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1. COUNTY AUDITORS—DUTY TO VIEW AND APPRAISE EACH LOT OR PARCEL OF REAL ESTATE AND IMPROVEMENTS THEREON—“ONCE IN EACH SIX-YEAR” PERIOD—BEGINNING YEAR 1943—SECTION 5548 G. C.
2. PROCEDURE—ADOPTED BY BOARD OF TAX APPEALS—AMENDED H. B. 644, 98 GENERAL ASSEMBLY.

SYLLABUS:

1. Pursuant to Section 5548, General Code, it is the duty of the county auditors to view and appraise each lot or parcel of real estate and the improvements located thereon, if any, at least “once in each six-year period” beginning with the year 1943.

2. The procedure followed in fulfilling the statutory requirements of Section 5548, General Code, is subject to the rules and regulations adopted by the board of tax appeals, pursuant to Amended House Bill No. 644, 98th General Assembly.

Columbus, Ohio, March 1, 1950

Board of Tax Appeals, Department of Taxation  
Columbus, Ohio

Gentlemen :

I am in receipt of the following communication from the Honorable Frank F. Fleming, late chairman of the Board of Tax Appeals, requesting my opinion as follows :

“The Board of Tax Appeals, in the course of performing its duties, present and future, under the provisions of Amended House Bill No. 644, passed by the last General Assembly, effective date October 25, 1949, desires your opinion for its future guidance on the following question :

“Does the fact that officials of some Ohio counties cause a continuous appraisal of all real property therein to be made and kept dispense with the requirement that sexennial appraisals of real estate be made throughout the state and each county thereof as provided in G. C. Section 5548?

“For the purpose of clarification the Board recognizes that the term, continuous appraisal, is a phrase of uncertain dimension in county official understanding in view of the wording of G. C. Sec. 5548: ‘It shall be the duty of the county auditor to view and appraise each lot or parcel of real estate and the improvements located thereon, if any, at least once in each six year period beginning with the year 1943.’ If it be ultimately your opinion that a continuous appraisal satisfies the sexennial feature of the statute, just how comprehensive must any such continuous appraisal be to effect that end?”

Before proceeding to render an opinion upon the statement of facts contained in your communication, it should no doubt be pointed out that the use of the term “continuous appraisal” will be purposely avoided, because said term, though a “stock phrase” in some circles, is certain to impart a variety of meanings in the various counties and state departments.

Amended House Bill No. 644, which became effective October 25, 1949, and to which you refer in your communication, was for the purpose

of equalizing the real property valuations within the state for purposes of taxation.

It will be noted that this bill furnishes the board of tax appeals with certain powers and duties relative to the direction and supervision of assessment for taxation of all real property in the state. You are particularly invited to review Sections 5579 and 5624, General Code, which read as follows:

Section 5579:

“In addition to all other powers and duties vested in or imposed upon it by law, the board of tax appeals of Ohio shall direct and supervise the assessment for taxation of all real property in the state. County auditors shall, under the direction and supervision of the board of tax appeals of Ohio, be the chief assessing officers of their respective counties, and, shall list and value real property for taxation, within and for their respective counties except as may be otherwise provided by law. There shall also be in each county, a board to hear complaints and revise assessments of real property for taxation, which shall be known as the county board of revision.”

Section 5624:

“The board of tax appeals of Ohio shall, from time to time, prescribe such general and uniform rules and regulations and issue such orders and instructions, not inconsistent with any provision of law, as it may deem necessary, respecting the manner of the exercise of the powers and discharge of the duties of any and all officers, relating to the assessment of property and the levy and collection of taxes. It shall cause the rules and regulations prescribed by it to be observed, the orders and instructions issued by it to be obeyed and the forms prescribed by it to be observed and used.”

The general grant of power afforded by these sections informs us that any rules and regulations may be adopted by the board of tax appeals to effectuate the purpose of Section 5548 of the General Code, so long as said rules and regulations are not inconsistent with said section or any other provision of law. However, the actual appraisal and assessment of the property remains a duty of the county auditor.

Therefore, the answer to your question must be found in an interpretation of Section 5548, General Code, which enumerates the powers

and duties of county auditors relative to such assessments, and a brief legislative history of this statute may assist in the interpretation thereof.

Section 5548, General Code, as it was in effect until September 16, 1943, 111 Ohio Laws, 418, reads in part as follows:

“In the year 1925, and in every sixth year thereafter, it shall be the duty of the county auditor to assess all the real estate situate in the county; provided, that if the real property in any county or subdivision thereof has been reappraised in the years 1922, 1923, or 1924, and upon the application of the county auditor of said county the tax commission of Ohio finds that the real property in said county or subdivision thereof is appraised at its true value in money, then there shall be no general re-assessment of property in said county or subdivision in the year 1925. The tax commission of Ohio may upon application of the auditor of any county and for good cause shown, extend the time in which the reassessment required to be made in the year 1925 shall be completed in said county.”

The statute in this form unquestionably required a reassessment every sixth year. It may also be noted that provision is made in the statute for an extension of time for good cause shown, when the reassessment required, to be made in the year 1923 was not completed in that year.

