

MAY 2018

Revenue and Transportation Interim Committee  
Megan Moore, Research Analyst

# SJ 23: CENTRALLY ASSESSED AND INDUSTRIAL PROPERTY APPEAL PROCEDURES

This summary of appeal procedures for centrally assessed and industrial property is part of the Senate Joint Resolution No. 23 study of centrally assessed and industrial property assessment. The 2013-2014 Revenue and Transportation Interim Committee did an extensive study of tax appeals. Information provided for that study can be found on the following website:

<http://www.leg.mt.gov/css/Committees/interim/2013-2014/Revenue-and-Transportation/Committee-Topics/SJR23/sjr-23.asp>.

## DEPARTMENT OF REVENUE REVIEW PROCEDURES

Department of Revenue (Department) review procedures are different depending whether the property is centrally assessed property or industrial property.<sup>1</sup>

### Centrally Assessed Property

ARM [42.2.511](#) provides the process for an informal review of a centrally assessed property. The owner must file a written objection with the Department. If the Department disagrees with the taxpayer, it must explain the reasons by issuing a Notice of Determination. The taxpayer may then request a review by the Department's Office of Dispute Resolution.

Section 15-1-211 requires the Department to have a uniform dispute review procedure. Issues arising from the administration of the property tax are not included in this procedure except for assessments of centrally assessed property.

The section requires the Department to establish a dispute resolution office to resolve disputes within 180 days of referral to the office (unless the parties agree to extend the deadline). A person may also elect to bypass review by the dispute resolution office and receive a final decision within 30 days. The section also provides that a person has the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

A centrally assessed property taxpayer may appeal the final decision of the Office of Dispute Resolution to the State Tax Appeal Board.

### Industrial Property

Section 15-7-102 allows a property owner to request an informal classification and appraisal review by submitting an objection to the Department. This process is available to

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<sup>1</sup> For additional detail on the Department's informal review procedures see Dan Whyte, [Memo: Department of Revenue Informal Review and Appeal Process](#), Sept. 30, 2013.

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industrial property taxpayers by filing a [Form AB-26](#) with the Department. If the property owner feels aggrieved by the decision resulting from the informal review, the property owner may file an appeal with the County Tax Appeal Board or the State Tax Appeal Board.

## APPEALS TO THE TAX APPEAL BOARD

A taxpayer has the option of filing an appeal directly with a tax appeal board or appealing to a tax appeal board if the taxpayer is dissatisfied with the Department of Revenue review discussed above. As with the Department review process, the appeal process is different for centrally assessed property and industrial property owners.

### Centrally Assessed Property

Section [15-2-302](#) provides for the direct appeal of a Department decision to the State Tax Appeal Board for centrally assessed property.

### Industrial Property

An industrial property owner may appeal to the County Tax Appeal Board for the county in which the property is located or to the State Tax Appeal Board as provided in section [15-2-302](#).

The 2015 Legislature enacted [House Bill No. 41](#) allowing an industrial taxpayer to choose whether to appeal to the County Tax Appeal Board or to the State Tax Appeal Board. The 2013-2014 Revenue and Transportation Interim Committee requested the legislation as a result of an interim study of the tax appeal process. The committee heard testimony that industrial property owners may have an appeal based on the same issue in multiple counties. Appealing directly to the State Tax Appeal Board allows those taxpayers to bypass County Tax Appeal Board hearings in each county in which the property is located.

### Mediation

Section [15-1-212](#) provides for mediation for centrally assessed and industrial properties assessed annually by the Department. A centrally assessed property taxpayer or an industrial property taxpayer assessed annually may request mediation by including the request for mediation on the appeal filed with the State Tax Appeal Board or, if the appeal is already filed, with a separate motion to the State Tax Appeal Board.<sup>2</sup> A \$100 fee must accompany the request, and that fee is deposited in the General Fund. The Department must participate when the taxpayer requests mediation.

Additional provisions require that the mediation be private, confidential, informal, and follow the process outlined in section [26-1-813](#). The section also specifies that the mediator is prohibited from conveying information between the parties unless the

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<sup>2</sup> A centrally assessed property owner that requests a Department review also has the right to consideration of alternative dispute resolution procedures, including mediation, as discussed above.

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source party authorizes the conveyance of the information. Records of the mediation may not be disclosed to the public until the dispute is resolved, either through mediation or through the tax appeal process. The mediation may not be conducted by a public employee and must take place in a privately owned facility. The taxpayer and the Department share the costs of the mediator.

The section also provides a timeline for the mediation proceedings. The mediator must be selected and the mediation scheduled within 45 days of the request for mediation. Both parties may agree to waive this requirement. Also, a mediation may not proceed longer than 120 days unless the parties agree.

### **Appeal of a Tax Appeal Board Decision**

Regardless of the whether the appeal process begins at a County Tax Appeal Board or at the State Tax Appeal Board, industrial and centrally assessed property owners both have the option of appealing the decision to the next level. A County Tax Appeal Board decision may be appealed to the State Tax Appeal Board followed by District Court and the Montana Supreme Court.