated for non-compliance)
- Gives more details about public records that the taxpayer may request and specifically refers to comparables and other factors used to establish the assessment

PART II, Section 2-1 (BOE and appeal process)

- Allows two or more counties to establish regional BOE's
- Requires the oath taken by BOE members to be in writing, and adds language to the oath regarding impartiality and confidentiality
- Any taxpayer/property owner as of the last date for filing appeal may file the appeal
- A detailed section is added placing the BOE's under the supervision of the clerk of Superior Court and detailing the clerk's responsibilities. The clerk is to maintain county records from hearings, and if a Superior Court appeal is filed these records will become part of the record on appeal (This is in conflict with a later section that says Superior Court appeals are de novo)
- Sets forth the three appeal options, one of which, must be specified in appeal letter (1) Board of Equalization, (2) Arbitration and (3) Hearing Officer. The hearing officer option is only available for non-homestead property with FMV in excess of \$1 million
- Hearing officer has same powers, duties and authority as county BOE. Hearing Officer can decide matters of uniformity

- Sets the qualifications and process for choosing a hearing officer, who must be a State Certified Appraiser
- The commissioner will establish a uniform appeal form
- The original code allowed for one reschedule. Under this code, additional reschedules with good cause are allowed
- The commissioner will establish uniform standards for BOE's, hearing officers and arbitrators and review these standards every five years
- If counties adopt a written policy, allows for e-mailing of appeals
- Establishes 45 day appeal deadline for all counties
- County BOE and hearing officer are required to render a decision upon conclusion of hearing.
- When additional taxes are due at the conclusion of an appeal, homestead properties are no longer exempt from interest charges, which may not exceed \$150
- Clerk of Superior Court is responsible for facilities, clerical and administrative staff and records maintenance
- The county and taxpayer may agree to a value at any point during the appeal process, thus concluding the appeal
- Assessors have 90 days to review appeals and must notify taxpayer of any changes. Taxpayer has 30 days to reject such changes (previously 21 days)
- The taxpayer and BOA may mutually agree to appeal directly to Superior Court
- For Superior Court appeals, the taxpayer has the option of a bench trial or jury trial. At the taxpayers election this appeal will be placed on the court's next available bench or jury calendar

PART III, Section 3-1 (returns)

- Establishes the return period of January 1 to April 1 each year for all counties.

PART IV, Section 4-1 (training for tax officials)

- Establishes training requirements for tax officials (appraisers, assessors, collectors) and Board of Equalization
- Training is coordinated by Revenue Commissioner – DOR
- Training is open to the public but must be paid for by the public

PART IV, Section 4-2 (qualifications for BTA)

- 21 yrs old and resident of County within 6 months of taking office
- HS diploma or equivalent required
- Has to have 40 hours of training within 180 days of appointment
- Has to have an additional 40 hours of approved appraisal courses within 2 years of tenure
- DOR approves coursework and ensures compliance

PART IV, Section 4-3 (qualifications for BOE)

- Establishes training requirements for BOE; 40 hours of instruction prior to hearing cases
- 8 hours of annual continuing education for BOE members

PART V, Section 5-1 (sales definition)

- Defines arm's length or bona fide sale to include distress sales, short sales, bank sales or sales at a public auction

PART V, Section 5-2 (fair market value and the income approach)

- Defines "fair market value"
- Requires assessor to consider income approach, if data available, in determining FMV of income producing property
- Transaction (sale) price of the most recent arm's length/bona fide sale shall be the maximum allowable FMV for the next taxable year

PART V, Section 5-3 (assessment criteria for determining FMV)

- Existing zoning
- Existing use
- Existing covenants and/or deed restrictions
- Decreased value based on limitations of a conservation easement

PART V, Section 5-4 (intangible assets)

- Assessor cannot include value of intangible assets including patents, trademarks, trade names, customer agreements and merchandising agreements

