



1971

# Property Tax Assessment Administration in Kentucky

Walter W. Turner  
*University of Kentucky*

Follow this and additional works at: <https://uknowledge.uky.edu/klj>

 Part of the [Property Law and Real Estate Commons](#), and the [Taxation-State and Local Commons](#)  
**Click here to let us know how access to this document benefits you.**

## Recommended Citation

Turner, Walter W. (1971) "Property Tax Assessment Administration in Kentucky," *Kentucky Law Journal*: Vol. 60 : Iss. 1 , Article 10.  
Available at: <https://uknowledge.uky.edu/klj/vol60/iss1/10>

This Symposium Article is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact [UKnowledge@lsv.uky.edu](mailto:UKnowledge@lsv.uky.edu).

PROPERTY TAX ASSESSMENT ADMINISTRATION  
IN KENTUCKY

I. INTRODUCTION

The citizens of Kentucky have been burdened with a property tax since the earliest settlers put a plow to the virgin soil of the Commonwealth.<sup>1</sup> Presently, section 172 of the Kentucky Constitution provides that:

All property, not exempted from taxation by this Constitution, shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale. . . .<sup>2</sup>

It should be apparent from the tone of this provision that the draftsmen's scheme for property taxation envisioned a 100 percent assessment at fair market value. Historically, however, assessment officials have assessed property at something less than market value, either arbitrarily or through some common pattern. The meaning of section 172 has been often litigated. In *Atlantic States Coal Corp. v. Letcher County*<sup>3</sup> the Court of Appeals held that the value of property for taxing purposes was the amount it would bring at a voluntary sale on the date of assessment. In later decisions the Court retreated from this "fair cash value" standard by permitting fractional assessment—an assessment at a certain percentage of fair cash value.<sup>4</sup> In one such case, *McCracken Fiscal Court v. McFadden*,<sup>5</sup> the Court said that the Constitution required both equality of taxation and assessment at fair cash value, but diluted the latter requirement by holding that where there had been persistent fractional assessment, the

---

<sup>1</sup> See generally N. Taff, HISTORY OF STATE REVENUE AND TAXATION IN KENTUCKY (1931).

<sup>2</sup> KY. CONST. § 172.

<sup>3</sup> 55 S.W.2d 408 (Ky. 1932).

<sup>4</sup> Fractional assessments first found judicial authorization in *Eminence Distillery Co. v. Board of Supervisors*, 200 S.W. 347 (Ky. 1918). The distillery brought suit against the county to have its assessment reduced to 60 percent of fair cash value in order to bring it in line with other assessments in the jurisdiction. The Court held that the Assessment of the distillery at 100 percent was unconstitutional as other property was being systematically assessed at 60 percent; thus, the constitutional requirement of equality was not being satisfied. Equality was secured by a court order requiring the authorities to assess the distillery at a similar fractional rate of 60 percent.

<sup>5</sup> 122 S.W.2d 761 (Ky. 1938).

treatment of all property alike in the application of the fractional assessment would be permitted. The Court's paradoxical position was that even though the Constitution requires a 100 percent assessment, a fractional assessment is entitled to judicial validation if it is applied uniformly throughout the taxing entity.<sup>6</sup> In 1939 the Court of Appeals again abrogated its responsibility, following the dubious path of *McFadden* while ignoring the constitutional mandate, and fixed the assessed valuation of the property of the Prestonsburg Water Company at 60 percent of its fair cash value.<sup>7</sup>

Not until 1965 in the case of *Russman v. Luckett*<sup>8</sup> did the Kentucky Court hold that the constitutional provision requiring assessment of non-exempt property at fair cash value was not repealed by implication through 75 years of continual violation. Beginning with January 1, 1966, positive compliance with the fair cash value assessment standard was ordered by the Court.<sup>9</sup> Emphatically it was stated:

[T]he Constitution and statutory law demand assessment of property at its fair cash value, and the people of this Commonwealth and this Court will no longer tolerate any substantial retreat from this standard.<sup>10</sup>

---

<sup>6</sup> The court rationalized as follows:

Whenever the tax assessing authorities have systematically disregarded the imperious demands of the Constitution and Statutes, that all property shall be assessed at its fair cash value, by adopting a general level of proportionate values, everybody must have been treated alike. *Id.* at 764.

<sup>7</sup> *Prestonsburg Water Co. v. Board of Supervisors*, 131 S.W.2d 451 (Ky. 1939). The rationale by which the Court of Appeals found the "full cash value" mandate of the Constitution was left unarticulated until 1965 and the "confession" in *Russman v. Luckett*, 391 S.W.2d 694 (Ky. 1965) where a humble Court said:

After the decision in *Greene v. Louisville and Interurban Railroad Company*, 244 U.S. 499 [1916] . . . this Court found itself in a dilemma. A taxpayer complained that his property was assessed at 100 percent while other taxpayers in the same taxing district were assessed at a lesser percentage. Under the first amendment to the Federal Constitution, which provides for equal protection of the law, it was obvious the taxpayer was unjustly discriminated against. There were only two ways to equalize the assessments. Either the assessments of other property owners must be raised to 100 percent or the complaining taxpayer's assessment lowered to the prevailing percentage. The court allowed the latter relief. *Id.* at 697.

