

Title 67 Taxes And Licenses
Chapter 5 Property Taxes
Part 6 Classification and Assessment -- Valuation

Tenn. Code Ann. § 67-5-601 (2013)

LexisNexis Practice Insights

FAS 157 "Fair Value" Includes Market Value Measured at Highest and Best Use of Asset

67-5-601. General policy -- Legislative findings.

(a) The value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values, and when appropriate, subject to the Agricultural, Forest and Open Space Land Act of 1976, compiled in part 10 of this chapter.

(b) It is the legislative intent that no appraisal under this part shall be influenced by inflated values resulting from speculative purchases in particular areas in anticipation of uncertain future real estate markets; but all property of every kind shall be appraised according to its sound, intrinsic and immediate economic value, which shall be ascertained in accordance with such official assessment manuals as may be promulgated and issued by the state division of property assessments and approved by the state board of equalization pursuant to law.

(c) (1) The general assembly finds that the increased market value of certain residential property zoned for commercial use has caused an increase in taxes to the extent that citizens are faced with the necessity of selling dwelling houses in which they have lived for many years. The general assembly finds that present use valuation has been extended to others, and is warranted under certain circumstances to relieve the burden of increased taxation to residential owners.

(2) It is the policy of this state that the owners of residential property who have lived on that property for a significant period of time should be allowed to continue to live on that property without a disproportionate increase in taxes due to the property being zoned for commercial use.

(3) For the purposes of this subsection (c):

(A) "Dwelling house" means a residence occupied by the owner of an estate in that property, with such residence being zoned for commercial use, used solely for residential purposes, and occupied by that owner or a person to whom the current owner is a lineal descendant for a period of twenty-five (25) years or more, together with the real estate upon which it is situated up to a maximum five (5) acres; and

(B) "Owner" means a citizen and resident of Tennessee who occupies the citizen's or resident's dwelling house, as opposed to occupying any other residence, for at least nine (9) months out of each calendar year.

(4) Any owner of a dwelling house may make application to the assessor of property of the county in which the property is located for its classification under this subsection (c). Property that has been determined by the assessor of property to qualify under this subsection (c) shall be valued for ad valorem tax purposes at its market value for residential

purposes. The assessment on such property shall include the entire year in which the land is classified under this subsection (c). Any person who is denied such classification shall have the same rights and remedies for appeal and relief as are provided taxpayers for any action of assessors of property.

(5) Should the use or ownership of the property change so that it no longer qualifies under this subsection (c), then the property owner shall have the duty of informing the assessor of property. Upon discovering that a property no longer qualifies for classification under this subsection (c), the assessor of property shall reclassify the property and shall value the property according to its current market value for subsequent tax years. In the event such change in use or ownership does not timely come to the attention of the assessor of property, and upon the assessor discovering that the property no longer qualifies, such reclassification shall affect each year that the property has failed to qualify, and the taxpayer shall be liable for the difference in taxes, including penalty and interest.

(6) It is the legislative intent that the twenty-five-year time period is an integral part of this subsection (c). If this provision is held by a court of competent jurisdiction to be an unreasonable classification or otherwise declared unconstitutional, then this entire subsection (c) shall be null and void.

(d) The general assembly finds that due to the abundance of limestone, sand and gravel in this state and the difficulty in valuing the contributory interest in limestone, sand and gravel that such contributory interest in limestone, sand and gravel shall be deemed to have no value for property tax purposes. This does not affect the commercial classification of real property used for quarry purposes.

(e) (1) The general assembly finds that any property that generates electricity using green sources such as geothermal, hydrogen, solar or wind, is generally capable of producing less electricity than conventional sources due to uncertain or intermittent energy sources or other factors, that net operating income will be affected by unusual cost and market conditions, and that the commercially competitive disadvantage of these green energy source properties evidences that their sound, intrinsic and immediate value is significantly less than their total installed costs. The general assembly further finds that unless these circumstances are considered in the determination of value for tax purposes under this chapter, investment in property to generate electricity from green sources will be unreasonably discouraged, denying the citizens of Tennessee the environmental benefits associated with the greater use of these domestic renewable energy sources for power generation.

(2) Based on the foregoing findings, the sound, intrinsic and immediate value of green energy source property should not initially exceed a percentage of total installed costs equal to the ratio of projected electricity output over a period of one (1) year to the maximum capacity of the property, as follows:

(A) The sound, intrinsic and immediate value of wind source property should not initially exceed one-third (1/3) of total installed costs;

(B) The sound, intrinsic and immediate value of solar source property should not initially exceed twelve and one half percent (12.5%) of total installed costs; and

(C) The sound, intrinsic and immediate value of other green source property should not initially exceed its appropriate capacity factor as determined by the state board of equalization in consultation with the department of environment and conservation.

(3) The assessor of property, or the comptroller of the treasury, in the case of public utility property, shall take the foregoing findings into account in determining the sound, intrinsic and immediate value of green source property when the property is initially appraised and each time the property is reappraised. A copy of the green energy production facility certification issued by the department of environment and conservation, or filing of a schedule or statement pursuant to § 67-5-1303, effective as of January 1 of the year for which valuation under this subsection (e) is claimed, shall be required and shall be provided by the property owner to the comptroller's office by March 1 of the first year for which valuation under this subsection (e) is claimed. The department of environment and conservation shall report each month to the comptroller of the treasury a listing of certifications approved in the preceding month, and shall provide copies of certification records to the comptroller of the treasury on request. On or before the scheduled reappraisal in each county, the comptroller of the treasury shall advise the assessor of known locations of certified or other green energy property and whether the property is assessable locally or centrally.

(f) The general assembly finds that any public utility property or commercial and industrial property that is used to engage in the fueling of natural gas vehicles and that is a certified alternative fueling site as described in the definition of "certified green energy production facility" in § 67-4-2004, is generally capable of fueling fewer types of vehicles due to limited availability from original equipment manufacturers, that use of such alternative, domestically produced transportation fuels should be encouraged to improve air quality and to enhance our nation's energy security, and immediate economic value for all purposes under this chapter should not initially exceed thirty percent (30%) of its total installed costs. The general assembly further finds that, unless the findings are considered in the determination of the sound, intrinsic, and immediate economic value of such property for all purposes under this chapter, investment in property for fueling alternative fuel vehicles will be unreasonably discouraged, denying the citizens of this state the environmental benefits and domestic energy security associated with the use of natural gas as a transportation fuel. The assessor of property, in assessing any such commercial and industrial property, or the comptroller of the treasury, in assessing any such public utility property, that engages in the fueling of motor vehicles with natural gas, shall take these findings by the general assembly into account in determining the sound, intrinsic, and immediate economic value of such property, when the property is initially appraised and each time the property is reappraised. A copy of the facility certification issued by the department of environment and conservation shall be required in order to qualify for such valuation. The valuation of personal property under this section shall also apply to machinery and equipment utilized in a natural gas vehicle fueling station. Such equipment shall include, but not be limited to, storage vessels, compressors, dryers, dispensers, piping, compressed or liquefied gas appliances, or any other item that is installed by a natural gas provider.

HISTORY: Acts 1973, ch. 226, § 6; 1974, ch. 771, § 8; 1976, ch. 782, § 13; 1977, ch. 262, § 1; T.C.A., § 67-606; Acts 1987, ch. 430, §§ 2-4; 1994, ch. 786, § 1; 1997, ch. 195, §§ 1, 2; 2003, ch. 377, § 1; 2013, ch. 297, § 1; 2013, ch. 423, § 4.