

Challenges Ahead for Property Tax Appeals in Moldova

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In the early 1980s, the declining economy in my home state of West Virginia was putting a significant strain on the government's budget. At that time, the tax department decided more revenue could be collected if it hired more auditors. Consequently, the tax department hired a significant number of new auditors and soon thereafter they were combing the hills and the valleys of West Virginia looking for additional revenue. In many instances, they found it, and the tax department began issuing assessments to thousands of taxpayers. The idea had worked — or had it?

In the mid-1980s, I became chief administrative law judge in West Virginia. When I entered office, the docket was full of cases that had to be heard and decided. The hearing examiners were working as best they could under the avalanche of petitions that resulted from the increased number of assessments. While the tax department had poured resources into new auditors, it had not considered the effect the increased activity was having on the rest of the tax administration process.

In 2008 Moldova is scheduled to begin consolidating its unit-based land tax and its book-value-based immovable property tax into one ad valorem immovable property tax. As this transformation takes place, one area that will need special attention is the property tax appeals system. It is reasonable for Moldova, without a long history of free market property transactions to serve as comparative sales, to anticipate a significant number of property tax appeals, especially during the years immediately following the transition.

Currently, Moldova has a general tax appeals system. However, that system's primary purpose is to review appeals that relate to the country's income- and consumption-based taxes. Moldova will need a property tax appeals system that can accommodate the procedural and budgetary concerns unique to an ad-valorem-based system.

The purpose of this article is to review the changes in Moldova's property tax system and suggest the structural changes that will be necessary for Moldova to provide a fair and effective system for property tax appeals.

I. Property Tax in Moldova

Enactment of Title VI

On June 16, 2000, the Parliament in Moldova enacted Title VI of the tax code, establishing a property tax based on the value of an owner's

immoveable property and abrogating the land tax and other taxation procedures that had been in effect since 1992.¹

The effective date of the original law was January 1, 2001.² However, instead of immediately imposing an ad valorem tax, the enacting legislation provided a set of transition rules that basically maintained a land tax based on the area of the land and an immoveable property tax based on the book value of buildings and structures until January 1, 2004.³

Then Parliament moved the effective date of the market-value-based system to January 1, 2006, to permit the State Agency for Land Relations and Cadastre (the Cadastre) the opportunity to complete the valuation of apartment buildings and homes.⁴

Later, the government set a new effective date of January 1, 2008, to complete the valuation of property in Chisinau.⁵ Another complicating factor was the need to standardize the method of identifying property. The Cadastre had assigned identifying numbers to each parcel of property, while tax officials assigned identifying numbers based on the taxpayers in terms of legal or physical persons.⁶

Recently, a parliamentary commission for economy, budget, and finances approved amendments to Title VI that would move the effective date up to January 1, 2007, for owners of houses and apartments in towns.⁷ However, this measure was not adopted, and as of this writing it appears that the changeover to a consolidated ad-valorem-based system will occur in 2008.

Property Tax Under Title VI⁸

Taxable Property

Title VI imposes a tax on immoveable property, which is defined as “land and/or improvements affixed to it [including] buildings, constructions,

apartments and other isolating premises that cannot be removed without damaging their destination.”⁹

Land includes agricultural land and land used for industrial transportation, telecommunications, and other purposes that is located within and without a community. Title VI defines “improvements” as construction that is at least five years old and 80 percent complete.¹⁰

Property Appraisal

The Cadastre is an independent agency whose primary objectives are to implement land reform, implement a national system of real estate cadastre, and establish and maintain the geodetic and mapping data in the country by creating a location-based technology system.¹¹

The Cadastre, through its territorial agencies, is responsible for appraising and maintaining the fiscal cadastre as well as monitoring the information regarding the immoveable property.¹² The fiscal cadastre is a special cadastre that includes systematic data on the property that has been submitted by the cadastre agencies, cadastre identification numbers, type and location of immoveable property assets, tax base of the immoveable property, amount of tax on immoveable property, and other information.¹³

The Cadastre and its regional agencies may request information regarding the property from the property owners as well as from any person or government entity that registers property ownership or property transactions, including notary offices, communal services, realtors, and brokers. Owners are required to give any information requested. However, if they refuse, the Cadastre may use information that is attributable to similar properties.¹⁴

To maintain a current record of property and property owners, a buyer or transferee must report to the Cadastre any sale or transfer of property within 60 days of approval by a local notary. There are penalties for the failure to provide this information.¹⁵

¹Law of Republic of Moldova, No. 1056-XIV, preamble (June 16, 2000) (hereinafter “Law”).

²Law, article 1.

³Law, article 4. Taxpayers may be subject to both taxes.

⁴The Cadastre completed the valuation of apartment buildings in 2004 and homes in 2005.

⁵The Cadastre completed the valuation of property in Chisinau in 2006.

⁶This problem has since been addressed and rectified.

⁷Townfolk likely to pay real estate tax according to market value starting January 1,” *All Moldova*, available at <http://www.allmoldova.com/index.php?action=newsblock&id=116065> (Oct. 12, 2006).

⁸To avoid confusion, I will refer to the original enactment of the market-value-based system as “Title VI” and the current law that employs a unit-based land tax and a book-value-based immoveable property tax as “the transition rules.”

⁹Title VI, article 276(2).

¹⁰Title VI, article 276(1).

¹¹*Infrastructure for Spatial Information in Europe* Web site, “Spatial Data Interest Community Description,” available at http://inspire.jrc.it/ir/sdic_view_step1_only.cfm?id=1556.

¹²Title VI, articles 276(2) and 287.

¹³Title VI, article 276(7).

¹⁴Title VI, article 285(3)-(5).

¹⁵Interview with Olga Bazu, Land Relations and Cadastre Agency, Republic of Moldova, Dec. 14, 2006.

Under Title VI, the territorial cadastre agencies must appraise the value of the property as of the valuation date of January 1 “using a single methodology for all types of immovable property according to the techniques and deadlines established by the legislation.”¹⁶ The original law requires a mass appraisal approach for standard immovable property and an individual appraisal approach for specific (nonstandard) property and property subject to judicial review.¹⁷

For Title VI purposes, the term “mass appraisal” means the use of the same method of determining the market value, not mass appraisal in the traditional sense as a term of art.¹⁸ In common parlance, standard immovable property includes houses, farmland, and apartment buildings, as well as small businesses that are typically located on the first floor of apartment buildings.¹⁹

The individual appraisal approach means choosing a particular value-based method for a particular piece of property as opposed to using a consistent method for all properties within a classification.²⁰ Specific (nonstandard) property includes commercial or industrial property.²¹

Title VI also states that the “market value of immovable property shall be determined according to its destination” by applying the market, income, and cost methods of appraisal.²² The term “destination” means the property’s use or the purpose for which it is used.²³

