

Property Tax Exemption and Assessment Administration in Orleans Parish

*December 1999
Second Printing, January 2000*



New Orleans, Louisiana 70112-1704
Phone 504-525-4152
FAX 504-525-4153
www.bgr.org
research@bgr.org

Property Tax Exemption and Assessment Administration in Orleans Parish

December 1999
Second Printing, January 2000

1999 BGR Board of Directors

George H. Porter III, M.D.
Chairman
Anne M. Milling
Vice-Chairman
Ralph R. Miller
Secretary
Stanley E. Ellington, Jr.
Treasurer
Herschel L. Abbott, Jr.
Trudy R. Bennette
Terrel J. Broussard
Patricia C. Denechaud
Jean C. Felts
Louis M. Freeman
Norma L. Freiberg
David Guidry
Brenda G. Hatfield, Ph.D.
Russell S. Hoadley
Joseph J. Krebs, Jr.
Betty V. Lauricella
Michael L. Lomax
William L. Marks
Ti A. Martin
Daniel F. Packer
Sharon A. Perlis
R. Hunter Pierson, Jr.
Kay G. Priestly
Russell J. Protti, Ed.D.
Robert D. Reily
Dionne M. Rousseau
Leonard Vance Wormser

Honorary Board Members

William A. Baker, Jr.
Bryan Bell
Harry J. Blumenthal, Jr.
Edgar L. Chase III
Richard W. Freeman, Jr.
Ronald J. French, M.D.
Paul M. Haygood
Diana M. Lewis
M. Hepburn Many
R. King Milling
Edward F. Stauss, Jr.

Tax Study Review Committee

Norma Freiberg, Chair
Terrel J. Broussard
Jean C. Felts
Ti A. Martin
Dionne M. Rousseau
Leonard V. Wormser
George H. Porter, III, M.D. (*ex officio*)
Anne M. Milling (*ex officio*)

BGR Project Staff

Victor J. Franckiewicz, Jr.
President & CEO (from September 1999)
Mary Anne Barton
Acting President & CEO (May to September 1999)
James C. Brandt
President & CEO (until May 1999)
Patricia E. Morris
Director of Research
Noel C. Tobin
Principal Author and Researcher
Amy T. Pease
Publications

This report was supported by . . .

Membership dues and self-generated BGR funds, and by foundation and other grant funding. BGR greatly appreciates the financial assistance of these sponsors. However, the findings, conclusions, and recommendations in this report are those of BGR, and do not necessarily reflect the views of its financial supporters.

Preface

This report is the result of over two years of research and analysis following the 1996 publication of BGR's report *Property Taxes, Who pays, Who Doesn't and Why?* Its intent is to present tangible recommendations on improving exemption and assessment practices in Orleans Parish. The recommendations are directed to the public, the assessors of Orleans Parish, the legislature, and the Louisiana Tax Commission.

The report covers two substantively distinct topics: property tax exemptions and assessment practices.

For the exemption aspects of the project, BGR undertook a national survey of tax exemptions pertaining primarily to nonprofit organizations. It also analyzed Louisiana's constitutional and statutory provisions governing exemptions, as well as court decisions and Attorney General opinions.

Regarding the assessment administration portion of the project, BGR analyzed practices in other states, along with statutory and regulatory provisions governing assessment practices in Louisiana. BGR also consulted publications and studies performed by the International Association of Assessing Officials (IAAO), which is the recognized professional organization in the field.

Throughout this report, summary data on assessments, exemptions, and their revenue impact is presented.

Unfortunately, reliable, up-to-date data on a parishwide basis were not readily accessible to BGR. This is particularly true for data on exemptions, which *nobody* in local or state government tracks on a systematic basis.

The sources of data used in this report are explained in endnotes, and the reader is advised to consult those endnotes to understand the context and reliability of the data.

**Property Tax Exemption and
Assessment Administration**

Table of Contents

| | |
|---|----|
| Preface | i |
| Introduction | 1 |
| Part I: General Information on Taxes and Subsidies | 5 |
| Tax Structure of Orleans Parish and the City of New Orleans..... | 6 |
| Property and Sales Taxes Compared..... | 7 |
| Subsidies and Property Tax Exemptions..... | 8 |
| Indirect Subsidization: Exemptions for Nonprofit Organizations..... | 8 |
| The Homestead Exemption..... | 9 |
| The Combined Impact of Exemptions | 10 |
| Part II: Property Tax Exemptions | 11 |
| The Ingredients of an Effective Property Tax Exemption System..... | 12 |
| Exemption Practices Nationwide | 13 |
| Complexity and Administrative Guidance | 14 |
| Justification..... | 14 |
| Ownership..... | 15 |
| Non-Related Use of Property..... | 15 |
| Unrelated Income and Cross-Subsidization..... | 16 |
| Property Tax Exemptions and the Louisiana State Constitution..... | 16 |
| Reading between the Lines: Coping with Gray Areas in Louisiana..... | 18 |
| Catchall Exemptions | 20 |
| Religious Purposes..... | 21 |
| The Practicalities of Exempting Religious Property Effectively..... | 21 |
| Eligible property..... | 21 |
| Quantity of Property Exempted..... | 21 |
| Credibility of the Religious Group..... | 22 |
| Options for Orleans Parish Assessors | 22 |
| Dedicated Places of Burial | 23 |
| Charitable Purposes | 23 |
| The Practicalities of Exempting Charitable Property Effectively | 24 |
| Options for Orleans Parish Assessors | 25 |
| Health Purposes | 25 |
| The Practicalities of Exempting Health Property | 26 |
| Options for Orleans Parish Assessors | 27 |
| Welfare Purposes..... | 28 |
| Fraternal Purposes | 28 |

**Property Tax Exemption and
Assessment Administration**

| | |
|---|-----------|
| The Practicalities of Exempting Fraternal Property Effectively | 29 |
| Options for Orleans Parish Assessors | 29 |
| Educational Purposes..... | 29 |
| The Practicalities of Exempting Educational Property..... | 30 |
| Options for Orleans Parish Assessors | 31 |
| Remaining Second Category Exemptions | 31 |
| Third Category Property Tax Exemptions | 34 |
| Part III: Practical Issues in Approving and Managing Property Tax Exemptions | 37 |
| Classification of Applications for Exemption..... | 38 |
| Information Requirements and Application Forms..... | 38 |
| Frequency of Application..... | 40 |
| Valuation of Property on Exempt rolls | 40 |
| Discovery Procedures | 41 |
| Transparency | 41 |
| Part IV: Assessment Administration in Orleans Parish | 43 |
| Data Collection and Management Provisions | 44 |
| Inspections of Property | 44 |
| Routine Collection of Data | 44 |
| Assessment Levels and Uniformity | 46 |
| Mapping | 48 |
| Public Relations and Assessment Appeals | 50 |
| Property Assessment Methods and CAMA | 51 |
| Residential..... | 51 |
| Commercial..... | 52 |
| Computer Assisted Appraisal Systems..... | 52 |
| Evaluating Assessment Practices..... | 53 |
| State Oversight and Regulatory Provisions..... | 53 |
| Incentive Structures..... | 53 |
| Internal Quality Control | 54 |
| Education, Training, and Certification | 55 |
| Part V: Assessment Resource Requirements | 57 |
| Board of Assessors..... | 57 |
| The Seven Municipal Districts and Funding..... | 58 |
| Adequacy of Current Funding | 60 |
| Workload, Staff, Technology, and Organizational Form..... | 62 |
| The Path Forward | 65 |

Part VI: Recommendations.....67
Endnotes81

Appendices

- A: Excerpts from the Louisiana Constitution of 1974
- B: Comparison of Exemption Classifications
- C: Interpretative Case Law and Attorney General s Opinions
- D: Model Application Forms
- E: Exemption Application Form Currently Used in Orleans Parish
- F: Residential Ratio Studies Analysis
- G: Example of Assessor s Parcel Map
- H: Sampling of Assessors Websites
- I: Assessment Methods: The Three Traditional Approaches to Valuation

Sources Consulted

**Property Tax Exemption and
Assessment Administration**

Introduction

Taking its cues from the conclusions of two previous BGR studies, this report examines property tax exemptions for nonprofit organizations, and discusses steps that can improve the quality and cost-effectiveness of assessment practices in Orleans Parish.

BGR's earlier studies identified serious inadequacies in exemption and assessment administration, and suggested the need for follow-up research to develop practical recommendations for improvement.

In 1996, BGR published *Property Taxes: Who pays, Who Doesn't and Why?* (1996). That study found that a staggering 65% of the assessed value of all real estate in Orleans Parish was exempt from taxation, and indicated that administrative safeguards governing the granting and management of exemptions were insufficient to guarantee compliance with relevant constitutional provisions.

BGR's earlier study, *Assessment Practices in Metropolitan New Orleans* (1988), uncovered considerable variation in assessment levels and methods among and within New Orleans' seven municipal assessment districts.

Because the effectiveness of exemption practices is inextricably tied to the overall quality of assessment practices, this study analyzes the former squarely within the larger context of the latter.

The exemptions examined in this report are enumerated in Article VII, §21 of the Louisiana State Constitution.¹ By and large, they consist of exemptions for nonprofit service organizations using real property for religious, burial, charitable, health, welfare, fraternal or educational purposes. But even with this limited purview, the lost revenue from these exemptions is significant.

BGR estimates that the annual per capita cost of providing exemptions to nonprofit

Property Tax Exemption and Assessment Administration

organizations is about \$200 for every man, woman and child in Orleans Parish. This is a huge transfer payment by any standard, albeit in the form of an indirect subsidy. Exemptions received by nonprofit organizations actually cost the parish more in lost revenue than the homestead exemption.

Before outlining the course of this report, it is useful to point out what the report is *not* about.

It is not about eliminating legitimate nonprofit exemptions; it is about managing the exemption process so that exemptions are granted only to nonprofits whose activities justify a public subsidy in the form of a tax exemption.

This report is also not about eliminating the homestead exemption, nor about eliminating Orleans Parish's system of seven assessors, which dates back to the 19th century. However, it is about the costs and implications of these policy choices.

Finally, although some of the findings and recommendations presented here will inevitably be seen as a critique of the assessors in Orleans Parish, that is not the focus of this report. Instead, BGR targeted the system of laws and practices within which the assessors work. BGR recognizes that the assessors have a difficult task, particularly in view of fundamentally inadequate legislation and the primitive technology with which they currently operate. BGR hopes that this report will be seen by the assessors as a blueprint for the future more than as a criticism of the past.

In comparing local exemption practices with those across the nation, BGR began with the question of why governments should want to provide exemptions in the first place. The answers to this question provided the theoretical basis necessary to identify best practice exemption

procedures. The assessment practices component of this study evaluates the adequacy of Orleans Parish's system of assessment relative to nationally accepted standards.

The goal of this report is to present tangible suggestions on how the Orleans Parish assessors can improve exemption and assessment practices. The report places its analysis of the problems faced by assessors within the larger context of the need for fiscal reform. Fairness issues raised by asking who should be exempt the corollary of which is to ask who foots the bill instead cannot be addressed adequately without touching on the sustainability of Orleans Parish's current tax structure. Any serious effort to increase funding of the parish's tax recipient bodies should start with a comprehensive review of existing revenue sources.

Because there is no compelling reason to distinguish tax revenue foregone from tax revenue expended, property tax exemptions are a good place to start. Given the revenue losses from de facto under-assessment and property improperly classified as exempt (or omitted from the rolls altogether), a review of assessment practices is also essential.

As the defeat of several recent tax proposals sponsored by the Board of Assessors, the city administration, and the levee board demonstrates, the public is strongly opposed to additional taxation. To some extent, taxpayer cynicism probably stems from a perception that existing revenue instruments are not being applied evenhandedly. An overhaul of assessment and exemption procedures would help improve public confidence in the fairness of the tax system.

The course of this report is as follows. Part I offers a brief primer on the theoretical underpinnings of property tax and exemptions, and discusses the impact of Louisiana's exemptions on the Orleans Parish tax base and structure.

Part II develops an analytical and conceptual framework for evaluating exemption practices, and applies this framework to enabling legislation governing the granting of exemptions in Louisiana and in states across the nation. In identifying best practice exemption and administrative procedures, BGR was most concerned with the practicability of recommendations made. A major consideration in this regard was attempting to gauge the legal authority assessors possess under existing constitutional and legislative provisions. Closely related, Part III describes the essential features of effective solutions to exemption administration problems.

Turning toward the more general issue of assessment practices, Part IV covers basic assessment concepts, statistical tests for accuracy and fairness, the broad features of Louisiana's property tax system, and an analysis of assessment administration in Orleans Parish. Part V provides an evaluation of the funding, staffing and organizational requirements of an urban assessment district the size of Orleans Parish, drawing on nationally recognized assessment standards. It compares those requirements to actual resources available.

The final section, Part VI, compiles the recommendations developed throughout the report. BGR identified improvements in exemption procedures and assessment administration with immediate practicability in mind. But legislative changes are required as well. BGR's recommendations recognize that the road to meaningful reform necessarily leads to Baton Rouge.

Part I: General Information on Taxes and Subsidies

In a limited sense, a tax is the price paid for a public service. The bargain struck between a taxpayer and public service providers is particularly apparent when homebuyers choosing a community compare local tax levels to the quality of a bundle of local services such as schools, police and fire protection, street lighting, etc.

Generally speaking, an effective and fair tax is one that establishes a clear link between benefits received and taxes paid without ignoring a taxpayer's ability to pay. When you get what you pay for, the benefits principle of taxation maximizes economic efficiency by mimicking the market place, while the ability to pay principle addresses fundamental notions of fairness. Because of the inherently contradictory nature of these principles, as well as intractable philosophical differences as to what constitutes fairness in the social arena, there can be no such thing as a perfect tax.

Tax structures that disregard a taxpayer's ability to pay can be characterized as regressive because they result in lower-income households paying a higher percent of total household income than higher-income households. A progressive tax, on the other hand, has the opposite effect.

When evaluating the effectiveness of a tax, it is important to distinguish between its intended and actual incidence. An illustration of this is the landlord who complies with a ten-percent increase in property taxes by increasing his tenant's rent accordingly. In the market place, the eventual distribution of tax burdens is primarily a function of relative market power, which may not coincide with legislative intent.

A balanced tax structure can attain satisfactory outcomes with respect to efficiency and equity, and can also promote the stability of a government's revenue

stream. An effective and efficient tax structure would have a broad tax base and multiple revenue sources that hold down rates of taxation.

Tax Structure of Orleans Parish and the City of New Orleans

The City of New Orleans derives its tax authority from the Louisiana Constitution. Cultivating the anomaly that is New Orleans, the constitution singles it out as the only municipality in the state where taxes for general municipal purposes are subject to the homestead exemption, treating it, in effect, as a parish.

Because parish and city boundaries are coterminous, the city's unique fiscal handicap impacts municipal public services parish-wide. While this handicap does not affect Orleans Parish's non-municipal tax-recipient bodies differently from other parishes, they too are impacted negatively by additional drains on revenue resulting from the combined effects of a plethora of exemptions, under-assessment of certain types of property, and property improperly omitted from the tax rolls. In fact, tax recipient bodies such as the New Orleans Public School system and the Sewerage & Water Board actually have higher millages than the city's general support millage.

Because public services have to be financed somehow, New Orleans tax-recipient bodies have adopted a number of questionable revenue maximization strategies.

Relatively High Property Tax Rates: There is a simple mathematical relationship between a tax levy, a tax rate, and a tax base. The effect of a shrinking tax base on tax revenue can be offset by a higher tax

rate. According to a national comparison of effective property tax rates in each state's largest city, New Orleans ranks twenty-fourth.² The effective tax rate adjusts the advertised or nominal tax rate by accounting for the fact that not all states tax real property at full market value. In Louisiana, residential property is assessed at just ten percent of market value.

Even with relatively high tax rates, the burden of those rates is not shared equally. The homestead exemption in Louisiana still affords residential property owners significant insulation from property tax burdens. For example, a recent Public Affairs Council of Louisiana (PAR) comparison ranked this state's residential property tax burden as the 48th lowest in the nation on the basis of the amount of tax payable in selected cities on homes of equal value.³ Another estimate based on property taxes paid per \$1,000 of personal income, ranks Louisiana's property tax burden as the 46th lowest in the nation.⁴

Heavy Reliance on The Sales Tax: In the city's FY2000 budget, sales tax constitutes 61% of the general fund tax revenue, while real and personal property taxes amount to only 28%.⁵ This disproportionate reliance impairs the stability of the city's revenue stream, and degrades the fairness of its tax structure, given the highly regressive nature of the sales tax. Sales tax collections are directly correlated with consumer confidence and the vagaries of the business cycle—a susceptibility that can spell fiscal hardship when the economy slows down. For this reason, the International City Management Association counsels that local governments should raise no more than \$1.00 in sales taxes for every \$1.00 in property taxes.⁶ The 2000 City of New Orleans Budget expects to raise

approximately \$2.18 in sales taxes for every \$1.00 in property taxes. Similarly, the New Orleans Public School system depends more on sales tax revenue than on property taxes.⁷

Unequal Distribution of Property Tax

Burdens: The homestead exemption shifts the incidence of the property tax disproportionately to occupants of rental property and business owners.⁸ Consistent with this shift, the effective tax rate on industrial property in Louisiana is the ninth highest in the nation.⁹ While businesses probably shift much of this cost to consumers, residential lessees do not have this option and are also more likely to include members of lower-income groups. This violates both the benefits and the ability to pay principles of fair taxation; lower-income households disproportionately finance public services consumed by all households. Add to this the city's over-reliance on the regressive sales tax, and it becomes abundantly clear that its tax structure is far from equitable.¹⁰

Property and Sales Taxes Compared

Among the more popular of taxes, the sales tax speaks directly to many of the perceived disadvantages of the property tax.

- ▶ Unlike property taxes, the impact of the sales tax is less noticeable because it is collected in small amounts throughout the year. This can make it seem less onerous.
- ▶ Linked directly to spending habits, it has a superficial appearance of fairness.
- ▶ It lessens reliance on property and other taxes.

- ▶ It can be easily exported to non-residents, making it particularly attractive to jurisdictions boasting major tourist attractions or convention facilities, such as New Orleans.

The main shortcoming of a sales tax is its regressive incidence. Other disadvantages of the sales tax create more problems for governments than they do for consumers. Because the sales tax is highly correlated with business cycles, downturns in economic activity can have serious and almost immediate implications for a government's revenue stream. In the long-run, high sales tax rates can have equally serious consequences: directly, by encouraging the relocation of retail centers to low tax jurisdictions; and indirectly, by encouraging shoppers to turn to low tax or tax-free alternatives, such as mail order catalogues or the internet. A federal moratorium on Internet taxation is already irking state and local governments.

The advantages of the property tax from the standpoint of fiscal policy are closely related to factors that contribute to its largely negative public image.

- ▶ It provides for a highly stable source of revenue. Property values tend to move slowly and are relatively insulated from short-term swings in business cycles.
- ▶ Property taxes are easy to collect and difficult to evade because unpaid taxes become liens on delinquent properties.
- ▶ It coincides with the benefits principle of taxation. As a local tax, it is linked to local public services such as schools, police and fire protection, and street lighting.

Property Tax Exemption and Assessment Administration

- ▶ It is one of few taxes on wealth, a legitimate consideration in ability to pay decisions.
- ▶ Unlike sales taxes, property taxes are deductible for federal income tax purposes. For the local taxpayer, \$1.00 worth of a public service funded with a property tax has a lower net cost than \$1.00 worth of a public service funded with a sales tax.
- ▶ As a distinctly local tax, it allows political subdivisions to exercise autonomy in questions such as what level of public services citizens are willing to finance.

The disadvantages of the property tax have to do mainly with public perceptions of unfairness, complex assessment procedures, the confusing involvement of multiple taxing authorities, the hardships of an annual lump-sum payment, and the fact that residential property values are imperfect measures of ability to pay.

It is also sometimes argued that property taxes create disincentives for homeowners and landlords to improve their properties. High property taxes on industrial and commercial property can also affect the location decisions of businesses. In this sense, a balanced tax structure can have a positive economic development impact.

Subsidies and Property Tax Exemptions

The mirror image of a tax, a subsidy increases recipients spending power either by funneling money directly into their pockets or, indirectly, by forgiving tax liabilities. As with taxes, subsidies have efficiency and equity dimensions. The equity dimension is most apparent in programs that redistribute income and is chiefly concerned with who and how

much questions. The efficiency dimension of a subsidy is subtler, and comprises public policies that alter the cost of consuming or producing a particular good or service.

Efficiency oriented subsidies enable the private sector to provide more of an under-supplied public good or service. Examples include items as diverse as homeless shelters, pollution-control equipment, disease control measures, national defense, and, arguably, the rate of homeownership. Public goods are worthy of subsidization because they generate benefits that accrue to society as a whole.

Although seldom discussed in this frame of reference, property tax exemptions should be thought of as indirect subsidies, also known as tax expenditures. The fact that these tax expenditures or subsidies occur off the books, and are seldom accounted for in public budgets, should not distract attention from the fact that they have real financial consequences for non-exempt taxpayers. Property tax exemptions grant selected organizations and individuals access to free or discounted public services while non-exempt taxpayers foot the bill. Exemptions narrow the available tax base and necessarily result in higher tax rates just to maintain a given level of services.

Indirect Subsidization: Exemptions for Nonprofit Organizations

The fiscal impact of exemptions received by nonprofit organizations in Orleans Parish is detailed in Table 1 below. The table includes only those exemptions enumerated in Article VII, §21 of the state constitution. It does not include

exemptions for public use or industrial property.

**Table 1
Nonprofit Exemptions in Orleans Parish**

| Classifications | Assessed Value of Exemption | % of Total | Total Revenue Lost (Parishwide) | Cost per capita |
|-------------------------|-----------------------------|---------------|---------------------------------|------------------|
| Churches | \$ 134,824,163 | 24.19 | \$ 22,561,448 | \$ 48.46 |
| Religious Schools | 84,359,812 | 15.14 | 14,116,635 | 30.32 |
| Private Schools | 15,333,078 | 2.75 | 2,565,824 | 5.51 |
| Fraternal Organizations | 4,320,280 | 0.78 | 722,909 | 1.55 |
| Labor Unions | 2,873,890 | 0.52 | 480,768 | 1.03 |
| All Others | 315,532,841 | 56.62 | 52,801,124 | 113.42 |
| TOTAL | \$ 557,244,064 | 100.00 | \$ 93,248,708 | \$ 200.29 |

Sources: BGR's 1996 Study, City of New Orleans, and U.S. Bureau of Census¹¹

The exemption classifications listed in the first column of Table 1 are those used by the Orleans Parish assessors.

Surprisingly, this list does not match one-for-one the exemption categories implied by the constitution. Notable absences include separately identified exemptions for charitable, health and welfare purposes. Exemptions for nonprofit organizations providing these kinds of services have been subsumed under the All Others umbrella category. See Appendix B for a detailed comparison.