<sup>8</sup> 391 S.W.2d 694 (Ky. 1965).

<sup>9</sup> *Id.* at 699-700.

<sup>10</sup> *Id.* The statutory demand the court refers to is that of KY. REV. STAT. [hereinafter KRS] § 133.150 (Baldwin's 1969) which provides in part:

The Department of Revenue shall fix the assessment of all property at its fair cash value. When the property in any county, or any class of property in any county, is not assessed at its fair cash value, such assessment shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

The result of *Russman v. Lockett* is not unknown to the taxpayers of Kentucky<sup>11</sup> and, contrary to the opinion of the Court, the people would have tolerated a continued retreat from the fair cash value standard. In actuality, the decision was nothing more than a directive to all assessment authorities to conform to section 172 of the Constitution. The impact of the decision on statewide assessment is best visualized by noting that in 1965, prior to *Russman*, the assessed value of real estate subject to full local rates was 3.2 billion dollars, and that following *Russman*, in 1968, this same property was valued at 12.8 billion dollars—an increase of approximately 300 percent.<sup>12</sup>

Since its inception, the problem of the property tax has been one of assessment—*i.e.*, placing a value on property. In 1805 the legislature attempted to simplify the task of placing a value on land by arbitrarily dividing all of the land in the state into three classes.<sup>13</sup> For example, the land surrounding “Flemingsborough, Cynthiana, Paris, Lexington, Beargrass” was designated as ‘first rate’ property.<sup>14</sup> While this law was in effect (from 1805 to 1837) the task of the assessor was not too difficult.<sup>15</sup> However, since repeal of the statute the duties and skills required of the assessor have become increasingly complex; today the job is a highly specialized one demanding technical and administrative competence.<sup>16</sup> Kentucky has attempted to meet the problem of assessment administration through bureaucratic organization on two principal levels. The higher of the two levels is the Kentucky Department of Revenue,<sup>17</sup> which exercises supervisory responsibility over the lower level<sup>18</sup>—the local (usually county) property valuation administrators.<sup>19</sup>

<sup>11</sup> During fiscal year 1965-66 the Department of Revenue spent \$20,663 for educational movie and T.V. spots for full value property assessment program. KY. DEP'T OF REVENUE, ANNUAL REPORT 1968-69 [hereinafter cited as DEP'T OF REVENUE, ANNUAL REPORT 1968-69] at 34 (1969).

<sup>12</sup> *Id.* at 68.

<sup>13</sup> KY. ACTS [of 1805], ch. 315 (Littells' Vol. III 1811).

<sup>14</sup> *Id.*

<sup>15</sup> N. TAFF, *supra* note 1, at 16-19.

<sup>16</sup> See KY. LEGISLATIVE RESEARCH COMM'N, RESEARCH REPORT NO. 44, STATE AND LOCAL TAXES 39-40 (1967).

<sup>17</sup> The Governmental Reorganization Act created the Department of Revenue, KY. ACTS, ch. 1, art. II, § 1 (extra session 1936).

<sup>18</sup> KRS § 131.140(2) (Baldwin's 1969).

<sup>19</sup> Any city, by ordinance may elect to use the annual county assessment for property situated within such city as a basis of ad valorem tax levies ordered or approved by the legislative body of the city as provided in KRS § 132.285(1)

(Continued on next page)

## II. STATE ADMINISTRATION

Within the Department of Revenue, the property tax laws are administered by the Property and Inheritance Tax Division, which is subdivided into three sections: General Property Tax, State Assessment, and Inheritance and Estate Tax.<sup>20</sup> The Division assesses public utility and other property that can be assessed more efficiently by a central authority,<sup>21</sup> supervises the county property valuation administrators in their work,<sup>22</sup> and furnishes forms for the listing of property.<sup>23</sup> Additionally, the Department is charged with the responsibility of arranging an annual conference of the property valuation administrators "to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith."<sup>24</sup> The Department has broad powers over county property valuation administrators, including the power to prescribe the records system,<sup>25</sup> the power to order an emergency assessment,<sup>26</sup> the powers of direction and visitation,<sup>27</sup> and the coercive power of instituting removal proceedings.<sup>28</sup>

Despite this formidable arsenal of powers the relationship between the Department of Revenue and the local county

---

(Footnote continued from preceding page)

(Baldwin's 1969). The assessment made for state purposes is used as the basis for the levy of all county common school districts, independent districts embraced by a city using the county assessment, and independent districts whose boundaries extend beyond those of the city. Ky. Dep't. of Revenue, Property Assessment Administration Manual [hereinafter Property Assessment Manual] 1.06, Oct., 1969 (departmental manual provided to property valuation administrators).

