

ARTICLE 25.
SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT

SECTION 12-37-3110. Citation of article.

This article may be cited as the "South Carolina Real Property Valuation Reform Act".

SECTION 12-37-3120. Interpretation with other laws.

The value of real property for purposes of the imposition of the property tax is subject to the provisions of this article. Except where inconsistent, the provisions of this article are in addition to and not in lieu of other provisions of law applicable to the valuation of real property for purposes of the property tax. If the provisions of this article are inconsistent with other provisions of law, the provisions of this article apply.

SECTION 12-37-3130. Definitions.

As used in this article:

(1) "Additions" or "improvements" mean an increase in the value of an existing parcel of real property because of:

- (a) new construction;
- (b) reconstruction;
- (c) major additions to the boundaries of the property or a structure on the property;
- (d) remodeling; or
- (e) renovation and rehabilitation, including installation.

Additions or improvements do not include minor construction or ongoing maintenance and repair of existing structures. The repair or reconstruction of a structure damaged or destroyed by a disaster, to include, but not limited to, construction defects, defective materials, fire, wind, hail, flood, and acts of God, is not an addition or improvement to the extent that the structure as repaired or reconstructed is similar in size, utility, and function of the structure damaged or destroyed, and the rebuilding or reconstruction is begun within eight years after determination of the damage or destruction. Construction of facilities in a home that make the home handicapped accessible is not an addition or improvement if the utility and function of the structure remains unchanged.

(2) "Adjustments" mean changes in fair market value as determined in periodic countywide appraisal and equalization programs conducted pursuant to Section 12-43-217 as allowed pursuant to Section 6, Article X of the Constitution of this State, but adjustments are subject to the limits on increases provided in that Section 6 and as further provided in Section 12-37-3140(B).

(3) "Appraisal" or "appraised" means the process provided by law for the property tax assessor to determine the fair market value of real property and additions and improvements to real property.

(4) "Assessable transfer of interest" means a transfer of an existing interest in real property that subjects the real property to appraisal. For purposes of this definition, an existing interest in real property includes life estate interests.

(5) RESERVED

(6) "Commonly controlled" means persons having relationships as described in Section 267(b) of the Internal Revenue Code as defined in Section 12-6-40(A).

(7) "Conveyance" means the date of the transfer of an assessable transfer of interest in real property. Failure to record legal instruments evidencing a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(8) "Property tax assessor" means the county assessor, an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, or the Department of Revenue, as applicable.

SECTION 12-37-3140. Determining fair market value.

(A)(1) For property tax years beginning after 2006, the fair market value of real property is its fair market value applicable for the later of:

(a) the base year, as defined in subsection (C) of this section;

(b) December thirty-first of the year in which an assessable transfer of interest has occurred;

(c) as determined on appeal; or

(d) as it may be adjusted as determined in a countywide reassessment program conducted pursuant to Section 12-43-217, but limited to increases in such value as provided in subsection (B) of this section.

(2) To the fair market value of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value of subsequent improvements and additions to the property.

(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12-43-217 is limited to fifteen percent within a five-year period to the otherwise applicable fair market value. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.

(C) For purposes of determining a "base year" fair market value pursuant to this section, the fair market value of real property is its appraised value applicable for property tax year 2007.

(D) Real property valued by the unit valuation concept is excluded from the limits provided pursuant to subsection (B) of this section.

(E) Value attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year except as provided pursuant to Section 12-37-670(B).

SECTION 12-37-3150. Determining when to appraise parcel of real property.

(A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

- (1) a conveyance by deed;
- (2) a conveyance by land contract;
- (3) a conveyance to a trust, except if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both;
- (4) a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;
- (5) a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;
- (6) a conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent's spouse;
- (7) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than eighty percent of the property's true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;
- (8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty-five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty-five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item;
- (9) a change of use of agricultural real property which subjects it to the rollback tax;
- (10) a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or
- (11) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly-held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

An assessable transfer of interest resulting in the appraisal required pursuant to this article occurs at the time of execution of the instruments directly resulting in the transfer of interest and without regard as to whether or not the applicable instruments are recorded. Failure to record instruments resulting in a transfer of interest gives rise to no inference as to whether or not an assessable transfer of interest has occurred.