The aggregation of distinct exempt purposes in the All Others category hampers a rational comparison of the tax subsidies attributable to the different types of exemptions.

The final column in Table 1 underscores the immense cost associated with these off-budget expenditures by distributing the cost of the listed exemptions equally across

every man, woman and child in Orleans Parish.

The Homestead Exemption

A discussion of the tax structure of Orleans Parish would not be complete without reference to the homestead exemption (HSE). The HSE is another costly exemption that places significant restrictions upon Orleans Parish's tax base and further distorts its tax structure. The HSE costs the tax recipient bodies of the parish approximately \$72 million in lost revenue annually, of which about \$29 million consists of revenue lost for traditional municipal functions due to New Orleans' unique position as the only municipality in Louisiana in which the HSE applies to general municipal property taxes.¹²

Property Tax Exemption and Assessment Administration

Significantly expanded during the Great Depression to ease the acute financial stress of homeowners facing potential homelessness, today's homestead exemption achieves outcomes that are neither equitable nor efficient. Blanket eligibility for the HSE means that some significant portion of revenue foregone accrues to individuals who can easily afford a full tax burden; it pays no attention to ability to pay. A better way of targeting public funds would be to provide tax relief only to homeowners who could otherwise not afford to own their home. Many states have so-called circuit breakers, the most common of which provide relief as soon as a household's income falls below a certain level. Circuit breakers provide relief when it is actually needed.

From an efficiency perspective, it is doubtful that the homestead exemption has a particularly powerful impact on the rate of homeownership. Intended from the

outset as a measure to help existing homeowners, it is of little assistance to would-be homeowners struggling to come up with a down payment. Although counter-intuitive, it is possible to make an argument that low property taxes translate into higher sales prices. A more cost-effective use of public funds could be made possible by subsidizing home finance arrangements for first time homeowners and providing circuit breakers for existing homeowners. The former policy enhances homeownership rates, and the latter policy helps maintain homeownership rates.

The Combined Impact of Exemptions

When combined, nonprofit exemptions and the homestead exemption have a staggeringly high financial impact in Orleans Parish — \$354 per capita. The table below summarizes the two:

| Classification | Assessed Value of Exemption | Total Revenue Lost (Parishwide) | Cost per capita |
|-----------------------|------------------------------------|--|------------------------|
| Nonprofit Exemptions | \$ 557,244,064 | \$ 93,248,708 | \$200 |
| Homestead Exemption | 458,305,441 | 71,894,305 | 154 |
| TOTALS | \$1,016,549,505 | \$165,143,013 | \$354 |

Sources: BGR's 1996 Study, City of New Orleans, U.S. Bureau of Census and Louisiana Tax Commission¹³

Part II: Property Tax Exemptions

As quasi-public expenditures, property tax exemptions help to finance activities that the public sector would ordinarily have to provide, or alternatively, activities that the government may be ill equipped to perform cost-effectively. This is the exemption bargain: a local government provides exempt organizations with free or discounted public services (such as fire and police protection, sanitation, street lighting) as a quid pro quo for the public services or benefits the exempt organizations generate.

Properly applied, exemptions facilitate the production of public services at lower costs, and in some cases, public services that otherwise would not be available in sufficient quantities. Effective exemptions can be justified on the grounds of efficiency and equity: they lower the cost of government, help moderate tax rates, and can be used as instruments of social policy.

It bears repeating that exemptions represent off the books public subsidies. Tax subsidies ought to be subject to the same kinds of scrutiny and value-for-money questions as regular expenditures. When exempt organizations fail to live up to their end of the exemption bargain, taxpayers money is squandered, and nonexempt taxpayers foot the bill for it.

In an effort to identify effective and accountable exemption procedures of interest to Orleans Parish, BGR undertook a national survey of practices pertaining primarily to nonprofit organizations.¹⁴ BGR's research looked for methods used to identify activities worthy of public subsidization through property tax exemptions. Issues of key concern were:

- ▶ The degree to which states distinguish between eligible organizations and eligible activities or uses of property.
- ▶ Definitions of common terms used to define qualifying activities, including

religious, charitable, welfare, educational, benevolent, historical, fraternal, health, civic, cultural, literary, scientific, etc.

- ▶ Information required from applicant organizations to ascertain exemption eligibility.
- ▶ Examples of policies that maximize value for money by emphasizing the quid pro quo aspects of the exemption bargain.

Perhaps one of the more sobering insights of this research was the realization that Louisiana's problems with exemption practices are not unique. Although there is not a single model state, BGR was still able to identify a host of promising practices and approaches.

The Ingredients of an Effective Property Tax Exemption System

Before delving into some of the specifics of BGR's research, it will be useful to outline the general characteristics of an effective exemption system.

- ▶ **Recognition of Diversity:** There is a complex relationship between state and local governments. State constitutions and statutes govern the kinds of activities and properties subject to taxation, and place significant restrictions upon the tax authority of political subdivisions such as parishes or municipalities. Because state legislation governing exemptions can have a far reaching impact on a local jurisdiction's tax base and revenue sources, effective exemption systems recognize local diversity and provide tax jurisdictions with some degree of administrative flexibility.

For example, in New York, local jurisdictions are able to exercise a local option over certain kinds of exemptions.

- ▶ **Organizational Worthiness:** There is an even more important dimension of diversity that needs thoughtful treatment at all levels of government: the diversity of organizations and activities considered worthy of indirect subsidization. Not all nonprofit organizations are equally deserving of tax exemptions.
- ▶ **Sound Theoretical Underpinnings:** To be effective, legislation governing exemptions needs to reflect the theoretical justification and purpose of property tax exemptions. Consistently capturing the quid pro quo benefits of the exemption bargain is a complicated undertaking that requires significant attention to detail. Without a theoretical anchor in legislation, decisions made by local assessors can easily run counter to the public interest.
- ▶ **Clarity and Accountability:** Effective legislation needs to define the payoffs associated with an exemption clearly so that the use of tax-exempt property benefits the community-at-large. Tax assessors administering exemptions need proper guidance to hold tax-exempt organizations accountable to the public. At a bare minimum, assessors should keep an up-to-date account of the total cost of exemptions granted. Otherwise, taxpayers cannot even begin to weigh costs and benefits.

Exemption Practices Nationwide

States typically exempt nonprofit organizations engaged in activities with goodwill connotations. All fifty states extend exemptions based on some combination of terms such as religious, charitable, welfare, educational, benevolent, historical, fraternal, health or hospital, civic, cultural, literary, scientific, etc. The Louisiana Constitution refers directly to seven of these, but employs language sufficiently general to embrace them all.

A common problem with legislation nationwide is the failure to clearly define the range of activities that fall under goodwill terms such as charitable or benevolent. Interpretative problems can become particularly acute when exemptions are defined by catchall statements such as:

- ▶ fraternal, benevolent or charitable property (Idaho Code, 63-602C).
- ▶ Property used for scientific, educational, literary, historical or charitable purposes (Connecticut Revised Statutes, 12-81).
- ▶ Property owned by a nonprofit corporation or association organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal or educational purposes (Louisiana Constitution, Art. VII, §21).
- ▶ Real property owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational or moral or mental improvement (New York Code, 50-420-a).
- ▶ [real] property owned by a corporation or association which is organized

exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship . . . for the enforcement of laws relating to children or animals (New York Code, 50-420-b).

New York has two catchall statements as a result of its division of exempt purposes into mandatory and permissive classes. Permissive exemptions allow local governments to exercise so-called local options.

When the components of a catchall exemption are not defined, the legal status of an organization, i.e., whether or not it is a nonprofit, easily becomes the dominant criterion for deciding exemption eligibility. The result is that the key question of whether the actual activities of the applicant organization are worthy of subsidization receives short shrift. Exemptions granted under these circumstances become blunt policy instruments that fail to take account of the quid pro quo bargain that should be the basis of the exemption in the first place.

Policies that respect diversity and strive for clarity provide detailed definitions of goodwill terms, as well as detailed descriptions of activities associated with them. The following six examples provide an introduction to the range of strategies available to emphasize the quid pro quo aspects of exemption bargains. All of these examples demonstrate an effort to target subsidies to areas of greatest need and impact:

- ▶ In deciding whether to grant exemptions to property serving charitable purposes, Florida applies a very strict eligibility criterion. Charitable purposes refers to a function or service which is of such a

Property Tax Exemption and Assessment Administration

community service that its discontinuance could legally result in the allocation of public funds should private not-for-profit funding be jeopardized.¹⁵ Also, in Florida nonprofit status is a necessary, but not a sufficient, eligibility criterion.

- ▶ Similarly, Kansas assessors are required to prepare an analysis of the costs and benefits of each exemption application, including the effect of the exemption on state revenues.¹⁶ Kansas also extends exemptions to private contractors participating in its public services redesign or privatization program, a good example of a targeted use of a public subsidy to achieve public goals.¹⁷
- ▶ Likewise, in dealing with low-income housing, Iowa uses its exemption for highly specific subsidization purposes.¹⁸ Nonprofit organizations providing low-rent housing to the elderly and disabled are exempt from property tax until the terms of the original low-rent development mortgage is paid in full or expires. This is an example of precision subsidization that allows Iowa to use its exemption on a limited basis to facilitate the production of a public service that might otherwise not have been made available in sufficient quantity.
- ▶ Another example is provided by California, where exemptions for federal housing projects are limited to those that target the handicapped and the elderly.¹⁹
- ▶ Along similar lines, Texas statutes go to great lengths to define the terms of its catchall statement, which identifies religious, charitable, scientific, literary or educational purposes as

objects worthy of subsidization.²⁰

Charitable purposes are defined in terms of 18 qualifying activities. Within these activities, there is further stratification. For example, eight kinds of nonprofit medical care are eligible for exemptions.

- ▶ Finally, Indiana extends exemptions to hospitals providing charitable health care to individuals without ability to pay, but pays close attention to the degree to which these activities are already subsidized under Medicare or Medicaid.²¹ Here, the rationale is that it makes no sense for a locality to subsidize activities that are already fully funded; instead, the subsidy is targeted to health care facilities providing non-reimbursable services to the indigent.

Complexity and Administrative Guidance

Enabling legislation that fails to provide assessors with the ability or responsibility to weigh the varying merits of applications for exempt status is also likely to neglect factors that complicate the administration of exemptions.

Justification

Remarkably, the critical issue of whether an exemption is actually necessary for an organization to deliver a certain level of services is seldom addressed by legislation. This is particularly true in the case of states that equate nonprofit status under the federal tax code with exemption eligibility and thereby blindly underwrite an existing federal subsidization decision.

Ownership

In most states, eligibility for a property tax exemption, a public subsidy, is tied to property ownership. Nevertheless, very few states acknowledge the arbitrariness of this criterion. As a means of subsidizing goodwill activities per se, the property tax exemption is indiscriminate. Nonprofit organizations performing socially beneficent activities ordinarily worthy of public support do not enjoy an exemption if they lease property. Some states attempt to rectify this shortcoming.

- ▶ Connecticut statutes allow property leased to a charitable, religious, or nonprofit organization to gain exempt status when sanctioned by a local ordinance.²²
- ▶ In Colorado, the owner of property leased to a qualified nonprofit organization is eligible for exemption if he charges a nonprofit rent, i.e., a nominal lease fee of \$1 per annum plus reasonable operating expenses.²³
- ▶ California allows the owner of property leased to certain kinds of organizations to claim an exemption, if the rental agreement provides for a reduction in rent equal to the amount of the tax savings. Alternatively, in cases in which the lessor is not interested in claiming the exemption, the lessee organization can claim the exemption in the form of a refund of taxes paid. Here, the assumption is that the lessee bears the full burden of taxation.
- ▶ The 1974 Louisiana Constitution makes an exception to the nonprofit ownership rule in the case of property used solely as housing for homeless persons.²⁴

Non-Related Use of Property

Most states tie eligibility for property tax exemption to the use of a property for some tax-exempt purpose, although in practice, allowances for some incidental level of non-related income are common.

- ▶ Colorado specifies the maximum number of hours per annum that a property can be used for non-related purposes or, in cases where the non-related activity generates income, a maximum amount of \$10,000 per annum.²⁵
- ▶ Idaho allows a full exemption of a property to stand as long as the income generated when it is used for commercial purposes is determined to be less than three (3%) than the value of the entirety.²⁶
- ▶ Florida provides that in no event shall an incidental use of property . . . impair the exemption of an otherwise exempt property,²⁷ and singles out bingo as an example of an activity that would not impair its exempt status.
- ▶ Texas also provides for an incidental threshold on non-related purposes which does not result in loss of an exemption.

Some states are willing to extend an exemption to property that is used for more than merely incidental non-related purposes. These states require assessors to engage in proportional valuation to compute so-called partial exemptions:

- ▶ California's partial exemption is determined by the ratio of non-business related income to business related income as defined by the federal tax code.²⁸
- ▶ In cases exceeding the \$10,000 threshold, Colorado assessors compute the partial exemption based on the

Property Tax Exemption and Assessment Administration

ratio of related to non-related square foot usage or time usage.²⁹

- ▶ Similarly, in Idaho partial exemption kicks in as soon as the 3% limit on non-related income is surpassed.³⁰
- ▶ Florida permits a partial exemption only when the property is being used for its exempt purpose for more than 50% of the time.

As discussed in more detail below, Louisiana's Constitution indulgently allows property to be put to uses other than the exempt purposes of a nonprofit organization.

Unrelated Income and Cross-Subsidization

Some states use an alternative approach that allows the full exemption to stand, but requires that non-related income be used to cross-subsidize the purpose for which the exemption was granted.

- ▶ In New Hampshire exemptions stand regardless of the relative composition of related and non-related income, if none of the income or profits thereof is used for any other purpose than the purpose for which they are established.³¹
- ▶ California permits tax-exempt hospitals to generate an operating surplus up to 10% above what would be considered necessary to defray normal operating costs.³²
- ▶ In Indiana, tax-exempt organizations using their property for non-exempt purposes are subject to partial exemptions, except for churches, religious societies, and nonprofit schools.³³
- ▶ Similarly, Iowa allows nonprofit hospitals to lease hospital space for

health related purposes without jeopardizing their exempt status.³⁴

In Louisiana, the income generated by tax exempt property is not expressly regulated, and does not have a direct bearing on exemption eligibility. Indirectly, income generation is a consideration in determining whether a property is used for a commercial purpose that would disqualify it from an exemption. However, as discussed below, the commercial character of exempt property has only a limited practical effect on exemption eligibility.

Property Tax Exemptions and the Louisiana State Constitution

Article VII, §§ 20 and 21 of the 1974 Louisiana Constitution describe tax exemptions for real and personal property. (Appendix A provides the text of these sections.) Section 20 addresses the homestead exemption; this report focuses on §21, which covers nonprofit and other exemptions. Section §21 groups property tax exemptions into three major categories.

The first category, §21(A), exempts public property. The justification for exempting public property from taxation is straightforward: in most cases, it makes little sense for a taxing authority to tax itself.³⁵ Notwithstanding this conceptual basis, the public purpose exemption is sometimes used by the city as an economic development tool to provide tax exemptions to private organizations using public property. Recent examples of recipients of public purpose exemptions include Harrah's New Orleans Casino and the Jazzland Theme Park. Both projects utilize payments in lieu of taxes to the city.

Harras makes lease payments to the city, and Jazzland has agreed to pay a portion of its profits into an economic development fund for eastern New Orleans to be managed by a nonprofit economic development corporation.³⁶

Because §21(A) exemptions occur outside of the decision-making purview of the assessors, the public property exemption is not discussed further in this report. It is mentioned here merely to highlight a practice that has potentially serious tax base implications, but few constitutional safeguards.

The second exemption category covers traditional nonprofits. It exempts:

- ▶ Property owned by nonprofits organized and operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or member. §21(B)(1)(a). This is the catchall exemption that covers about 90% of exempt real property.
- ▶ Property leased to a nonprofit as housing for the homeless. §21(B)(1)(b).
- ▶ Property of a bona fide labor organization engaged in collective bargaining. §21(B)(2).
- ▶ Property of lodges or clubs organized for charitable and fraternal purposes. §21(B)(3).
- ▶ Property of a nonprofit corporation devoted to promoting trade, travel, and commerce. §21(B)(3).
- ▶ Property of a trade, business, industry or professional society or association. §21(B)(3).

The third exemption category (Art. VII, §21(C)) contains a mixed bag of

exemptions for financial, agricultural, commercial, entrepot, personal, and manufacturing property. The only items relevant to this report on real property exemptions is the exemption of property used for cultural, Mardi Gras carnival, or civic activities and not operated for profit to the owners. §21(C)(12). Within the context of this highly specific section of the constitution, it is unclear why general terms such as cultural and civic activities were not included in the catchall exemption outlined above. This is probably related to the fact that the third category exemptions do not require that the exempt property be owned by a nonprofit corporation or association. But even so, the fact remains that it is not obvious what constitutional language serves as the foundation for exempting nonprofit organizations such as museums, garden clubs, or literary societies. While the missions of these organizations might be described as educational or charitable, this classification of exemptions is inherently unsatisfactory.

The Board of Assessors does not use an internal classification system that tracks the full range of exempt purposes implied by the constitution. The assessors do not maintain separate classifications for the charitable, health, and welfare exemptions. See Appendix B for a comparison of the exemption classifications in the constitution versus those used by the assessors. This incomplete classification system raises significant concerns with respect to the way assessors manage information pertinent to exemption eligibility, and has serious accountability implications.

Reading between the Lines: Coping with Gray Areas in Louisiana

Louisiana's constitution and statutes are virtually silent on the gray areas of exemption administration. Therefore, assessors must resort to court rulings and Attorney General opinions for guidance on operating an effective exemption system. See Appendix C for a listing of relevant opinions and decisions.

From as early as 1902 to as late as 1966, Louisiana courts repeatedly insisted that constitutional property tax exemptions should be strictly construed. The burden of demonstrating worthiness rested with the applicant, and any doubt as to the merits of an application was to be resolved in favor of the taxing authority.³⁷ Although cases that emphasize a narrow reading of exemptions predate the 1974 constitution, their tenor is echoed in the preamble of today's §21, which emphatically declares the following property *and no other* shall be exempt from ad valorem taxation. (Emphasis supplied.)

Notwithstanding this preamble, the catchall exemptions in Art. VII, §21(B)(1)(a) create significant practical problems from a policy and administrative standpoint. The constitution fails to define qualifying exempt purposes clearly. It does not distinguish between eligibility based on an organization's performance of socially desirable activities and eligibility based on the organization's legal form.

Exemption eligibility under §21(B) is based on nonprofit *ownership* of property. Although the nonprofit organization must be devoted to constitutionally specified purposes to qualify for an exemption (e.g., religious, educational, charitable), §21(B) standing alone does not require that the

exempt property itself be actually *used* for those purposes. Indeed, property exempt by ownership under §21(B) theoretically could be used for any purpose, but for the last paragraph of §21 which imposes an important limitation: None of the property listed in Paragraph (B) shall be exempt if owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association. This limitation is narrow but critical; it is the only use restriction on broadly described exemption eligibility under §21(B).

The exempt all but commercial approach in the 1974 constitution is a major departure from the 1921 constitution. There, exemption eligibility required actual *use* of property for specific purposes.³⁸ This linguistically subtle change between the 1921 and the 1974 constitutions weakened the ability of local assessors to limit exemptions only to those uses that satisfy a quid pro quo public service in return for the exemption.

In cases decided under the 1921 constitution, Louisiana courts ruled on at least two occasions that it is the use of property and not the nature and purpose of the corporation that determines the right to a tax exemption.³⁹ Rulings in 1931 and 1966 emphasize the quid pro quo aspect of the exemption bargain, and expressed expectations that the subsidized activity should relieve the public of some of its burdens.⁴⁰

In more recent times, when Louisiana assessors have attempted to emphasize the quid pro quo aspect of the exemption bargain, they have been met with legal challenges that take advantage of the lack of depth in the 1974 constitution. A series of three cases decided under the 1974 constitution (all regarding properties in

Orleans Parish) are far more indulgent in allowing exemptions.

The first, in the early 1980s, concerned Hotel Dieu, a nonprofit hospital that was initially denied a tax exemption for property leased to the hospital's nonprofit alter-ego corporation. A building on the property housed a restaurant, offices leased to private physicians, a pharmacy, and a parking garage, all largely occupied or used by individuals associated in some way with the hospital.⁴¹

The Louisiana Supreme Court held that the property was tax exempt. The Court found that the space in the office building, other than the restaurant, was leased only for medical purposes to tenants who had some connection to the hospital, and that the restaurant was a necessary eating facility for the hospital staff, patients, and their families. While the parking lot was open to the public, the court found that its customers were primarily those with business at the hospital or the medical office building. Because the use of the property was not unrelated to the purposes of the nonprofit hospital in terms of the 1974 constitution, the Louisiana Supreme Court found it to be tax exempt, and affirmed the decision of the Louisiana 4th Circuit Court of Appeal.

The fourth circuit explained its rationale for ruling that the property was tax exempt in more detail than did the Supreme Court. For the first time since the 1974 constitution was adopted, the fourth circuit examined property tax exemption language in §21:

The 1974 Constitution's system of exempting all property (with exceptions) of specified non-profit corporations was a change from the 1921 Constitution's exempting specified property . . . with the consequence that ownership by a nonprofit corporation or association (or club) was irrelevant . . . The 1974 Constitution's

language, by way of comparison, grants the exemption to property precisely on the basis of the benevolent character of its owner . . . The basis for exempting a hospital like Hotel Dieu today lies in its ownership.⁴²

In a 1997-98 legal dispute concerned with an unrelated use of property, the 5th District Assessor unsuccessfully challenged the exempt status of vacant land held by Tulane University, a nonprofit educational institution. The 5th District Assessor had initially refused to allow exempt status for the property. He argued that the university was holding the property for investment, which was tantamount to a commercial purpose, and therefore ineligible for an exemption.

The trial court ruled that the property was exempt. The Louisiana Fourth Circuit Court of Appeal upheld the trial court. Referring to constitutional language mandating the revocation of tax-exempt status when property is owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association, the court acknowledged that this clause was intended to prevent exempt property from being used for unrelated business or commercial activities. However, the court disagreed with the 5th District Assessor's assertion that the passive holding of vacant land by a tax-exempt organization in effect, the non-use of the property was a commercial activity that would bar an exemption under the 1974 constitution.⁴³

In late 1998, Orleans Parish lost another tax exemption dispute, this time with Volunteers of America (VOA), a nonprofit housing provider that claimed exemption eligibility for a number of its rental housing properties. The assessor's refusal to grant the exemptions rested on the level of rents charged (which were alleged not to

be significantly different from fair market rents) as well as on the argument that there is no constitutional provision for a housing exemption. In deciding in favor of VOA, the judge justified VOA's eligibility for exemption on the grounds that the provision of on-site services such as day care, counseling, and educational programs at some of the properties met the constitutional requirements of exemption under the heading of a charitable purpose.⁴⁴

The trio of disputes (*Hotel Dieu, Tulane*, and *VOA*) speak directly to the theoretical underpinnings of tax exemption, and also to the ramifications of a constitution and statutes that are insufficiently circumspect. While some Orleans Parish assessors—most notably in the 3rd and 5th Districts—have attempted to contain exemptions on a case-by-case basis, they have been turned back in the courts. With inadequate legislation to back them up, Louisiana assessors lack clear guidance to insure that exemptions granted serve the public interest.