The Cadastre is required to forward the fiscal cadastre to its regional offices by February 1 each year.²⁴ If the information changes before June 1, the Cadastre agencies may change the value of the property accordingly.²⁵

The law requires the territorial cadastre agencies to appraise the value of all immovable property every three years.²⁶

Tax Base

Under Title VI, the tax base of the immovable property was 50 percent of the appraised value.²⁷ Since the original enactment of Title VI, this assessment ratio has been eliminated in exchange for a lower tax rate on the total appraised value of the property, which will be discussed later.²⁸

There are several exclusions from the immovable property tax base that are based on either the status of the owner, the type of property, or the use of the property.²⁹ The law also authorizes local public authorities to grant exemptions from the tax for property subject to natural disaster, sickness or death of the property owner, or for environmental concerns.³⁰

Tax Computation and Payment

Title VI empowers the local mayor’s office to set the tax rate at an amount between 0.25 percent and 0.5 percent of the tax base.³¹ Since the enactment of Title VI, these rates have been reduced to a range from 0.02 percent to 0.25 percent and are applied to the appraised value instead of the tax base.³²

If the tax base has changed since January 1, the mayor’s office may impose the tax rate on the new value.³³ If a person receives property by inheritance or by gift, then the grantee succeeds to the property’s tax liability.³⁴

Once the tax is calculated, the mayor’s office must send a tax bill to the property owner by April 16 of each year.³⁵ The tax bill is required to include:

- cadastre identification number;
- names of the taxpayers;
- address of the subject property;
- general characteristics of the property, including the area of the land plot and a list of any improvements;
- appraised value;

¹⁶Title VI, articles 279(1) and 281(1). A “single methodology” means the Cadastre will use the same method for all property within a particular class.

¹⁷Title VI, article 279(1), (2), and (3).

¹⁸*Supra* note 15. The translator may have created confusion in choosing this term.

¹⁹*Id.*

²⁰The tax code mentions the three types of permissible valuation methods: market, cost, and income. Title VI, article 279(4).

²¹*Supra* note 15.

²²Title VI, article 279(4).

²³*Supra* note 15.

²⁴Title VI, article 285(1).

²⁵Title VI, article 285(2).

²⁶Title VI, article 279(5).

²⁷Title VI, article 278(2).

²⁸*Supra* note 15.

²⁹Title VI, article 283. The exclusions to the tax base are not germane to the primary issue in this article. Therefore, I have refrained from discussing them in any detail.

³⁰Title VI, article 284(1).

³¹Title VI, article 281(1).

³²*Supra* note 15. In light of the elimination of the tax base (assessed value) of 50 percent of the appraised value, the result of this change is a lower permitted rate but the same maximum rate.

³³Title VI, article 281(2).

³⁴Title VI, article 281(3).

³⁵This is 60 days before the first tax payment is due, on June 15.

- assessed value;
- applicable tax rate;
- amount of tax due for that year;
- amount of arrearages, if any;
- total amount due (current tax plus arrearages);
- place the tax may be paid and payment procedures; and
- due date of the tax payment.³⁶

Taxpayers are required to pay the tax in two equal installments due on June 15 and October 15 of each tax year.³⁷

Property Tax Under the Current Rules

The transition rules currently in effect provide for a dual real estate tax consisting of a land tax on property belonging to legal and physical persons and an immoveable property tax on legal and physical persons based on their buildings, structures, and other improvements on the land.³⁸ For these purposes, a legal person is a corporation or other legal entity and a physical person is an individual.³⁹

Land Tax

The land tax is imposed on (1) agricultural land and industrial land outside of the community, (2) land located within the communities, and (3) land allocated for horticultural partnerships.⁴⁰ The mayor's office and the regional tax authorities determine a tax rate that may not exceed the maximum rate set in the transition rules.

Agricultural land is further classified as either pasture land or all other types of agricultural land. The maximum rate of tax for pasture land is MDL 1.5 per hectare if the cadastre value has been determined and MDL 110 per hectare if the cadastre value has not been determined.⁴¹ The maximum rate of tax for all other types of agricultural land is MDL 0.75 per hectare if the cadastre value is determined and MDL 55 per hectare if the cadastre value is not determined.⁴² Obviously, there is a great incentive to have a cadastre value on the land.

³⁶Title VI, article 286 (1)-(2).

³⁷Title VI, article 282.

³⁸Law, annexes 1 and 2. It is interesting that the land tax appears to apply to the land while the immoveable property tax appears to apply to the owner. Although the difference is subtle in operation, it illustrates the difference between general tax policymakers, who apply the tax according to the person, and property tax policymakers, who apply the tax according to the property.

³⁹*Supra* note 15.

⁴⁰Law, annex 1, paragraphs 1-4.

⁴¹Law, annex 1, paragraph 1(a).

⁴²Law, annex 1, paragraph 1(b).

The maximum rate for industrial land located outside a community is MDL 70 per hectare. If the industrial land is "affixed to constructions, installations, quarries and land eroded [by] production activities," the maximum tax rate is MDL 350 per hectare.⁴³

Land within a dwelling or community area is classified as either household or industrial property.⁴⁴

Household property includes housing facilities, garages of cooperative societies, and household land, in general.⁴⁵ The maximum rates for household land per 100 square meters is (1) MDL 1 in rural areas, (2) MDL 2 in towns, (3) MDL 10 in the cities of Chisinau and Balti, and (4) MDL 4 in other municipalities.⁴⁶

Industrial property includes land used for industry, transportation, telecommunications, agricultural, and other special purposes.⁴⁷ For this section, the term "special purposes" includes mining property, rights of way for electric power transmission, and similar uses when the property is no longer available for agricultural purposes.⁴⁸ The maximum rate for industrial land per 100 square meters is (1) MDL 10 in towns and rural areas, (2) MDL 30 in the cities of Chisinau and Balti, and (3) MDL 10 in other municipalities.⁴⁹

The maximum rate for land allocated for horticultural partnerships per 100 square meters is (1) MDL 1 in towns and rural areas, (2) MDL 10 in the cities of Chisinau and Balti, and (3) MDL 1 in other municipalities.⁵⁰

Legal persons and physical persons engaged in business activities must self-assess and report their tax liability to the regional tax authorities by July 1.⁵¹ Before June 16, the mayor's office and the

⁴³Law, annex 1, paragraph 4.

⁴⁴Law annex 1, paragraph 2(a) and (b).

⁴⁵Household land may include land outside the community if it was distributed by the local government due to the unavailability of sufficient land within the city.

⁴⁶Law, annex 1, paragraph 2(a).

⁴⁷Law, annex 1, paragraph 2(b).

⁴⁸*Supra* note 15.

⁴⁹Law, annex 1, paragraph 2(b).

⁵⁰Law, annex 1, paragraph 3.