PART VI, Section 6-1 (rules of arbitration) EFFECTIVE IMMEDIATELY

- Definition of certified appraisal
- Taxpayer must elect to use arbitration within 45 days from the date of the mailing of the notice
- Within 10 days of receipt of a taxpayers' request for arbitration, the assessor's office has to send an appeal acknowledgement
- Within 45 days of filing the request for arbitration, the taxpayer must submit a copy of the certified appraisal; taxpayer can elect to have the appeal forwarded to the BOE if the certified appraisal is not available
- Within 45 days of receiving the certified appraisal, the Assessor can accept the appraisal and value becomes final
- If the Assessor rejects the appraisal, the appeal must be certified to the clerk of superior court.
- If the Assessor neither accepts nor rejects the taxpayer's appraisal within the 45 day period, then the certified appraisal becomes the final value; also if there is a 2009 binding arbitration appeal pending and the appraisal has been submitted, the value set forth in the appraisal shall be deemed the final value
- At the time of certification of the appeal, Assessor shall serve the taxpayer and taxpayer's attorney of record or employee with a copy of the certification, any other papers and a civil action file number assigned to the appeal
- Within 15 days of filing the certification to the clerk of the superior court, the chief judge shall issue the arbitration order
- County and taxpayer may agree on the single arbitrator
- If parties cannot agree, the arbitrator shall be appointed by the chief judge of the superior court

- Arbitrator must be a state certified general real property appraiser or state certified residential real property appraiser
- Within 30 days of appointment arbitrator shall set a time and place to present evidence and hear testimony from both parties
- At the arbitration hearing, all parties shall have the right to review evidence and cross-examine witnesses
- Arbitrator shall maintain records of all pleadings, documents, etc presented at the hearing
- Provisions may be waived at any time by written consent by both parties
- At the conclusion of the hearing, the arbitrator shall render a decision regarding the value of the property
- Arbitrator shall consider a single value for the property and decide either the taxpayer's value of the Assessor's value
- Loser pays the arbitration and clerk of superior court fees
- Assessor has the burden of proof and the preponderance of evidence
- HB 299C applies to BOE, arbitration, hearing officer and superior court decisions
- Temporary tax bills are still in place based on either 85% of the proposed value or the return value

PART VI, Section 6-2 (Digest penalties)

- Assessors are not required to maintain any value other than market value and no County is subject to \$5 per parcel penalties by the DOR

PART VII, Section 7-1 (tax refunds)

- Refund provisions for voluntary or involuntary overpayment of taxes
- Refunds must come from the party collecting the tax – County, municipality or County Board of Education

PART VII, Section 8-1 (required returns)

- Any returns not provided to the Board of Assessors by August 1 shall be billed at 85% of the preceding year's value until such time as the return is provided; the bill will be noted as temporary

PART IX, Section 9-1 (collection and payment of taxes)

- Counties, municipalities can choose to collect taxes in more than two installments

PART IX, Section 9-2 (payment forms)

- Counties, municipalities may elect to receive ad valorem taxes in any form of payment; assume that means credit cards, cash, checks

PART X, Section 10 (millage rate certification)

- Definition of ad valorem tax, certified tax digest, levying authority, mill rate, millage equivalent, net assessed value, recommending authority, rollback rate, tax jurisdiction, total net assessed value
- Procedures for establishing millage rates
- Millage rate advertising times, dates, and regulations
- Revenue Commissioner procedures for accepting tax digest

PART XI, Section 11-1 (DOR digest rules)

- DOR no longer able to hold up digest submission because of 3 or 5% of parcels under appeal

PART XII, Section 12-1 (Correcting factual digest errors)

- Assessors can correct factual errors in the tax digest within 3 years if the corrections are to the benefit of taxpayer

PART XIII, Section 13-1 (effectiveness of SB346)

- Part XIII and Part VI of SB346 shall become effective upon approval by the Governor or upon its becoming law w/o such approval; assume for tax year 2010; all other provisions become effective January 1, 2011