Property Tax Assessment Standards in Virginia

Fred C. Forberg
Taxation has been the rule and exemption the exception to the rule since the early days of this country. For more than 300 years Virginia’s laws have required, “public levies and county levies be raised by equal proportions out of the visible estates. . . .” 1

In 1969, the Constitution of Virginia in § 169 provides: “All assessments of real estate and tangible personal property shall be at their fair market value, to be ascertained as prescribed by law.” Fair market value and fair market value alone is the, “only legal rule provided by law for the assessment of real estate situated within this Commonwealth.” 2 Our Court of Appeals has defined fair market value as, “the price which it will bring when it is offered for sale by one who desires, but is not obliged, to sell it, and is bought by one who is under no necessity of having it.” 3 § 168 of our Constitution provides: “All taxes whether State, local or municipal shall be uniform upon the same class of subjects within the territorial limits of the authority levying the tax, and shall be levied and collected under general laws.” “If it is impractical or impossible to enforce both the standard of true value and the standard of uniformity and equality, the provisions for uniformity are to be preferred as the just and ultimate end to be attained.” 4

While Section 169 sets forth in precise terms the rule for assessing, the Virginia Court of Appeals reported: “This mandate has been so honored in the breach that no assessor feels called upon to apply it in practice.” 5

This provides us with an excellent “toehold” to commence our discussion of Virginia’s property tax standards today. The Constitution and the written law clearly define the standard and the rules, but we find that custom or the unwritten law prevail today.

This ancient and venerable subject of taxation has weathered the ravages of times of prosperity and of famine. We have witnessed during this century true tax rates swing as the pendulum of a clock. The tax on real estate has long been the largest single producer of local revenues in the State. This tax means to the arms of the Commonwealth the same

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1 Hening’s Statute—Act XV—pg. 305.
5 Washington County National Bank V. Washington County 176 Va. 216.
as the income tax has meant to the Commonwealth, and in more recent years the sales tax.

The custom today followed by Virginia’s localities is to first appraise real estate at its fair market value, but to extend for purposes of taxation only a portion of the appraised value. Three Virginia localities follow the constitutional mandate, but all the rest adopt a percentage of full value.

This custom of ratio utilization can be traced directly to the imposition of a State tax on real estate for State purposes. And amendment to the Virginia Constitution ratified June 19, 1928, virtually took the State out of the property tax field but the damage had already occurred for a Central State Agency had been established to assess the land and personal property of public service corporations exclusive of their rolling stock. State-wide average weighted ratios of assessed value to selling prices of real estate were used to establish assessed values for public service corporations. These assessments fixed by the State, certified as correct by the State to all counties and cities for local taxation using a State-wide 40% ratio, simply served as another unwritten mandate for Virginia’s assessors. A local ratio either higher or lower would result in a lack of uniformity. Locally assessable real estate would eventually be taxed on one level and State-assessed real estate on another. By and large, assessors in Virginia accepted this as a mandate.

Virginia’s constitutional change ratified in 1928 eliminated the quinquennial provision of the 1902 Constitution and inserted in lieu thereof: “Real estate and tangible personal property . . . shall be assessed or reassessed for local taxation in such manner and at such times as the General Assembly has heretofore prescribed or may hereafter prescribe.” The General Assembly quickly abandoned the quinquennial general reassessment requirements for counties but continued city reassessments.

Shortly after World War II, Dr. John H. Russell, Director of the Division of Research and Statistics of the Virginia Department of Taxation, reported in an article appearing in the “Commonwealth Magazine of the Virginia State Chamber of Commerce” that, “faulty assessment of real estate is indeed the State’s gravest problem.” Obviously very little could have been done during World War II to improve upon the caliber of assessments. However, in 1944, at its regular session, the General Assembly of Virginia, acutely aware of the deplorable assessment conditions existing in the preponderance of our counties, and in many cities, directed the Virginia Advisory Legislative Council, “to make a study and report on State and local taxation.” At the time of its study, the Council reported in its recommendation for a reestablishment of periodic mandatory reassessments in all of Virginia’s counties and cities that 47 counties had not had a general reassessment since the year
In 1925. The Council further recommended that the Virginia Department of Taxation be directed to render advisory aid and assistance in making general reassessments of locally taxable real estate on a voluntary basis upon the request of the governing body of the locality.