⁵¹Law, article 4, paragraph (6)(a). Farming entities are excluded from this requirement. Although not defined in Title VI, a legal person is defined as "any enterprise, institution, organization of the Republic of Moldova carrying on business, except for the individual enterprise and farming entity" and "a nonresident person who has an economic presence in the Republic of Moldova." Title II, chapter 1, article 12, paragraph (1)(4) of the tax code of the Republic of Moldova.

regional tax authorities will prepare and send a bill to farming entities and all other physical persons.⁵²

Persons subject to the land tax must pay the amount due in equal installments by August 15 and October 15 of the tax year. Tax bills paid by June 30 receive a 15 percent discount.⁵³

Taxpayers make their payments to local administrators and the revenue is used by both the national government and the local governments.⁵⁴

Immoveable Property Tax

The transition rules impose an immoveable property tax on:

- legal persons based at a maximum rate of 0.1 percent of the book value of buildings and structures;⁵⁵ and
- physical persons who own privatized apartments, buildings and structures, property under construction, and lots for summer homes and garages at the following maximum rates:
 - 0.1 percent in rural areas;
 - 0.3 percent in the cities of Chisinau and Balti; and
 - 0.2 percent in all other towns and cities.⁵⁶

Book value is the historical value of the buildings and structures that businesses use for accounting purposes. In many instances, these values have been carried over from year to year and reflect the original price paid by the property owner at the privatization.⁵⁷ Consequently, these values are extremely low relative to their current market values.⁵⁸

A progressive feature of the immoveable property tax under Title VI requires persons with apartments and main constructions that exceed 100 square meters to multiply the standard tax rates, as follows:

- 100 to 150 square meters — 1.5 times the standard rate;
- 150 to 200 square meters — 2 times the standard rate;
- 200 to 300 square meters — 10 times the standard rate; and

⁵²Law, article 4, paragraph (6)(b). The transition rules require the mayor's office to send out the bill 60 days before the first tax payment is due. Sixty days before August 15 would be June 16.

⁵³Law, article 4, paragraph (6)(c).

⁵⁴Law, article 4, paragraph (6)(c).

⁵⁵Law, annex 2, paragraph 1.

⁵⁶Law, annex 2, paragraph 2.

⁵⁷Most land privatization projects were completed in the 1990s.

⁵⁸*Supra* note 15.

- over 300 square meters — 15 times the standard rate.⁵⁹

In accordance with the maximum rates set in the transition rules, the mayor's office sets the tax rates for the particular tax year.⁶⁰

Legal persons and physical persons engaged in business activities must self-assess and report their tax liability to the regional tax authorities on a quarterly basis by the 20th day of the month following the end of the quarter.⁶¹

Before June 16, the mayor's office and the regional tax authorities prepare and send a bill to physical persons not engaged in business activities.⁶² Physical persons not engaged in business activities must pay the amount due in equal installments by August 15 and October 15 of the tax year. Tax bills paid by June 30 receive a 15 percent discount.

Taxpayers make their payments to local administrators and the revenue is shared by the national government and the local governments.⁶³

Summary of the Changeover

On January 1, 2008, the transition rules are scheduled to end, which will impose an ad valorem property tax on all real estate. As a result, five significant changes will occur.

First, the separate area-based tax on land will be eliminated and land will be taxed as immoveable property.

Second, immoveable property that includes land will be taxed on an ad valorem basis. As a result, the value of buildings and structures used for business and previously taxed on their book value will increase significantly to reflect the increases in market value since their acquisition.

Third, businesses will no longer self-assess. Instead, the Cadastre will value the property of all taxpayers and forward their valuations to local tax officials, who will send tax bills.

Fourth, businesses will no longer make quarterly payments on their immoveable property, and physical persons will make their first payment on June 15 instead of August 15.⁶⁴ Those changes will impact the revenue flow of the local governments.

⁵⁹Law, article 4, paragraph (7)(b).

⁶⁰*Supra* note 15.

⁶¹Law, article 4, paragraph (7)(a).

⁶²The law requires the mayor's office to send out the tax bills no later than August 15, the due date of the first payment.

⁶³Law, article 4, paragraph (6)(c).

⁶⁴Their second payment will still be due on October 15.

Fifth, the national government will no longer share in revenue produced by the tax on property.

II. Tax Appeals in Moldova

Tax Appeals Under Current Law

Title V, Chapter XVII, articles 267 through 274 of the tax code provides a system of tax appeals that is available for taxpayers subject to the land tax and for immoveable property tax under the transition rules. The right to appeal is supported by several constitutional and statutory provisions that include standards for notice and the availability of information to taxpayers.

Constitutional Right to Appeal

The citizens of Moldova retain a wide range of constitutional rights that provide for protection of their private property, permit regress for infringements of their rights, and allow access to public information regarding their personal interests.

The constitution of the Republic of Moldova protects the rights of its citizens to “possess private property” and affirms that “[no] assets legally acquired may be confiscated.”⁶⁵

The government is forbidden from enacting a law that restricts a citizen’s access to justice.

If the government violates a person’s property rights, the constitution guarantees every citizen the right “to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests.”⁶⁶ Moreover, the government is forbidden from enacting a law that restricts a citizen’s access to justice.⁶⁷

The constitution also guarantees a citizen’s right “to respond independently by appropriate legitimate means to an infringement of his/her rights and freedoms.”⁶⁸

The constitution states that having “access to any information of public interest is everybody’s right that may not be curtailed.” Consequently, public authorities are required to correctly inform citizens on both “public affairs and *matters of personal interest*.”⁶⁹ (Emphasis added.)

⁶⁵Article 46(1) and (3).

⁶⁶Article 20(1).

⁶⁷Article 20(2).

⁶⁸Article 26(2).

⁶⁹Article 34(1).

In summary, it appears that if the property tax system threatens to take the private property of a citizen, that is, his money, then access to an independent hearing is guaranteed and the citizen has the right to obtain any and all information that pertains to the proposed confiscation.

Rights Under the Tax Code

In general, the tax code of Moldova requires a system for “appeals against actions of the tax administration and their officials”⁷⁰ and states that taxpayers are entitled:

- to present to the tax administration and their officials an explanation regarding the computation and payment of taxes and fees according to acts of the tax audit;⁷¹
- to appeal in the established manner against the decisions, action, or inaction of the tax administration and their officials;⁷²
- to benefit from other rights under the tax legislation;⁷³ and
- to be present at the execution of the tax audit, to sign an act about the audit, and to provide oral and written explanations when subject to a tax audit.⁷⁴

The tax code also creates a presumption in favor of the taxpayer, guarantees restitution, and provides for the payment of interest.

The tax code states that all “uncertainties arising in application of the tax legislation shall be interpreted in favor of the taxpayer.”⁷⁵ If the taxpayer prevails in an action in which damage is caused by “the tax administration and its officials as a result of improper fulfillment of their professional duties,” then the taxpayer is entitled to a refund with interest according to the decision of the State Tax Service or the court.⁷⁶

Tax Appeals Process

Standing for Appeal

Under the tax code, only the aggrieved taxpayer or his representative may appeal a decision of a tax authority.⁷⁷ Tax authorities are directed to reject

⁷⁰Title I, article 1(1), Tax Law of the Republic of Moldova.

