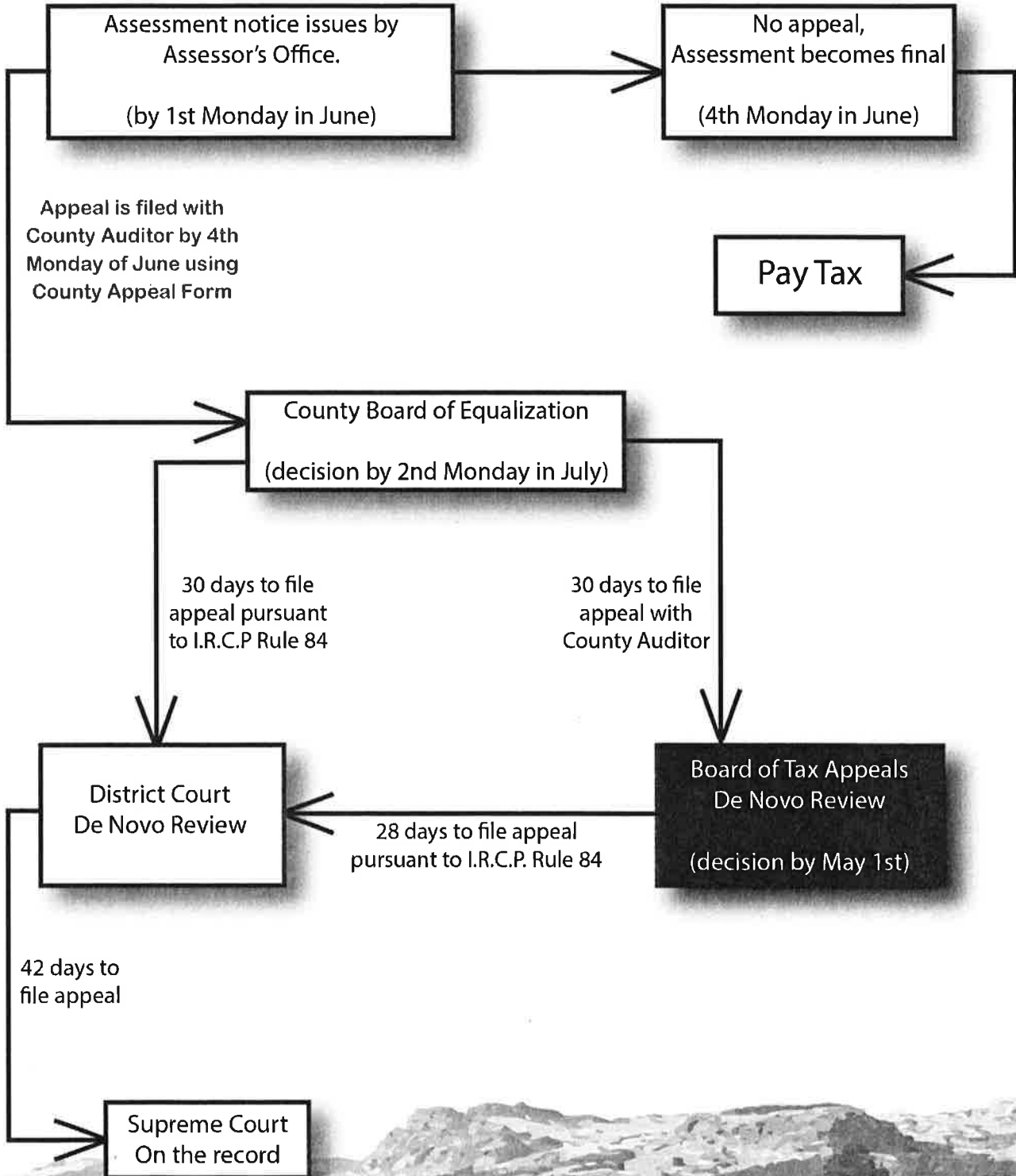


IDAHO APPEAL SYSTEM AD VALOREM ASSESSMENTS EXAMPLE



State Board of Tax Appeals

Ad Valorem Appeals Filed

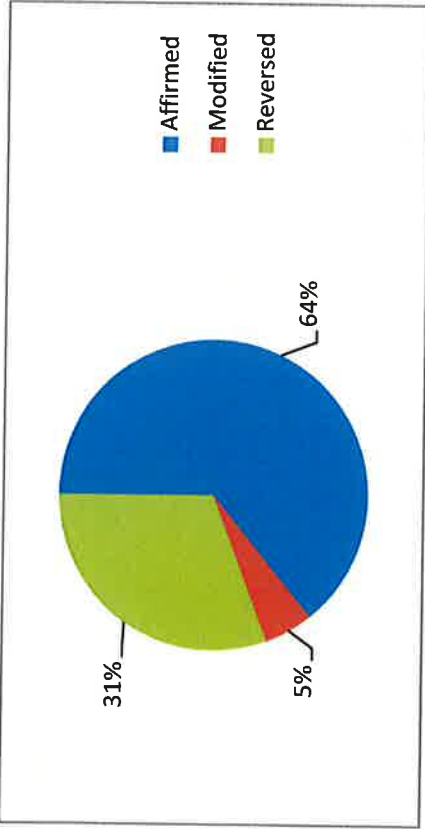
COUNTY	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Ada	83	69	85	276	170	181	87	74	105	129	38
Adams				4	4	1	4	2	3	3	1
Bannock	1	1	13	5	26	18	25	45	51	41	4
Bear Lake	1		4	11	3	.1	1	3		3	
Benewah	3	1	1	10	11	8	3	9	3	1	2
Bingham	1	3		8		10	10	6	7	23	9
Blaine	1	4	3	36	9	4	17	6	4	8	2
Boise	8	14	3	9	13	21	51	9	31	3	3
Bonner	6	7	11	543	35	30	47	109	27	31	62
Bonneville	1	8	19	5	18	42	113	84	12	26	15
Boundary		1	2				12	2	1	7	4
Butte				1	9	1				1	
Camas	1						4				
Canyon	25	7	20	26	82	83	165	52	76	90	13
Caribou		1							1		
Cassia											
Clark											
Clearwater	2	5		3	1		8				
Custer	4	10	25		5	5		3		18	5
Elmore	6	1	1	27	8	1	5	4	24	2	12
Franklin											