Issues raised by the non-related use of property create considerable practical and information-intensive problems for assessors. These problems include partial exemptions and the treatment of non-related business income. Although the Louisiana Constitution makes no specific reference to the practice of proportional valuation, rulings and Attorney General opinions between 1922 and 1996 endorsed its application on several occasions.⁴⁵ There have also been opinions against the commercial use of exempt property to cross-subsidize an exempt purpose,⁴⁶ but supportive of some incidental level of non-related income that is used to reduce expenses.⁴⁷

However, the lack of legislative guidance should not be equated with a lack of

authority or discretion. The existing constitutional and legislative framework still provides Orleans Parish assessors with the administrative power to improve exemption procedures. Court rulings and Attorney General opinions make it clear that assessors have the authority to take a proactive and aggressive approach to ensuring that decisions to grant exemptions are the result of consistently judicious and exacting deliberations. As the following section seeks to impart, assessors have good reason to interpret constitutional intent in a manner consistent with the public interest. However, one practical limitation on this conclusion is the limited legal resources available to the assessors. By statute, the assessors are represented by the New Orleans City Attorney, whose office is stretched to cover the legal work of the entire city.

Catchall Exemptions

This section takes a detailed look at each individual component of the catchall exemptions in Art. VII, §21(B)(1)(a) of the Constitution. It explores the practical problems these exemptions pose for assessors, draws on best practices in other states, and outlines the specific information assessors need to make sound exemption eligibility decisions. The underlying notion that dictates the information needed is this: an effective exemption system should be based upon an enforceable quid pro quo exemption bargain between the exempt organization and the taxpayers.

The following discussion outlines key eligibility criteria for making the initial determination of whether a particular property should be exempt. Also important, however, is the need for the

assessors to insure that property continues to be used for an exempt purpose after the initial exemption is granted. The practical aspects of approving and managing exemptions are discussed below in Part III.

Religious Purposes

The practice of exempting religious property is rooted in the freedom of religion protection of the First Amendment. It also grows from a tradition under which churches served as the primary providers of social services. However, because of the historical shift toward government-provided welfare services, as well as the parallel development of a secular nonprofit sector, religious organizations no longer play such a dominant role.

Although all 50 states provide for religious exemptions, definitions of religious purposes vary considerably. While some states exempt property used by religious organizations for a range of diverse purposes, others define religious purposes narrowly, limiting the exemption to property used for public worship.

This report contends that a narrow construction of religious purposes enhances the clarity, accountability, and effectiveness of exemption systems. It makes little sense to try to account for the diverse functions of schools, charities, churches, health care facilities and welfare agencies, etc. under the umbrella of a religious exemption. Such an approach does not do justice to the management information requirements necessary to focus on the quid pro quo outcomes of exemption bargains by keeping keep track of the actual use of exempt property. Adopting a narrow definition of a religious purpose would mean that religious organizations receive the same treatment

as secular nonprofit service providers vying for exemptions.

The Practicalities of Exempting Religious Property Effectively

Assessors across the nation encounter a number of practical problems in the administration of exemptions for religious purposes. These are addressed below.

Eligible property

Deciding what sorts of property are used for religious purposes is by no means straightforward. New Hampshire's statutory language provides a good overview of strictly construed religious purposes: [h]ouses of public worship, parish houses, church parsonages occupied by their pastors, convents, monasteries, buildings and the lands appertaining to them owned, used and occupied directly for religious training . . . ⁴⁸ In contrast, Connecticut construes religious purposes broadly, and emphasizes links between property usage and exemption eligibility. Specifically, it exempts property used exclusively as a school, a Connecticut nonprofit camp or recreational facility for religious purposes, a parish house, an orphan asylum, a home for children, a thrift shop, the proceeds of which are used for charitable purposes, a reformatory or an infirmary or for two or more of such purposes. ⁴⁹ California lives up to its car-culture reputation by exempting real property that is necessarily and reasonably required for the parking of automobiles of persons who are attending religious services, or are engaged in religious services or worship. ⁵⁰

Quantity of Property Exempted

Some states impose limitations on the amount of land or number of buildings that can be exempted. For instance, New Jersey limits the number of residences for clergymen actually officiating to no more

than two buildings, and has a limit of five acres of church property that can be exempted.⁵¹ Iowa sets a statewide limit of 320 acres of exempt property for religious and charitable societies.⁵² Similarly, Texas limits the lot size of a parsonage to one acre.⁵³

Credibility of the Religious Group

Kansas statutes provide a detailed definition of nonprofit religious organizations: any organization, church, body of communicants, or group, gathered in common membership for mutual support and edification in piety, worship, and religious observances. Kansas requires a regular schedule of services or meetings at least on a weekly basis for exemption eligibility.⁵⁴ Underscoring the legal minefield an assessor maneuvers in when evaluating religious exemption applications, a Colorado statute bars its assessors from inquiring as to whether particular activities of religious organizations constitute religious worship.⁵⁵

Options for Orleans Parish Assessors

Louisiana's constitution and statutes provide virtually no guidance on dealing with any of the practical problems identified above.

A simple solution to technical difficulties associated with holding organizations accountable for diverse activities under the heading of a religious purpose is to limit the religious exemption to places of public worship. This would still allow religious organizations to qualify additional property for exemption under the welfare, charitable and health categories implied by the constitution. Institution of this approach would not entail a complete change of course; assessors already

distinguish between exemptions for churches and religious schools. However, it may require a constitutional amendment.

The lack of constitutional and statutory guidance does not mean that assessors do not have the authority to develop reasonably stringent eligibility criteria. While Louisiana does not establish statutory mandates (such as the lot size) that would simplify administrative procedures and decision-making, the existing legal framework still offers a great deal of room for improvements in the administration of Orleans Parish's exemption system.

The message apparent from a long line of Attorneys General's opinions is that assessors have the authority to interpret exemption eligibility in a manner consistent with the public interest and constitutional intent. For instance, opinions issued by the Attorney General have given a thumbs down to several peripheral exemptions for religious organizations: leasing exempt property on the general real estate market for commercial gain;⁵⁶ and using exempt property for unrelated purposes.⁵⁷

In a 1995 opinion addressing an exemption for property in St. Tammany Parish claimed by its owners to be used for religious purposes, the Attorney General stressed that it is the responsibility of the assessor to make an initial factual determination on religious organization exemptions.⁵⁸ The opinion indicated that the assessor may examine the actual activities of the organization, the use of the property, and the purpose clause in the organization's charter. In that case, the assessor denied the exemption for a purported religious organization operated by a married couple who claimed a religious exemption for their home,

contending that their home served as a headquarters for their religious organization.

The Louisiana Attorney General also opined (in 1979) that vacant land held by a non-profit for undisclosed purposes would not be exempt.⁵⁹ However, the Louisiana Fourth Circuit Court of Appeal rejected the Attorney General's reasoning in a 1998 ruling regarding vacant property held by Tulane University.⁶⁰

Dedicated Places of Burial

All fifty states exempt non-profit cemeteries from the property tax. Louisiana also exempts irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families.⁶¹

Charitable Purposes

Because they allow governments to shift the burden of providing certain public services onto the nonprofit sector, activities performed under the rubric of charitable purposes are among the most readily justifiable objects of indirect public subsidization.

All fifty states exempt property for charitable purposes, although operating definitions vary widely. In some instances, charitable is the umbrella under which all other exemption purposes are subsumed. For example, in Texas, charitable covers services in fields as varied as education, health care, fire protection, scientific research, housing, etc.

The criteria used to determine eligibility for charitable exemptions have far reaching ramifications. The charitable purpose exemption serves as a baseline for other exemptions. Unless the quid pro quo outcomes that justify exemptions are captured by the eligibility criteria,

assessors and taxpayers concerned with value for tax subsidies must contend with a muddled system. BGR's survey of enabling legislation indicates that very few states provide assessors with usable definitions of eligible charitable purposes. The enabling legislation surveyed exhibits four basic approaches.

The first approach (by far the most common), encourages the entitlement mindset. A prime example of this approach is Louisiana, which gives its assessors broad discretion in construing eligibility without defining either a charitable purpose or the state's expectations about what the public is to receive in the exemption bargain. Loosely construed, an organization is eligible if it can demonstrate nonprofit status under state or federal law, and offer perfunctory evidence of a charitable mission or purpose, e.g., by a statement in its articles of incorporation or bylaws. Strictly construed, and as affirmed in a 1966 court ruling, an organization can substantiate its charitable purpose only if it demonstrates nonprofit status and its actual charitable acts serve to lessen burdens of government and relieve the state, its subdivisions and taxpayers of ultimate responsibility of caring for sick and indigent.⁶²

The second approach focuses attention on the outcomes of an exemption bargain with a charitable organization. It uses basic cost-benefit analyses to measure the net benefits exemptions confer upon a community.

The third approach attempts to define a charitable purpose, but lacks outcome-based eligibility criteria. Examples of this approach are provided by New Hampshire and Nebraska. New Hampshire grants exempt status to an organization if it performs some service of public good or welfare advancing the spiritual, physical,

intellectual, social or economic well-being of the general public or a substantial and indefinite segment of the general public that includes residents of the state. Similarly, in Nebraska, an eligible nonprofit is an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons. Perhaps the only clear improvement upon the second approach offered by these illustrations is to discourage exemptions for allegedly charitable organizations whose services are restricted to a limited group. Indefinite target groups spread the benefits associated with an exemption more widely and discourage discrimination.

The fourth approach, best illustrated by Texas, avoids the messy semantics associated with defining a charitable purpose, as well as the complexities of assessing the net benefits generated by an exemption by specifying in detail the burdens the state would like the nonprofit sector to lessen. It is possible to think of this arrangement as a kind of statutory out-sourcing, where the state spells out in detail the kinds of exemption contracts it is willing to entertain in return for a tax exemption. Under this exemption system, tax revenue foregone in an individual exemption contract serves as a payment in lieu for a public service the state might otherwise have to provide.

The Practicalities of Exempting Charitable Property Effectively

Evaluating the eligibility of an organization for a charitable exemption is an information-intensive undertaking. BGR's review of exemption legislation in other states revealed a number of desirable practices to assist in making exemption eligibility determinations.

Evidence of a bona fide charitable purpose: Assessors should require applicants to demonstrate via articles of incorporation or charter, bylaws or other means, that they are organized to provide or finance charitable services.

Evidence of a successful track record: Because a tax exemption is intended to encourage the production of certain public services by the nonprofit sector rather than fully fund nonprofit groups, larger charitable organizations should be able to provide a certain level of services without an exemption. Colorado requires a five-year track record for an organization seeking a property tax exemption on charitable grounds.⁶³ In New Hampshire, charitable organizations must submit an annual statement of financial condition to their assessor.

Reasonable salary and fee structures: To insure that public money is spent on intended purposes, assessors should compare compensation levels within an exempt organization with regional averages. In part, this analysis would address the constitutional requirement that the organization's net earnings not inure to private benefit. Also, when charitable services are not provided free of charge, assessors need to determine if their fee structures reflect charitable purposes or commercial-type activities.

Details about the services offered: In deciding whether an exemption will provide taxpayers with value for revenue foregone, assessors need answers to three questions. First, are the recipients of the services needy, and does the applicant have a reasonable strategy for reaching them? For example, an Arizona statute requires community service organizations to serve a population that includes persons who are indigent or afflicted⁶⁴ and lists the kinds of services

required for eligibility. Second, do the proposed services address problems appropriately? Third, are the proposed services actually in demand? All of these questions speak to the need for assessors to make some rudimentary assessment of the effectiveness of the subsidized purpose to determine if the charitable organization is, in fact, operated exclusively for charitable purposes.

Evidence that no private agents will benefit from the subsidized purpose: To minimize the potential for fraud, assessors should request sworn statements attesting to the fact that no one associated directly or indirectly with the organization receives an inappropriate personal benefit from its operations.

Options for Orleans Parish Assessors

In light of the vaguely described exemptions in the Louisiana Constitution, and given recent pro-exemption court decisions, the Orleans Parish Assessors may be understandably frustrated about enforcing exemptions strictly. However, court decisions recognize that exemptions should be narrowly construed, and assessors should read the charitable purpose eligibility in a strict manner. The absence of specific statutory or constitutional guidance should not obscure the fact that assessors already have reasonable legal authority to develop consistent procedures that ask the kinds of questions outlined above.

One indication that the assessors have not levered their existing authority to manage exemptions is the internal classification system they currently use to keep track of exempt property. Appendix B provides a comparison of exemption classifications drawn from the Louisiana Constitution and the classifications used by the Orleans Parish assessors. The classification system in use does not include a charitable class of exempt property,

despite the fact that the constitution lists it as one of the grounds for exemption. Instead, charitable purpose exemptions are simply combined with a diverse range of unrelated exemptions in an All Other category that comprises the undifferentiated majority of the nonprofit exemptions in Orleans Parish. Rectifying this problem would have advantages over the current system, including greater clarity and accountability. Lumping together distinct components of the catchall statement is much like public budgeting without line items.

Health Purposes

Yet another example of the diversity of treatment accorded exempt purposes nationwide, the health or hospital purpose is based historically on the performance of charitable acts. Not surprisingly, some states subsume health or hospital exemptions under the charitable heading.

Two broad approaches to health-related exemption eligibility stand out. The majority of states surveyed for this report take some variant of the second approach.

Non-Profit Status Equals Eligibility:

Examples are provided by New Jersey, Idaho, California and, to a certain degree, Louisiana.⁶⁵ States subscribing to this approach use the exemption subsidy as a blunt instrument to achieve public purposes. They also forsake the feasibility of establishing a meaningful link between revenue foregone and benefits generated by an exempt organization. An exemption provided on the basis of an organization's legal status could just as well serve to underwrite organizational inefficiency.

Eligibility Based on Actual Charitable Acts:

States subscribing to this approach have designed eligibility criteria to reap the quid pro quo benefits associated with exemption bargains. They do this by

Property Tax Exemption and Assessment Administration

requiring hospitals to provide some level of services to indigent individuals without health insurance. For example:

- ▶ Georgia considers a hospital an institution of pure public charity if it uses revenue from paying customers to defray the costs of serving non-paying customers.⁶⁶
- ▶ A hospital in Oklahoma is eligible only if it is nonprofit and its facilities are open to the public without discrimination as to race, color or creed and regardless of ability to pay.⁶⁷
- ▶ Texas uses its relatively sophisticated exemption to achieve two distinct public purposes. First, nonprofit hospitals or hospital systems agree to provide certain levels of medical care without regard to the beneficiaries ability to pay. The levels of charity or government sponsored health-care services that an organization has to provide in order to qualify for an exemption include levels reasonable in relation to community need, equal to at least four percent of net patient revenue, or at least equal to 100 percent of the hospital's tax exempt benefits. Under the second, non-charitable public purpose, exemptions are also made available to health care facilities in counties designated as health professionals shortage area(s).⁶⁸ This latter exemption subsidizes, or promotes the provision of health care for all inhabitants of a given jurisdiction.
- ▶ Indiana insists on the provision of free or charitable healthcare to indigent individuals, and notes that hospitals providing services under the Medicaid and Medicare programs should not be automatically classified as charitable institutions.⁶⁹ The state also provides

exemptions to property used for the purpose of gratuitously dispensing medicines and medical advice and aid.⁷⁰

The Practicalities of Exempting Health Property

In the case of a health exemption based solely on an organization's nonprofit status, practical issues are confined to general problems such as the reasonableness of the property exempted and the treatment of unrelated use and income. When an exemption decision is based on actually providing charitable health services, the task of designing effective exemption bargains becomes more complex. Important issues include:

Linking the value of Charitable Services and the value of the exemption: Statutory provisions that try to insure that an exemption translates into actual benefits should be availed of when the health care facility is not an institution of pure public charity. As was just discussed in the case of Texas, to generate actual benefits from the indirect subsidy, assessors should feel reasonably assured that the value of the exemption will translate into a commensurate increase in services for the indigent.

Government sponsored health care as an eligibility criterion: Since a health exemption ought to help fund services that otherwise would not be available, the subsidy should be extended primarily to hospitals that provide free or below cost services to the indigent for which the hospital does not receive reimbursement. In some cases, the exemption can be justifiably used to induce nonprofit hospitals to participate in government sponsored health care programs to meet community needs. However, since government sponsored health care generates revenue, exemptions may not be

appropriate in such instances where the hospital is covering its costs or profiting from government payments.

Restrictions on eligible hospital property and non-related income: Parking lots and professional buildings operated by hospitals are not always covered under a hospital's exemption. Indiana exempts such property only if it is substantially related to or supportive of the inpatient facility, or if used to financially support the provision of health care services for individuals who are indigent.⁷¹ To some extent, decisions on the kinds of property that can be reasonably viewed as contributing to the health-care function of a hospital lead to slippery slope. An alternative approach taken by California circumvents decisions of this kind by setting an upper limit on non-related income relative to related income. A similar approach is also taken by Colorado, which limits non-related income to no more than 15% of total gross revenues derived from operating the property.⁷²

Options for Orleans Parish Assessors

The health exemption poses a significant challenge. Constitutional reticence and a dearth of statutory guidance mean that decisions on exemption eligibility are occurring in a theoretical and analytical vacuum, checked only by occasional lawsuits. It is difficult to argue that the current blanket exemption for non-profit hospitals serves a focused public purpose. To some extent, the lack of guidance on how to tie a health related exempt purpose to specific quid pro quo outcomes is reflected in the internal classification system used by Orleans Parish assessors to keep track of exempt property; it does not have a health or hospital category.

Other than rectifying this information management problem, options for improvements are limited. Current

enabling legislation simply lacks the specificity necessary to enable assessors to emphasize quid pro quo outcomes when they make eligibility determinations.

BGR's review of legal rulings and opinions on the public purpose of the health exemption in Louisiana suggests that an entitlement mindset is gaining ground. As already discussed, this legalistic mindset takes advantage of the constitution's lack of specificity by equating nonprofit status with exemption eligibility. The end result is that little effort is made to insure that exemptions serve real public purposes.

Fundamentally, an emphasis on the charitable component of health services has a long history in Louisiana. In 1879, the Louisiana Supreme Court ruled that hospitals or infirmaries whose objects are charity are exempt from taxation, even when such institutions take pay from patients who can pay.⁷³ A similar decision in 1933 tied eligibility to hospitals devoted to charitable purposes and owned by charitable corporation(s).⁷⁴ In 1953, the Attorney General opined that a hospital giving substantial medical services without charge to the indigent although taking pay from those who are in a position to pay is exempt.⁷⁵ Likewise, a 1966 decision tied eligibility to admission of charity patients.⁷⁶

On the other hand, recent decisions and opinions have underscored the entitlement mindset by absolving applicants from the responsibility of having to establish a public purpose justification for a proposed exemption. The bar has been lowered to such an extent that non-profit status almost serves as an automatic qualifier. In 1979, the Attorney General opined that a hospital owned by a non-profit corporation or association is not subject to ad valorem taxes.⁷⁷ Following this line of argument to its full conclusion, a 1982 ruling declared that the health exemption

includes property such as medical office spaces and parking spaces, provided that such property is located in the immediate vicinity of a nonprofit hospital.⁷⁸

Welfare Purposes

Another exempt purpose for which the assessors do not maintain a separate classification in their management information system, the welfare purpose is over-shadowed by the virtually synonymous charitable purpose. Because the constitution does not define any of the components of the welfare catchall exemption, this outcome is not surprising.

BGR was unable to confirm if a welfare exemption has ever been specifically granted in Orleans Parish. We were also unable to uncover any relevant interpretative case law. The Louisiana Tax Commission affirms that it is unaware of the exemption being used in practice.

Fraternal Purposes

One of only two exempt purposes that are referred to twice in Louisiana's State Constitution, first in the catchall statement and then again under the second category of exemptions, the fraternal purpose is a two-headed creature. Because fraternal organizations typically serve as private social clubs rather than institutions of pure public charity, the theoretical underpinning for their exemption is open to question. Uneasiness about subsidizing fraternal organizations is evident in the diverse treatment accorded them across the nation. In Louisiana, this unease is hinted at in the constitution's repetition of fraternal eligibility; the second mention defines a fraternal organization as a lodge or club organized for charitable and

fraternal purposes and practicing the same.

The preferred term used by states emphasizing the charitable component of a lodge or order's mission is fraternal benefit organization. A key question in the discussion of the merits of subsidizing fraternal organizations is the state's precise intent. Some states have decided that fraternal activity in and of itself deserves a public subsidy, while others limit financial support to fraternal organizations that are also engaged in charitable acts. For the most part, states do a little of both, although the relative importance of these separate subsidization components is seldom acknowledged directly.

The willingness of states to provide fraternal exemptions is checkered. At one end of the spectrum, Kentucky defines a fraternal benefit society as [a]ny incorporated society, order, or supreme lodge . . . conducted solely for the benefit of its members and their beneficiaries . . . operated on a lodge system with ritualistic form of work . . .⁷⁹ Kentucky, deems nonprofit fraternal activity worthy of public support per se. An example of a state with a more limited approach is Missouri, where only nationally affiliated fraternal organizations that promote good citizenship, humanitarian activities or improve the physical, mental and moral condition of an indefinite number of people need apply. As an additional limitation, Missouri exempts only that portion of real and personal property as the assessing authority may determine is utilized in purposes purely charitable.⁸⁰

An illustration of a half-hearted endorsement of fraternal exemptions, Minnesota exempts only the personal property of fraternal organizations.⁸¹ Similarly, Nevada limits the value of a

fraternal exemption to \$5,000. At the far end of the spectrum is California, which denies eligibility to property ordinarily eligible on the grounds of a religious, hospital, scientific or charitable purpose if that property is also used on a non-incidentals basis for fraternal or lodge, or for social club purposes.⁸²

The Practicalities of Exempting Fraternal Property Effectively

Effective exemption bargains with fraternal benefit organizations would emphasize their public, rather than their private purpose. This would require constitutional refinement in Louisiana.

Evidence of a Charitable Mission: Clear authority should be enacted to review articles of association and incorporation and bylaws to ascertain that the organization is committed to serving a public purpose on a more than incidental basis. Ideally, fraternal benefit organizations should be held to the same standards as charitable organizations.