<sup>20</sup> Property Assessment Manual, *supra* note 19, at 2.03.

<sup>21</sup> KRS § 136.120(3) (Baldwin's 1969) provides that the Department shall have the sole power to assess all of the property of every public service corporation, company, association, partnership, or person rendering such service; KRS § 132.070 (Baldwin's 1969) provides for departmental assessment of securities broker's marginal accounts; KRS § 132.140(1) (Baldwin's 1969) requires the Department to assess distilled spirits; and KRS § 136.290(2) (Baldwin's 1969) vests a similar duty with regard to the capital stock of savings and loan associations.

<sup>22</sup> KRS § 131.140(2) (Baldwin's 1969).

<sup>23</sup> KRS § 131.140(1) (Baldwin's 1969).

<sup>24</sup> KRS § 131.140(3) (Baldwin's 1969).

<sup>25</sup> KRS § 131.130(3) (Baldwin's 1969).

<sup>26</sup> The power to make emergency assessments is legislatively restricted by KRS § 132.660(1) (Baldwin's 1969) to instances where there has been: no regular assessment; destruction of the assessment records; complaint by holders of 10% in value of the taxable property in the taxing district; or an investigation by the Department disclosing that the assessment of property in such taxing district is so grossly inequitable or fiscally infeasible that an emergency exists.

<sup>27</sup> KRS § 131.140(2) (Baldwin's 1969).

<sup>28</sup> KRS § 132.370(3) (Baldwin's 1969) provides that the Department of Revenue may institute removal proceedings in the circuit court of a property

(Continued on next page)

property valuation administrators [hereinafter PVA's]<sup>29</sup> is idealistically defined by the Department as one of aid and cooperation stressing local initiative at the county level supplemented by state leadership and assistance.<sup>30</sup> The responsibility of implementing this program of assistance to local PVA's falls upon the General Property Tax Section which is composed of a central office staff and a field staff. The latter consists of eight area supervisors each of whom is assigned 15 counties, and 24 district supervisors, who are in turn assigned five counties.<sup>31</sup> Area supervisors oversee the operations of district supervisors. District supervisors convey Department instructions and recommendations to the PVA's; assist in establishing valuation standards, tools and techniques; assist in compiling real property sales data to be used in determining county assessment ratios; and act as advisors to the PVA's in appraisal of property for tax purposes.<sup>32</sup> Keeping in tune with its assistance theme and emphasizing the vital role that the area and district supervisors play the Department recommends: "Whenever a property valuation administrator has questions or problems . . . he should contact the district supervisor before contacting the Department of Revenue."<sup>33</sup>

There is some evidence that the relationship between the district supervisors and the PVA's is not as harmonious as the Department would desire. In 1967 it was reported that several tax commissioners privately expressed dissatisfaction with their

---

(Footnote continued from preceding page)

valuation administrator's county in case of his willful disobedience to a legal department order, misfeasance or malfeasance in office or willful neglect in the discharge of his lawful duties.

<sup>29</sup> The title of "County Tax Commissioner" with its supposedly negative connotations as contrasted to the more positive term "Property Valuation Administrator" became effective December 1, 1968. See KRS § 132.370 (Baldwin's 1969).

<sup>30</sup> Property Assessment Manual, *supra* note 19, at 2.06.

In the Manual the Department articulates the goals of the assistance program. This program contemplates the subordination of state control and supervision in the traditional sense to a program based on mutual cooperation between the state and local government. The four major objectives of the general assistance program of the department are:

1. To provide continuous state assistance and guidance to the property valuation administrators;
2. To cooperate with and assist particular local units in making county wide mapping projects and reappraisals;
3. To effect necessary changes in assessment organization methods and procedures to comply with changes in assessment law; and,
4. To improve the assessment of property for ad valorem taxes. *Id.*, at 2.06-.07.

<sup>31</sup> *Id.* at 2.03.

<sup>32</sup> *Id.* at 2.05-.06.

