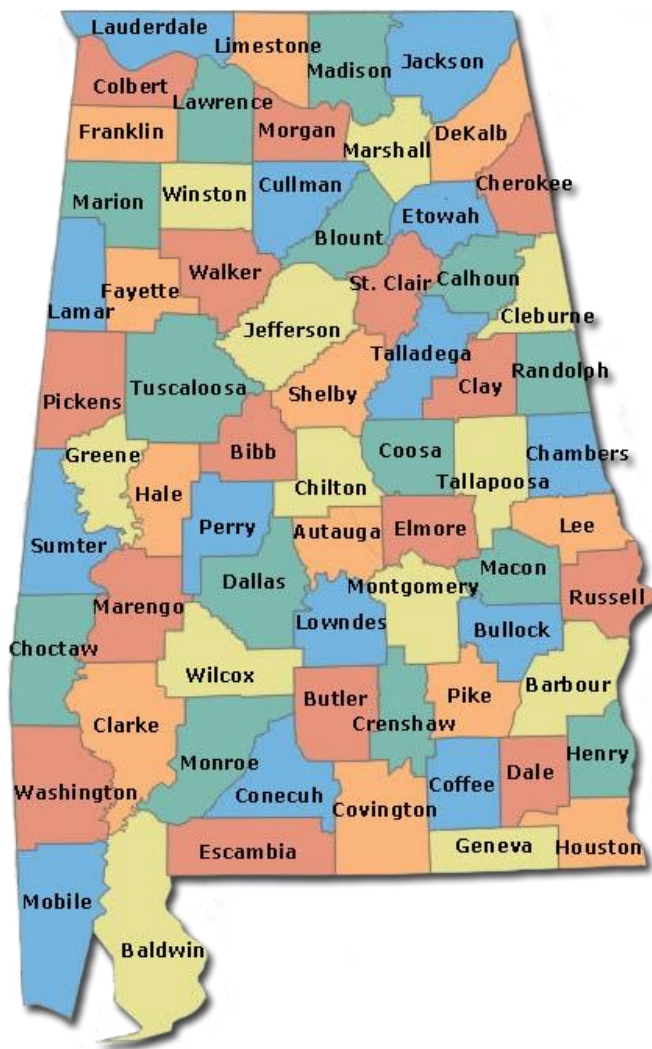


Alabama Tax Sales

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**Sample
Pages Only**

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Alabama Tax Sales

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This book is written for five audiences: Tax sale investors, taxpayers with redemption questions, county tax administrators, the attorneys who represent all of them, and the judges who must resolve their disputes. These audiences look for different things in their reference materials. While the research quality and citations are equivalent to the typical legal treatise, the writing style is much more informal. Some topics include far more detail than would interest the typical layperson. Disclosure is made at the beginning of those sections, with directions to the next page of interest to non-lawyers. Some topics include more practical advice than is meaningful to the average lawyer. Despite that, I think all groups will find this book an invaluable resource.

Denise Evans combines her Texas legal experience, her Alabama real estate brokerage experience, and her investment experiences to create no-fluff practical advice for lawyer and practitioner alike. She is a nationally recognized expert on Alabama tax sale law, a very popular seminar speaker, a former adjunct Professor at the University of Alabama's Culverhouse College of Business, and the author of other real estate-related books, including *The Complete Encyclopedia of Real Estate*, published by McGraw-Hill.

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CHAPTER ONE

Chapter One: Background to Tax Sales

Each year, millions of property owners in Alabama receive a bill from their County tax collector's office. The bill is for that year's *ad valorem* taxes. *Ad valorem* is a Latin phrase that means "according to the value." State and local governments impose a tax on all property, and the amount of the tax is calculated according to the value of the property. If you don't pay the tax, the government takes your property away from you.

Today's system of *ad valorem* taxation in Alabama is very different from what it used to be. Many years ago, property owners had to assess all of their property every year. They had to report to the tax assessor a list of all real and personal property, and then a tax was assessed based on that total value. If someone did not come in and assess their property for a particular year, the Tax Assessor had to go out and find them, and assess the property. Under some circumstances, the Tax Assessor might have personal liability if he were not diligent enough in finding people and their property!

Previously, people had personal liability for their property taxes. Today, government cannot take your property AND sue you for other assets.

Today, only businesses must pay taxes on personal property, not consumers. Sales of personal property, such as computers and retail equipment/inventory, are rare but do occur. The dates and procedures are irregular. There is more information on this topic in the chapter on Personal Property Tax Sales, beginning at page 243.