Proportional Valuation: Because fraternal benefit organizations are not institutions of pure public charity, and because a wholesale tax exemption is a rather blunt instrument of public policy, partial exemptions should be used. This approach is particularly applicable to property being used for private, social or recreational purposes. Also, fraternal organizations frequently generate commercial income by leasing facilities such as ballrooms and banquet halls.

Specified Target Groups: Close attention needs to be paid to the beneficiaries of services provided by fraternal benefit organizations. Given the private purpose of fraternal organizations, benefits should accrue to non-members as a condition of a tax exemption. Missouri's condition that services be made available to an

indefinite number of people is a wise requirement.⁸³

Options for Orleans Parish Assessors

The recommendation that assessors need to utilize existing authority more intensively to insure effective exemption bargains is also applicable in the case of fraternal organizations. Opinions and rulings on the eligibility of fraternal organizations are reflective of the struggle between their ostensibly private and public purposes. Successive Attorneys General's opinions have stressed the fraternal and charitable purposes required for a tax exemption.⁸⁴ Opinions have also endorsed proportional valuation and partial exemptions on several occasions.⁸⁵ Most recently, an Attorney General opined that a nonprofit social or country club is eligible for ad valorem tax-exempt status, only if it is organized for both charitable and fraternal purposes.⁸⁶

In the long run, the state should review its position on the eligibility of fraternal organizations and exemptions. For one, it needs to resolve the constitution's ambiguous treatment of the issue. Eliminating the fraternal exemption would not necessarily prevent these organizations from gaining exemptions; they could still be eligible under the charitable and welfare exemption categories. Taking this step would, however, force assessors and applicants alike to pay closer attention to the quid pro quo aspects of each exemption bargain involving a bona fide fraternal benefit organization.

Educational Purposes

Among the least controversial of exempt purposes, the educational exemption is probably also the most wide-reaching. It is difficult to imagine a single individual who does not benefit from it directly; virtually

everyone passes through the doors of a public or nonprofit educational institution at some point.

All 50 states exempt public and non-profit property used for educational purposes. Eligible property runs the gamut from day-care centers through colleges and vocational schools. Differences in the treatment of educational property across the nation are far less pronounced than in the case of some of the other exempt purposes already discussed.

In terms of the quid pro quo of an exemption bargain, the case for indirect subsidization of education is straightforward. The public good aspects of elementary and secondary education are typically thought of in terms of a socialization function, i.e., the creation of an educated citizenry sharing a common set of values. To a lesser degree, this argument also applies in the case of non-profit private elementary and secondary schools. These, it can also be added, provide diversity and choice, and also provide more room for experimentation. Further, students attending private schools lessen the financial burden that would otherwise fall on the local public school system.

The public good aspects of higher education are not as clear-cut. In most cases, the benefits of a degree accrue primarily to the individual and secondarily to society. Accordingly, students at public universities and colleges are expected to share the costs of their advanced education. For a given jurisdiction, however, the direct economic benefits and impact of a public or nonprofit university are usually more apparent. Because institutions of higher education are labor-intensive providers of high cost services, they are major players in a local economy. Also, the presence of a research university

can play an important role in the location decisions of individual firms and even whole industries. For these reasons, governments often feel compelled to provide key educational institutions with additional exemptions. An example of this is Tulane University, which is singled out by the state constitution as the recipient of a constitutionally protected \$5 million tax exemption to cover property tax liabilities not otherwise covered by the regular educational exemption.⁸⁷

The states surveyed for this report generally exempt any nonprofit educational institution. By and large, the exempt status of public schools and universities is an implied derivative of the general exemption of public property. The non-controversial nature of the educational exemption is reflected in the relatively sparse attention it receives in the statute books compared to other exemptions.

The Practicalities of Exempting Educational Property

A direct result of the clear public good justification to be made for education, the practicalities associated with exempting educational property are more or less confined to the gray area issues:

Ascertaining the Credibility of the Applicant Organization: The information requested for this purpose depends of the definition of an educational institution employed. While some states (such as Florida) construe educational institutions narrowly, defining eligible educational institutions in terms of accreditation or state certification and requiring regular classes and courses of study,⁸⁸ states such as Nebraska are willing to extend the exemption to less formal educational ventures such as museums or historical societies.⁸⁹ All of the states surveyed require non-public

institutions to demonstrate that they are not organized for profit.

Restrictions on Eligible Property: There are few examples of states imposing limitations on eligible educational property, but among those that do, the concern is with the reasonableness or the extent of the property used. For example, both Iowa and Indiana limit the number of acres of land that can be exempted, with Indiana singling out athletic grounds.⁹⁰ Focusing on the public purpose to be achieved, Nevada is among few states willing to sever the link between ownership of property and exemption eligibility; it extends eligibility to property leased to certain public colleges and universities, as long as the rents charged are at least 10% below fair market rates.⁹¹ Missouri is careful to insure that its educational exemption underwrites a public purpose directly by requiring that exempt property be actually and regularly used exclusively . . . for schools and colleges . . . , and explicitly prohibits the holding of property for investment purposes, even if income generated is used to underwrite the exempt purpose.⁹²

Non-Related Income: The only opportunities for earning non-related income explicitly addressed in our sample of states were bookstores,⁹³ college union food services,⁹⁴ the seasonal leasing of college property,⁹⁵ and the holding of property for investment purposes. It is only in the latter case that exemption eligibility was threatened by the generation of non-related income.

Other sources of non-related income, such as revenue from parking garages, sports events and products bearing school or team logos, were not addressed in the statutes BGR reviewed. Where states permit partial exemptions, or require that an exempt property be used exclusively for an exempt purpose, the issue of non-related income is moot.

Performance of Charitable Acts: In limited circumstances, it might make sense to limit an exemption subsidy only to those schools offering need-based financial aid. Justification for such limitations would have to be based upon limited public resources and ability to pay arguments. In certain instances, the case could be made that some private educational institutions do not need indirect public subsidies.

Options for Orleans Parish Assessors

Under the current legislative framework, non-profit status and establishing an educational purpose is sufficient to meet the basic criteria for exemption eligibility. The legal context presents a similar picture; in the very few legal challenges mounted, Louisiana courts have endorsed this reading of constitutional intent, subscribing, in essence, to a remarkably consistent national subsidization decision.

The vagueness of constitutional provisions means that assessors operate with virtually no guidance, other than precedent, on how to construe an educational purpose or an educational institution. For instance, as a non-profit organization with an ostensibly educational mission, BGR could probably apply for an educational exemption if it owned rather than leased its offices. The assessor receiving the application would probably approve the exemption on the grounds of BGR's status as a nonprofit corporation or association,⁹⁶ but would be hard put to engage in a quid pro quo assessment of the costs and benefits of the exemption to the taxpayer.

Remaining Second Category Exemptions

Unlike the components of the catchall statement, which are treated with remarkable similarity by states across the

nation, the remaining second category exemptions under Art. VII §21(B) are fairly unique to Louisiana. Consequently, it has not been possible to identify many best practice examples through a national survey.

Property leased to a nonprofit for use solely as housing for homeless persons (Art. VII, § 21(B)(1)(b))

This exemption is really a subset of the charitable exemption. It is noteworthy in Louisiana for breaking the link between ownership and exemption eligibility. Property owners willing to lease their property at a nominal rent of no more than \$1 per year to a nonprofit for a homeless shelter can enjoy exemption, even though the owner himself would not otherwise be exempt.

The constitution's description of the homeless exemption is uncharacteristically detailed. It specifies that property exempted must comply with applicable health and sanitation codes, specifies a minimum lease period of five years, and emphasizes that continued eligibility is contingent upon the exclusive use of exempt property. Finally, it explicitly requires the termination of the property's exempt status should there be any change in use.

This is probably the most circumspect legislative language pertaining to any of the exemptions discussed in this report. It provides a good example of a targeted and thoughtful use of public money to achieve a public purpose. Moreover, it specifies the conditions for continued eligibility, making it a good example of an exemption bargain.

The Orleans Parish assessors management information system does not include a homeless shelter category.

Property of a bona fide labor organization representing its members or affiliates in collective bargaining efforts (Art. VII § 21(B)(2))

Among the state statutes consulted for this report outside of Louisiana, BGR was unable to find a single example exempting labor organizations representing its members or affiliates in collective bargaining efforts.⁹⁷ This may be because there is no apparent reason why governments should subsidize labor union property. After all, labor unions promote the interests of a private membership. Because there are no clear quid pro quo outcomes, it is very difficult to make a public purpose argument for subsidizing labor organizations. An argument might be made that the achievement or maintenance of harmonious labor relations has public purpose implications, but it is unclear that local property tax exemptions contribute to this goal in any meaningful way. Case law pertaining to property used for collective bargaining purposes in Louisiana has been limited, and Attorney General opinions do not shed light on the constitutional intent.⁹⁸

Louisiana's explicit exemption of labor unions for exemption purposes is unusual. For instance, in the case of Alaska, in one of the few examples we were able to find of exempt property owned by a labor union, eligibility was granted after a favorable court-ruling which based its decision upon usage of the property for job training, i.e., educational, purposes.⁹⁹ Similarly, although the State of Alabama does not explicitly exempt labor unions, it has extended the exemption to the Fraternal Order of Police. Also, some counties have passed local legislation enabling them to exempt properties owned by specific labor unions.¹⁰⁰

The Orleans Parish assessors information management system maintains a separate classification for exemptions granted labor organizations. In 1996, the labor unions category consisted of 38 properties with an assessed value of \$2,873,890 for all districts.

Property of . . . a lodge or club organized for charitable and fraternal purposes . . . nonprofit corporation devoted to promoting trade, travel, and commerce, and property of nonprofit trade, business, industry or professional society or association
(Art. VII, § 21(B)(3))

In what follows, the legitimacy of exemptions for this group of organizations is discussed in terms of the litmus test applied to exemptions throughout this report: does the exemption result in the production of public services that could otherwise not have been made available in sufficient quantities? As is the case for the vast majority of exemptions enumerated in the Louisiana Constitution, interpretation is hampered by the absence of definitions.

Lodge or Club: Due to the requirement that such organizations be organized for charitable and fraternal purposes, this exemption largely duplicates the fraternal purposes exemption enumerated in the catchall statement.

Nonprofit Corporation Devoted to Promoting Trade, Travel and Commerce: BGR was unable to identify a single example of another state that offers property tax exemptions to nonprofit trade organizations. Thinking through conceptual problems associated with capturing the quid pro quo benefits potentially associated with this exemption provides some insight into why its application is anything but widespread.

First, when eligibility is framed in highly general terms, it is difficult for assessors to

insure that a trade, travel or commerce promotion agency will not focus disproportionately on a single or small group of industries. When exemption eligibility can be tied to the performance of specific outcomes, this is not a problem. When outcomes are difficult to measure and eligibility is an automatic entitlement, good value for taxpayers money cannot be assured. Second, even though this exemption may have its origins as a political response to a small group, an eligibility entitlement approach means that there is conceivably no upper limit on the number of eligible organizations.

One way of circumventing the accountability problem in this instance is to have a governmental agency or specially created quasi-governmental body assume responsibility for promoting general aspects of a political jurisdiction s economy. Florida provides an interesting variant of this approach. Even though it does not provide automatic exemptions to nonprofit organizations promoting trade, travel or commerce, it still gives local governments the ability to actively develop under-utilized local economic assets. Accordingly, the Florida Industrial Development Act authorizes local governments to issue bonds to finance the construction of trade and tourism centers, as well as a host of other projects, which improve the prosperity and welfare of the state and its inhabitants.¹⁰¹ Local authorities enjoy broad discretion in entering into agreements to achieve specific public purposes. Property financed in this manner is eligible for property tax exemptions. Additional cost savings result from the fact that state and local bonds are deductible from federal income tax liabilities. Amortization of the bonds is the responsibility of the promotion agency leasing the specially constructed property.

A 1976 Louisiana Attorney General's opinion stressed that organizations applying for this exemption had to demonstrate a singleness of purpose, as well as exempt status from both federal and state income tax.¹⁰²

Nonprofit Business, Industry or Professional Associations: In BGR's review of enabling legislation in states across the nation, it was able to identify only one state that extends exemptions to some form of special interest or professional association. New York State permits local authorities to opt to provide exemptions to bar associations and medical societies.

The primary reasons why so many states do not follow Louisiana's approach in this regard are no doubt related to arguments just made with respect to labor unions; private associations are not theoretically sound candidates for subsidization when it is questionable that subsidization enables the production of an under-consumed public service.

Third Category Property Tax Exemptions

Property tax exemptions for cultural, Mardi Gras carnival, or civic activities are available only in cases in which property is not operated for profit to the owners. (Art. VII §21(C)(12). As with other exemption categories, the absence of definitions for these terms complicates interpretation.

Cultural: Nonprofit organizations that could conceivably claim exemption eligibility on the grounds of a cultural purpose include museums, historical societies, theaters, and libraries. Although we did not come across other states with an explicit cultural exemption, several

states extend eligibility to organizations performing cultural activities. For instance, Arizona exempts property owned by arts and science organizations.¹⁰³ Similarly, Ohio exempts community center or area center property used for charitable or public purposes, including presentations in music, dramatics, the arts and related fields.¹⁰⁴

In other states eligibility for cultural exemptions is a derivative of charitable exemptions. In Texas a charitable organization . . . promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir . . . is eligible for exemption. Similarly, even though Nevada does not explicitly provide exemptions for organizations of this sort, it has been able to interpret its charitable exemption broadly to include a theater group organized to give shows on a nonprofit basis, on the grounds that charity and charitable purposes have broader scope than mere relief of poverty and distress.¹⁰⁵ Likewise, California construes museums as serving a charitable purpose.¹⁰⁶

Public subsidization of cultural activities or the arts can be justified on the basis of public good arguments, but also on economic development grounds. A vibrant cultural scene contributes to quality of life perceptions, with implications for the tourism industry, but also, increasingly, for industrial location decisions.

The Orleans Parish assessors do not maintain a separate cultural exemption category. Case law treating eligibility questions for cultural exemptions is limited.¹⁰⁷

Civic: Among the states surveyed for this report, BGR was unable to identify an example of another state that explicitly extends property tax exemptions to

organizations for civic purposes. However, this is not too say that other states do not provide exemptions for arguably civic purposes. For example, Arizona extends exemptions to volunteer roadway clean-up and beautification organizations.¹⁰⁸ Assessors in Louisiana appear to construe a civic purpose broadly. A 1963 Attorney General's opinion found that an incorporated garden society with the objects to encourage an interest in plants in schools and in the beautification of the school playgrounds, to encourage and promote the beautification of city parks under the direction of the parkway commission, to distribute flowers to hospitals and asylums, and to make New Orleans the garden center of the country, would be entitled to a tax exemption.¹⁰⁹

The Board of Assessors does not maintain a separate classification to keep track of civic exemptions.

Mardi Gras Carnival: In the United States, this exemption is obviously unique to Louisiana, and it has economic implications for the region as a whole. The exemption is also justifiable from a cultural perspective. Given that this classification serves both private and public purposes, property owned by carnival krewes should be treated similarly to property owned by fraternal organizations. Only Mardi Gras carnival organizations that parade should be eligible under this exemption category. Non-parading carnival organizations should be treated as fraternal organizations for exemption purposes.

As is the case for virtually all of Louisiana's exemptions for organizations performing goodwill activities, assessors considering applications for cultural, civic, and Mardi Gras exemptions have the power to evaluate the pertinent facts in detail before making a decision. Barring legislative action defining activities

associated with these exemptions, assessors should focus on coping with gray issues such as unrelated property use, unrelated income generation, and evaluate eligibility in terms of quid pro quo outcomes.

Part III: Practical Issues in Approving and Managing Property Tax Exemptions

Part II of this report argued that to be effective, enabling legislation should focus attention on the quid pro quo outcomes of individual exemption bargains by requiring so called tax expenditures or subsidies to be treated as regularly budgeted expenditures. This part argues that procedures for substantiating the continued eligibility of exempt organizations are as important as those governing initial eligibility criteria.

The quality of assessment administration in a given district is not solely dependent upon the circumspection of enabling legislation. Enforcement of the legislation is important as well. Similarly, the human element should not be left out of the equation. Minimalist approaches to satisfying statutory requirements can compound the detrimental impact of flawed legislation. Sometimes how something is done is as important as what is done.

Unless exemptions are managed with diligence, and unless exemption practices pay close attention to outcomes, procedures involving the allocation of public funds lack accountability. Also, when the true costs and benefits of exemptions are not documented, officials and the public cannot make important policy decisions; opportunities for self-evaluation and improvement are missed.

The following issues are discussed in turn:

- ▶ First, the importance of linking initial applications to specific legislative provisions and language;
- ▶ Second, the ability of assessors to extract pertinent information from applicants;
- ▶ Third, how frequently or whether or not assessors can keep track of exempt organizations actual activities;

Property Tax Exemption and Assessment Administration

- ▶ Fourth, the treatment of property for valuation purposes once it is placed on the exempt rolls;
- ▶ Fifth, policies surrounding the discovery of exempt property in violation of the terms of an exemption; and
- ▶ Finally, the transparency of the exemption process.

Classification of Applications for Exemption

For the sake of accountability, information manageability, and ease of analysis, application forms for exemption should relate a proposed exempt purpose to specific constitutional or statutory language. The discussion of the catchall exemptions above suggests that it is difficult for assessors to evaluate the contractual obligations that come with individual exemptions when the application process does not differentiate among different exemptions. Catchall exemptions contribute to an entitlement mindset that rewards mere organizational status rather than the actual delivery of public services.

In this vein, application materials set the tone for eligibility, and can emphasize the service responsibilities of exempt organizations. In the absence of uniform exemption application forms promulgated at the state level, local assessors have an important role to play in defining and defending a jurisdiction's interests by adopting application forms consistent with constitutional and legislative requirements.

The Orleans Parish assessors management information system tracks exemptions using a classification system that is different from the categories

implied by the constitution. Also, because properties are seldom reappraised once they are placed on the exempt rolls, assessors are unable to provide taxpayers or elected decision-makers with accurate information on the true costs of exemptions.

Information Requirements and Application Forms

Application forms should be rigorous and comprehensive, tailored to the specific information requirements of each exempt purpose, and tied closely to constitutional language, enabling legislation, and relevant case law. Applications should place the burden of demonstrating eligibility squarely on applicants. Assessors should be able to use the application forms to evaluate the ability of an applicant organization to deliver services associated with specific exempt purposes. Information that all applicants should have to provide, regardless of the exempt purpose at hand, includes the following:

- ▶ Evidence of non-profit status;
- ▶ Recent tax returns;
- ▶ Articles of incorporation and association, as well as bylaws;
- ▶ Recent financial data, such as audited statements of revenues and expenditures and balance sheets;
- ▶ Information on organizational structure, reasonableness of human resources employed and compensation provided, names of all officers, staff, and any other compensated entities;
- ▶ Full descriptions of the relationship between assets being exempted and the exempt purposes being performed;

Part III: Practical Issues in Approving and Managing Property Tax Exemptions

- ▶ Whether a complete or partial exemption is being sought;
- ▶ Information on target beneficiary groups and proposed delivery arrangements;
- ▶ Ownership history of the property, as well as information on property finance arrangements.

In addition to the general information outlined above, information specific to different exemption categories should be collected, e.g., in the case of a health organization, whether or not it provides services to indigent patients free of charge.

Appendix D contains model application forms recommended for the assessors use. These forms were developed by BGR based on its review of how practices in other states can be tailored to Louisiana s unique situation. The forms have multiple parts. The first sections solicit basic eligibility information common to all exempt organizations. The remaining sections apply to specific exemption categories and require information unique to each category.

To insure a maximum level of accountability, assessors should take advantage of the authority they have to compel applicants to furnish relevant information and documentation. By statute, Louisiana assessors have the right and power to require of any property holder an inspection of his books and accounts, and shall have the right to examine them in full. ¹¹⁰

Exemption application materials currently used by the assessors do not elicit the information needed to make sound exemption eligibility determinations. A copy of a one-page application form used in Orleans Parish is provided in Appendix E. The form merely asks applicants to check

one of the exempt purposes enumerated in the catchall statement. (The same information is required regardless of the category of exemption requested.) All applications must include copies of the organization s charter, articles of incorporation, as well as proof of federal non-profit status. Other information requested includes current use of property, percentage of property used by applicant, percentage of property used by other organizations, time required to convert property to exempt purpose, estimated holding period, as well as ownership. Applicants are informed of the rights of the assessor to request additional information such as financial statements, but the additional information is not mandatory.

While the current application form shown in Appendix E is a worthwhile tool to assist in the administration of exemptions within the limitations of Louisiana s inadequate constitutional provisions, BGR suggests that other states application processes provide excellent examples for improving the practice in Orleans Parish. The sample forms provided in Appendix D adapt those examples for use in Louisiana.

By improving the application process for exempt property, assessors can more systematically determine whether the property for which an exemption is sought is entitled to an exemption under the constitution. The requirements of §21(B)(1) of the constitution boil down to a checklist of five criteria:

- ▶ The organization or association must be a nonprofit corporation;
- ▶ It must be organized *exclusively* for the constitutionally allowable purposes: religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational;

Property Tax Exemption and Assessment Administration

- ▶ No part of its net earnings may inure to the benefit of any stockholder or member;
- ▶ It must be exempt from federal or state income tax; and
- ▶ The property for which an exemption is sought is not owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

Determining the eligible status of a nonprofit organization is the first step in the exemption approval process; it is also generally the last step. Under Louisiana's 1974 constitution, qualifying nonprofit ownership effectively exempts all property owned by that organization, so long as it is not used for purposes that are both commercial *and* unrelated to the organization's exempt purposes.

Accordingly, it is critical for the assessors to make good decisions about exemption eligibility from the outset. Once an organization is determined to be eligible for an exemption, there is no limit to how much of its property can be exempt.

Frequency of Application

Exemption approvals that are valid indefinitely do not promote public accountability. Because it is inevitable that the effectiveness and priorities of nonprofit organizations change over time, continued eligibility should be periodically and systematically affirmed.

For instance, exempt organizations in Florida other than churches, cemeteries, public property and community colleges are required to reapply on an annual basis.¹¹¹ In some cases, a certified oath stating that no change affecting eligibility has occurred since the exemption was last approved is acceptable. Most exempt

purposes in Texas involve annual reapplication.¹¹² In Oregon the frequency with which some exempt organizations are required to apply for renewals is at the discretion of the assessor.¹¹³ North Carolina requires initial applications for religious, charitable, educational, scientific and literary property; annual applications are required for certain kinds of exempt property.¹¹⁴ Reapplication cycles of more than one year are used in other states.

Besides the accountability aspects, frequent reapplication requirements can be more cost effective than assessor-initiated eligibility checks. Annual reapplication also provides for an excellent opportunity to review assessments of exempt property.

In Louisiana, exemptions for non-profit organizations are valid until a local assessor has cause to believe otherwise, and takes action.

