

**§ 11-3-27. RELIEF IN COUNTY COMMISSION FROM
ERRONEOUS ASSESSMENTS**

(a) Any taxpayer, or the prosecuting attorney or Tax Commissioner, upon behalf of the State, county and districts, claiming to be aggrieved by any entry in the property books of the county, including entries with respect to classification and taxability of property, resulting from a clerical error or mistake occasioned by an unintentional or inadvertent act as distinguished from a mistake growing out of negligence or the exercise of poor judgment, may, within one year from the time the property books are delivered to the sheriff or within one year from the time such clerical error or mistake is discovered or reasonably could have been discovered, apply for relief to the county commission of the county in which such books are made out.

WHAT DOES THIS MEAN?

- Taxpayer, Prosecutor or Tax Commissioner makes the application to the Commission
- Must be brought within one year from delivery of books to Sheriff

OR

- Within one year from the time error is discovered or could reasonably be discovered
- Application is not filed with Sheriff/Assessor

Provided, That upon the discovery of any such clerical error or mistake by the sheriff or assessor, or either officer having knowledge thereof, the sheriff or assessor shall initiate an application for relief from the erroneous assessment on behalf of the taxpayer or cause notice to be sent to any taxpayer affected by the clerical error or mistake by first-class United States mail advising the taxpayer of the right to make application for relief from the erroneous assessment.

WHAT DOES THIS MEAN?

- If Sheriff or Assessor discover the error Sheriff or Assessor initiate application on behalf of the Taxpayer

OR

- Notify Taxpayer by 1st class mail advising Taxpayer of the right to make application
- Neither Sheriff nor Assessor has power to initiate application on his/her own

Before the application is heard, the taxpayer shall give notice to the prosecuting attorney of the county, or the State shall give notice to the taxpayer, as the case may be.

WHAT DOES THIS MEAN?

- Sheriff/Assessor notify Prosecutor or Tax Commissioner if Initiating on behalf of Taxpayer.
- Taxpayer must notify Prosecutor or Tax Commissioner

The application, whether by the taxpayer or the State, shall have precedence over all other business before the court; but any order or judgment shall show that either the prosecuting attorney or Tax Commissioner was present defending the interests of the State, county and districts.

WHAT DOES THIS MEAN?

- Precedence over all other business
- Commission puts application on meeting agenda
- Commission conducts evidentiary hearing
- Makes factual determination that:
 1. Application is Timely
 - &
 2. Error is clerical, not negligent or an exercise of poor judgment
- Decision is rendered by order
- Order must reflect Prosecutor or Tax Commissioner were present.
- No requirement that Sheriff/Assessor approve of exoneration (exception later)

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- No requirement that Prosecutor/Tax Commissioner approve exoneration
- Only Commissioner signatures required on order
- Undisputed exonations
- Recommend county implement consistent procedures to minimize burden on all involved
- Give Taxpayer/Sheriff/Assessor/Prosecutor/Tax Commissioner ability to review application prior to consideration

Provided, however, that the provisions of this section shall not be construed as giving county commissions jurisdiction to consider any question involving the classification or taxability of property which has been the subject matter of an appeal under the provisions of section twenty-four-a (§ 11-3-24a) of this article; and any other such clerical error or mistake involving the classification or taxability of property, may be corrected by the county commission under the provisions of this section only when approved, in writing, by the county assessor.

WHAT DOES THIS MEAN?

- County Commissions have **NO** authority over classification or taxability of property
- Assessor must approve
- Must be a clerical error

RECOMMENDED PROCEDURES

Taxpayer discovers error

- Assessor directs Taxpayer to Commission to file application
- Commission schedules hearing
- Commission decides if timely and if error is clerical
- Commission grants relief: Commission issues order
- Commission does not grant relief: Commission issues order
- Taxpayer can appeal to Circuit Court
- Classification/taxability Assessor must sign order

**Sheriff/Assessor discovers error
(Decrease in Tax)**

- Assessor shall initiate application on behalf of Taxpayer

OR

- Notify Taxpayer of the right to make application
- Recommend Assessor adopt consistent method

**Assessor discovers error
(Increase in Tax)**

- Assessor request Prosecutor to present application to County Commissioner
- Prosecutor notifies Taxpayer of time and place application will be heard

Bayer WV Supreme Court Case

**Prosecutor has standing to
appeal decision of County
Commission granting an
exoneration**

OTHER ISSUES

- County Clerk certifies copies of order to State Auditor, Sheriff and Assessor
- Assessor corrects land books
- Refund or credit overpayment
- Possible to credit overpayment against two years future under certain circumstances

QUESTIONS?