⁷¹Title I, article 8(1)(f).

⁷²Title I, article 8(1)(g).

⁷³Title I, article 8(1)(h).

⁷⁴Title I, article 8(2)(h).

⁷⁵Title I, article 11(1).

⁷⁶Title I, article 11(2) and (3).

⁷⁷Title V, article 267(1) and (2).

any appeal brought by any person other than the taxpayer or his representative.⁷⁸

A taxpayer with standing for appeal has the burden of proof to show that the decision by the tax authorities is incorrect.⁷⁹ The tax code does not set any particular standard for the taxpayer's burden of proof.

Filing an Appeal

Taxpayers aggrieved by decisions of tax authorities or actions of its officials must file an appeal within 30 days of "when the decision is served or taken, or the respective action is performed."⁸⁰ Tax authorities may extend the deadline for taxpayers with valid reasons.⁸¹

Taxpayers must file their appeals with the "tax authority that took the decision or whose official performed the action." Within three days, the tax authority must forward the appeal to the State Tax Administration along with "the audit report and relevant decisions of local tax authorities." Alternatively, the tax official can forward the appeal directly to the central office of the State Tax Administration.⁸²

Review of the Appeal

The authorized tax authority must examine the appeal within 30 business days, and the tax authority management may extend the review period up to an additional 30 days. The tax authority must notify the taxpayer of any extension.⁸³

The tax authority may invite the taxpayer to the examination of the appeal to provide explanations and "may attach relevant documents supporting such explanations."⁸⁴

At the conclusion of the review, the tax authority must issue a decision in which he may:

- dismiss the appeal, leaving the decision in place;
- amend the decision to provide the taxpayer with partial satisfaction;
- grant the taxpayer the relief sought and dismiss the original decision; or
- suspend the execution of the decision and conduct another audit.⁸⁵

⁷⁸Title V, article 267(3).

⁷⁹Title V, article 267(4).

⁸⁰Title V, article 268(1).

⁸¹*Id.*

⁸²Title V, article 269.

⁸³Title V, article 270(1).

⁸⁴Title V, article 270(2).

⁸⁵Title V, article 271.

Following the review of the appeal, the tax authority must issue a decision and either hand the taxpayer a copy of the decision, if he participated in the review, or mail the taxpayer the decision, if the taxpayer was not at the review.⁸⁶

Judicial Review

The State Tax Service must forward their decisions to the regional tax service authorities for execution. Generally, the execution of the appealed decision may not be suspended due to a later appeal.⁸⁷

Taxpayers may appeal the decision of the State Tax Service to a court "in a manner established by the effective legislation."⁸⁸

Property Tax Appeals

Currently, there are few appeals that relate to the land tax or the immovable property tax under the transition rules. There are several reasons for the scarcity of these actions.

First, business entities self-assess, and the role of the tax administrator is confined to reviewing the returns submitted for any obvious improprieties. Also, the tax base is easy to ascertain. Under the transition rules, the land tax is based on the area of the property, that is, the number of hectares or square meters, while the immovable property tax is based on a book value that is carried over from year to year.

Currently, there are few appeals that relate to the land tax or the immovable property tax under the transition rules.

Second, the tax liabilities of physical persons are so low that it isn't economical for these property owners to file an appeal even if they believe there is an inaccuracy in determining their tax liability.

Third, there is still a hangover from the days of Soviet rule, which embedded in many taxpayers a belief that it was futile to challenge the government and, therefore, that submission is the order of the day. This mentality, when combined with the relatively low property tax burdens, often provides a sufficient disincentive to use the appeals process.

There are persons subject to either the land tax or the immovable property tax who have filed appeals

⁸⁶Title V, article 270(3).

⁸⁷Title V, article 272 (1) and (2).

⁸⁸Title V, article 274.

using the current system.⁸⁹ Usually, taxpayers send a letter or a completed form to the regional offices of the State Tax Service. Due to the simplicity of both taxes, most problems are resolved at the local level.

One example of an appeal was a case in which the government classified a homeowner's basement as living space, which increased the area of the property subject to tax. The homeowner sent a letter to the regional tax authority, who reclassified the area, thus providing the homeowner with a measure of relief.⁹⁰

III. Common Components

In the U.S., state law usually authorizes local governments to use an ad valorem property tax as a source of revenue. Similarly, most countries in Western Europe authorize regional or local governments to use a property tax. These governments nearly universally employ property tax appeal systems to provide taxpayers with an opportunity to challenge the subjective value placed on their property by the appraising authority. However, the taxpayer's opportunity for appeal is balanced by the governing body's need to generate revenue while avoiding unwarranted revenue shortfalls and excess administrative costs.⁹¹

Mindful of these factors, the following are characteristics and components that are common to most, if not all, of these systems:

- property tax appeals are initiated at the local government level through an appeals system that is separate and apart from the appeals systems used for national and subnational income and consumption taxes;
- taxpayers have access to information regarding the manner in which their tax liability was determined and regarding their rights to appeal;
- taxpayers have the right to a timely administrative appeal of their liability; and
- taxpayers have a right to a judicial review of their tax liability.

This part examines each of these components as well as characteristics and issues that are common in the administration of each aspect of the process.

⁸⁹Interview with regional tax authority, Nov. 24, 2006.

⁹⁰*Id.*

⁹¹Michael Caryl, "The Illusion of Due Process in West Virginia's Property Tax Appeals System: Making the Constitution's Promise a Reality," 98 *W. Va. L. Rev.* at 301-303 (Fall 1995).

Separate Tax Appeals Systems

For ad valorem property tax purposes, property is customarily appraised either by a local assessor or a national or subnational government agency. Often, local officials may appraise the property subject to guidelines determined by the national or subnational government and subject to their review.

In any event, the actual assessment of tax liability is usually performed by the local government. Generally, tax systems employ a variation of one of two methods of assessing property for property tax purposes.

First, they may require a property tax owner to file an annual return. Using this process generates issues such as:

- notice to taxpayers of reporting requirements;
- penalties for not filing returns or filing inaccurate returns;
- the depth, clarity, and uniformity of information required regarding the subject property;
- ability to amend the return; and
- filing deadlines for the return or an amended return.

An alternative method places the burden on the assessing authority to ascertain property ownership and may require the taxpayer only to notify the government when the property is transferred and, perhaps, when the taxpayer makes any major alteration to the property that would have a significant impact on its value. Under this system, the government would merely maintain a property list, which it would amend as changes would necessitate.