(B) An assessable transfer of interest does not include:

(1) transfers not subject to federal income tax in the following circumstances:

(a) 1033 (Conversions-Fire and Insurance Proceeds to Rebuild);

(b) 1041 (Transfers of Property Between Spouses or Incident to Divorce);

(c) 351 (Transfer to a Corporation Controlled by Transferor);

(d) 355 (Distribution by a Controlled Corporation);

(e) 368 (Corporate Reorganizations); or

(f) 721 (Nonrecognition of Gain or Loss on a Contribution to a Partnership).

Number references in the above subitems are to sections of the Internal Revenue Code of 1986, as defined in Section 12-6-40;

(2) a transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease;

(3) a transfer through foreclosure or forfeiture of a recorded instrument or through deed or conveyance in lieu of a foreclosure or forfeiture, until the redemption period has expired;

(4) a transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes;

(5) a conveyance to a trust if the settlor or the settlor's spouse, or both, convey the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both;

(6) a transfer for security or an assignment or discharge of a security interest;

(7) a transfer of real property or other ownership interests among members of an affiliated group. As used in this item, "affiliated group" is as defined in Section 1504 of the Internal Revenue Code as defined in Section 12-6-40. Upon request of the applicable property tax assessor, a corporation shall furnish proof within forty-five days that a transfer meets the requirements of this item. A corporation that fails to comply with this request is subject to a civil penalty as provided in Section 12-37-3160(B);

(8) a transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the applicable property tax assessor, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within forty-five days that a transfer meets the requirements of this item. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with this request is subject to a civil penalty as provided in Section 12-37-3160(B); or

(9) a transfer of an interest in a timeshare unit by deed or lease.

SECTION 12-37-3160. Promulgation of regulations; circumstances constituting change in beneficial ownership; certification of details of property ownership; penalties for falsification.

(A) The Department of Revenue may promulgate regulations to implement this article, including, without limitation, providing for those circumstances that constitute a change in the beneficial ownership of real property or an assessable transfer of interest not evidenced by transfer of fee simple title. The department shall examine the substance, rather than merely the form of the transfer, and related and surrounding transactions, and may use the step transaction, economic reality, quid pro quo, personal benefit, and other judicially developed doctrines in determining whether the requisite assessable transfer of interest has occurred.

(B)(1) Except as provided pursuant to item (2) of this subsection, the county assessor annually shall send to each real property owner of record, or the owner's agent of record, to the address of record, a certificate prescribed by the Department of Revenue which must be signed and returned by the property owner or the owner's agent certifying details of the ownership of the property. If the owner or owner's agent knowingly falsifies any detail on the certificate, then the owner or owner's agent is subject to a civil penalty imposed by the Department of Revenue, the county assessor, or an assessor appointed to handle multiple county assessments pursuant to an intergovernmental agreement, as applicable. The amount must not be less than twice the taxes lawfully due on the property or more than three times the taxes lawfully due on the property. This civil penalty is enforceable and collectable in the same manner as property tax.

(2) The annual certificate requirement provided pursuant to item (1) of this subsection does not apply to a real property owner who is a natural person. However, the assessor periodically may send certificates to natural persons subject to the same requirements provided pursuant to item (1) of this subsection.

(C) For purposes of this section, a "natural person" is an individual or group of individuals who directly owns real property outside of any legal entity. A natural person does not include a trustee, agent, officer, or member of a legal entity which has an ownership interest in real property. A legal entity includes, but is not limited to, a corporation, partnership, limited liability company, unincorporated association, or trust.

SECTION 12-37-3170. Effect on valuation of agricultural property.

(A) Nothing in this article affects the provisions of Section 12-43-220(d) that define and apply to "fair market value for agricultural purposes" for real property in agricultural use.

(B) Except as provided in Section 12-37-3150(9), this article does not affect the eligibility requirements for agricultural use or the imposition of rollback taxes when real property is changed from agricultural use.

(C) Nothing in this article affects the appropriate methods of appraising real property for purposes of the property tax by county assessors, assessors appointed to handle multiple county assessments pursuant to an intergovernmental agreement, and officials of the Department of Revenue, as applicable.