In 1946, the Virginia General Assembly divided our counties population-wise by general laws into four groups and reinstated compulsory general reassessments. These laws were phrased in such a manner that any of the counties could reassess earlier if the governing body so desired, but all were required to have general reassessments made during the years 1947, 1948, 1949 and 1950. In 1950, the schedule for reassessments was amended to provide that while any county could in any year reassess, if the governing body so directed, required, however, that subsequent general reassessments could be held no later than the sixth year after the year in which the last one was held. Each of our cities is required to undergo a general reassessment of real estate during the year 1970, and every fourth year thereafter.

In 1964, the Virginia General Assembly adopted punitive measures relating to general reassessments upon the recommendation of the Stanley Commission to be in force after January 1, 1966. In counties or cities that were delinquent in complying with the statutory provisions for having periodic general reassessments of real estate by omitting such reassessment in the required year, the Department of Taxation, on receiving proof of such delinquency, must notify the Comptroller, whereupon the Comptroller must, "withhold from such county or city the payment of its share of the net profits of the operation of the Alcoholic Beverage Control System as provided by Section 4-22 as amended until such time as a general reassessment shall be begun..." 6

From a technical standpoint, real estate assessments were in a deplorable plight, not only due to so many counties' failure to reassess between 1925 and 1947, but to the lack of real estate identification maps and card records. Only 10 of our 25 incorporated cities had usable property identification maps tied in with reassessment card record systems, and only 3 of our 100 counties had corresponding county records. Technically-trained real estate appraisers in ad valorem tax work were virtually nonexistent at either the State or local levels.

Aid and assistance of the Department of Taxation in 1946 was in essence an in-service training program. Dr. John H. Russell, as Director of Research, had studied the various approaches to reassessment for a decade and had actively participated as a regular member of the National Association of Assessing Officers. He was "wedded" to the conviction that uniformity in assessments was only attainable through an

approach to assessment requiring an appraisal process to estimate market value. The appraisal process represents a radical departure from the approach to reassessments employed prior to World War II, with only a few exceptions. The appraisal provided a definite and more concrete basis for a policy believed to be acceptable by all taxing areas. Under this policy any political subdivision could continue to adopt for purposes of taxation an assessment ratio of its own choosing to meet the particular need or custom of the locality. Through the utilization of the appraisal process, an appreciable improvement in the uniformity of assessed values within the locality was anticipated. Creation and the ultimate procurement of the tools of assessment have been an integral part of the State's advisory aid and assistance program. Essential assessment tools include (1) a uniform appraisal, (2) real property identification map, and (3) real property record cards.

Under the general laws of the Commonwealth, real estate assessors are appointed by the Circuit Court, Hustings Court or Corporation Court from amongst the resident freeholders of the county or city. Assessors appointed under general law serve for the calendar year. The Judge of the Court of Record, however, may extend their time for good cause for a period not to exceed 90 days. Sixteen of our 38 cities and 5 of our 96 counties have provided for annual assessment, reassessment and equalization of real estate assessments and in each of these instances the appointment of the assessor, or assessors, falls on the governing body. Through a program whereby the State supplies the man-power to do the leg work to gather the facts necessary to recommend and fix an appraisal, the door was opened to encourage persons of high caliber to serve their locality as an assessor. This improvement in the capacity of the assessor has had a pronounced impact for these individuals heretofore ineligible to serve as assessors due to the time required for service have accepted their work as a challenge. The State appraiser's work and recommendations are periodically reviewed and ultimately certified by the assessors as their own work. Rather than individuals working independently, they now serve as a team.