Valuation of Property on Exempt rolls

Open-ended approvals have an additional unwelcome consequence. Because reappraisals of exempt property are revenue neutral, assessors can be tempted to neglect updating these property values. While understandable from an immediate cost perspective, inaccurate or out-of-date assessments make it virtually impossible for the public and decision-makers to evaluate the true costs of exemptions.¹¹⁵

Missouri statutes require assessors not only to keep assessments of exempt property up-to-date, but also to make annual calculations of revenue lost to the jurisdiction.¹¹⁶ Likewise, Indiana law requires assessors to appraise all property in the usual manner, whether or not it is exempt from taxation.¹¹⁷

Louisiana assessors are required to include exempt as well as taxable property on the assessment rolls submitted to the Louisiana Tax Commission (LTC), which is the state agency responsible for overseeing local assessment operations. There is no statutory provision outlining the LTC's expectations regarding the frequency with which exempt property is appraised.

Discovery Procedures

Whether or not periodic application renewals are required, there should be standard procedures aimed at discovering property that has been either improperly classified, or is in violation of the terms of an initial exemption. At the very least, assessors should conduct spot-checks of exempt property on a systematic basis.

A unique approach is taken in Iowa, where any taxpayer or tax district may apply for revocation of an exemption on the grounds of an alleged violation of eligibility terms.¹¹⁸ In North Carolina, assessors maintain exemption and exclusion files and are required to review at least one eighth of such properties each year.¹¹⁹

The ability of assessors to take action against organizations violating the terms of an exemption bargain can influence overall rates of compliance. When penalties are negligible, non-compliance is financially attractive. For example, in Florida penalties for non-compliance can amount to up to ten years of back taxes at 15% annual interest, plus a penalty of 50% of the taxes exempted.¹²⁰ In stark contrast, restitution in Louisiana is limited to no more than three years of back taxes for property that is incorrectly omitted from assessment lists or improperly assessed.¹²¹

Louisiana law authorizes the state supervisor of public accounts to inspect assessment rolls and to search for taxable property not on the rolls.¹²² Local assessors and tax collectors are required to assist, advise and aid in this endeavor.¹²³ If taxable property is found to have been improperly left off of the assessment roll, the assessor could suffer repercussions. A tax assessor who intentionally or knowingly or through negligence omits any taxable property from the assessment list . . . shall be liable on his official bond for the full amount of the taxes due on the property so omitted from the list, together with ten percent interest per annum thereon from the due date of the taxes, ten percent attorney fees on the amount of the judgment recovered against him, and all costs of the suit.¹²⁴

Despite the statutory authorization for oversight, BGR was unable to identify any formalized exemption discovery measures actually implemented at the state or local level. While exempt property is included on the assessment rolls, property improperly classified as exempt is technically equivalent to taxable property not on the rolls¹²⁵ and ought to be subject to routine discovery efforts.

Despite the absence of formalized discovery procedures, BGR notes that it is the assessors' practice to rectify unwarranted exemptions as they are found. (The recent court decisions involving exempt properties testify to this effort.) However, the better practice is to make exemption discovery efforts a firmly established part of routine operations.

Transparency

Because the costs of exemptions granted are borne by nonexempt taxpayers, transparency and openness to the public is

Property Tax Exemption and Assessment Administration

an essential component of exemption procedures. Citizen involvement and awareness are needed to foster trust in the system. Transparent procedures include adequate advance notification of public hearings on applications for exemption, easy access to records in the public domain, easy access to summary management information on exemptions, and even the publication of lists of recently approved exemptions in a paper of general circulation.¹²⁶ Similarly, taxpayers might take more notice of the exemption process if assessment notices included information on the net impact of exemptions on each taxpayer, i.e., an estimate of how much lower a bill would be without exemptions. While none of the assessor websites reviewed by BGR provided on-line access to exemption data comparable to that provided for taxable property, there is no technical reason why this information could not be made available in an accessible format.

Other than following the LTC's rules and regulations with respect to public exposure of assessments, Louisiana assessors are not required to notify the public of pending applications for exemption, or to otherwise make information on exemptions available to the public.¹²⁷

Part IV: Assessment Administration in Orleans Parish

Assessors face the unenviable task of having to estimate true market values for thousands of properties, a task that is greatly complicated by the fact that true market values are seldom observable directly. Although they navigate a field that is part art and part science, assessors today can draw upon a well-developed body of theory, as well as generally accepted standards on valuation. In North America, the International Association of Assessing Officers (IAAO) plays a leading role in setting comprehensive standards regarding assessment administration.

An effective system of ad valorem taxation demands appropriate, transparent, and, above all, consistent approaches to measuring value. The implications of an ineffective system of ad valorem taxation are serious. Inferior assessment practices can result in poor uniformity or unequal tax burdens, high tax rates, and reduced confidence in assessments.

Part IV of this report offers an analysis of key components of an effective assessment system.¹²⁸ It compares and contrasts recommended International Association of Assessing Officers (IAAO) standards with the actual legal authority, practices, and resources of the Orleans Parish Board of Assessors. The issues addressed are:

- ▶ Data collection and management;
- ▶ Assessment levels and uniformity;
- ▶ Mapping;
- ▶ Public relations and assessment appeals;
- ▶ Property assessment methods and CAMA;
- ▶ Evaluating assessment practices; and
- ▶ Education, training, and certification requirements.

Data Collection and Management Provisions

Accurate and consistent valuation practices are inextricably linked to effective data collection procedures. In fact, data collection is the single most important component of an assessment system. It is also the most costly and labor intensive.

The IAAO stresses the need for assessors to approach data collection in a routine and programmatic fashion. This entails the gargantuan task of building and maintaining an accurate inventory of all real property in a jurisdiction, as well as instituting routine procedures for collecting sales, income, and cost data.

Inspections of Property

The IAAO recommends that all property be physically inspected, exteriors and interiors, at least every four to six years. These costly re-inspections of property are typically conducted as part of mandatory district-wide reappraisals. The forms used by appraisers to record pertinent information should be designed in such a way as to facilitate data entry for electronic record keeping.

In Louisiana, assessors are required to conduct reappraisals of different property classifications at least every fourth year,¹²⁹ or when the LTC orders a reappraisal due to poor ratio study findings. In contrast to IAAO recommendations, interior inspections are not authorized in Louisiana. Assessors can opt to collect information on the interior aspects of a property through self-assessment forms that rely upon property-owners to evaluate property attributes honestly and consistently. The accuracy and fairness of self-assessment is open to question. This

poses a major stumbling block for the credibility of appraisals. However, it does moderate the cost of reappraisals.

While state oversight agencies in other states are sometimes required by law to assume some, if not all, of the costs associated with reappraisals, there is no such legal requirement in Louisiana. Not surprisingly, especially for highly populated urban assessment districts such as New Orleans, this unfunded mandate causes fiscal headaches.

Routine Collection of Data

Sales data play pivotal roles in all three approaches to assessing value discussed later in this part. Ineffective data collection undermines the quality of all appraisals

Assessors should institute programs that enable routine and continuous collection, as well as electronic processing of data. To some extent, such programs require cooperation and data-sharing arrangements among municipal departments. This is especially true for zoning, building permit, and code enforcement functions. Assessors should also have programs in place for the routine collection of sales, income and cost data. In all of this, assessors should seize upon opportunities to incorporate information technology seamlessly into data collection and workflow processes.

The computerized management of basic parcel level and market data would facilitate the cataloging of adjustments that need to be made, and would be a good foundation for taking advantage of a modern Geographic Information System (GIS), discussed in more detail later in this report.

Data collection programs should emphasize both timeliness and reliability. Sales data should be computerized and stored in a separate sales file that includes relevant property attributes, parcel identifiers, sale date, and price, as well as information on the nature of the property transfer. This information should then be used systematically to adjust the assessed value of all properties according to market trends. Sales data should not be used directly to adjust *only* the assessed value of the parcel to which that particular sale applies. This practice—sales chasing—is widely considered to be an unacceptable approach to mass appraisal. See Appendix F for more discussion on sales chasing.

All property sales actually used for valuation purposes or for ratio studies should be subject to rigorous validation procedures. An assessor needs to determine whether a sale is a bona fide arms length transaction. Sale price distortions caused by untypical finance arrangements, sales of convenience, tax sales, or sales between family members should also be excluded from the analysis. Sales can be validated through mail questionnaires, phone interviews, as well as through personal contact.

Sales data can be purchased from private agents, but is more typically collected at the state and local level. Florida statutes require completion of a state property transfer form. In the case of Orleans Parish, state law requires the Register of Conveyances, Civil Sheriff, and notaries public to notify the Board of Assessors of all property sales. Statutory provisions hold the Sheriff as well as notaries accountable for non-compliance.¹³⁰ Currently, this information is transferred to the Board of Assessors in paper rather than electronic form. Sharing this information in a common database with

appropriate access controls for privileged computerized information would eliminate duplication and unnecessary delays in data transfer. It should also reduce costs.

Cost data can be collected in a variety of ways. Basic cost manuals can be purchased from commercial agents, but might need to be adjusted for local conditions. In some states, cost data is collected and furnished by a state oversight authority.

Collection of cost data at the local level involves surveying owners of recently constructed properties, as well as cost questionnaires completed by contractors, builders and developers. Assessors can pay contractors to make estimates of what it would cost to construct hypothetical benchmark structures.

Cost manuals can be purchased in electronic format, or are easily converted to electronic format. Computerization of cost items facilitates periodic adjustments to account for changing market conditions and inflation. Cost indexes are available from a variety of private and public sector publications. The LTC requires Louisiana assessors using the cost approach to purchase cost schedules from an approved private sector cost service.¹³¹

Methods for collecting income and expense data include direct requests of the accounting books for a commercial property, mail questionnaires, personal contact, telephone, information revealed in assessment appeals, and published data.¹³² National income and expense data should be adjusted to reflect local market conditions. Income data should be collected by senior appraisers or individuals with considerable experience and expertise in valuing commercial property.

Assessment Levels and Uniformity

The three traditional approaches to appraising (sales, cost and income) are all designed to yield accurate estimates of market value. See Appendix I for a discussion of the economic assumptions underlying these valuation methods. But assessment rolls do not list market value; they record an assessed valuation based on a percentage of market value specified in Article VII, §18 of the Louisiana Constitution. These percentages are:

| | |
|---|-----|
| Land: | 10% |
| Residential Improvements: | 10% |
| Electric cooperative properties, excluding land: | 15% |
| Public service properties, excluding land: | 25% |
| Other property: | 15% |

Assessment levels that deviate from the constitutional standards have tax base, tax rate, and equity or uniformity implications. The primary tool used to test assessments for accuracy and fairness is the ratio study. The technical details of ratio studies are described in more detail in Appendix F. The discussion below provides only a general overview.

Assessment ratio studies are performed internally by local assessors testing for uniformity within their jurisdiction, as well as externally by state oversight agencies. Ratio studies are used to measure whether property is being assessed properly, and to test for geographical or classificatory uniformity, such as between neighborhoods or residential and commercial property. The basic approach consists of taking a statistically valid sample of comparable

properties for which sales data are available, and comparing these to assessed values. When there are no sales data, it is still possible to use independent appraisals of individual parcels in lieu of sales data in a so-called appraisal ratio study.

The overall accuracy of assessments can be gauged by calculating a ratio of assessed value to sales value for each property in the sample, and then calculating the average ratio for the sample as a whole. State oversight agencies typically set maximum limits expressed as a percentage of the median sales level. The LTC has set limits of 9 to 11% for residential and 13.5 to 16.5% for commercial property. These ranges reflect the acceptable variation around the 10% and 15% constitutional assessment ratios for residential and commercial properties, respectively.

When assessments fall outside of these specified ranges, property in a given district is said to be either under- or over-assessed.

Comparing assessed values to sales values does not furnish a complete picture of the accuracy of assessments. This is because seriously inaccurate assessments can cancel each other out in the averaging process. For example, the average between a 50% under-assessment and a 50% over-assessment would appear to be perfect if only the averages were examined. Therefore, oversight agencies use other measures that are independent of the level of assessment to test assessment variations.

The LTC uses the what is known as the Coefficient of Dispersion (COD) for its yardstick. The COD is the average absolute deviation of a sample of assessment ratios from the median, expressed as a percentage. In simple terms, this measure gets around the

problem of over- and under-assessments canceling each other out. The LTC considers a COD of 20% for commercial property and 15% for residential property as acceptable.¹³³

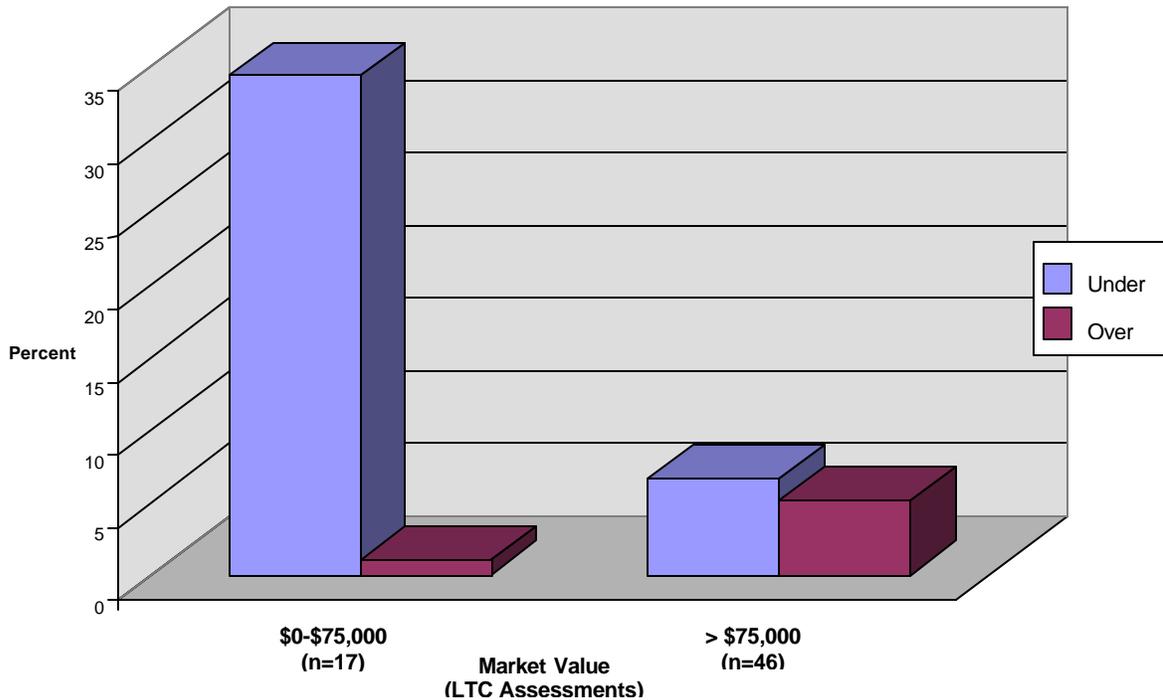
While the COD limits used by the LTC fall within IAAO guidelines, they still afford assessors significant leeway. Consider for example BGR's analysis of an assessment ratio study performed by the LTC on commercial assessments in a randomly selected district. The 1997 ratio study compared a sample of 63 local assessments with LTC assessments for the same properties. The average ratio of the assessor's valuation and the LTC's appraisal of fair market value was 15%,

and the COD was 17.58%. With these scores, the assessments fell within LTC guidelines. However, as Figure 1 illustrates, LTC certification of the tax rolls for this district did not necessarily imply that all taxpayers received equal treatment. High CODs are indicative of poor assessment performance and can mask systematic inequities.

In this particular sample, the local assessor appears to be under-assessing properties valued at less than \$75,000. Figure 1 expresses the degree of underassessment as a percent of the LTC's total valuation of properties falling into the sub-\$75,000 category.

**Figure 1
Commercial Over/Under-assessment**

Local Assessments as a Percent of Total LTC Assessments,
One Sample District



Source: LTC Ratio Study, BGR calculations

Property Tax Exemption and Assessment Administration

BGR performed an additional analysis of the LTC's 1998 residential ratio-studies. That analysis is detailed in Appendix F. It suggests that an assessment practice known as sales chasing could be inflating the LTC's estimates of the accuracy of assessments in Orleans Parish, *i.e.*, the LTC's statistical methods make assessments in Orleans Parish appear more accurate than they actually are. The flaw in LTC's methodology appears to be that LTC's sample included assessments that had already been adjusted to equal the actual sales price. In essence, LTC used a test where the answer to the test—the sales price—was known in advance.

Another way of analyzing de facto under- or over-assessment is to think in terms of whether a given property tax has a regressive, progressive or proportional impact. Figure 1 suggests a progressive property tax structure, with high value properties bearing a proportionately higher tax burden than low value properties. An unequal distribution of tax burden compromises the goal of uniformity. Uniformity within groups, such as between high and low value properties in the same jurisdiction, can also be tested for by calculating the Price-Related Differential.¹³⁴ PRDs greater than 1.00 indicate that high-value parcels are under-appraised, PRDs less than 1.00 suggest that high-value parcels are over-appraised. Neither the LTC nor Orleans Parish assessors use the PRD to formally evaluate the acceptability of appraisals.

When a state oversight agency uncovers uniformity problems between jurisdictions it either orders a reappraisal (as in Louisiana), or calculates equalization factors to adjust assessment levels to market value. In instances where uniformity within a neighborhood is lacking, equalization factors can aggravate

inequities because they require across the board adjustments.¹³⁵

Naturally, the availability of screened sales data is essential for reliable sales-ratio studies. Also important in this respect are statistically defensible sampling methods and a sample size large enough for the degree of accuracy required. While most states require ratio-studies, very few have statutory requirements that the samples tested be sufficient to yield statistically significant conclusions. Louisiana is one of the states without such guidance.

Mapping

Maps are the informational bedrock of an assessment system. They provide data on the size, shape, and location of property parcels (See Appendix G for an example of a property parcel map). IAAO mapping recommendations encompass the following:

- ▶ Maps should meet professionally accepted standards for size, scale, layout, etc.
- ▶ Maps should be as information intensive as possible, including boundaries of all parcels, parcel dimensions, block and lot numbers, names, and boundaries of subdivisions and plats. Depending on scale, the boundaries of political subdivisions as well as the names of streets, railroads, rivers, lakes, etc. should also be included. Each parcel should have a unique identifier, as well as geographical coordinates.
- ▶ Changes to maps should be recorded within one month of a deed being recorded, or some other reasonable predefined time period.
- ▶ Data on location attributes that are important influences on land value

(neighborhood, land use, topography, soil type, view, etc.) should also be recorded.

Maps tie taxable properties to taxpayers. Whether computer generated, or hand drawn, it is the quality of underlying research and information that counts most; procedures for updating information should be systematic and continuous. Otherwise, even a high quality map becomes outdated and of limited use.

As far as BGR was able to determine, the Orleans Parish Board of Assessors does not have a system in place for developing and updating property maps, nor does it make use of electronic maps. However, at least one assessor is considering the technology.

BGR recommends that the Orleans Parish assessors implement a uniform mapping program using an electronic Geographic Information System (GIS).

Electronic maps can be powerful analytical tools. They allow electronic databases to be viewed graphically, giving assessors the ability to choose from layers of information on customizable maps. For example, assessors can use color-coding to identify individual properties or neighborhoods with assessment level problems. It is also possible to use graphical displays of data to identify distinct market areas, i.e., neighborhoods or blocks in which market prices move together.

One advantage of GIS is the customization it affords, permitting the user to create maps with any desired level of detail, as well as eliminating the need for costly and time-consuming hand drawn maps.

Given the tremendous flexibility of electronic maps, it makes good sense for government agencies within the same jurisdiction to share underlying databases

and a graphical interface. This saves costs, but also means that changes recorded by one agency are automatically available to all other participants. Shared databases facilitate the updating of information, and avoid unnecessary duplication.

GIS is most cost-effective when it is implemented as an intra- and inter-governmental collaborative effort. Different organizations within a jurisdiction, as well as different jurisdictions, have overlapping data needs. Further, the initial setup cost of GIS is high, but once established, it is an economical matter for additional users to tie in with layers of additional data. As such a system grows, the synergistic effect of adding different types of data in the same system makes the system increasingly useful as an information management and policy analysis tool. Appropriate read/write controls can be used to protect data and limit access to proprietary information.

GIS systems also facilitate making data available to citizens through the Internet. Increasingly, jurisdictions are allowing citizens to view assessment maps and underlying parcel data. A good example of this capability can be found at the Clarke County, Nevada assessment website: <http://www.co.clark.nv.us/assessor/assessor.htm>. Other examples of assessor websites that provide high quality public access are provided in Appendix H. In addition to giving citizens immediate access to their information, such a self-service system can moderate an assessor's clerical workload by reducing citizen telephone inquiries and in-office data retrieval.

The New Orleans City Planning Commission has already developed GIS base maps for the city. Rather than starting a GIS system from scratch, the

Property Tax Exemption and Assessment Administration

Orleans Parish Board of Assessors should coordinate with the commission, which is the lead organization in New Orleans city government for GIS development.

The assessors could build on the commission's system by adding parcel-specific data. In addition to providing a useful management tool for the assessors, integrating with the planning commission's GIS system would improve the analytical capabilities of both organizations.

The US Geological Survey is currently funding a project to map the entire state of Louisiana using aerial color infrared photography. Phase II of the project is projected to be completed by the end of 1999. The maps will be in the public domain and are expected to be made available to the public on a parish by parish basis.

Several city and parish agencies are currently taking advantage of a National Association of Counties program that provides free GIS software, county or parish data sets, and training.

Public Relations and Assessment Appeals

Good communication between assessors and property owners can play an important role in preventing confusion and common misconceptions regarding property taxation, as well as build public confidence in an assessment office. To raise awareness of the technicalities and procedures involved in assessment administration, a local assessment office should have available for public dissemination non-technical brochures illustrating how property is assessed, how to question or appeal an assessment, and

how property tax obligations are calculated.

Access to information on assessments and assessment levels, preferably at public terminals in an assessors' office, or better yet, accessible from any PC connected to the internet, should give the public the ability to access property records by parcel identifier, address, and owner. An open door and informal approach to responding to initial inquiries or complaints assists in correcting assessment errors, eliminating misunderstandings, improving equity, and reducing the need for more formal forms of dispute resolution.

A first step to take in avoiding such misunderstandings is to make sure that assessment notices mailed to property owners provide information on how or why an assessment was changed in a user-friendly, understandable format. The IAAO has published standards for assessment notices.¹³⁶

Assessors' offices should also maintain up-to-date and accurate records of the status and disposition of appeals. Systematic procedures are needed to insure that decisions made by the local governing authority or state oversight agency are reflected in the property rolls. Collection of appeals statistics can help identify neighborhoods in need of reappraisals or indicate that the valuation model in use needs to be reviewed. Part of the public record, these statistics need to be made available to the public in a user-friendly format.