<sup>33</sup> *Id.* at 2.06.

district supervisors, alluding to their youth and lack of experience,<sup>34</sup> although an opposite view was expressed regarding area supervisors.<sup>35</sup> According to a Department of Revenue official, the problem was due in part to district supervisors' salaries being lower than comparable positions in industry.<sup>36</sup> Whatever the cause, the incompatible relationships continue today, creating an area for concern and improvement.<sup>37</sup>

In performing his duties the PVA is subject to the direction, instruction and supervision of the Department of Revenue.<sup>38</sup> A question recently before the Kentucky Court of Appeals was what remedies are available to the Department when a PVA refuses to perform his duties. In *Commonwealth ex rel. Lockett v. Monson*,<sup>39</sup> the Commissioner of Revenue brought an action in the Franklin County Circuit Court seeking an order directing the defendant, PVA of Harrison County "to immediately assess all property in Harrison County, Kentucky at 100 percent of its fair cash value."<sup>40</sup> Allegedly, the defendant PVA had disregarded the instructions, directions and orders of the Department of Revenue by willfully assessing property in Harrison County at substantially less than fair cash value.<sup>41</sup> The Franklin County Circuit Court dismissed the complaint on the ground that "the relief sought

---

<sup>34</sup> KY. LEGISLATIVE RESEARCH COMM'N, RESEARCH No. 44, *supra* note 16, at 44.

<sup>35</sup> *Id.* at note 64.

<sup>36</sup> *Id.* at 44.

<sup>37</sup> In an interview for this note one PVA said: "My district supervisor is a nice boy and tries to be helpful, but he just doesn't know anything. He'll find out, but that will be days after I need the information."

<sup>38</sup> KRS § 132.420(1) (Baldwin's 1969).

<sup>39</sup> 465 S.W.2d 719 (Ky. 1971).

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* The Brief for Appellee [the PVA] gives a glimpse of the underlying controversy between the Department and the PVA, and also demonstrates the inequitable application of the *Russman* "fair cash value" standard.

A close study and review of the trial record, especially the cross examination, (T.R. Pages 22 through 30), clearly shows that the Department of Revenue has ignored its duty or does not recognize what its duty is when it brought this action. Further it appears that the Department, if it is following the law, is interpreting the law for its own rules and not those set by the court. The court in the *Russman* judgment states that property must be assessed at fair cash value, but the appellant says that 90% of fair cash value is acceptable; also, that it had certified some counties at less than 90%, so it appears that the *appellant acts under a double standard or no standard of any kind* except that which might strike its fancy at a particular time or its relationship with a particular taxing district or tax commissioner thereof. *This statement may appear to be extremely harsh but it is clearly supported by the trial record.* Brief for Appellee at 10-11, *Lockett v. Monson*, 465 S.W.2d 719 (Ky. 1971) (emphasis added).

[was] not authorized by the law."<sup>42</sup> Although affirming the decision, the Court of Appeals said that "[t]he law intends that the duty [of the PVA] be performed and a failure to do so, much less a willful refusal, is not to be tolerated."<sup>43</sup> However, the relief that the Department sought was "in effect a mandatory injunction—an equity process";<sup>44</sup> thus, the standard rule that the plaintiff must show the lack of an adequate remedy at law applied. The Court found the existence of other remedies through legislative provisions granting the Department the power to: (1) withhold compensation due a PVA in the event he fails to perform his duties;<sup>45</sup> (2) take deductions from the salary of an officer paid by the state for failure to perform his duties;<sup>46</sup> and (3) remove any PVA from office for willful disobedience of an order of the Department of Revenue or for misfeasance, malfeasance or willful neglect of duty.<sup>47</sup>

As a practical matter the statutory remedies providing the means by which the Department of Revenue may coerce PVA's into compliance with departmental directives are not as available to the Department hierarchy as the opinion in *Luckett v. Monson* suggests. Traditionally, though cognizant of its removal power,<sup>48</sup> the Department has rationalized that removal of the locally elected<sup>49</sup> PVA is not expedient in cases where the PVA neglects his duty. This stand seems to assume a "grass-roots" insurrection by the PVA's constituency if he is removed upon the petition of state officials.<sup>50</sup> The remedy most often, though sparingly used by the Department is to withhold the paycheck of a PVA who refuses to properly carry out his duties.<sup>51</sup> This sanction is applied

---

<sup>42</sup> 465 S.W.2d at 720.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*, citing KRS § 132.620.

<sup>46</sup> *Id.*, citing KRS § 61.120.

<sup>47</sup> *Id.*, citing KRS § 132.370(3).

<sup>48</sup> KRS § 132.370(3) (Baldwin's 1969) provides for removal of the PVA from office "by the circuit court of his county, upon petition of the department or any taxpayer. . . ."

<sup>49</sup> KRS § 132.370(1)(2) (Baldwin's 1969) provides for the election of a PVA in each county for a four year term.

<sup>50</sup> This analysis of the situation was presented in an interview with a Department official who expressed the view that the people of a particular county may dislike their county administrator, but they would dislike it even more if state officials stepped in and had him removed. The prospect of someone other than a locally elected official administering the property tax is equated to "taxation without representation" at the grass-roots level.