Section 5548, General Code, was amended on September 16, 1943, 120 Ohio Laws, 466, to read in part as follows:

“In the year 1943, it shall be the duty of the county auditor to assess all the real estate situated in the county at its true value in money; provided, however, that the board of tax appeals of the department of taxation of Ohio may upon application of the auditor of any county and for good cause shown, extend the time for the purpose of completing that part of the reassessment which the auditor was unable to complete in the year 1943, in which event such reassessment as herein required shall not be made effective until any subsequent year in which it is completed. Thereafter it shall be the duty of the county auditor at any time to revalue and assess all or any part of the real estate in such county, at its true value in money, where he finds that the same has changed in value, or is not on the tax list at its true value in money. In such case the county auditor shall notify the owner of such real estate, or the person in whose name the same stands charged on the duplicate of his intention to reassess such real estate and of the change in valuation thereof in such reassessment, and in case the owner of such real estate is not satisfied with such reassessment, the same shall be heard at the next ensu-

ing session of the county board of revision, and such owner shall have the right to appeal therefrom to the board of tax appeals or to the common pleas court of the county in which such real estate is situated as provided in sections 5610 and 5611-4, General Code. It shall be the duty of the county auditor to view and appraise each lot or parcel of real estate and the improvements located thereon, if any, at least once in each six-year period beginning with the year 1943. He may increase or decrease the value of each lot or parcel of real estate in any township, village, city or taxing district by such amount as will place all real property on the tax list at its true value in money, to the end that each and every class of real property shall be listed and valued for taxation by an equal and uniform rule.”

It may be noted that the statute as amended retained the provision for an extension of time if the reassessment was not completed in the year 1943, and also added the provision that “It shall be the duty of the county auditor to view and appraise each lot or parcel of real estate and the improvements located thereon, if any, at least once in each six-year period beginning with the year 1943.” these provisions seem inconsistent because if a reassessment is required only once in each six-year period, the provision for an extension of time, if the assessment was not completed in 1943, would therefore be unnecessary. The board of tax appeals expressed the opinion in the case of *In re Application of James F. Mulholland*, 31 Ohio Opinions, 447, p. 449, “that former section 5548 required a reassessment every six years while now such reassessment is to be made ‘at least once in each six-year period.’” This contention was based on the amendment of 1943, and any doubts as to whether such a contention expressed the intention of the legislature were resolved through the amendment to Section 5548, which became effective September 17, 1947, 122 Laws of Ohio, 380, the pertinent part of which reads as follows:

“It shall be the duty of the county auditor to assess all the real estate situated in the county at its true value in money. It shall be the duty of the county auditor to view and appraise each lot or parcel of real estate and the improvements located thereon, if any, at least once in each six-year period beginning with the year 1943. In every case when the county auditor so views and appraises he may enter each structure located thereon to determine by actual view what improvements have been made therein or additions made thereto since the next preceding valuation. It shall be the duty of the county auditor at any time to revalue and assess all or any part of the real estate in such

county, at its true value in money, where he finds that the same has changed in value, or is not on the tax list at its true value in money. He may increase or decrease the value of each lot or parcel of real estate in any township, village, city or other taxing district by such amount as will place all real property on the tax list at its true value in money, or he may increase or decrease the aggregate value of the real property, or any class of real property, in the county, township, city, village, or other taxing district, or in any ward or other division of a municipal corporation, by such rate per cent, or by such amount as will place such property on the tax list at its true value in money, to the end that each and every class of real property shall be listed and valued for taxation by an equal and uniform rule."

It should be noted that the provision for an extension of time when the reassessments are not completed in a year is deleted from the statute through this amendment, and the provision for a reassessment "at least once in each six-year period" is retained.

The purpose of the two recent amendments to Section 5548 was no doubt to alleviate a situation which in practical operation did not function efficiently. With a normal staff, it must have proven almost impossible, especially in the larger counties, to make a complete reassessment in one year. And the employment of a staff of appraisers and assessors to accomplish this purpose must have introduced costs which were almost prohibitive.

However, regardless of the reasons for the amendments, the result is the same, and the statute as it now stands only requires a reassessment during each six-year period beginning in 1943. The means or procedure followed in fulfilling this statutory requirement is subject to the rules and regulations adopted by the board of tax appeals pursuant to House Bill No. 644.

Referring again to your communication as to how comprehensive such appraisals must be, you are again directed to Section 5548, General Code, which says that such appraisals must be based on an actual view of each lot or parcel of real estate and the improvements located thereon.

It is accordingly my opinion, in specific answer to your question that :

1. Pursuant to Section 5548, General Code, it is the duty of the county auditors to view and appraise each lot or parcel of real estate and

the improvements located thereon, if any, at least "once in each six-year period" beginning with the year 1943.

2. The procedure followed in fulfilling the statutory requirements of Section 5548, General Code, is subject to the rules and regulations adopted by the board of tax appeals pursuant to Amended House Bill No. 644, 98th General Assembly.

Respectfully,

HERBERT S. DUFFY,  
Attorney General.