Fremont	17	21	3	15	21	17	18	2	6		16
Gem		1	1	1		3		1	25	3	
Gooding				2		4					
Idaho	5	13	3	6	8	10		9	2	2	
Jefferson					3					1	
Jerome		1			2	22		4	13	27	4
Kootenai	33	25	20	57	89	230	43	27	25	153	16
Latah	2	19	12	2	4	1	35	3	3	2	3
Lemhi	1			2	4	10	2	1		4	10
Lewis	2	9									
Lincoln	6		1	1		3			4		
Madison	3			2	1	4	2	5	22	2	
Minidoka			2	1		5			2	3	
Nez Perce	6	7	6	4	3	6	16	23	3		1
Oneida											
Owyhee					8	2	16			4	
Payette	2	2		1	2	12	43		29	40	
Power		1							4		
Shoshone	1	1	2	29	46	1	3		1	3	
Teton		2	1	1	2	4	6	33			1
Twin Falls	11		1	1	8	48	9	26	57.1	28	16
Valley	1		22	22	172	113	249	56	21	13	
Washington	2				1			2			5
	235	234	261	1,111	768	901	994	600	1,076	671	242

Tax Commission Appeals Filed

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
STC	47	41	26	31	42	28	41	38	31	48	35
TOTALS	282	275	287	1,142	810	929	1,035	638	1,107	719	277