<sup>51</sup> Withholding of property valuation administrators' paychecks is an unau-

(Continued on next page)

only for a temporary period through an informal arrangement within the Department.<sup>52</sup> Usually the withholding is terminated when a high level political ally of the local PVA intercedes to demand payment of the PVA's salary.<sup>53</sup>

A major part of the Department's aid to the local PVA's program has been to furnish numerous guides and manuals designed to assist in making fair and equitable assessments.<sup>54</sup> The extent to which these publications are utilized by the local assessors is largely a matter of conjecture. However, a 1967 study<sup>55</sup> indicated that use of the nationally acclaimed *Real Property Appraisal Manual* referred to as the "assessment bible", is not widespread. Only 34 of 91 tax commissioners responding to a questionnaire indicated that they had been using the "bible" on a regular basis.<sup>56</sup> During fiscal year 1968-69 the Department expended over \$179,000 on printing and paper;<sup>57</sup> the portion of this sum attributable to property section publications is unknown.<sup>58</sup>

An important part of the departmental assistance available to counties and cities is technical and financial help with mapping and reappraisal projects.<sup>59</sup> The legislative body of any city or county may petition the Department to assist the local assessing

---

(Footnote continued from preceding page)

thorized extension of the payroll power granted in KRS § 132.645 (Baldwin's 1969). (Under the statute the PVA is paid from the State Treasury one twelfth of his compensation each month as computed by the Department of Revenue.) When the Department becomes dissatisfied with the performance of a PVA it does not write a check drawn on the State Treasury for that administrator.

<sup>52</sup> The practice of withholding a PVA's paycheck through informal procedures within the Department of Revenue is probably illegal, as "due process" and KRS § 132.620(1) (Baldwin's 1969) would seem to require a hearing as a requisite to such action.

<sup>53</sup> Revelations as to the mechanics of Department of Revenue activities in coercing compliance by PVA's with Departmental instructions came about through an interview with a Department official. It should be emphasized that he said they were used in only extreme cases of neglect of duty.

<sup>54</sup> Publications made available to the property valuation administrator include:

(1) "Property Assessment Administration Manual;" (2) "Real Property Appraisal Manual;" (3) "Valuation of Securities for State Taxes;" (4) "Stock Values and Yields for Tax Purposes;" and (5) numerous guides to the values of specific property such as trucks, cars, boats, etc. Property Assessment Manual, *supra* note 19, at 2.07-.08.

<sup>55</sup> A study by the Tax Research Center, Western Kentucky University, published as KY. LEGISLATIVE RESEARCH COMM'N, RESEARCH REPORT No. 44, *supra* note 16.

<sup>56</sup> *Id.* at 44.

<sup>57</sup> DEP'T OF REVENUE, ANNUAL REPORT 1968-69, *supra* note 11, at 34.

<sup>58</sup> The precise cost of a particular enterprise within the Department is difficult to calculate because the Data Processing and Records Division does work in all tax areas.

<sup>59</sup> See Property Assessment Manual, *supra* note 19, at 2.08-.10.

official in a complete reappraisal and mapping of all the property within the city or county. The reappraisal and mapping are joint operations between local and state authorities.<sup>60</sup> When a county requests a mapping project, a contract is signed with the commonwealth providing for the preparation of detailed maps to identify every parcel of property within the county. The county must furnish working space and utilities, but all other costs (including personnel) are borne by the state.<sup>61</sup> Before a reappraisal or mapping project is begun certain departmental prerequisites, such as general community approval, must be met.<sup>62</sup>

When a project is begun, the Department assigns one of its supervisory staff to the county.<sup>63</sup> Residents of the county are hired as fieldmen and after a short training period are sent out with aerial photographs to contact property owners and identify the property boundaries. The field men have the task of obtaining the correct name of the owner, the address of both the owner and the property, and the amount of acreage or lot size. They also photograph the main building on the property. At the office a county map is prepared by tracing the boundaries from the aerial photographs onto permanent linen from which copies can be made. Besides insuring a solid workable basis for equity in property assessment and revealing unlisted property, the maps serve useful purposes for water and sewer districts, location of gas and other utility lines, and industrial location.<sup>64</sup> As of June 30, 1969 mapping projects were either completed or underway in

---

<sup>60</sup> DEP'T OF REVENUE, ANNUAL REPORT 1968-69, *supra* note 11, at 46.

<sup>61</sup> *Id.*

<sup>62</sup> The departmental prerequisites to a remapping and reappraisal project are:

1. The legislative body must petition the Department for assistance;
2. The local county or city official must be in favor of the program, including not only the legislative body making the petition for reappraisal, but other county officials who will be involved in the administration of the project;
3. The local taxing jurisdiction must agree to make a contribution toward the cost of the project;
4. Local civic and business organizations should express a favorable attitude toward such a project; and
5. Local news media should express themselves as being in favor of assessment equalization.

Property Assessment Manual, *supra* note 19, at 2.09. Suffice it to say that these conditions, as a practical matter, would require unanimous agreement at the local level prior to the commencement of a mapping project. Such agreement is never achieved on issues as volatile as property taxation. Therefore, the Department's "conditions" are in actuality propaganda rather than requirements.