Once an appeal is initiated, it should be subject to several phases of deliberative review. When an initial informal contact between assessor and property owner fails to resolve a dispute, the property owner typically has two more chances to elicit rulings in his or her favor from a quasi-

judicial property tax review process: the second involves a local appeal or review board, the third a state property tax tribunal. Unresolved disputes involving fundamental disagreements on the interpretation of statutory or constitutional provisions can be appealed to the courts, with the state supreme court serving as the final arbiter.

The IAAO's Standard on Assessment Appeals stresses the importance of ensuring that the educational and professional qualifications of review board and tribunal officials are conducive to the fair and competent evaluation of disputes of a mostly technical nature. Ideal constituents of a board could include property owners, real estate appraisers, real estate brokers, mortgage loan officers, public accountants, lawyers, and other knowledgeable persons, none of whom hold elected or appointed public officer or who have ties or business relationships with the local government.¹³⁷ Likewise, the IAAO standard stresses that the state appeals tribunal, in the same manner as the judiciary, must be able to act independently from government without ties or conflict of interest.

Both of these recommendations are at odds with Orleans Parish's review process. The City Council and representatives of tax recipient agencies constitute the Board of Review. The only guaranteed source of appraisal expertise on the Board of Review is that of the assessor in question, who acts in a nonvoting and advisory capacity.¹³⁸

Property Assessment Methods and CAMA

Assessors determine fair market value using one of three general approaches:

- ▶ the sales approach, which infers a property's fair market value from the sales prices of comparable properties;
- ▶ the cost approach, which infers a property's fair market value by estimating the current cost of replacing or reproducing that property;
- ▶ the income approach, which infers a property's fair market value from its capacity to generate income.

The sales, cost, and income approaches commonly used in real property valuation, attempt to estimate market value, defined as the cash sales price that a willing buyer and seller would reasonably agree to in an arm's length transaction. Estimating market value using these techniques requires training in applied economic analysis and statistical methods, and can be data, as well as labor intensive.

The most appropriate method to use depends upon the property in question. The sales approach works best for relatively homogeneous properties that change hands frequently. The cost approach is typically used to value more unique properties, as well as new construction. Similarly, the income approach lends itself particularly well to the valuation of commercial property. Appendix I contains a more detailed overview of the underlying economic assumptions and practical challenges associated with the three approaches to valuing property.

Residential

In valuing residential property, usage should be made of both the sales and cost methods, with the latter being particularly useful in the case of recently constructed properties. For subdivision housing and condominiums, primary emphasis should

be placed on the sales comparison approach.

A determining factor in the accuracy of the sales approach, stratification of property types by neighborhood or market area is essential to enable useful comparisons.

The importance of collecting adequate sales data cannot be overemphasized. Sales data is needed to calculate accurate depreciation schedules, and is often an assessor's first line of defense in the appeal process.

Commercial

An important rule of thumb in valuing commercial property is that, whenever feasible, appraisals should be based upon at least two valuation approaches. In the case of unique and special purpose properties, this requirement sometimes has to be relaxed due to data constraints. Application of multiple valuation techniques is recommended due to the fact that the application of the income approach, theoretically and conceptually the most appealing approach, involves the complicated task of assessing or simulating variable market conditions. The results yielded by the cost and sales approaches allow an assessor to cross check the accuracy of income based estimates.

Because of the inherent difficulty in valuing commercial property, the IAAO also recommends that senior appraisers conduct field reviews of commercial properties to ascertain the reasonableness of estimates derived from valuation models.

Computer Assisted Appraisal Systems

Computer Assisted Mass Appraisal (CAMA) systems, in use since the early 1980s, allow remarkable increases in the productivity of assessment professionals. CAMA systems allow assessors to manage data on the characteristics of individual properties, and to apply appraisal data almost instantly to a large number of parcels to update assessed values to current market trends. They also provide assessors with opportunities to engage in routine and rigorous performance analysis. Computerized assessment and data collection systems can also be used to tie daily activity to an annual work-plan and provide assessors with daily up-dates of progress made toward the achievement of key milestones.

An important point to make at this juncture, however, is that CAMA should not be viewed as a silver bullet. As already suggested, valuing property is almost as much an art as it is a science. When a sales-based CAMA model is used to estimate property values, all value estimates should be reviewed and approved by experienced appraisers. Its many other benefits notwithstanding, the chief advantage of CAMA over the traditional approach to valuation lies not so much in the promise of greater accuracy as in the promise of greater consistency and impartiality.

In addition to cost savings, increased accuracy and fairness, taking advantage of the latest assessment technology can also make it easier for citizens to access public information over the internet, allowing them to compare the assessed value of their own home with that of other homes in their neighborhood. This capability already exists in other jurisdictions. See Appendix H for a sampling of interactive

assessor-maintained websites from other jurisdictions.

Evaluating Assessment Practices

An evaluation of the efficacy of a given assessment system must pay close attention to its specific institutional and political context. Important questions to ask in this regard concern the oversight and regulatory roles played by the state, as well as the underlying incentive structure under which assessors operate. Close attention should also be paid to the reliability of statistical methods used to evaluate assessment performance.

State Oversight and Regulatory Provisions

State statutory provisions and oversight shape the propensity and ability of local assessors to engage in effective and efficient assessment practices. Many of the problems related to the administration of property tax exemptions in Orleans Parish are rooted in a vague constitution and the absence of clarifying legislation. It is also argued that the constitutional requirement of seven assessors, as opposed to the typical single assessor per parish, carries with it a top-heavy cost structure.

Important aspects of the state oversight function include the quality of property assessment guidelines or how-to manuals, the extent and sophistication of available technical assistance, as well as standard-setting activities pertaining to the educational qualifications of assessment professionals, the required accuracy of assessments, public relations policies, and appeal procedures.

Incentive Structures

One of the most important aspects of the underlying incentive structure is the relationship between the local assessing unit and the state oversight authority. One dimension of this relationship is the extent to which the state is interested in ensuring that assessment levels are based on true market values. State interest typically varies depending upon whether or not there is a state property tax based on local assessments, as well as upon the degree to which state aid formulas rely on local assessments to calculate state to local intergovernmental transfer payments.

Louisiana abandoned its statewide property tax in 1971, but still provides compensatory payments to fund a portion of local assessment costs previously funded by the statewide levy. State participation in education finance via the Minimum Foundation Program is partially determined by assessed property values. Beyond that, Louisiana state government has little direct interest in local assessment practices.

Another issue bearing on incentives is whether assessors are elected or appointed. When assessors are elected locally, they can be more responsive to constituents than to a state oversight agency. Similarly, whether local assessors are elected or appointed also impinges upon their relationships with local parish or municipal governments. Elected assessors are probably more likely to resist efforts by local governments to maximize property tax revenue. Thirty states have locally elected assessors, so there is nothing unique about Louisiana's elected assessors.

Incentives can also be more overt. At least one state offers positive financial incentives to assessors who achieve

Property Tax Exemption and Assessment Administration

accurate assessments. For instance, Illinois state oversight agency will pay 50% of a county assessor's salary if assessment levels fall within a certain band. Assessors there are also entitled to receive a \$3,000 bonus when assessments meet statistically stringent standards of uniformity.¹³⁹

Typically, state oversight agencies, the Louisiana Tax Commission included, order local assessors to conduct reappraisals when statistical tests for accuracy and fairness indicate that assessments are unsatisfactory. Because reappraisals are highly labor intensive and costly, the specter of reappraisal provides assessors with an incentive to meet state guidelines. The effectiveness of this enforcement mechanism is highly dependent upon the quality and consistency of statistical methods used to identify assessment problems. See Appendix F.

Similarly, exemptions can have a profound influence on assessment practices. The unequal treatment of different property classifications can sometimes provide assessors with incentives to assess property in a non-uniform matter. Louisiana's generous homestead exemption provides the incentive for assessors to assess properties at unjustifiably different levels. The homestead exemption affects assessments directly and indirectly.

First, the HSE directly facilitates a pattern of assessment in which assessors have an incentive to over-assess residential properties valued at less than \$75,000, while under-assessing high-cost residential properties. Because owners of over-assessed property below the \$75,000 threshold typically remain tax exempt, they have little reason to demur. Likewise, property owners with high cost properties are also unlikely to complain

about low assessments for their properties. BGR's 1988 study, *Assessment Practices in Metropolitan New Orleans*, provided solid statistical evidence for this assessment pattern. As long as over-assessments offset under-assessments, assessment levels can remain within LTC guidelines.

This practice is more prevalent in property tax systems (such as Louisiana) that assess property at less than fair market value. As already mentioned, under LTC guidelines, residential property in Louisiana may be assessed on average at 9 to 11% of fair market value, commercial property at 13.5 to 16.5%.

Second, and indirectly, generous exemptions for residential property also provide strong incentives for assessors to over-assess commercial property. This is particularly true in the case of elected assessors. Residential property owners within a given district (usually voters) invariably outnumber commercial property owners living in the same district.

Internal Quality Control

Quality control issues addressed by the IAAO focus on good management practices and performance measurement. The routine and consistent work cycles involved in the assessment function are highly conducive to carefully mapped workflow procedures, including performance requirements setting the minimum number of single-residence properties expert appraisers can reasonably appraise per day, or the maximum number of days permitted to validate and record interdepartmental sales referrals, etc. Production standards and workflow procedures should be fully documented and made available to employees in work manuals.

Internal sales ratio studies can provide important feedback on assessment performance, as well as provide a rational and justifiable basis for prioritizing reappraisal needs.

For purposes of accountability, especially for appeals, assessors need to develop procedures for maintaining audit trails that keep track of valuation adjustments made to individual properties.

Last, but not least, the IAAO suggests that assessors should develop clear ethics and conflict of interest guidelines. General information pertaining to all of the above should be made freely available to the public.

As far as BGR was able to determine, Orleans Parish assessors have not formally delineated common work procedures, nor do they perform internal sales-ratio studies.

Education, Training, and Certification

A driving force in the productivity and effectiveness of any organization, the quality of human resources employed in the assessing function is essential. Assessing property requires considerable expertise and experience. IAAO recommendations on training stress the need for appraisers with knowledge of mathematics, economics, statistics, appraisal principles, as well as knowledge of computer-assisted mass appraisal techniques. Although a college education in a particular field is not essential, research has shown that assessment jurisdictions with well-educated appraisers tend to produce more accurate appraisals.¹⁴⁰ The IAAO also stresses the need for assessors to develop basic management skills.

Assessment professionals are typically certified at the state level. By exposing assessors to a common curriculum, statewide certification procedures help formalize training and insure that an assessor brings a basic set of skills to the job. Usually instituted by state oversight agencies, certification programs take two forms: assessors are either required to pass generally recognized courses offered by standard setting bodies such as the IAAO or the Appraisal Foundation, or obliged to participate in internal training programs.

By and large, requirements for elected assessors tend to be relaxed. For example, in New York state, elected assessors are given a three year grace period during which to obtain basic qualifications,¹⁴¹ or, as is the case in Nevada, assessors are sometimes exempted from certification requirements provided that assessors appraisal duties can be delegated to individuals who are certified.¹⁴² In states with more activist oversight agencies, continuing education is sometimes provided through mandatory state-sponsored training. For instance, Colorado's Division of Revenue is authorized to conduct an annual mandatory school for assessors and their employees for up to 15 days.¹⁴³ In Louisiana, the Louisiana Tax Commission is authorized (not mandated) to conduct or sponsor in-service, pre-entry, and intern training programs in conjunction with the Louisiana Assessors Association on the technical, legal, and administrative aspects of the assessment process.¹⁴⁴

Regardless of the stance taken by oversight agencies, ultimate responsibility for drawing up effective human resource management and development strategies rests with local assessors. The goal should be to develop well-rounded assessment

Property Tax Exemption and Assessment Administration

teams with formalized programs for developing and sharing expertise in increasingly complex areas of the field. Without a strategy to take advantage of rapid technological change and increasingly sophisticated valuation techniques through specialization, an assessor's office has little hope of keeping up in the information age. This is particularly true for a large, urban assessment district, which has a wide range of different land uses.

Louisiana has extremely relaxed entry requirements for elected assessors; they are largely unencumbered by formal training and certification requirements.

By statute, certification requirements for Louisiana assessors are purely voluntary. In essence, other than gaining the popular support and confidence of the electorate in a given district, there are no minimum qualification or educational requirements for holding the office of assessor in Louisiana. These lax requirements stand in stark contrast to the comparatively stringent training, experience, and continuing education requirements prescribed for private sector real estate appraisers seeking state certification in Louisiana.¹⁴⁵ They also fall far short of the prescribed body of knowledge the IAAO recommends.¹⁴⁶

The assessors professional certification program offers financial inducements to assessors to enroll and achieve passing grades in four IAAO courses.¹⁴⁷ After serving for two years as an assessor (or four years as a deputy assessor) and completing all course requirements, an assessor is entitled to the Certified Louisiana Assessor designation (CLA), and is rewarded with a 7% salary increase. Maintenance of this salary increase is contingent upon re-certification through

fulfillment of continuing education requirements over five year intervals.

The program is overseen by a certification committee composed of the chairman of the education committee of the Louisiana Assessors Association (LAA) who also serves as committee chair, one member appointed by the LTC, two CLAs and one certified deputy assessor, all appointed by the LAA. Currently, five of the seven assessors in Orleans Parish have CLA status.¹⁴⁸

Part V: Assessment Resource Requirements

Although resource requirements are to some extent a function of the level of quality demanded by the public, the IAAO publishes benchmarks for evaluating the cost of assessment administration. Comparing Orleans Parish to these benchmarks suggests a mixed picture. On the one hand, the unique system of seven assessors mandated by the constitution since the 19th century absorbs a large portion of the resources available. This leaves the assessors in the position of having to spread the remaining resources thinly. On the other, improved assessment technology, coupled with an administrative restructuring, could yield significant improvements in both performance and cost-effectiveness.

Before applying IAAO benchmarks and discussing options for improvement, it is useful to review the general make-up and statutory responsibilities of the Board of Assessors and its seven independent constituent members.

Board of Assessors

Because Orleans Parish has seven assessors, a Board of Assessors is needed to allocate funding among the seven assessors' offices. The constitution does not prescribe the board's specific responsibilities.¹⁴⁹ Similarly, statutory law is largely silent on duties and responsibilities unique to the board as a centralized body.¹⁵⁰ Statutes describe the board's membership structure, require a rotating presidency, authorize the hiring of a secretary and a clerical force, but do not go much further. The most detailed of these statutes authorizes a salary and expense fund, and allows individual assessors to fix the compensation of their deputies and clerical assistants. All expenditures are paid by warrants or checks drawn by the president of the Board of Assessors.¹⁵¹

Property Tax Exemption and Assessment Administration

Despite the existence of a board, each of the seven assessors has the same power in his or her district as assessors responsible for entire parishes in the rest of the state. By statute, each assessor shall independently exercise his functions in the assessing and listing of the property in and for his respective district within the parish.¹⁵² Each assessor operates an office as an independent entity. They have different accounting years, different personnel policies, and are subject to seven individual audits. In addition, the Board of Assessors constitutes a separate entity with its own budget and separately audited set of books.¹⁵³

For all intents and purposes, the assessment function of Orleans Parish operates as though it were seven separate parishes that happen to share the same computer system and have offices in the same building.

The Seven Municipal Districts and Funding

Orleans Parish's seven municipal districts vary widely in size and composition, as shown in Table 3.¹⁵⁴

State law offers no guidance on how available funding is to be shared among the seven municipal districts. Table 3 compares actual 1998/99 expenditures with a hypothetical set of allocations showing what the distribution of funding would be if allocations were based solely on the number of parcels to be assessed per district. While some of the allocations are closely correlated with the total number of parcels per district, deviations are particularly pronounced in Districts One and Three.

**Table 3
Distribution of Assessment Resources: Orleans Parish Municipal Districts**

| Municipal District | Parcels (1998) | Estimated Population | Expenditures 1997/1998 (Including Assessors' Salaries) | Percent of District Funding | Hypothetical allocation. Per parcel basis |
|--------------------|----------------|----------------------|--|-----------------------------|---|
| District 1 | 7,667 | 35,000 | \$ 236,674 | 13.43% | 5.18% |
| District 2 | 15,082 | 55,000 | 255,922 | 14.52% | 10.18% |
| District 3 | 71,989 | 250,000 | 456,556 | 25.91% | 48.60% |
| District 4 | 6,677 | 42,300 | 149,236 | 8.47% | 4.51% |
| District 5 | 18,671 | 59,000 | 200,841 | 11.40% | 12.60% |
| District 6 | 16,504 | 68,500 | 258,998 | 14.70% | 11.14% |
| District 7 | 11,541 | 44,520 | 203,728 | 11.56% | 7.79% |
| Total Parcels | 148,131 | | | | |

Sources: BGR's 1988 Study, U.S. Census Bureau, Assessors' Financial Audits, and BGR calculations; does not include separate expenditures of the Board of Assessors.¹⁵⁵

However, in District One, funding that exceeds a pro rata per parcel share may be appropriate in view of the additional complexities of assessing commercial properties in the CBD.

Table 3 also illustrates significant disparities in district size. For example, based on the number of property parcels, the Third Municipal District is larger than Districts One, Two, Four, and Five combined.

For the year 2000, the Board of Assessor s budget is shown below.¹⁵⁶

| | |
|---------------------------------|---------------------|
| REVENUE | |
| Millage | \$ 1,898,771 |
| State Revenue Sharing | 150,000 |
| Documentary Transaction Tax | 538,500 |
| Investment Income | 33,400 |
| Miscellaneous Income | 10,000 |
| TOTAL REVENUES | \$ 2,630,671 |
| EXPENDITURES | |
| Executive | \$ 556,600 |
| Financial and Administrative | 1,821,000 |
| TOTAL EXPENDITURES | \$ 2,377,600 |
| EXCESS | \$ 253,071 |
| ESTIMATED BEGINNING BALANCE | 195,084 |
| ESTIMATED ENDING BALANCE | \$ 448,156 |

The Board of Assessors and the seven assessors separate operations are funded

primarily through a dedicated property tax of 1.19 mills, and secondarily through a portion of the city s documentary transaction tax and state revenue sharing.

Only 77% of the board s expenditures (\$1,821,000) is budgeted for the cost of running the assessors offices and staff. The balance of funding covers the salaries and expenses of the seven assessors personally, and the Board of Assessors itself.

Assessors salaries in Louisiana are set by statute. After giving effect to the \$10,000 raise passed by the 1999 legislature, New Orleans assessors earn annual base salaries of \$70,000 to \$80,000, depending upon the population of their respective districts.¹⁵⁷ They can receive a 7% salary enhancement for achieving a CLA certification, which boosts the upper end of this salary range to \$85,600. Additionally, assessors are also allowed expense accounts equal to 10% of their respective salaries.

Based on the latest IAAO survey on average salaries, Orleans Parish s assessors are highly paid in comparison to national averages. Table 4 below shows full time assessor salaries by jurisdiction size, adjusted to 1999 dollars.

| Table 4 | | | | | | |
|---|--------------------|--------------------|----------------------|----------------------|----------------------|------------------------|
| Average Assessor Salary by Jurisdiction Size in the United States | | | | | | |
| Jurisdiction Size (parcels) | 1,000-4,999 | 5,000-9,999 | 10,000-19,999 | 20,000-49,999 | 50,000-99,999 | 100,000-299,999 |
| Salary | \$42,100 | \$45,300 | \$49,600 | \$54,700 | \$62,700 | \$73,200 |
| <p>Source: IAAO, <i>Assessment Administration Salaries in the United States: An Overview from the Salary Survey</i>, Assessment Journal, Vol. 5, No. 4 (July/August 1998: pp. 39-40). Salaries adjusted to 1999 dollars by BGR.</p> | | | | | | |

Property Tax Exemption and Assessment Administration

Only one of Orleans Parish's seven assessors manages an assessment district with more than 20,000 property parcels. See Table 3. Nonetheless, even the smallest of the assessors' salaries exceed national averages by a large margin. If they were paid according to national averages (considering jurisdiction size categories comparable to the individual municipal districts in New Orleans) the assessors would have salaries in the \$45,300 to \$62,700 range.

To provide another salary benchmark, BGR looked to the neighboring state of Mississippi. There, the statutory salary for assessors ranges from \$31,423 to \$65,139, depending on the total assessed value of the jurisdiction, the level of the assessor's training, and the organization structure of the county involved.¹⁵⁸ By this comparison, the Orleans Parish assessors are also highly paid. Even the lowest paid Orleans Parish assessor makes more than the highest salary allowable in Mississippi.

In addition to their salaries, the assessors participate in a special retirement system. State law requires the New Orleans tax collector to pay 1% of the collectible property tax into the fund. (Other parishes only contribute ¼%.)¹⁵⁹ For 2000, the statutory payment exceeds \$3 million. This is more than the entire annual budget of all seven assessors' offices and the Board of Assessors combined.

Payments to the fund accrue to the benefit of the state's 70 assessors and their employees. In addition to the funds provided by the percentage of collectible taxes, employees contribute 7% of their salaries to the fund, and the assessors' offices as employers make a 5.75% additional contribution. Participants in the retirement program can retire at age 50 after 30 years of service, or at age 55

with 12 years of service. The amount of a participant's retirement can go as high as 100% of retiring salary, based on the highest average 36 consecutive months of earnings, with an adjustment factor depending on the number of years of employment.¹⁶⁰

According to representatives of the Assessors Retirement Fund, New Orleans has not made the required payments to the fund since 1974. The city contends that the required retirement contribution is unconstitutional. Legal action against the city has been filed, and the case is currently set for trial on January 20, 2000 in Orleans Parish Civil District Court.¹⁶¹

Adequacy of Current Funding

An IAAO benchmark based on cost per parcel suggests that the assessors' collective level of funding is adequate. In 1991, the IAAO recommended a budget equal to at least \$10 to \$12 per property parcel assessed. Adjusting these benchmarks to reflect projected 2000 prices yields a benchmark cost range of \$12.31 to \$14.78 per parcel. In terms of budgeted expenditures for 2000, the per parcel cost for the Orleans Parish Board of Assessors is \$14.90 to \$16.05 per parcel, which extends beyond the high end of the IAAO benchmark range.¹⁶²

The per parcel funding levels presented here are higher than those that appeared in a 1998 BGR report evaluating the assessors' ballot proposition for an increase in their millage.¹⁶³ However, since BGR's earlier report, the assessors have been receiving revenue from a new documentary transfer tax, which is budgeted at \$538,5000 for the year 2000.¹⁶⁴

Although benchmarks aggregating national averages should be used with

caution, they can serve as a frame of reference to judge the gross adequacy of the assessors budgets. A number of caveats are necessary to place the picture painted by these national benchmarks in context:

- ▶ Assessment costs are higher in jurisdictions that require labor intensive interior inspections of properties. Orleans Parish assessors are not required to make interior inspections. This reduces the need for funding when compared to the national benchmarks. The IAAO benchmark includes states with and without interior property inspections. Because at least 21 states require interior inspections,¹⁶⁵ a jurisdiction like New Orleans would be expected to have costs below the national benchmark.
- ▶ The impact of the regional cost of living on staff costs, which typically account for 80 to 85% of the cost of assessment administration, should also be considered.¹⁶⁶ New Orleans is frequently touted as a low-cost city, which should hold down costs relative to national averages.
- ▶ The local economy is also relevant. High rates of economic growth require a higher than normal proportion of costly inspections of newly developed areas. This is not an apt description for much of Orleans Parish.
- ▶ The level of population density is an important cost factor. Jurisdictions characterized by suburban sprawl are more costly to assess. With the exception of the Third District, which encompasses eastern New Orleans, Orleans Parish is a fairly compact jurisdiction.
- ▶ The sophistication of assessment technology impacts operating costs. Well-designed mapping and automated

data processing systems can reduce the labor-intensive aspects of an assessment system.