Previously, if someone did not pay their property taxes, the sheriff's department executed on all personal property it could find. This might include horses, wagons, mules, farm equipment, silver, jewelry and art work, to name a few things. If the auction prices did not generate enough money to pay the taxes, then the Probate Judge would begin selling real property. It was not for the taxes on THAT property, because the liability was a total lump sum, not by property.

The Probate Judge would announce the balance due on the tax bill, and announce he was selling 10 acres of the taxpayer's property for that price. If there were no bidders, then it would go up to 20 acres. It increased by 10 acres each time, until it reached a quantity that someone was willing to pay the outstanding tax bill, and receive that quantity of land. There was a system for determining WHICH ten acres was sold at the auction.

Today, almost everything is different.

Ad valorem taxes are assessed on all non-exempt real property, and on all business personal property in the State. Depending on the owner's age, income, disability status or charitable organization status, it might be exempt from the tax.

The combination of forced sales of property, plus very low purchase prices, is what makes tax sale investing so popular among investors. It also explains the legal protections that allow people with temporary economic problems, or inattention, the ability to regain their property.

Most investors believe the tax sale laws are for their benefit. As a result, they think many of the laws are unreasonable. Property owners are often surprised at hidden expenses in redeeming tax sale properties. They also think many of the laws are unreasonable. In point

Why do you care about the relationship between real estate taxes and property values?

BECAUSE...

If you know the real estate taxes, you can work backwards to figure out the approximate tax appraised value of the property.

Once you figure out the approximate tax appraised value, you know to take that value with a grain of salt, because it might not bear a close relationship to the market value of the property when you want to sell.

Future real estate taxes might be higher or lower under your ownership. It would be nice if you knew how much.

Understanding the process keeps you from bidding too much and not earning 12% interest on all your money when a taxpayer redeems.

AND...there are other traps for the unwary, EASILY avoided for the well-informed!

of fact, tax sale laws are written to ensure revenues to local government, with a desire to provide fairness to taxpayers but also incentives to investors. It is a balancing act. Everyone needs to understand that.

Definitions

As the lawyers reading this understand, all important documents begin with the definitions to be used in that written material. If I sign a contract that says I will work for \$250 per hour, but the Definitions say an hour will consist of fifty minutes, then that controls. Three hundred minutes of work in the real world might be five hours, but for purposes of my contract, it is six hours. I will be paid \$1,500, not \$1,250.

Similarly, certain words in this book will be used in a particular way, and perhaps not as generally understood in the world at large. This is done to make the text more readable. If you allow me to say “person” instead of “natural person and/or other legally recognized entity, whether singular or plural” then life will be easier for both of us. My definitions, for purposes of this book, follow.

“Taxpayer” means the person who did not pay their taxes, resulting in the tax sale. Even though a tax certificate entitles the purchaser to possession, the Taxpayer is still the owner until the tax deed is issued, three years later. Rather than refer to that person as the “owner and/or former owner,” it is easier to call them the Taxpayer.

Sometimes a real estate investor will obtain a quitclaim deed from a Taxpayer. In such a case, I also call the quitclaim owner “Taxpayer.” In the real world, he or she is just another investor, But, to make it clear about relationships and rights people might have, it is easier if I call that quitclaim owner “Taxpayer.” The quitclaim deed allowed that investor to “step into the shoes” of the original Taxpayer, so it makes sense to call him the same thing.

“Investor” is the owner of the tax certificate or tax deed. Sometimes such people buy for their own account, for a home in which to live or a location for their business. It is easier to call all of them “Investor,” no matter what their motivation.

“Tax Collector” means the official charged with the responsibility of collecting ad valorem taxes. In some counties, that person is called the Revenue Commissioner. It’s easier if I just call all of them “tax collector” instead of boring you silly by constantly writing “tax collector or revenue commissioner depending on the county.”

“Redemption Clerk” means the person who handles redemptions at the county level. Some counties have a dedicated redemption clerk. In other counties, all personnel handle redemptions.

“Probate Judge” means the county official with responsibilities for tax sale redemptions. In some counties it is indeed the Probate Judge. In other counties it is the Revenue Commissioner or Tax Collector, depending on how those officials negotiate the various responsibilities and workloads between themselves.