<sup>63</sup> DEP'T OF REVENUE, ANNUAL REPORT 1968-69 *supra* note 11, at 46.

<sup>64</sup> *Id.* at 46-47.

41 counties.<sup>65</sup> If property taxation is to be applied uniformly and equitably throughout the state, reappraisal and mapping for the remaining 79 counties is a necessity.<sup>66</sup>

A recent innovation in the Department of Revenue's assistance program has been the introduction of computerization to property tax procedures.<sup>67</sup> During fiscal year 1969 a pilot project was developed in five counties<sup>68</sup> to determine if three segments of the property tax assessment procedure could be transferred to data processing equipment. Those segments selected were: (1) Property Tax Rolls—the actual listing of all the property of an individual taxpayer; (2) Extensions—the studied analysis of all the property listed on the rolls to calculate true cash value; and (3) Property Tax Bills—the statement containing the amount of tax due.<sup>69</sup> The Department of Revenue found the new method of preparing tax rolls and bills to be both economical and efficient.<sup>70</sup> As a result the program was extended to 62 counties in fiscal year 1970,<sup>71</sup> indicating that a statewide system of computerized assessments and records lies in the near future.

### III. LOCAL ADMINISTRATION

The keystone in the Kentucky property tax structure is the county property valuation administrator. He is charged with the responsibility of assessing all taxable property in his county,<sup>72</sup> except for certain property which is assessed by the Department of Revenue.<sup>73</sup> Although the property owner is required to list his property,<sup>74</sup> the law imposes upon the PVA the duty of locating, identifying and assessing property.<sup>75</sup> Kentucky's method of se-

<sup>65</sup> *Id.* at 47.

<sup>66</sup> Additional projects were probably started in fiscal 1969-70, bringing the number of neglected counties to a figure of less than 79. As of June, 1971 an ANNUAL REPORT for fiscal 1969-70 was not available.

<sup>67</sup> See, DEP'T OF REVENUE, ANNUAL REPORT 1968-69, *supra* note 11, at 45.

<sup>68</sup> "The Department of Revenue, with the counties of Boone, Hardin, Laurel, Pulaski, and Woodford, entered into contracts with a computer service to implement the project." *Id.* at 46.

<sup>69</sup> *Id.* at 45.

<sup>70</sup> *Id.* at 46.

<sup>71</sup> *Id.*

<sup>72</sup> KRS § 132.420(1) (Baldwin's 1969).

<sup>73</sup> See note 21 *supra* for a partial listing of state assessed property.

<sup>74</sup> KRS § 132.220(3) (Baldwin's 1969) provides: "Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein. . . ." KRS § 132.990(1) (Baldwin's 1969) prescribes a fine of not more than \$500 for failure to list property.

<sup>75</sup> KRS § 132.450(1) (1942) provides in part:

(Continued on next page)

lecting assessors differs significantly from the model generally prescribed by property tax reformers<sup>76</sup>—the assessors are elected locally rather than appointed by the state authority.<sup>77</sup> However, Kentucky is not alone in this departure from the idealistic norm. An area of nationwide concern, the system of electing assessors probably receives more than its share of the blame for inequitable assessments:

Tax assessments are erratic and often unfair, partly because many tax assessors are ill-trained and poorly paid (average: \$6,900) political creatures. About half of the nation's 15,000 chief assessors are elected, —but few states require any professional qualifications for holding office.

. . .

The nation needs fewer—but better trained chief assessors—certainly not more than one per county. They should be appointed and subject to strict supervision by state review boards. . . . Among other things, this would make it difficult for political machines to sell underassessment in return for campaign contributions.<sup>78</sup>

Because they are elected, PVA's are especially vulnerable to local political pressure. Knowledge as to how to assess objectively does not insure that an administrator will do so under the strain of political pressure. It has been said that "an assessor who does his job right won't be around in four years."<sup>79</sup> The usual recommendation is to abolish the unsatisfactory system of electing assessors and to replace it with a system whereby properly qualified

---

(Footnote continued from preceding page)

Each [property valuation administrator] shall assess at its fair cash value all property which it is his duty to assess. . . . The property of one person shall not be assessed willfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The [property valuation administrator] shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

<sup>76</sup> See E. BALLARD, *Proposals and Trends for Obtaining Qualified Assessors and Providing Qualifications and Tenure for the Assessor's Staff*, *Assessment Administration* 70-73 (1963); L. ECKER-RACZ, *The Critical Importance of Property Assessing*, 3 *ASSESSORS JOURNAL* 1, 18-23 (1966); REPORT OF COMMITTEE ON METHOD OF SELECTING ASSESORS, PROCEEDINGS OF THE NATIONAL TAX ASSOCIATION 165 (1964).