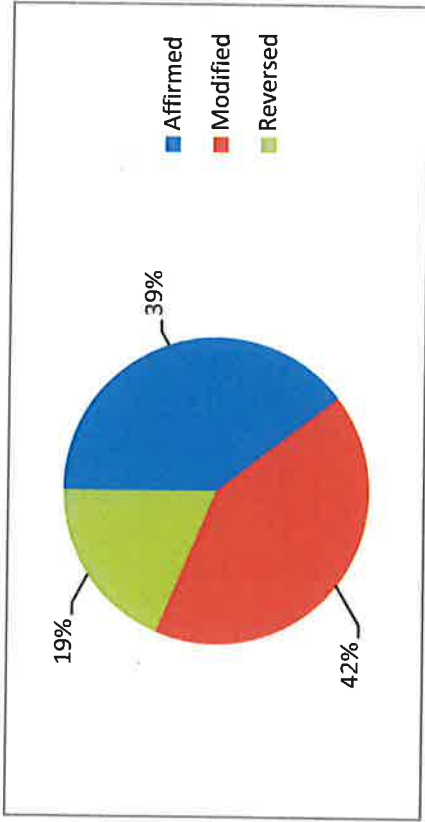
2013 Ad Valorem Decision Breakdown

EASTERN IDAHO



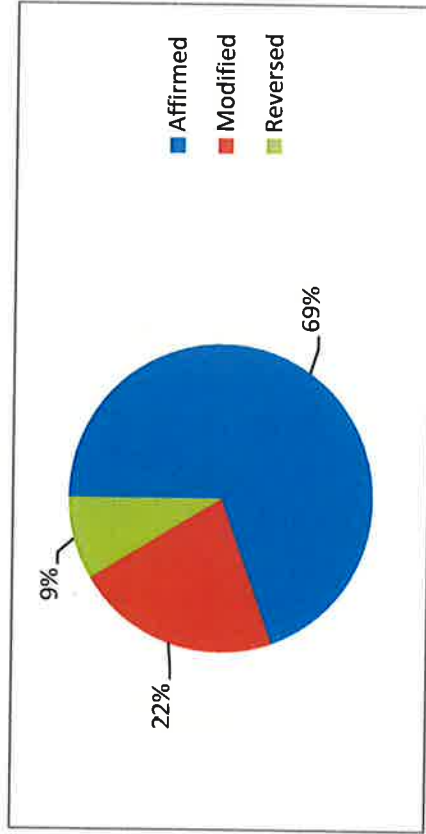
Affirmed	25
Modified	2
Reversed	12

SOUTHWEST IDAHO



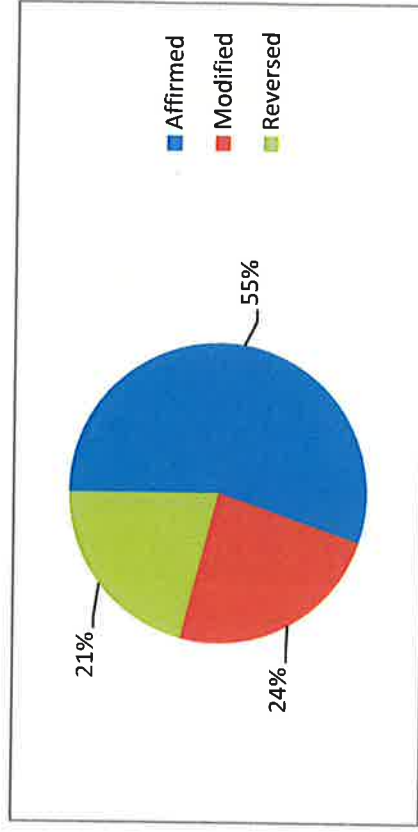
Affirmed	17
Modified	18
Reversed	8

NORTHERN IDAHO



Affirmed	16
Modified	5
Reversed	2

OVERALL



Affirmed	58
Modified	25
Reversed	22

Idaho Board of Tax Appeals: Adjudicating State Tax and Ad Valorem Appeals Since 1969

Linda Pike

This article is to introduce Idaho Bar members to the Idaho Board of Tax Appeals. The Board is the administrative body for hearing most Idaho state tax and property valuation appeals. Although the Board has existed for 45 years, many members of the Bar, as well as the public, do not know about this appellant process. Hopefully, after reading this, attorneys will have a better understanding of how to help their clients appeal state tax matters by using this quasi-judicial process, rather than pursuing such matters in court.

What is the Board of Tax Appeals?

In 1969, the Idaho legislature established the Idaho Board of Tax Appeals (BTA) as a quasi-judicial, independent body to hear ad valorem, property tax exemption, sales and use tax, "circuit breaker,"¹ and income tax appeals. The bulk of the BTA's caseload consists of ad valorem² appeals arising from decisions of the County Commissioners acting as the Board of Equalization in each of Idaho's 44 counties.³

The part-time Board consists of three members appointed by the Governor, with confirmation of the Senate. Members serve three-year, staggered terms. The Board must be politically balanced and members are prohibited from being politically active. In other words, the Board must at all times appear to be neutral even though each member must declare their political party affiliation when appointed. Traditionally, Board members are from different

The Board must at all times appear to be neutral even though each member must declare their political party affiliation when appointed.

geographical regions of Idaho. Currently the Board consists of David Kinghorn (Chair) from Eastern Idaho, Lee Heinrich from Southwestern Idaho, and I am the Board member from Northern Idaho. Board Members are selected based on their knowledge and experience in taxation.⁴ The Board is also supported by administrative staff that helps manage the Board's docket, as well as additional hearing officers.