The Department of Taxation has strongly urged each of our localities to first appraise real estate at its fair market value. If a ratio is to be applied, do not choose it until the total for the county or city can be accurately predicted. The number of taxable parcels of real estate will vary from a low of about 3,500 in a small rural county or small city to a high of more than 100,000 parcels in a highly urbanized county or a heavily populated incorporated city. Appraisal cards are prepared for each parcel. These cards carry the name and address of the owner of record, the description of the land, including the name of the subdivision, lot or block numbers, or number of acres. Usually the old values are not taken into the field. Each parcel of land is inspected and the build-
ings are listed separately from the land. This is a statutory requirement. Buildings and improvements are described on the appraisal or assessment card, and the sizes noted of each structure. Either square foot or cubic foot rates or factors are applied to the building size in order to estimate full value. This figure is then corrected to an appraisal value after applying all the sundry factors for physical and economic consideration. It is essential for the appraiser to carefully study all of the elements that would have an impact on the market value of each parcel. One of the criticisms of mass appraisal is the time allotted to each parcel is not sufficient to allow the appraiser to study each unit in depth. The three approaches to value which the appraiser must use are the cost, market data and income. The cost approach, which usually establishes the upper limit of the appraisal, is simply an estimate on the part of the appraiser of the replacement cost of the building or improvement which he will then correct for depreciation or obsolescence. The market data approach deals with a careful analysis of the current selling prices of real estate and a comparison between the subject property with those sold. The third approach deals with the capacity of the subject property to produce income. While actual rent would be of consideration to the appraiser, his conclusion of economic rent would be of far greater moment. It behooves the appraiser to have firsthand knowledge of leases and rentals in his area. The appraiser and assessor must weigh carefully each of these approaches to value. Usually more than one approach will be used but for example with minerals, the economic approach would produce the only reliable value.

As earlier stated, Virginia's localities have customarily used a percentage of the estimates of full value for ad valorem tax purposes. These arms of the Commonwealth have little choice today except to continue on the same general basis as heretofore. This is especially true in light of the twenty-year equalization plan the General Assembly adopted in 1966 for public service corporations. This change was occasioned by litigation in adjoining states when the courts repeatedly held that the taxing district was the county or city and not the State, and in lieu of the State ratio that local ratios be utilized. Virginia's plan calls for 1/20 of the amount assessed on public service corporations in 1966 be assessed in 1967 at the local ratio and 19/20 be assessed on the historic 40% basis. Each year an additional 1/20 would be assessed at the local ratio and 1/20 less at 40%. All new construction after January 1, 1966, would be added at the local ratio and the real estate rate would apply to all real and personal property after 1966 if the locality had adopted the same rate on real and personal property in 1966. In other localities where different rates had been adopted in 1966, the same 1/20 factor would apply as stated earlier, but in addition a comparable plan was adopted to provide for the equalization in rates where the rates were not the same.
It is common knowledge equally shared by those in the assessment profession that strict adherence to § 169 of Virginia's Constitution would produce much higher equality than we are now able to attain. Poor estimates of value would be clearly visible whenever real property changed hands. It is easy to hide questionable estimates of value in the obscurity of a 20% or 25% ratio.

The Department of Taxation, fully aware that review and equalization are totally inadequate substitutes for a good original assessment, has encouraged assessors while State appraisers are still on the scene to open their work for public scrutiny and discuss the proposed assessments with interested real estate owners. This approach has been fruitful, to say the least. Records of boards of equalization and assessment review have left much to be desired. Such a board is a statutory requirement in cities of the first class; however, in other cities and counties it is entirely optional with the governing body.

The Virginia Department of Taxation is required by statute to prepare estimates of the true value of locally taxed property in the several counties and cities in Virginia. In order to make such an estimate of true value, it is first necessary to compare the selling price of each usable and identifiable transfer with the assessment for the same property appearing in the ensuing land book. We simply total the assessed values and divide this sum by the total of all sales with the result the average weighted ratio for the locality. In our most recent study ratios range from a low of 7.6% in a county to a high of 95.6% in an incorporated city. The ratio for all counties was 25.1% and all cities 52.1%, but for the State as a whole 34.8%. A State-wide low was reached in 1950 of 30%, and since then each report has carried an increase in the State ratio. This publication also carries the average nominal tax rate for each county and city, and in addition the average effective true tax rate on real property for each locality. This is invaluable to those interested in predicting the amount of taxes on proposed construction. It is also helpful to those desiring a reasonable estimate of value for estate, inheritance, or gift tax purposes. Our most recent study for the year 1968 is available upon request through the Director of Research, Virginia Department of Taxation, P. O. Box 6L, Richmond, Virginia 23215. Earlier studies for the years 1950, 1956, 1962, 1964 and 1966 are also available if requested. In 1950, the true tax rate for the State was 73¢; today it has climbed to $1.05 per hundred.