U.S. and European Union

Typically, states in the U.S. and countries in Western Europe that impose an ad valorem property tax create and implement an appeals system separate from the system used to hear appeals on other types of taxes. The primary reasons for the bifurcation of the appeals process is the level of government that is imposing and administering each tax, the role of the taxpayer and the tax administrator, and the extent of the process necessary to handle each type of appeal.

In Western Europe, income and consumption taxes are usually imposed by national or regional governments and are self-assessed by the taxpayers. Likewise, in the U.S., state governments may impose income and consumption taxes. In each case, the role of the tax administrator is to review the

taxpayers' returns and to evaluate the reasonableness of the assessments.⁹² Audits, assessments, and reviews are usually a relatively small percentage of the returns filed. Moreover, taxpayers initiate appeals at various times throughout the year, thus distributing the administrative burden over a longer period.

In contrast, ad valorem property taxes may be authorized under national or subnational law in Western Europe and state and local law in the U.S., but are usually imposed and administered by local governments. Customarily, there is a limited period in which taxpayers may protest the valuation or classification that results in a concentration of the administrative burden.

In both cases, taxpayers lodge their appeals with the administrative agencies that issue the assessments, that is, (1) income and consumption tax appeals with national authorities or their regional offices in Western Europe and state tax departments in the U.S.; and (2) property tax appeals with local authorities. The table on the next page illustrates the forums used in eight European countries for filing an initial property tax petition and the bodies to which taxpayers take later appeals.⁹³

Two countries require taxpayers to file appeals with national entities. Austrian taxpayers file their initial appeal with a local office of the Ministry of Finance and pursue later reviews with the national tax office and the federal courts, respectively. Spanish taxpayers file their initial appeal with the national Property Register and Tax Administration Center.

Property Tax Appeals in Transition Countries

Ad valorem property tax systems in the transition countries of Eastern Europe are still in their early stages. Unlike their Western Europe counterparts, which use a market value approach, most of these countries still use either a unit tax based on the area or a tax based on the cadastral or a balance sheet value.⁹⁴ As a result, many property tax appeals are

still handled through national agencies, although often the initial protest is filed with a local office.⁹⁵

There are two exceptions. Estonia uses a purely ad-valorem-based tax and requires taxpayers to file their initial protest with a local government. Poland is moving toward a market value tax and permits taxpayers to make their initial appeal with a local appeals council.⁹⁶

Notice of Tax Liabilities

Governments usually notify taxpayers of their pending tax liability by sending a tax bill that includes the assessed value of the property, the applicable tax rate, and the total tax liability.

Many times, these tax bills are ignored until such time as the tax liability becomes due. This creates a problem for taxpayers that may not realize there has been a significant increase in their liability. As a result, many jurisdictions will send letters to taxpayers notifying them of circumstances in which the assessed value of their property has increased a specific amount, for example, 10 percent over last year's assessed value.

Taxpayer Access to Information

Access to Appraisal Information

Governments may also notify taxpayers of their right to review the information used to determine the value of their property. This documentation may include comparable sales, income, or other information used by the assessing authority.

Access to Assessment Information

Assessing authorities typically document the information used to arrive at the appraised value of a taxpayer's property. These reports should be available for review by the taxpayer to provide transparency, to assist in determining the fairness of the appraisal, and to provide a basis for informed decisionmaking on whether to pursue an appeal and, if so, what evidence to use to rebut the appraisal amount.

Having this information available to the taxpayer is a matter of practical consideration, that is, the measures taken by the assessing authority to provide convenient access to complete and useful information regarding the past and present valuation of the property.

Information Regarding Appeals

Governments also may inform taxpayers about their rights to an administrative or judicial appeal,

⁹²Richard Almy, "A Survey of Property Tax Systems in Europe," prepared for the Department of Taxes and Customs, Ministry of Finance, Republic of Slovenia (Mar. 2001), p. 36, available at <http://www.agjd.com/EuropeanPropertyTaxSystems.pdf>.

⁹³Almy, 37-38.

⁹⁴Almy, 59-63. As of 2001, five countries (Albania, Croatia, Georgia, Hungary, and Poland) use a unit-based tax system, while seven countries (Belarus, the Czech Republic, Latvia, Moldova, Romania, Russia, and the Slovak Republic) use both a unit-based tax and a cadastre- or book-based value, usually derived from a mass appraisal.

⁹⁵Almy, 37-38. These countries include Armenia, the Czech Republic, Lithuania, Moldova, and the Slovak Republic.

⁹⁶Almy, 37.

Country	Property Tax Appeals	
	Initial Appeal	Later Reviews
Denmark	Local valuation committee	<ul style="list-style-type: none"> • Regional supervisory boards • National tax tribunal
France	Informal appeal to valuation officer	<ul style="list-style-type: none"> • Court system
Ireland	Commissioner of valuation	<ul style="list-style-type: none"> • Valuation tribunal (appointed by the Ministry of Finance) • High Court • Supreme Court
Netherlands	Mayor and aldermen	<ul style="list-style-type: none"> • Tax Court • High Court
Portugal	Ad hoc valuation committee	<ul style="list-style-type: none"> • Court system
Sweden	Local property tax committee	<ul style="list-style-type: none"> • Administrative court • Courts for legal issues
Switzerland	Local valuation and tax appeal commission	<ul style="list-style-type: none"> • Cantonal administrative court • Federal courts
United Kingdom	Valuation officer	<ul style="list-style-type: none"> • Local valuation tribunal • Lands tribunal • Court of Appeal • House of Lords

the actions they must take to protest the valuation, and the deadline for requesting a review.

The primary issue is the extent and adequacy of notice the government provides. The extent of the notice means the nature of the information provided. Most governments at least advise taxpayers of their appeal options. Adequacy means whether the notice sufficiently apprises the taxpayers of their options and the measure of assistance provided.

Administrative Review

There are two types of administrative review: informal and formal.

Informal administrative review usually entails nothing more than a meeting with the assessing authority in which the taxpayer attempts to plead his case. A taxpayer may bring evidence to support his position. Often, the taxpayer is just looking for an opportunity to explain his position. In these situations, taxpayer relief is solely within the purview of the assessing authority.

A formal administrative review is usually statutory and gives an aggrieved taxpayer the right to a hearing before an official with the assessing body, an executive body with quasijudicial power, or a local

independent panel. There are four issues to consider when evaluating a formal administrative review process.

First, formal administrative proceedings often become too informal. An overly broad statute or regulation that provides few guidelines on the conduct of the proceedings will usually result in a hearing in which the degree of formality closely reflects the demeanor of the hearing body. A large degree of informality in the conduct of the proceedings often produces the inconsistent treatment of taxpayers, a lack of administrative accountability, and incomplete or inadequate records for judicial review.

Second, all administrative hearings retain a measure of institutional bias depending on the degree to which the administrative body is removed from the process. Clearly, a local executive or legislative body sitting as an appeals panel will have a conflict of interest if their body will directly benefit from the tax revenue generated by the property in question. Moreover, an assessing body that does not directly benefit from the tax revenue will still have a bias toward the work performed by its own employees.