Other than the last technology factor, these considerations all suggest that assessment costs in Orleans Parish should be lower than national per-parcel benchmarks; but they are not.¹⁶⁷

In addition to expenditures explicitly shown in the assessors budgets, there are significant costs associated with financing Orleans Parish s assessment system that do not show up as line items in any budget. The most prominent is a mandatory contribution to the state s Assessors Retirement Fund by the tax recipient bodies in Orleans Parish, discussed above.

Other costs borne by the city but not charged to the assessors budgets are free office space and computer support.

Because of these unseen costs, the combined official budgets of the Board of Assessors and the seven individual assessors understates the actual resources available to support assessment administration in Orleans Parish.

For example, if the cost of the assessors retirement fund were factored in, the per parcel cost estimate would significantly increase, that would range from \$19.78 to \$36.89 per parcel, depending on whether the ¼% or 1% of collectible tax is applied as the contribution to the fund.¹⁶⁸ Even at the lower end of this range, the cost per parcel is significantly higher than national benchmark figures.

While the **gross** level of the combined assessors budgets appears to be adequate by national standards, it is important to understand that because of the constitutional requirement for a Board of Assessors and for seven independent assessors, and because the assessors

salaries exceed national averages by statute, much of the otherwise adequate funding is absorbed by the costs of these mandates.

Workload, Staff, Technology, and Organizational Form

Because assessing is labor intensive, one way of gauging the resource needs of an assessment district is to estimate the number of full-time appraisers required to handle a given number of property parcels per year. IAAO benchmarks call for one full-time appraiser per 2,500 to 5,000 parcels.¹⁶⁹

Appraiser productivity can be affected by factors such as education and training, parcel sizes and densities, the extent to which valuation is computerized, and whether personal property appraisal staff are included. Appraisal of business personal property is particularly labor intensive, requiring approximately one position per every 2,000 accounts.

According to IAAO research, the average ratio of assessment staff size to number of parcels is remarkably consistent among districts of comparable size. Table 5 summarizes average workloads for assessment districts of various sizes.

BGR was unable to obtain documented information on staffing levels for more than three municipal districts. For those districts, the number of parcels in Orleans Parish per full time equivalent, including the assessors, was approximately 5,027 for the Second District (15,082 parcels, 3 appraisers), 5,925 for the Fifth District (18,671 parcels, 4 appraisers), and 3,847 for the Seventh District (11,541 parcels, 3 appraisers).

According to Table 5, with district sizes in the 10,000 to 20,000 range, all three of these assessment districts would be understaffed. However, applying the IAAO staffing benchmark to these districts provides a direct illustration of the impact of the constitutional requirement of seven assessors on the ability of each municipal district to afford enough qualified full-time appraisers. Having multiple assessors at salaries more than double an average appraiser's salary eats into budget resources that would otherwise fund more staff members.

The potential economies of scale achievable through a consolidated approach to human resource management become even more pronounced if combined with the efficiencies attainable with a Computer Assisted Mass Appraisal (CAMA) system.

**Table 5
Jurisdiction Size and Economies of Scale**

| Size of Jurisdiction (number of parcels) | Average Number of Parcels per Full Time Equivalent Appraiser |
|---|---|
| < 10,000 | 1,000 1,500 |
| 10,000 to 20,000 | 2,500 |
| > 20,000 | > 3,000 |

Source: Almy, R. R. et al., *Assessment Practices – Self Evaluation Guide*, IAAO, Chicago: 1991

For example, Tennessee's CAMA system allows for an annual average daily workload of 8,800 property parcels per employee.¹⁷⁰ These workload calculations are based on exterior visual inspections that do not require the presence of a property owner, which is consistent with the practice in Orleans Parish. At this level of efficiency, Orleans Parish would need to employ 18 full-time appraisers.

The average salary of a full-time appraiser in a jurisdiction in the 100,000 to 299,999 parcel range in 1999 dollars, is about \$36,900.¹⁷¹ At this level, the combined budgets of the seven district assessors and the Board of Assessors could easily support a parish-wide assessment operation within IAAO workload benchmarks.

The IAAO observes that CAMA systems have been affordable for districts with at least 10,000 parcels since the late 1980s.¹⁷² Off-the-shelf CAMA systems can be operational in as little as six months. Development of an in-house system can take up to two years.¹⁷³

A fragmented approach to management impairs an organization's ability to develop a rational division of labor through specialization. Currently, the Orleans Parish assessors maintain the assessment rolls in a single computer application, but appraisals within each district are carried out independently by the district's assessor and his or her deputies. Individual assessment offices with two or three appraisers have only a limited ability to develop the specialized skills and related efficiencies necessary for an urban jurisdiction.

Another ramification of the decentralized structure in Orleans Parish is that assessment techniques can vary from district to district. A contributing factor to such variation is the fact that market

areas are not always coterminous with municipal district boundaries. This fracturing of market areas can distort estimates produced by separate valuation models. A consolidated approach to valuation would facilitate the identification of subtle trends in property values, and assist in the calculation of neighborhood adjustment factors.¹⁷⁴ For example, both Florida and Oregon use market area codes to improve the accuracy and consistency of assessments.

A large assessment district, or an agglomeration of assessment districts such as Orleans Parish, should have an organizational hierarchy of specialized departments or sections. Figure 2 offers a conceptual functional organization for Orleans Parish that would allow its assessors to take advantage of a consolidated approach to mass appraisal.

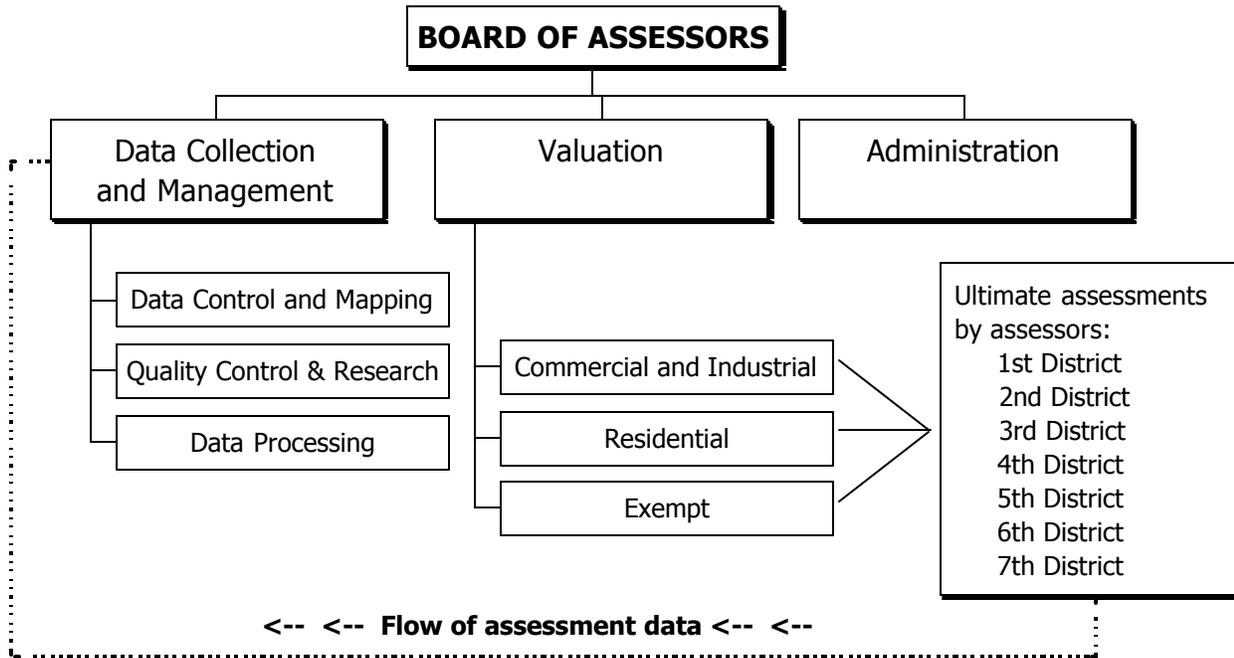
This organizational concept provides for consolidated administration of the data collection/management and appraisal functions, giving the assessors the ability to insure that property throughout the parish is assessed in a consistent fashion.

Deputized assessors working within the appraisal sections could maintain separate listings of property in each municipal district, and the appraisal techniques used could be endorsed by all members of the Board of Assessors, with each assessor maintaining the authority to determine the ultimate assessment of parcels within his or her district. Because it would ultimately be an assessor's judgment that determines each assessment under this conceptual structure, centralized and specialized appraisal sections would not violate the statutory requirement that each assessor independently exercise his functions in the assessing and listing of

Property Tax Exemption and Assessment Administration

the property in and for his respective district within the parish.

Figure 2
Conceptual Organizational Structure for Orleans Parish Board of Assessors



Under this concept, the Data Collection and Management Department would collect and process data for the entire parish. The department divides into several sections. First, the Data Control and Mapping section would take the lead role in maintaining the assessors databases, overseeing data acquisition and verification procedures, as well as serving all GIS needs. Second, the Quality Control and Research section would provide analytical services, perform ratio studies, identify weaknesses in appraisals, and keep abreast of innovations in the field of assessment. Finally, the Data Processing section would be responsible for building, running and calibrating the parish s valuation models and CAMA system.

The Valuation Department should be made up of at least three specialized appraisal sections responsible for the technical work of appraising property in all seven municipal districts. BGR s concept suggests separate Commercial/Industrial, Residential, and Exempt Property sections. Including a separate exempt property section would recognize that administering exemptions should be viewed as an integral component of its assessment system. A separate exemption section would be able to develop the specialized skills need to administer exemptions effectively.¹⁷⁵

The Path Forward

Given the acute financial pressures resulting from a 19th century organizational structure, antiquated assessment technology, and the burden of funding seven assessors at salaries well above national averages, it is essential that the assessors of Orleans Parish take advantage of opportunities to enhance efficiency and cost-effectiveness. With this in mind, the assessors should conduct operational audits of their approach to assessment administration with a view to developing a comprehensive reorganization plan, along the lines recommended above.

Part VI: Recommendations

The stated intention of this report was to offer the Orleans Parish Board of Assessors practical and tangible suggestions to improve exemption and assessment practices. Accordingly, BGR has adopted a decidedly pragmatic approach. Rather than wait for improvements to be codified into law at the state level, BGR's recommendations to the assessors are designed to exploit opportunities for improvements compatible with their existing legal authority and powers.

Despite BGR's focus on local exemption and assessment practices, it became clear during the course of the research that improvements at the local level alone could not overcome a fundamental problem: the exemption provisions of the Louisiana Constitution are so broad and vague that purely local efforts will be insufficient.

In the long run, the best solution to interpretive uncertainty and confusion is constitutional reform and better statutory definitions of the activities that the state wishes to subsidize. Meanwhile, at the assessors' level, BGR recommends that assessors construe eligibility narrowly within the confines of existing law.

Because changes affecting this state's system of ad valorem taxation have wide-reaching implications, and because of the complicated local/state dynamics, the recommendations presented below are not confined to the Orleans Parish Board of Assessors, the Louisiana Tax Commission, or the state legislature, but also extend to the general public.

Recommendations to the Public

- 1.** Stop thinking of exemptions as free money. In economic terms, the distinction between revenue forgone and revenue expended is spurious. Although exemptions, or tax expenditures, occur off the books and are seldom accounted for in public budgets, this should not distract attention from the fact that exemptions have real financial consequences for non-exempt taxpayers.
- 2.** Press for disclosure, consistency, and fairness in the consideration of applications for exemptions.
- 3.** Support reform of exemption procedures and ultimately constitutional and statutory changes to exemption eligibility criteria recommended below.
- 4.** Expect more from your assessor's office. Appendix H contains a sampling of eye-opening websites intended to raise awareness of the level and quality of services that are routinely provided in other jurisdictions.

Recommendations to the Orleans Parish Assessors

Recommendations for Improving Exemption Administration

5. Place the burden of demonstrating eligibility on the applicant organization.
6. Require each applicant under the nonprofit catchall exemption to prove that it satisfies *each* of the exemption criteria under Art. VII, §21(B)(1)(a) of the constitution as a matter of actual practice rather than simply on paper; disqualify any organization that cannot clearly demonstrate eligibility. The criteria are:
 - ▶ The organization or association must be a nonprofit corporation;
 - ▶ It must be organized *exclusively* for the constitutionally allowable purposes: religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational;
 - ▶ No part of its net earnings may inure to the benefit of any stockholder or member;
 - ▶ It must be exempt from federal or state income tax; and
 - ▶ The property for which an exemption is sought is not owned, operated, leased, or used for commercial purposes unrelated to the exempt purposes of the corporation or association.
7. Require each applicant under other constitutional exemptions (§21(B)(2) and (3); §21(C)(12)) to prove eligibility, not only by proving its status on paper, but also by proving that it does, in practice, perform the public services contemplated by the constitution.
8. Classify exemptions in the assessment database using categories that track the constitutional eligibility criteria. The classification system currently used in Orleans Parish does not match the classification system in the constitution.
9. Use rigorous exemption application forms uniformly in all seven districts. See Appendix D for a model application form.
10. Eliminate open-ended exemptions. Require requalification on an annual or some other periodic basis for exemptions, or require annual sworn statements testifying that there have been no changes in operation or ownership that would alter eligibility status.

- 11.** Institute formal discovery measures to uncover property illegally enjoying tax-exempt status. At the very least, assessors should conduct random spot checks of exempt properties.
- 12.** Assess exempt property accurately and periodically, preferably as frequently as taxable property is assessed. Currently, there is no requirement that property on the exempt rolls be assessed at regular intervals, making it difficult to gauge the true cost of exemptions. Without this information, taxpayers and policy-makers lack the ability to evaluate the net benefits of individual exemptions.
- 13.** Increase transparency of the exemption process by expanding opportunities for public scrutiny. Assessors should provide public notice of pending exemptions, and publish an annual list of all exempt property, classified according to the constitutional category under which the property is considered exempt. Public awareness of exempt properties would increase the likelihood that the illegal use of exempt property would be brought to the attention of the appropriate assessor.

Recommendations for Improving Local Assessment Practices

- 14.** Reorganize the collective workforce of the seven assessors, and adopt a centralized and consolidated approach to assessing property in Orleans Parish. See Part V of this report for a conceptual organizational structure that can accomplish this without violating the constitutional requirement for seven assessors and seven assessment districts.
- 15.** Implement parishwide state-of-the-art computerized assessment systems and valuation models.
- 16.** Coordinate with the City Planning Commission to utilize the city's existing Geographical Information System of assessment administration.
- 17.** Establish formal data collection procedures, especially with respect to the collection of sales data.
- 18.** Implement in-house performance measures and evaluation procedures, including in-house sales-ratio studies.
- 19.** Utilize Internet technology to make assessment and exemption data easily accessible to the public.
- 20.** Improve internal management practices and implement them uniformly in all seven districts. The practices should include:

preparing written work procedures, measuring and determining reasonable workloads, and developing audit trails.

Recommendations to the Louisiana Tax Commission

Given its authority to issue rules and regulations setting minimum standards of assessment and appraisal performance, the Louisiana Tax Commission has an important role to play in addressing many of the problems identified in this report. BGR recommends that the commission address the following issues:

Exemption Procedures

- 21.** As a precursor to legislative action, the LTC should develop and furnish assessors with materials outlining key eligibility criteria to consider when evaluating exemption applications.
- 22.** Standardize an exemption classification system for use by all assessors so that exemptions track the classification system in the constitution.
- 23.** Develop and require the use of standardized exemption application forms. See Appendix D for recommended forms.
- 24.** Systematically audit exempt property. Under current practice, the LTC only examines non-exempt property. Once an exemption is granted, it is not scrutinized by state oversight authorities.

Assessment Administration and Practices

- 25.** Require assessors to conduct local, in-house ratio studies and develop standard sample size, sampling technique, and data screening guidelines for assessors.
- 26.** Prohibit assessors from sales chasing, which is adjusting assessed values of a property upon notification of the sale of that property. Although sales chasing is already officially discouraged, the evidence suggests that this practice is widespread. LTC regulations should require that actual sales data be used to update valuations of all properties in the affected market area.
- 27.** Undertake a rigorous review of the sampling methodology underlying LTC sales-ratio studies. BGR's analysis of recent residential sales-ratio studies for Orleans Parish suggests significant sampling deficiencies that make assessments look more accurate than they really are. See Appendix F for more details.

Recommendations to the State Legislature

The stated intent of this report was to offer assessors tangible recommendations on how to improve exemption and assessment practices within the context of the current legislative framework. While there are significant opportunities for improvement within the constraints of existing law, it is clear that the treatment of exemptions in the Louisiana Constitution is fundamentally flawed. Once a parcel satisfies an exempt organization ownership test, the constitution does not require the exempt property to be used for an exempt purpose. The absence of statutory clarification worsens the problem.

Recommendations on General State-level Improvements

28. Overhaul constitutional and statutory provisions governing exemptions and property taxation per se. There is an urgent need for the constitution to define in detail the public service activities the state would like its political subdivisions to subsidize. Statutory guidance is needed to address the low levels of specificity in existing law, and to address the existing incentives for over- or under-assessment patterns as identified in BGR's 1988 report.
29. Focus on property use, not simply on the legal status of an organization applying for an exemption. Nonprofit status should be viewed as a necessary but insufficient eligibility criterion.
30. Consider instituting what this report terms statutory out-sourcing as an effective alternative to the current approach of poorly defined exempt purposes. Statutory out-sourcing allows a government to spell out in detail the burdens it would like the nonprofit sector to relieve in exchange for the benefit of a tax exemption.
31. Enhance local governmental control by allowing voters at the parish-level the discretion to opt in or out of certain exemptions to enable local communities to adapt their tax structure to local needs.
32. Allow any taxpayer or tax recipient body to apply for revocation of an exemption that does not satisfy exemption eligibility criteria.
33. Use approaches other than the homestead exemption to achieve and maintain higher rates of homeownership

34. Treat the City of New Orleans like every other municipality in the state and eliminate the applicability of the homestead exemption to municipal property taxes.

Recommendations on Specific State-level Constitutional and Legislative Improvements

35. Require that all property classifications be assessed at full market value. Studies show that jurisdictions that assess at full market value tend to value property more accurately and equitably.
36. If different classes of property are to bear a greater or lesser share of the tax burden, as is currently the case for commercial and public utility property, then classification by different tax rates or adjustment factors is preferable to using different assessment ratios.
37. Institute mandatory educational requirements for assessors and deputy assessors, commensurate with state certification requirements for private sector single property appraisers, preferably to IAAO standards.
38. Increase penalties for organizations that fail to notify local assessors of organizational changes that might affect exemption eligibility.
39. Require periodic statewide reappraisals of exempt property so that the value of subsidies by exemption can be clear to the public and decision-makers.
40. Provide an impartial assessment appeals system by changing the composition of the Board of Review to conform with IAAO standards, including the elimination of elected official positions on Boards of Review.
41. Require assessment notices to inform taxpayers of the net impact of exemptions on their tax bill, i.e., call attention to what their tax liability would amount to without exemptions.

Recommendations Regarding Specific Exemptions

42. **Religious:** Limit exemptions to property used in conjunction with public worship. Wholesale exemption of religious property undermines public accountability. Specifically:
 - ▶ Develop clear guidelines as to what constitutes a religious organization.
 - ▶ Limit exemption to property reasonably needed for public worship purposes, e.g., one parsonage occupied by an

officiating member of the clergy in the immediate vicinity of a church, synagogue, mosque, etc. Other property owned by religious organizations should be considered for exemption under the appropriate functional categories in the constitution such as charitable, health, welfare, and education.

- ▶ Calculate partial exemptions whenever a religious organization is generating non-related income from property, such as earnings resulting from the sale of parking contracts, etc.

43. Charitable: The charitable exemption is a linchpin exemption. The exemption should result in a commensurate increase in the supply of a given public service, and should be restructured along the following lines:

- ▶ Focus on services provided, rather than organizational status.
- ▶ Base exemptions on the actual ability of an organization to deliver specified services.
- ▶ Require that salary and fee structures (when services are not provided free of charge) are reasonable relative to the private sector.

44. Health: Currently, property owned by virtually all nonprofit health-care providers and hospitals is exempt. BGR's research of national practice shows that exemptions for healthcare providers can be targeted to achieve fairly specific purposes:

- ▶ Limit eligibility to healthcare providers that furnish indigent individuals with unreimbursed services, or that otherwise provide specific public service.
- ▶ Exempt only property actually used to provide services.
- ▶ Use partial exemptions; net out of an exemption an organization's for-profit or commercial components, e.g., exclude from exemption portions of otherwise exempt hospital property rented to private medical professionals and pharmacies.

45. Fraternal: Emphasize the public or charitable aspects of these private social clubs:

- ▶ Require clear evidence of a charitable mission.
- ▶ Engage in proportional valuation to exclude income generating property such as ballrooms and meeting rooms rented to the general public.

- ▶ Require the availability of charitable services to be widely advertised to the public and require that services may not be limited only to individuals associated with the organization.
- 46. Educational:** Statutory guidance is needed to cope with the sheer diversity of educational institutions:
- ▶ Limit the exemption to property actually used by schools and colleges.
 - ▶ Use partial exemptions to net out for-profit or commercial uses.
 - ▶ Consider limiting the exemption to nonprofit schools that provide need-based financial aid or scholarships.
- 47. Cultural/Mardi Gras/Civic:** Adopt reasonable definitions of cultural, carnival, and civic activities that capture the public benefit aspects of these functions. Also, require applicants to demonstrate that the actual use of their property complies with the definitions; an exemption should not be based merely on organizational status.
- 48. Labor Organizations, Nonprofit Trade/Travel/Commerce Organizations, and Professional/Industry Associations:** Current provisions are so broad that they cannot guarantee the achievement of clear and commensurate quid pro quo outcomes. Property owned by these organizations can only be considered a bona fide candidate for public subsidization under certain conditions.
- ▶ **Labor Organizations:** Permit labor organizations to exempt property only if it is used for charitable or educational purposes.
 - ▶ **Nonprofit Trade/Travel/Commerce Organizations:** Limit exemptions only to organizations providing general and free services to local businesses.
 - ▶ **Professional/Industry Associations:** Allow exemptions only in circumstances in which an association provides charitable, educational, or public services to the general public.