☛ Lawyers, be careful here when deciding where to file claims, petitions, or lawsuits. The actual Probate Judge has exclusive jurisdiction of many things according to the Alabama Code, no matter how the officials might have divided up responsibilities at the local level. Remember, gaining jurisdiction over taxpayers, ordering them into court, and issuing orders to sell their property, is a JUDICIAL function. Judges must do that. Tax collectors and revenue commissioners all belong to the EXECUTIVE branch. Also, the Alabama Code gives exclusive jurisdiction to the Probate Judge for redemption matters. If you need to file some sort of petition to rescind a redemption, for example, you must file that in Probate Court. There is more about this in later chapters.

“Appraised value” means the tax appraisal, not an independent third party appraisal. If an independent appraisal is meant in the context, I will specifically describe a “third party appraisal.”

“Taxes Due” at the time of the auction means the ad valorem taxes for the prior year, plus all penalties, interest, and sale expenses such as advertising and certified letters. A statement that “taxes due at the time of the auction earn interest at 12% per annum” means the whole ball of wax, not just the tax portion of the total amount due at time of auction.

“You” means the average tax sale investor. They are the largest non-attorney group that will read this book. The same information will be relevant to any reader, however. My thinking is that lawyers and judges can overlook this informality. Tax sale investors forced to plow through a book with carefully worded generic nouns will be distracted, and not learn what I am trying to teach them. Remember, this book has five different audiences—investors, taxpayers, tax administrators, lawyers and judges. Some compromises in writing style are necessary.

Calculating ad valorem taxes

There are four steps to calculating property taxes in Alabama.

1. The county establishes an appraised value of the property.
2. They reduce that appraised value by a pre-determined percentage to reach the *assessed value*.
3. They reduce the assessed value by any applicable exemptions.
4. They multiply the adjusted assessed value by the *millage rate* to arrive at the taxes.

Step One For Calculating Property Taxes

Theoretically, the tax appraiser of each county is supposed to re- appraise 25% of all property within its borders every year.

Tax appraisers have several ways of appraising a property. One is to physically inspect it and arrive at a value based on recent sales of comparable properties. That would be impossible to accomplish for so many properties. Many times, they base the value on the reported sales price when a property changes hands. That’s why a new owner of property will almost always have to pay higher taxes than the old owner.

Another method is to rely on software that uses artificial intelligence to calculate the probable value of property. If the figure is too high, the property owner will complain to the county Equalization Board and argue in favor of a reduction in the value. If the figure is too low, the property owner will lie low and not complain. This tells you that tax appraisal values are usually either reasonably accurate, or low, but almost never too high. If you base your buying decision on the tax appraisal value, there is a very low chance you'll spend too much.

There are exceptions, of course. An elderly friend of mine owned many properties in our community. He was, fortunately, financially secure and did not have to watch every nickel and dime. When he received his tax bills, he wrote one large check for everything, and that was the end of his thinking about the issue. I discovered that one of his vacant downtown lots was being appraised as if it had a two-story brick building on it. He had demolished the building six or seven years earlier because the repairs would cost more than the property would be worth, even after the repairs. An investor relying on the tax appraised value of that property would be very surprised if he visited it for the first time, after an auction! This situation is not uncommon, so be sure to always physically visit properties in which you are interested. Google Earth is not an acceptable substitute!

Alabama Code §40-7-15 requires property to be appraised at its fair market value. That seems clear enough, but what is the value of a pasture next door to a large shopping center? Is it the average price per acre for pastures, times the number of acres? Or, is it the average price per square foot of shopping center land, times the number of square feet? There are 43,560 square feet in an acre. It would not be unusual for shopping center land to be worth \$20 a square foot, or \$871,200 per acre. It would be extremely unusual for pasture land to sell for that price.



If all land were valued at its highest and best use, the owner of the pasture land in the prior paragraph could not afford to keep it. The taxes would simply be too high. It's bad enough that the owner might not want to sell its land just because he or she could not afford the taxes. Worse, just because the taxing authorities say it's worth \$871,200 an acre doesn't mean there's a long line of buyers waiting to plunk down the cash.

Alabama Code §40-7-25.1 provides some relief for property designated as Class III property.¹ This includes all agricultural, forest, and residential property, and historic buildings and sites. Those properties can be appraised at their current use instead of their highest and best use. All very interesting, but why should you care? You should care a lot because...you don't automatically get the lower appraisal. You must ASK for it. That means:

¹ Classes defined in Ala. Code §40-8-1

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