While the preponderance of time today has been devoted to real property, before closing we need to pass along a few items that relate to machinery and tools. Machinery and tools used in a mining or manufacturing business are always assessed as machinery and tools. They cannot be assessed either as real estate or other tangible personal property. The General Assembly of Virginia established this item as a
separate subject of taxation in the mid-twenties and strengthened these provisions in 1966. It is obligatory today to assess this property using the same standards of value that pertained to other forms of locally taxable property. The Stanley Commission in 1964, after careful study, recommended to the Governor and the General Assembly of Virginia that the Virginia Department of Taxation be required to render advisory aid and assistance to commissioners of the revenue in an effort to strengthen the assessment of property falling within this classification. Monies were appropriated by the General Assembly to enable the Virginia Department of Taxation to employ a competent appraiser of machinery and tools. To date, the assessment of machinery and tools has been largely that of an accounting procedure, utilizing both original book cost and depreciated values. We have not attempted to establish any fast rule other than the recommendation that the locality adopt a firm and well advertised policy. The time and talent of the departmental appraiser is made available upon request, without charge, to any commissioner who has the support and interest of his governing body. At the present moment, there are 12 reassessment programs under way for the tax year 1970. During the past four years, substantial progress has been made through this voluntary joint effort on the part of the State and the locality. However, much remains to be accomplished. One of Virginia's major local tax problems today can be directly related to this taxable subject. Virginia's commissioners of the revenue need to establish a goal, and then set forth to obtain it by adopting a system for assessment purposes within their jurisdiction that would provide a uniform as well as a reasonable tax base.

The Governor's Office of Industrial Development annually circulates a questionnaire to each of Virginia's taxing districts requesting the specific information relating to local tax policies or plans used as well as tax rates adopted for the local taxation of machinery and tools. These are summarized and published by the Division of Industrial Development of the Governor's Office in a brochure entitled, "Local Taxes on Manufacturers in Virginia." This report first summarizes the values to which ratios have been applied as follows:

(1) Original cost
(2) Depreciation cost value (book value)
(3) Fair market value

Secondly; the assessment ratio

Thirdly; the nominal tax rate per $100

Lastly; the unadjusted true tax rate per hundred.
This publication is further evidence that Virginia’s localities need to examine carefully not only what they have done in the past, but what action they plan for the future. Many of you here today could contribute in such an examination or study for the need is imminent to not only strengthen the position of the locality assessment-wise, but to improve on its image to others as well. A cursory glance at the “Governor’s Report” clearly reflects the need for prompt study. It could well be that the image is of equal to or of greater immediate moment than the assessment pattern or level.

Virginia has made material strides towards a realization of a substantial improvement and strengthening of its standards of property tax administration. Working closely with its governmental units, Virginia and its localities have prepared 68 new county and city maps since the end of World War II. It is a challenge today to find either a county or a city that does not have an up-to-date card file on real estate. In many areas duplicate cards can be found today filed both numerically by map numbers and alphabetically by owners. In addition to the 68 maps drawn and delivered, 22 are presently being prepared and should be delivered within the next 4 years. In another 15 years every county and city within the State should have all of the assessment tools necessary to accurately and effectively evaluate real estate.

We have been proud of the progress that our local governmental units have made to improve upon the caliber of their work. The Virginia Department of Taxation has done its best to encourage and to give its counsel to the local officials who have tried so diligently and so effectively to upgrade the caliber of their work not only from a standard of uniformity, but that of adequacy as well.