Third, there are several timing problems inherent in property tax appeals systems. A narrow appeals period creates practical problems for a taxpayer who must review the basis of the valuation and build a case in a short time. However, governments need an expedited process that will allow for a quick determination of the tax liability to avoid disruptions in cash flow and the extra administrative costs incurred by lengthy litigation. Also, unlike other tax appeals that may be spread throughout the year, taxing authorities are faced with the prospect of a considerable number of appeals that must be heard and decided in a short time frame.

Judicial Review

Most jurisdictions permit the appeal of an administrative decision to the judicial branch of government. When a tax appeal reaches the judiciary, there are three major issues: the treatment of the tax liability, the scope of the court's inquiry, and the standard of review.

Lengthy litigation may delay the payment of taxes and disrupt a local government's revenue stream. In this regard, there are two options: stay the payment of the tax and require tax plus interest if the government prevails, or require payment of the tax as a condition for judicial review and provide for a refund with interest if the taxpayer prevails.

The scope of the appeal references the role of the court as either a trial court in which the property tax appeal is heard *de novo* or as an appeals court that limits its fact-finding ability and, instead, uses the record of the administrative body and determines as a matter of law whether the administrative tribunal ruled correctly.

Supporters of a *de novo* proceeding would argue that a judicial proceeding is the first opportunity for a neutral body to hear evidence without the cloud of administrative bias. As such, the court should be permitted to hear the testimony of witnesses and make proper inquiries, review the evidence, question the government and the taxpayer, and judge the credibility of all the evidence.

Opponents of a *de novo* proceeding will claim that the administrative costs and the adverse effect on the budget caused by a more protracted proceeding far outweigh any inconsequential or unproven institutional bias that may affect the taxpayer's interest.

The standard of review starts with a presumption of correctness in favor of either the taxpayer or, more likely, the assessing authority. From that point, the party with the burden of overcoming the presumption must present evidence that meets or exceeds a standard. A common standard would be the preponderance of the evidence. Another higher standard would be proof with clear and convincing evidence.

The law governing the appeal should clearly set the standard of review and it should be consistently applied throughout both the administrative and judicial proceedings.

Summary

Property tax appeals present a unique situation in terms of the manner in which tax assessments are determined and the type of evidence necessary to challenge the valuations. Most national and subnational governments in Western Europe and states in the U.S. that impose property taxes recognize these differences and use a separate tax appeals system for property tax.

The changeover to an ad valorem property tax system will generate an appreciably higher number of appeals.

There are many components that are common to this process. In general, these components can be classified as notice to taxpayers, availability of information, adequate opportunity for an administrative review, and sufficient opportunity for independent judicial review.

IV. Analysis

The Parliament designed Moldova's current tax appeals system to handle the appeals of the national government's income and consumption taxes. Land and immovable property taxpayers have been able to use the current appeals system with few known problems due to the simplicity of the land and immovable property tax bases under the transition rules and the relative insignificance of the tax burden.

However, the changeover to an ad valorem property tax system will generate an appreciably higher number of appeals that will create significant constitutional, legal, and administrative problems if the government adheres to the current tax appeals law and is not responsive to the unique characteristics of a value-based tax. There are three reasons to assume that the increase in property tax appeals will be considerable.

First, local government appraisers will calculate the property tax base instead of businesses assessing themselves. Obviously, these businesses are more likely to protest government valuations than self-assessed determinations.

Second, local government appraisers will no longer use objective standards such as hectares or square meters or well-settled book values. Instead, the Cadastre will use a more subjective standard based on the fair market value. Moreover, local

government authorities may find it difficult to find a reasonable amount of support for their valuations due to the lack of comparable sales.

Third, the considerable rise in property values will result in significant tax increases, which will provide property owners with a greater incentive to protest their liabilities.

Due to the anticipated increase in appeals, it is important that the appeals process is structured to effectively and efficiently handle property tax appeals while protecting the rights of the taxpayers. In the next section, we will analyze the current tax appeals system in Moldova and its ability to provide the basic components of a traditional ad valorem property tax appeals structure.

Separate Tax Appeals System

Property Appraisal

The Cadastre is an independent agency of the national government separate from the State Tax Administration and the local tax authorities. The agency is responsible for appraising property and maintaining the fiscal cadastre.

The primary advantage of this relationship is that the government entity responsible for determining property values does not have a direct interest in the revenues generated by the property tax. In that respect, there would be a lack of institutional bias in any taxpayer challenge to a property value.

There is still the potential for bias in favor of work performed by the Cadastre's employees. However, this bias would be evident in any administrative review.

Assessment and Notice of Tax Liability

Under Title VI, the role of the State Tax Administration's regional tax authorities is diminished in comparison to its role under the transition rules.

Under the transition rules, businesses submitted their self-assessments for both the land tax and the immovable property tax to the regional tax authorities.⁹⁷ Moreover, the tax collectors in the mayor's office and the regional tax authorities shared the responsibility of computing the land tax and immovable property tax for physical persons and issuing the assessments or tax bills.⁹⁸

Under Title VI, the tax collectors within the mayor's office are responsible for computing the immovable property tax with the participation of the regional tax authorities. It appears that this participation is necessitated by the regional tax

authority's role in serving as a conduit for property value information that is provided to them by the Cadastre.⁹⁹

Further, under Title VI, the tax services within the mayor's office will be solely responsible for the issuance of the assessments or tax bills that relate to the consolidated immovable property tax.

The delineation of responsibilities is important. Under Moldova's current tax appeals system, taxpayers file appeals with "the tax authority that took the decision or who performed the official act."¹⁰⁰ Under the transition rules, taxpayers directed these appeals to the regional tax authorities that shared the responsibility for developing and issuing assessments and were probably in a better position, logistically, to handle the appeals. This approach is consistent with most ad valorem property tax appeals systems in the U.S. and Western Europe.

Under Title VI, it is uncertain as to the specific tax authority that took the decision or who performed the official act. Most likely, taxpayers would direct their appeals to the tax collectors in the mayor's office since the Cadastre merely provided administrative support in determining the value, the regional tax authorities only participated by serving as a conduit, and it was the mayor's office that actually synthesized the necessary information and generated the tax assessment.

Shifting this authority to the mayor's office under the current tax appeals law presents three problems.

First, it is unlikely that the mayor's office has access to the type of expertise that is necessary to evaluate the market value of property.

Second, it is unlikely that the mayor's office would have the resources necessary to provide this expertise or to effectively assume such an expanded role. We can reasonably anticipate that an increase in tax appeals will have an impact on the costs of administration. At the least, additional resources will be necessary for administrative costs (including training) to meet the increased demand for providing information regarding valuation to taxpayers,¹⁰¹ hearing officers and administrative staff, and professional appraisers.