<sup>77</sup> KRS § 132.370 (Baldwin's 1969).

<sup>78</sup> *Trying to Change an Unfair Tax*, *TIME*, May 3, 1971, at 81.

<sup>79</sup> KY. LEGISLATIVE RESEARCH COMM'N, RESEARCH REPORT No. 44, *supra* note 16, at 44.

assessors are appointed on a merit system basis devoid of political pressure.<sup>80</sup> The problem with what appears to be a sound proposal is that state merit systems have a propensity to be victimized by politicians. In the absence of strong safeguards, a change to the merit system for PVA's may in effect be merely substituting one political pawn for another.

The Department of Revenue maintains limited control over the quality of persons who become PVA's by examining candidates for the county office prior to the placement of their names on the ballot.<sup>81</sup> Legislation provides for an examination, including both written and oral parts, which is formulated so as to test the ability and fitness of the applicant to serve as county property valuation administrator.<sup>82</sup> In 1961 it was reported that about two-thirds of those tested passed the examination.<sup>83</sup> However, the test is apparently designed to test general intelligence rather than any special aptitude or expertise in the field of property tax assessment.<sup>84</sup> Recently, J. E. Lockett, Kentucky Commissioner of Revenue, defended the Department's examination practices in a communication to the Kentucky Education Association. He stated that the examination is "of such comprehensiveness that less than half of those participating are able to pass. In the 1969 examinations only 171 of 421 taking them secured passing grades."<sup>85</sup>

The compensation of a PVA is commensurate with the total assessment made by him as computed by a statutory formula,<sup>86</sup> except that each administrator is entitled to receive \$400 each month as a minimum.<sup>87</sup> The statute also sets a higher minimum salary for PVA's in counties having a city of the second class—

---

<sup>80</sup> See, e.g., *Id.* at 4.

<sup>81</sup> KRS § 132.380 (Baldwin's 1969).

<sup>82</sup> KRS § 132.380(1) (Baldwin's 1969).

<sup>83</sup> *The Role of the States in Strengthening the Property Tax*, STATE AND MUNICIPAL YEARBOOK 58 (1962).

<sup>84</sup> In an interview, a property valuation administrator said that the test was very easy for him, that it included no questions concerning assessment techniques, and that it contained only three or four problems in mathematics.

<sup>85</sup> NAT'L EDUC. ASS'N, *EDUC. IN KY.: A LEGACY OF UNKEPT PROMISE* 103 (1971).

<sup>86</sup> KRS § 132.590(1) (Baldwin's Supp. 1971) provides in part:

The compensation of the property valuation administrator except as [otherwise] provided . . . shall be computed on the basis of ten cents on each \$100 of the first \$5,000,000, one-half of one cent on each \$100 of the next \$95,000,000, and one quarter of one cent on each \$100 of the excess over \$100,000,000 of the annual assessment.

<sup>87</sup> KRS § 132.590(1) (Baldwin's Supp. 1971).

\$12,500.<sup>88</sup> In an impoverished county having a total assessment of only \$50 million the PVA's salary, as computed by the statute, would be \$7,250.<sup>89</sup> The statute places PVA's in counties having an assessment between \$210 million and \$2,000 million in grades 17 through 20 of the state personnel system, these salaries range between \$10,344 and \$18,996.<sup>90</sup> The salary, however, is intended for operation of the office on a year-round basis and not just a personal compensation to the administrator for listing and recording property. In the event that the administrator vacates his office for any reason during his term, any fees accruing to the office as his compensation are prorated, and he is paid only for the days actually served.<sup>91</sup>

At present, compensation of the PVA does not seem to be a source of friction between the Department and the local office.<sup>92</sup> However, state-imposed salary ceilings on deputy assessors and all other personnel in the county office has bred discontent, as many PVA's feel they cannot adequately staff their offices without offering higher salaries to these personnel.<sup>93</sup> The law provides that the county office shall be given certain allowances for the employment of deputies and other assistants;<sup>94</sup> and where a city elects to use the county assessment it bears a portion of this expense as computed by a statutory formula.<sup>95</sup> After approval by the Department of Revenue a PVA may appoint such deputies as the law allows and remove them at his own pleasure.<sup>96</sup>

Inadequate staffing of the local office must eventually result in inequitable assessments and an attendant loss of revenue to

<sup>88</sup> KRS § 132.590(5)(e) (Baldwin's Supp. 1971).

<sup>89</sup> KRS § 132.590(1) (Baldwin's Supp. 1971).

<sup>90</sup> KRS § 132.590(5)(a)-(5)(d) (Baldwin's Supp. 1971).

<sup>91</sup> KRS § 132.590(1) (Baldwin's Supp. 1971).

