

STATE OF TENNESSEE
OFFICE OF THE
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Opinion No. 05-102

Authority to Compromise Contested Property Tax Assessments

QUESTION

Does the executive director of a county board of equalization, or anyone other than the board itself, have the authority to compromise and settle a contested assessment without board approval after the tax roles have been certified and the assessment has been appealed and docketed for hearing by the board?

OPINION

No. Once an assessment has been appealed to a county board of equalization, any compromise, settlement, or adjustment of the assessment requires action by the board. Neither the board's executive director nor the county assessor can compromise or settle the assessment without board approval.

ANALYSIS

The duties and responsibilities of a county board of equalization are set forth in Tenn. Code Ann. §§ 67-5-1401 to -1415 (2003 & Supp. 2004). Among its other duties, a county board of equalization is required to hear complaints of taxpayers who wish to dispute their property assessments, to decrease or increase assessments that have been over- or under-assessed, and to correct other assessment errors that are brought to the board's attention. *See* Tenn. Code Ann. § 67-5-1402(4)—(7) (2003).

After the county tax role has been certified, the county board of equalization may adjust an assessment upon the recommendation of the county property assessor. *See* Tenn. Code Ann. § 67-5-1403(b) (2003). The board also may adjust an assessment upon the written complaint of the taxpayer or a local governmental entity. *See* Tenn. Code Ann. § 67-5-1407(a), (b) (2003). In this regard, either the taxpayer or a local governmental entity may challenge an assessment by filing a complaint with the board. *See id.* Both parties are entitled to appear at a hearing before the board and to present evidence relative to the contested assessment. *See id.*

The county board of equalization has the authority to dispose of complaints by making “such changes, by way of increase or decrease in assessments, appraised values, or changes in classifications or subclassifications, as in its judgment are proper, just and equitable.” Tenn. Code Ann. § 67-5-1408 (2003). When the board has “determined the matters before it, such action shall be final except insofar as the same may be revised or changed by the state board of equalization.” Tenn. Code Ann. § 67-5-1411(a) (2003).

Under the foregoing statutory scheme, once the county tax role has been certified, the county board of equalization may adjust assessments upon the recommendation of the county assessor or upon a written complaint filed by the taxpayer or concerned local governmental entity. *See* Tenn. Code Ann. §§ 67-5-1403(b), 67-5-1407(a), (b) (2003). Only the board has been given this specific statutory authority, however, and no statutory authority exists for permitting an employee of the board, such as the board’s executive director, to compromise or settle a contested settlement. Once the county tax role has been certified, and a complaint filed with the board, only the board possesses the authority to make adjustments to the assessment. The statutes do not preclude the board’s executive director or the county property assessor from making recommendations to the board on a contested assessment; however, any resulting compromise or adjustment of the assessment requires board approval.

The role of the county board of equalization’s executive director is analogous to that of the State Board of Equalization’s Executive Secretary. In addressing a similar question concerning limits on the Executive Secretary’s authority, this office has opined that

[a]lthough the Executive Secretary has a multitude of significant and diverse responsibilities, including conducting preliminary hearings and making investigations for the State Board regarding appeals filed with the Board, the Executive Secretary has no statutory power to render final decisions on appeals filed with the State Board or the Assessment Appeals Commission.

Tenn. Att’y Gen. Op. No. 92-59 (Oct. 8, 1992). We explained that “[s]uch final decisions are made in the manner [prescribed] at [Tenn. Code Ann.] §§ 67-5-1505 and 67-5-1506,” the statutes governing proceedings before the State Board of Equalization.

Similarly, proceedings before the county board of equalization are governed by Tenn. Code Ann. §§ 67-5-1401 to -1415 (2003 & Supp. 2004). These statutes authorize the county board of equalization to resolve contested property assessments for which complaints have been filed with the board. They do not authorize the board’s executive director or any other county official to compromise or settle such assessments.

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