⁹⁹Title VI, chapter 6, article 285(1).

¹⁰⁰Title VI, chapter 17, article 269(1).

¹⁰¹Article 34(2) of the constitution requires public authorities to provide its citizens with information on "public affairs and matters of personal interest." Certainly, the information used by the Cadastre in determining the value of taxpayer's property would be a "matter of personal interest" to which the taxpayer would be entitled to receive. Thus, the Cadastre would need additional resources to pay for staffing and a means through which to deliver this information to the taxpayers.

⁹⁷Law, article 4, paragraphs (6)(a) and (7)(a).

⁹⁸Law, article 4, paragraphs (6)(b) and (7)(b).

Third, the mayor's office would have an institutional bias in maintaining the valuations as high as possible since they would directly benefit from the revenue generated by the property tax. It is true that, under the transition rules, the national government benefited from the property tax. However, their interest in property tax revenue was insignificant due to the relatively inconsequential contribution the tax made to its overall budget.

Taxpayer Access to Information

Article 34 of the constitution guarantees the citizens of Moldova the right to be informed of public information that concerns matters of personal interest. Thus, taxpayers should have access to information used to determine the value of their property and their rights of appeal.

Regional tax authorities are receptive to inquiries from taxpayers regarding this type of information.¹⁰² However, the changeover could produce a substantial increase in interest, and the major problem will be the ability of the affected government agencies to determine the method and responsibility for providing access to this information.

Under the transition rules, a taxpayer with a land or immovable property tax issue went to the regional tax authority who shared the responsibility for reviewing or determining the tax bill. Since the tax base was either the area of the land or the well-settled book value of the property, the tax base was rarely an issue. Thus, the regional tax authority was equipped to handle any inquiries regarding the determination of the liability.

Under Title VI, the primary issue will be the subjective determination of the property's value. Clearly, the Cadastre will generate and have this information available, but their only responsibility under Title VI is to provide this information to the regional tax authorities. The taxpayer's point of contact with the system will be the mayor's office from which they will receive their tax bill. So, the issue is which agency is responsible for affording the taxpayer reasonable access to the information used to determine the value of the property.

The right of appeal is a national issue, but the taxpayer will make the appeal to the mayor's office. Once again, the issue is which agency is responsible for advising taxpayers of their right of appeal and providing information regarding the appeals process, in general.

¹⁰²Interview with regional tax authority, Nov. 24, 2006.

Administrative Appeal

Right to a Hearing

The imposition of excess taxes is clearly the taking of a taxpayer's property. The constitution of the Republic of Moldova protects the private property rights of its citizens¹⁰³ and guarantees their rights to protection by the courts¹⁰⁴ and access to justice.¹⁰⁵

Likewise, the tax code protects the rights of taxpayers to a fair administrative hearing,¹⁰⁶ to be present at a tax audit, and to testify and present evidence in support of their position.¹⁰⁷ In all respects, these guarantees are the basis for a tax appeals process.

However, the current tax appeals process does not give the taxpayer a right to appear and offer evidence, but instead leaves the matter up to the discretion of the tax authority. Article 270(2) of the tax code provides that "the tax authority may invite the taxpayer to the examination of the appeal in order to provide explanations" and "may attach relevant documents supporting such explanations."¹⁰⁸ (Emphasis added.) Article 270(3) also alludes to the potential for a review of the taxpayer's appeal without the right to be present when it states that a taxpayer will be handed a copy of the decision following the review "if he/she participated in the examination of the case" or else it would be mailed. (Emphasis added.)¹⁰⁹

Clearly, a property tax appeals process must reflect the constitutional and statutory right to be present at any review, especially when the primary issue will be the highly subjective determination of the market value of a parcel of real estate.

Presumption on Review

The current laws governing tax appeals conflict with the tax code, in general, regarding the presumption of correctness. Title 1, article 11(1), of the tax code creates a general presumption in favor of the taxpayer by requiring review bodies to decide all uncertainties in their favor.¹¹⁰ Yet the appeals provisions of the tax code place the burden of proof on the taxpayer to show that the tax authorities were incorrect.¹¹¹

¹⁰³Article 46(1) and (3).

¹⁰⁴Article 20(1).

¹⁰⁵Article 20(2).

¹⁰⁶Title I, article 8(1)(f).

¹⁰⁷Title I, article 8(2)(h).

¹⁰⁸Title V, article 270(2).

¹⁰⁹Title V, article 270(3).

¹¹⁰Title I, article 11(1).

¹¹¹Title V, article 267(4).

The uncertainty of this issue presents a noteworthy problem in light of the potential shortage of comparable sales the Cadastre will have available to support their appraisals.

For example, the Cadastre appraises the market value of a parcel of property for a specific amount. Due to the lack of comparable sales, the Cadastre may have to rely on the sales of property that have few similarities with the subject property or, perhaps, the old “book value.” If the presumption favors the appraising authority, the taxpayer would be required to present some degree of evidence supporting his claim for a lower market value. However, if the presumption favors the taxpayer, any prima facie evidence would place a difficult burden on the government.

The appeals provisions of the tax code place the burden of proof on the taxpayer.

Perhaps this is the scenario Parliament had in mind when it decided to resolve all uncertainties in favor of the taxpayer. Nevertheless, a presumption in favor of the taxpayer could have a significant impact on the local government’s revenue flow, especially in the early years of the tax.

Timing Issues

Under Title VI, the mayor’s office must send to the taxpayer a tax bill by “not later until the first payment deadline expires.”¹¹² Since the first payment is due June 15, the mayor’s office would be required to send the tax bills by April 16.

The current tax code chapter on tax appeals requires taxpayers to file an appeal “within thirty days of the date when the decision is served or taken, or the respective action is performed.”¹¹³ Under Title VI, we would assume that the action that triggers this 30-day requirement is either the taxpayer’s receipt of the immovable property tax bill or, less likely, the date the mayor’s office mailed the tax bill.

This chapter also requires the authorized tax authority to examine the appeal within 30 days and render a decision.¹¹⁴ Once again, we assume that under Title VI, this authority would belong to the officials in the mayor’s office.

¹¹²Title VI, article 286(1).

¹¹³Title V, article 268(1).

¹¹⁴Title V, article 270(1) and (3). This is also the provision that leaves the right of the taxpayer to appear at the “examination” up to the discretion of the tax authority.

The timing problems result from the 60-day minimum period that may be needed to file, hear, and resolve a dispute and render a decision. This period equals the period between the issuance of the assessment and the due date of the taxpayer’s first payment. Allowing for the mailing of the assessments and the mailing of the decisions, it is likely that taxpayers would receive their decisions after the due date of the first tax payment.

Moreover, the tax appeals chapter of the code also grants to the tax authorities the ability to extend the deadline for filing an appeal for an extra 30 days. This means the potential exists for taxpayers to file an appeal after the due date of the first tax payment and receive a decision.