<sup>92</sup> A contrary conclusion was reached by the National Education Association's Commission on Professional Rights and Responsibilities:

Despite this test requirement, neither the salaries offered to tax assessors nor their status as elected officials would encourage the development of professional expertise and the qualities of independent judgment essential for this position . . . The minimal salary levels offered by many counties are not likely to attract the most experienced and professionally competent personnel. NAT'L EDUC. ASS'N, EDUC. IN KY., *supra* note 85, at 103-04.

<sup>93</sup> See KY. LEGISLATIVE RESEARCH COMM'N, RESEARCH REPORT No. 44, *supra* note 16, at 45. Forty-six out of 90 administrators responding to a questionnaire felt the state salary schedule to be unrealistic in terms of recruiting and holding desirable personnel. A similar response was made during interviews for this writing.

<sup>94</sup> KRS § 132.590(2)-(3) (1944).

<sup>95</sup> KRS § 132.285(1) (Baldwin's 1969).

<sup>96</sup> KRS § 132.590(2) (Baldwin's supp. 1971).

local government. Without competent assistance the administrator is restricted to his office, field trips are infrequent, and few new assessments or checks on property owners' listings are made. Where the staff of a district cannot completely perform its assessment tasks, a disproportionate share of the tax burden falls on those taxpayers who recently purchased property, since the easiest means of determining market value is through deeds filed in the county clerk's office.<sup>97</sup>

Kentucky statutes provide that on a monthly basis the county clerk must furnish a complete list to the PVA of all real estate conveyed, showing the names of the parties, a description and location of the property, the date of conveyance and the consideration for which the property was exchanged.<sup>98</sup> Thus, recently transferred property may be assessed at full value while other property remains assessed at pre-inflation levels. This method of assessment hurts the social classes least able to afford it because inexpensive residential property is likely to be transferred more often than expensive homes. Mobile classes in the social structure pay a full value assessment while established persons who are less transient are taxed according to a static assessment. One solution to this anomaly is to increase the staffs of county offices in number and competence so that all property may be appraised more frequently.

#### IV. CITY ADMINISTRATION

Any city by ordinance may elect to use the annual county assessment for property situated within such city as a basis for the city property tax.<sup>99</sup> According to Department of Revenue figures, 89 of the 120 county seats in Kentucky used the county assessments in 1969,<sup>100</sup> although other major cities throughout the state still maintain city assessment offices.<sup>101</sup> In the cities maintaining separate assessments the city office duplicates the effort of the county property valuation administrator. Little can be said to justify this practice other than that it perpetuates a number of political jobs (at the taxpayer's expense) which would be

---

<sup>97</sup> See KRS § 142.050 (Baldwin's Supp. 1971).

<sup>98</sup> KRS § 132.480 (Baldwin's 1969).

<sup>99</sup> KRS § 132.285(1) (Baldwin's 1969).

<sup>100</sup> These figures are the result of an unpublished Department survey.

<sup>101</sup> Bowling Green, Covington, Lexington, Louisville, and Owensboro are among the cities which maintain assessment offices.

abolished if all cities used the county assessment.

A comparison can be made between the quality of the county and city assessments through the use of independent city school districts which both offices assess.<sup>102</sup> The total 1971 assessment by the county PVAs for 14 independent city school districts was \$880 million; this same property was valued at \$877 million by the city assessors.<sup>103</sup> When analyzed *in toto* the difference is that the county aggregate is about one percent higher. However, one-half of the cities had a higher assessment for property within their boundaries than did the county PVA for that property. If any conclusion is to be drawn from these limited figures, it is that, since the assessments are so nearly equal, little is gained through the expense of maintaining both city and county assessment offices.<sup>104</sup>

## V. CONCLUSION

If the real property tax is to remain viable as a source of revenue for local government in Kentucky, certain reforms in assessment administration are needed. The most pressing of these reforms is to terminate the system of electing assessors and to pass legislation which will permit appointment on the basis of technical qualifications.<sup>105</sup> Accompanying this action should be provisions to raise the salaries of personnel in the county offices to a level commensurate with comparable positions in private industry and to place all personnel on a merit system. Computerization and remapping projects should be completed throughout the state to insure efficiency in the assessment process. Also, those counties which do not have a sufficient tax base to support a qualified assessing staff and computerized systems should be abolished as assessing districts and merged with adjacent counties to effectively utilize professional staffs and technical equipment. And finally, the costly duplication of time and effort where cities, counties, and special districts are separately assessing the same property should be curtailed by providing some incentive to the city and special districts to use the county assessment.

*Walter W. Turner*

---

<sup>102</sup> KRS § 160.460 (Baldwin's 1969).

<sup>103</sup> The source of these figures is the Department of Revenue.

<sup>104</sup> A conclusion drawn by one Department spokesman is that many city assessors use county assessment figures and thus do little assessing themselves.

<sup>105</sup> See note 76 *supra*.