Board members operate out of their own homes using fax machines, email, and phones to communicate with each other and with the support staff in Boise. In-person Board meetings are held in Boise two or three times per year. The bulk of the Board members' work consists of conducting hearings, and drafting and reviewing decisions outside the agency's Boise office.

As a working Board, members travel and conduct hearings in their respective regions. Final decisions are not rendered at hearing. Members review every decision, which requires at least two concurring signatures before becoming final. As in other judicial and quasi-judicial hearings, Board members and even hearing officers must avoid conflicts

of interests and disclose any potential conflict. Naturally, there should be no ex parte discussions with the parties about information presented at hearing.

While these rules of judicial practice may seem so fundamental to lawyers that they need not to be discussed, they are mentioned here because of the typical nature of the Board's hearings. Often the hearings involve pro se (self-represented) litigants who are unaware of these rules and want to engage in conversation prior to, or after, the hearing. Some litigants think they have been gathered just to have an informal discussion about their particular issue. The presiding hearing officer is tasked with maintaining control of the hearing so both sides are treated fairly.

Training for hearing officers and board members

Being a lawyer is not a requirement to conduct hearings, however, all Board members and hearing officers attend classes at the National Judicial College in Reno, Nevada. The basic curriculum includes a two-week session on Administrative Law and Fair Hearings. Other ad-

the assessor is the party challenging the decision of the Board of Equalization, in which case the assessor is the Appellant.

State Tax Commission appeals

The subject matter of State Tax Commission appeals typically centers on income tax, sales and use tax, or "circuit breaker" matters. Circuit breaker is a property tax reduction benefit program available to applicants who satisfy certain age, disability, and income requirements. Qualification for the circuit breaker benefit can reduce the amount of property tax the claimant must pay. State Tax Commission appeals can get complicated depending on the subject matter.

Use tax in Idaho can be a particularly difficult case type, as the code and case law are not always clear. Income tax cases can also be complicated. Because Idaho borders Washington, which does not impose income tax, sometimes people moving to Idaho from Washington do not understand, or are unaware of Idaho's income tax laws and are surprised to learn their retirement benefits or other income may be taxed in Idaho.

Other income tax cases may involve residency or domicile. These cases can also be complicated, where a taxpayer resides in more than one state or conducts business in multiple states. Income tax issues are by their nature usually difficult. Appellants may benefit from being represented by an attorney or advised by an accountant.

Generally in circuit breaker appeals, Appellants are not represented by an attorney because the cost is usually prohibitive. Sometimes the issue may be a change in marital status or disability qualification.

Many times the issue centers on whether certain medical expenses should be allowed. These cases are stressful because often there is a lack of understanding by the Appellant about the program's requirements, or because of sad life circumstances of the Appellant. As an example of the latter situation, by Idaho law, to be considered disabled, one must be declared disabled by the social security administration. If the person for whatever reason has never qualified for social security benefits, then regardless of how disabled they actually are, they do not qualify for the circuit breaker benefit.

Most cases arising from the County Board of Equalization, however, are focused on the market value of the property under appeal.

When, where, how?

Appeals brought under Idaho Code § 63-511 must be filed within 30 days of the notice of a decision of the County Board of Equalization. Typically County Board of Equalization decisions are issued in written form, but such is not required. Notice of appeal must be filed with the county auditor in the county in which the property assessment originated.¹⁰ These appeals may also include legal issues, such as whether

the property qualifies for an exemption under the various exemption statutes in the Code. Most cases arising from the County Board of Equalization, however, are focused on the market value of the property under appeal.

Appeals from decisions of the State Tax Commission are brought under Idaho Code §63-3049. These appeals must be filed directly with the BTA within 91 days after the receipt of the State Tax Commission's decision. A 20% prepaid deposit must also be made to the State Tax Commission within the 91-day appeal window. Circuit breaker appeals, however, must be filed with the BTA within 30 days of the State Tax Commission's decision to disapprove the taxpayer's circuit breaker application.¹¹

Why should I care?

Many Appellants, especially in cases concerning income and sales tax, could benefit from the advice of counsel. These cases can be complicated and often turn on case law, of which the taxpayer might be unaware. Even ad valorem cases can get confusing for self-represented parties because they may not understand the procedural rules or are generally unfamiliar with motions and the discovery process. If an ad valorem case has issues of qualification for exemption, these are legal matters and the advice of counsel might indeed change the outcome of the case.

Though no formal calculation exists, the BTA saves the court system a good deal of time and expense by hearing these various tax-related matters. The BTA's annual caseload varies but some years the docket has exceeded 1,000 appeals. Without the BTA, the district court system would