The potential problems outlined above anticipate both the taxpayers and the tax authorities undertaking their actions using the maximum time allowed. Nevertheless, in each of the situations, there exists the potential for a significant disruption of the government’s revenue stream, making it prudent to analyze this problem using these time frames.

Further Administrative Appeal

Article 269 of the tax appeals chapter provides for an additional level of administrative appeal. Under this provision, taxpayers who wish for further review following an adverse decision must file an appeal with the “tax authority that made the decision,” who must forward the appeal on to the “central office of [the] State Tax Administration” within three days.¹¹⁵

Under the current appeals process and Title VI, taxpayers would appeal decisions by the mayor’s office to the State Tax Administration. Once again, it appears that Parliament did not anticipate its use for property tax matters. As previously indicated, most property tax appeals go from the local government to some variation of a tax appeals tribunal.

An appeal to other administrative officers would not only be an anomaly, but also an unnecessary step that could further disrupt the local government’s revenue flow. Moreover, it is doubtful that the State Tax Administration is currently prepared to handle questions of valuation.

Judicial Appeals

Under the current tax appeals law, taxpayers may appeal an adverse administrative decision to a court, although the provision does not provide guidelines on the manner in which a taxpayer may perfect or conduct or proceed with the appeal.¹¹⁶

¹¹⁵Title V, article 269(1).

¹¹⁶Title V, article 274.

Therefore, the statute fails to address the three critical issues that pertain to the judicial appeals of property tax decisions: the disposition of the proposed tax liability pending the appeal, the scope of the court's authority, and the standard of review that would apply.

V. Summary and Recommendations

There is the potential for a significant increase in property tax appeals in 2008 when the transition rules expire and Title VI comes into effect, replacing the area-based land tax and the book-value-based immovable property tax with a consolidated ad valorem immovable property tax.

Moldova's tax code provides a process of tax appeals in general under Title V, Chapter XVII, articles 267 through 274. Clearly, however, these provisions were implemented to deal with the country's nationally administered income and consumption taxes, not a locally administered ad valorem property tax.

Therefore, it is important that before the transition in 2008, Moldova should establish a separate property tax appeals system that is in accord with the country's ad valorem property tax.

A proposed system should include the following objectives:

- establish an assessment date that will allow ample time for the review process to proceed without disrupting the local government's revenue flow (which may require moving the assessment date to the previous year);
- provide the taxpayer with timely notice of the proposed appraised value of his property;
- provide the taxpayer with fair access to the information on which the appraised value of his property was determined;
- provide the taxpayer with an opportunity for an informal review of the appraised value of his property with the appraising body;
- provide the appraising body sufficient time to consult with taxpayers and present the fiscal cadastre to the assessing body;
- provide the assessing body sufficient time to prepare and send the tax bills;
- provide the taxpayer with information regarding his right of appeal and ample time to review his tax bill and file for an administrative appeal;
- minimize the potential for institutional bias by the body hearing the administrative appeal;
- provide the taxpayer the right to appear at the administrative hearing, present evidence, and examine the government's witnesses; and

- provide the taxpayer the right to a judicial appeal.

In light of the typical components of an ad valorem property tax appeals process, we offer the following recommendations for a separate property tax appeals system. The dates offered are used to place the process in perspective and should not be considered recommendations based on a thorough knowledge of the budget process or on the fiscal needs of the local governments in Moldova.

- The assessment date for the tax year would be October 1 of the year preceding the tax year. This would allow sufficient time for an effective and efficient appeals process to run without a disruption in revenue flow.
- In the initial years of the ad valorem property tax, the Cadastre would send a notice of proposed valuation by November 1 of the year preceding the tax year that would inform all property tax owners subject to the ad valorem property tax of the value of their property as of the assessment date.
- In later years, when the property values have stabilized, the Cadastre would only be required to send a notice of proposed valuation when the value of a taxpayer's property has increased by more than 10 percent from the previous year.
- The notice of proposed valuation would include the location of the local Cadastre office and the times when taxpayers could review the information used to determine the value of the property and discuss the valuation with an official of the Cadastre.
- The notice of proposed valuation would also state that any review of valuation information or informal administrative review by a Cadastre official must be completed by December 1 of the year preceding the tax year.
- By January 1 of the tax year, the Cadastre should provide the regional tax authorities and the tax officials in the mayor's office with the fiscal cadastre.
- By March 1 of the tax year, the mayor's office should prepare and send out tax bills to all property owners subject to the ad valorem property tax.
- The tax bill should include a brief description of the property tax appeals process and set the time restrictions for the various stages of review.
- Taxpayers should file an appeal with the mayor's office no later than 20 days after the receipt of the tax bill.
- The mayor and the local legislative body should appoint a tax appeals commission consisting of

local property owners. The number of commissioners would depend on the number of appeals anticipated. The mayor's office should assign each commissioner to a panel of three that will be given a docket of cases to hear. For smaller dockets, one panel may hear all of the appeals. In larger jurisdictions, there may be a number of panels that are specialized for residential, industrial, agricultural, and commercial property. Also, a single commissioner may be appointed as a small-claims commissioner and assigned to hear cases in which the amount of tax revenue in dispute falls below some level.

- The tax appeals commission would hear their respective dockets between April 1 and April 30 of the tax year. All taxpayers that have filed appeals would have the right to be present at their hearing, present evidence, and question the witnesses presented by the assessing body. Likewise, the assessing body would have the right to question the taxpayer's witnesses.
- At the hearing before the tax appeals commission, the burden of proof would be on the taxpayer to prove by a preponderance of the evidence the value of the property.
- All hearings would be concluded by April 30 of the tax year.
- The tax appeals commission would issue its decisions in writing and mail them to the taxpayer no later than 20 days after the hearing.
- The judicial branch of the national government would establish a special tax court with the

authority to hear appeals from the decisions of the tax appeals commission.

- A taxpayer desiring to appeal a decision of the tax appeals commission may perfect his appeal by paying the tax due on or before June 15 of the tax year and by filing a petition for review with the tax court on or before June 30 of the tax year.
- The tax court would conduct a *de novo* hearing on the petition for review. At the hearing before the tax court, the burden of proof would be on the taxpayer to prove by a preponderance of the evidence the value of the property.
- The tax court would issue a decision that includes findings of fact and conclusions of law regarding the matter in dispute.
- The standing of the tax court would be equal to a district court from which appeals would be made to the appeals court and then to the Supreme Court as provided under current law.
- Any taxpayer that prevails in the tax court or any later appeals court would be granted relief in the form of a refund of the amount in dispute with interest from the date of payment by the taxpayer.

The necessity of a proper tax appeals process cannot be stressed enough. For many citizens, their primary point of contact in this emerging democracy may be the taxing authority. It is important that a fair and efficient system be instituted if the government is to build confidence in the tax system and democracy in general. ♦