Endnotes

- 1 Other constitutional exemptions—the Restoration Tax Abatement and the Manufacturing Tax Exemption—are decided by the City Council and the state Department of Economic Development; they are not addressed by the report.
- 2 Bureau of the Census.
- 3 Public Affairs Research Council of Louisiana, *1996 Louisiana Tax Handbook*. Baton Rouge: 1996
- 4 *Census Bureau* Internet site, Personal Income data, Bureau of Economic Analysis, September 14, 1998; Oklahoma Office of State Finance, November 1998.
- 5 Calculated from the Mayor's Proposed City of New Orleans Operating Budget for Calendar and Fiscal Year 2000, p. ii. Note that revenue denominated as tax revenue in the budget is only part of the city's income. Service charges, franchise fees, and other revenues constitute 56% of the city's projected 2000 revenue stream.
- 6 ICMA, *A Revenue Guide for Local Government*, p. 43.
- 7 The 1998-1999 General Fund Budget of the Orleans Parish Public Schools assumes a general fund of \$399 million, with sales and property tax revenues of \$78 million and \$72.6 million respectively.
- 8 Despite the fact that Art. VII §20(B) of the 1974 Louisiana Constitution authorizes the legislature to provide for tax relief to residential lessees in the form of credits or rebates in order to provide equitable tax relief similar to that granted to homeowners through homestead exemptions, no such relief has been enacted.
- 9 Source: *50-State Property Tax Comparison Study*, Minnesota Taxpayers Association, December 1998.
- 10 While New Orleans has one of the lowest property tax burdens in the nation, and Louisiana is considered a low tax state, general comparisons of this kind can mask significant disparities among income groups. A look at the lower spectrum of the income scale points to disturbing realities. Low income homeowners in New Orleans pay state and local taxes that are comparable to states that are typically considered to be high tax states. For instance, the total state and local tax burden for an average New Orleans family of four with an annual household income of \$25,000 and owning their own home amounted to \$1,560 in 1995. Compare this to \$1,556 in Atlanta, GA; \$1,575 in Memphis, TN; \$1,605 in Minneapolis, MN; and \$1,735 in Seattle, WA. (Comparison based on Bureau of the Census data). This tax burden is compounded by the fact that many of these comparative states arguably provide their taxpayers with superior levels of public services.
- 11 Table 1 was compiled from a number of sources. The assessed values for the exempt property categories were derived from tabulations in BGR's 1996 study, *Property Taxes, Who pays, Who Doesn't and Why?* While more up-to-date assessed values would have been preferable, the data were not available. However, given the general increase in assessed values in Orleans Parish in the last several years, more recent assessed values are likely to be higher. Lost revenue figures were calculated using 1999 millage rates. Per capita costs were calculated using a 1998 Orleans Parish population estimate of 465,538, which is the latest estimate available from the U.S. Bureau of the Census, Population Estimates Program, *County Population Estimates for July 1, 1998 and Population Change for July 1, 1997 to July 1, 1998* (Released March 12, 1999).

**Property Tax Exemption and
Assessment Administration**

¹² The 1999 millages included in calculating the \$27 million figure are as follows:

| | |
|--|--------------|
| General Fund (also called alimony) | 14.91 |
| Fire & Police | 6.40 |
| Board of Liquidation | 26.90 |
| Audubon Park Zoo | 0.44 |
| Aquarium | 4.11 |
| Economic Development and Housing Fund | 2.50 |
| Parkway & Recreation Department | 3.00 |
| Capital Improvements & Infrastructure Trust Fund | 2.50 |
| Street & Traffic Control Device Maintenance | 1.90 |
| TOTAL | <u>62.66</u> |

Two dedicated millages for police and fire services, totaling 10.47 mills, are not subject to the homestead exemption. The estimates presented in the main text account for this.

¹³ See Endnote 11 for an explanation of the source of the data and calculations underlying Table 2. The assessed value of the homestead exemption is from the 2000 assessment roll, as certified to the Louisiana Tax Commission by the Board of Review.

¹⁴ BGR mailed a questionnaire to all fifty states soliciting relevant materials, performed detailed electronic searches of state statutes for 24 states, conducted interviews with local and state officials, reviewed technical literature, and drew on a wealth of assessment experience by participating in the IAAO's Assessor Net, an internet list-server discussion group.

¹⁵ Florida Statutes, § 196.012.

¹⁶ Kansas Revised Statutes, § 79-251.

¹⁷ Kansas Revised Statutes, § 12-5509.

¹⁸ Iowa Code, § 427.1.

¹⁹ California Code, § 214.

²⁰ Texas Code, § 1-11.18.

²¹ Indiana Code, § 6-1.1-10-16.

²² Connecticut Revised Statutes, § 12-81.

²³ Colorado Statutes, § 39-3-116.

²⁴ 1974 Louisiana Constitution, Art. VII, §21.

²⁵ Colorado Statutes, § 39-3-106.5.

²⁶ Idaho Statutes, § 963-602C.

²⁷ Florida Revised Statutes, § XIV-196.196.

²⁸ California Code, § 202.1.

²⁹ Colorado Statutes, § 39-3-106.5.

³⁰ Idaho Statutes, § 63-602C.

³¹ New Hampshire Statutes, § 72:23.

- ³² California Code, § 214.
- ³³ Indiana Statutes, § 6-1.1-10-16.
- ³⁴ Iowa Code, § 427.1.
- ³⁵ Government departments sometimes charge each other for services rendered. This internalized form of taxation, also known as transfer pricing, can provide government administrations with valuable information on allocations of resources that are not always apparent.
- ³⁶ *Times-Picayune*, Section B-1, May 8, 1998.
- ³⁷ *Louisiana & N.W.R. Co. v. State Board of Appraisers*, 108 La. 14, 32 So. 184 (La. 1902); *W.K. Henderson Iron Works & Supply Co. v. Jeter*, 151 La. 1011, 92 So. 594 (La. 1922); *Penick & Ford v. Ehret*, 166 La. 1, 116 So. 572 (La. 1928); *City of New Orleans v. Heymann*, Sup. 1935, 182 La. 738, 162 So. 582 (La. 1935); *Mattingly v. Vial*, 193 La. 1, 190 So. 313 (La. 1939); Louisiana Atty. Gen. Op. 1944-6, p. 1042; *Ruston Hospital, Inc. v. Riser*, 191 So. 2d, 665 (La. App. 2nd Cir. 1966).
- ³⁸ 1921 Louisiana Constitution, Art. 10, §4.
- ³⁹ *State ex rel. Givens v. Anderson*, 116 So.2d 80 (La. App. 1st Cir. 1959); *Ruston Hospital, Inc. v. Riser*, 191 So.2d 665 (La. App. 2nd Cir. 1966). See also Louisiana Atty. Gen. Op. No. 92-408, October 8, 1992.
- ⁴⁰ *Ruston Hospital, Inc. v. Riser*, 191 So. 2d 665 (La. App. 2nd Cir. 1966); *Beta Xi Chapter of Beta Theta Pi v. City of New Orleans*, 137 So. 204, 18 La. App. 130 (La. App. 1931).
- ⁴¹ *Hotel Dieu v. Williams*, 410 So.2d 1111 (La. 1982).
- ⁴² *Hotel Dieu v. Williams*, 403 So.2d 1255 (La. App. 4th Cir. 1981).
- ⁴³ *Board of Administrators of the Tulane Education Fund v. Louisiana Tax Commission*, 701 So. 2d 702 (La. App. 4th Cir. 1997), *writ denied*, 709 So. 2d 705 (La. 1998).
- ⁴⁴ *New Orleans Towers Affordable Housing Corp., Inc. v. Kahn*, 98-1241 (La.App. 4th Cir, 12/29/98), 1998 La. App. LEXIS 3816; *modified on rehearing*, 98-1240 (La.App. 4th Cir, 01/29/99), 1999 La. App. LEXIS 166; see also *Times Picayune*, January 1, 1999, p. C-1 for background information on the dispute.
- ⁴⁵ Op. Atty. Gen., No. 75-270 Sept. 4, 1975; *Ruston Hospital, Inc. v. Riser*, 191 So.2d 665 (La. App. 2nd Cir. 1966); Op. Atty. Gen., No. 1920-22, p. 883; Op. Atty. Gen., 1936-8, p. 1129.
- ⁴⁶ Louisiana Atty. Gen.Op. No. 1932-4, p. 884.
- ⁴⁷ Louisiana Atty. Gen.Op. No. 1942-46, p. 980.
- ⁴⁸ New Hampshire Statutes, § V 73:23.
- ⁴⁹ Connecticut Statutes, § 12-81.
- ⁵⁰ California Code, § 206.1.
- ⁵¹ New Jersey Statutes, § 54:4-3.6.
- ⁵² Iowa Code, § 427.1.
- ⁵³ Texas Code, § 11.20.
- ⁵⁴ Kansas Statutes, § 79-4701.

Property Tax Exemption and Assessment Administration

- 55 Colorado Statutes, § 39-3-106.
- 56 Louisiana Atty. Gen.Op. No. 97-422, November 23, 1997.
- 57 Louisiana Atty. Gen.Op. No. 79-861, August 14, 1979.
- 58 Louisiana Atty. Gen. Op. No. 95-229, June 20, 1995.
- 59 *Id.*
- 60 *Board of Administrators of the Tulane Education Fund v. Louisiana Tax Commission*, 701 So. 2d 702 (La. App. 4th Cir. 1997), *writ denied*, 709 So. 2d 705 (La. 1998).
- 61 1974 Louisiana Constitution, Art. VII, §21.
- 62 *Ruston Hospital, Inc. v. Riser*, App. 2 Cir. 1966, 191 So.2d 665.
- 63 Colorado Statutes, § 12-9-102.
- 64 Arizona Statutes, § 42-11121.
- 65 New Jersey Statutes, § 54:4-3.6.
- 66 Georgia Statutes, § 48-5-40.
- 67 Oklahoma Statutes, § 68-2887.
- 68 Texas Code, § 11.18.
- 69 Indiana Code, § 6-1.1-10-16.
- 70 Indiana Code, § 6-1.1-10-28.
- 71 Indiana Code, § 6-1.1-10-16.
- 72 Colorado Statutes, § 39-3-108.
- 73 *State ex rel. Cunningham v. Board of Assessors of Parish of Orleans*, 52 La. Ann. 223, 26 So. 872 (La. 1898).
- 74 *New Orleans Bank & Trust Co. v. City of New Orleans*, 176 La. 946, 147 So. 42 (La. 1933).
- 75 Louisiana Atty. Gen.Op., June 19, 1953
- 76 *Ruston Hospital, Inc. v. Riser*, 191 So. 2d 665 (La. App. 2nd Cir. 1966).
- 77 Louisiana Atty. Gen.Op. No. 79-861, Aug. 14, 1979
- 78 *Hotel Dieu v. Williams*, 403 So. 2d 1255 (La. App. 4th Cir. 1981), *affirmed*, 410 So. 2d 1111.
- 79 Kansas Statutes, § 304.29-011.
- 80 Missouri Statutes, § 137.101.
- 81 Minnesota Statutes, § 64B.24.
- 82 California Code, § 214.
- 83 Missouri Statutes, § 137.101.

- 84 Louisiana Atty. Gen.Op. No. 1932-34, p. 888; Louisiana Atty. Gen.Op. No. 1944-46, p. 98; Louisiana Atty. Gen.Op. No. 89-350, Dec. 15, 1989; Louisiana Atty. Gen.Op. No. 95-164, May 12, 1995
- 85 Louisiana Atty. Gen.Op. No. 1926-28, p. 332; Louisiana Atty. Gen.Op. No. 1920-22, p. 883
- 86 Louisiana Atty. Gen.Op. No. No. 95-164, May 12, 1995
- 87 1974 Louisiana Constitution, Art. VIII, §14.
- 88 Florida Statutes, § 196.012.
- 89 Nebraska Statutes, § 77-202.
- 90 Iowa Code, § 427:1, Indiana Statutes, § 6-1.1-10-16.
- 91 Nevada Statutes, § 361.099.
- 92 Missouri Statutes, § 137-100.
- 93 California Code, § page 4.
- 94 Iowa Code, § 427:1.
- 95 New Jersey Statutes, § 54:4-3.6d.
- 96 1974 Louisiana Constitution, Art. VII, §21.
- 97 1974 Louisiana Constitution, Art. VII, §21(B)(2).
- 98 Property owned by a union, and leased to a governmental agency, such as the U.S. Postal Service, or a local political subdivision is subject to ad valorem taxes. Louisiana Atty. Gen.Op. No. 79-861, Aug. 14, 1979. Real estate used for union hall and as union meeting place is not exempt for ad valorem taxes. Louisiana Atty. Gen.Op., Nov. 3, 1954 (Predates 1974 constitutional exemption).
- 99 *Source:* Mike Worley, former State Assessor for the state of Alaska: Alaska exempts property of any entity, if it is used for the right purposes.
- 100 *Source:* Freda Roberts, Revenue Commissioner, Mobile County, Alabama.
- 101 Florida Statutes, § 159.26.
- 102 Louisiana Atty. Gen.Op. No. 76-114, March 29, 1976.
- 103 Arizona Statutes, § 42-11116.
- 104 Ohio Statutes, § 5709.121.
- 105 Nevada Atty. Gen. Op. No. 347M
- 106 California Code, § 214.14.
- 107 An Attorney General's opinion cleared the path for *Le Petit Theatre Du Vieux Carre* to claim exempt status, Louisiana Atty. Gen.Op. No. 1922-24, p. 753.
- 108 Arizona Statutes, § 42-11119.
- 109 Louisiana Atty. Gen.Op., Jan. 25, 1963.
- 110 Louisiana Revised Statutes § 47:1957.

Property Tax Exemption and Assessment Administration

- 111 Florida statutes, § 196.001.
- 112 Texas Code, § 11.43.
- 113 Oregon Statutes, § 5-72:33.
- 114 *Exemptions & Exclusions and Compliance Review Process*, North Carolina Department of Revenue and Taxation (Ad Valorem Division), p. 20.
- 115 Accounting for the true cost of exemptions is a sound policy that is already required by statute for tax exemptions at the state level. Under Louisiana Revised Statutes 47:1517, the Secretary of the Department of Revenue is required to prepare a tax exemption budget that catalogs all state tax exemptions, the revenue the state loses from each exemption for the previous, current, and following fiscal years, the estimated cost of administering and implementing each exemption, and an assessment of each exemption.
- 116 Missouri statutes, § 137.237.
- 117 Indiana Statutes, § 6-1.1-11-9.
- 118 Iowa Code, § 427.1.
- 119 North Carolina Department of Revenue. *Exemptions and Exclusions Guidelines for the Application and Compliance Review Processes 1997*. p. 22
- 120 Florida Statutes, § 196.011.
- 121 Louisiana Revised Statutes § 47:1966.
- 122 *Id.*
- 123 *Id.*
- 124 Louisiana Revised Statutes § 47:1957.
- 125 Louisiana Revised Statutes § 47:1966.
- 126 Nebraska statutes, § 77-2-2.
- 127 Louisiana Tax Commission, Rules and Regulation, Title 61.
- 128 This section borrows heavily from a number of IAAO publications, including Almy, R. R. et al., *Assessment Practices Self Evaluation Guide*, IAAO, Chicago:1991; *Property Appraisal and Assessment Administration*, IAAO, Chicago: 1990; and *Standard on Property Tax Policy*, Chicago: 1997.
- 129 Property classifications reviewed on a revolving basis once every four years include: full residential (both land value and improvement value), vacant residential land, full commercial properties (land and improvement values), and vacant commercial land.
- 130 Per Louisiana Statutes, § 13:4405 (Sheriff): Whoever violates the provisions of this Sub-section shall be fined not more than fifty dollars or imprisoned in the parish jail for not more than sixty days, or both. Also, per § 9:2745: It shall be the duty of the notaries of New Orleans to cause every deed of sale ... to be registered at the office of the register of conveyances ... within forty-eight hours . . . under penalty of five hundred dollars . . . for the use and profit of Charity hospital . . . and also under penalty of being liable for all damages which the parties may suffer through the neglect of said notary to register the acts.

- ¹³¹ LTC Rules and Regulations, Section 303.
- ¹³² IAAO recommended sources of data include: *Sources of Composite Financial Data: A Bibliography* (Robert Morris Associates, Philadelphia), a bibliography covering manufacturers, wholesalers, retailers, services, and contractors; *Income/Expense Analysis: Apartments, Condominiums, and Cooperatives* (Institute of Real Estate Management, Chicago); *NAPA Consolidate Jobber Operatives* (National Automotive Parts Association, Rosemont); *Operating Cost Percentages* (Associated Retail Bakers of America, Chicago), *Table Service Restaurant Operation Report* (National Restaurant Association, Chicago).
- ¹³³ Source: Louisiana Tax Commission, 1997 assessment ratio study, and BGR calculations. Chart is for illustrative purposes only. Results based on LTC ratio study sample, not entire district.
- ¹³⁴ The PRD is computed by dividing the mean assessment ratio by the weighted mean. The weighted mean weights each ratio in proportion to its sales price, whereas each ratio counts equally when the regular mean is used. The PRD for the sample of commercial properties analyzed by BGR is 0.9555, which is indicative of assessment progressivity.
- ¹³⁵ Equalization factors are relatively simple to calculate. For example, if an oversight authority determines that a given jurisdiction has on average under-assessed property by 10% or at 90% of fair market value, it orders assessors to adjust all appraisals upward by 10%, an equalization factor of 1.11.
- ¹³⁶ The IAAO's *Standard on Public Relations* recommends that assessment notices include the following: Owner's or taxpayer's name, mailing address, assessor's parcel identification number, legal description, tax district number, effective date of the assessment, property address, exemptions, total appraised value expressed in full market value, statutory level of assessment, prior assessment, proposed or new assessment, net change in assessment, reason for new assessment, appeal rights, hearing procedures, and dates, date of notice, class or type of property. For verification purposes, the assessment notice should include a detailed description of the property's attributes.
- ¹³⁷ IAAO, *Standard on Assessment Appeals* (emphasis added).
- ¹³⁸ Louisiana Revised Statutes § 47:1931.
- ¹³⁹ Illinois Department of Revenue, Property Tax Administration Bureau. 1998. *The Illinois Property Tax System*. Springfield. p. 13.
- ¹⁴⁰ Almy, R. R. et al., *Assessment Practices Self Evaluation Guide*. IAAO, Chicago: 1991, p. 12.
- ¹⁴¹ New York State certification requires the successful completion of two assessment administration courses, two appraisal courses, and an elective course. Courses are prescribed by the New York State Board of Real Property Services. Source: <http://www.orps.state.ny.us/pamphlet/assessjo.htm>
- ¹⁴² Nevada Statutes, § 361.260; and Nevada Atty. Gen. Op. No. 80-30 (9-29-1980).
- ¹⁴³ Colorado Statutes, § 39-2-110.
- ¹⁴⁴ Louisiana Revised Statutes § 47:1837.
- ¹⁴⁵ Louisiana Revised Statutes, § 37:3399, details the state's Real Estate Appraisers Certification Law. The following excerpt illustrates the differences in educational requirements: As prerequisites to receiving a general certification, an applicant shall present evidence satisfactory to the board that he has three years and three thousand hours of experience in real property

Property Tax Exemption and Assessment Administration

appraisal, has submitted an experience review application, and has successfully completed not less than one hundred eighty classroom hours of courses in subjects related to real estate appraisal, which shall include coverage of the Uniform Standards of Professional Appraisal Practice.

- ¹⁴⁶ The IAAO's *Standard on Education and Training for Assessing Officers* (1989) recommends that assessment professionals receive training in the areas of single-property appraisal, mass appraisal and assessment administration. Courses recommended include (IAAO course number in parentheses): Fundamentals of Real Property Appraisal (101), Income Approach to Valuation (102), Development and Writing of Narrative Appraisal Reports (103), Income Approach to Valuation II (202), Mass Appraisal of Mass Property (301), Mass Appraisal of Income-Producing Property (302), Computer-Assisted Assessment Systems (303), CAMA Valuation Model Building Residential (305), CAMA Valuation Model Building Commercial and Industrial (307), and Assessment Administration (400).
- ¹⁴⁷ Course requirements comprise IAAO course I, *Fundamentals of Real Property Appraisal*, course II, *Income Approach to Valuation* (or equivalent courses offered by the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers, or the Appraisal Institute), plus two additional IAAO electives or equivalent courses. Courses taken must be equivalent to sixty course hours of training.
- ¹⁴⁸ Assessors in the 4th and 6th Districts do not have a CLA status. The assessor in the 4th District has not yet been in office long enough to be eligible for the designation, but will be eligible in May 2000, and is in the process of completing the required coursework.
- ¹⁴⁹ 1974 Louisiana Constitution, Art. VII, §24(B).
- ¹⁵⁰ BGR's research suggests that board unity on legal issues has changed over time. Legal challenges at the turn of this century invariably involved the New Orleans Board of Assessors as plaintiff or defendant. More recent legal challenges tend to involve individual assessors.
- ¹⁵¹ Louisiana Revised Statutes § 14:1910.
- ¹⁵² Louisiana Revised Statutes § 47:1909.
- ¹⁵³ The 1st, 2nd, 3rd, and 6th Districts use calendar years for accounting, as does the Board of Assessors. The other districts have the following fiscal year end dates: 4th District, March 31; 5th District, April 30; 7th District, September 30.
- ¹⁵⁴ The First Municipal District covers the CBD and the Central City area. The Second Municipal District includes the French Quarter and extends to Lake Pontchartrain between Canal Street/Pontchartrain Blvd. on the west and Esplanade/Bayou St. John on the east. The Third District is the largest in the parish, and extends from Esplanade Avenue to the eastern boundaries of Orleans Parish. The Fourth Municipal District covers the Irish Channel, the Lower Garden District, the Garden District, and part of the Central City area. District Five covers Algiers. The Sixth District covers the Uptown/University area of the city. Finally, the Seventh District comprises the Carrolton area along the western boundary of the Orleans Parish.
- ¹⁵⁵ Table 4 is based on several sources of information. Parcel count data comes from the LTC's 28th Biennial Report, Table 44, p. 144 (That report refers to the parcel count as the Total No. of Taxpayers.). Population estimates are from BGR's 1988 study. More recent data at the municipal district level was not available. District expenditures were calculated from data in the assessors' individual financial audits, supplemented by BGR's calculations for each assessor's salary and expense allocation, not including the assessor's recent \$10,000 raise, which was not in

- effect for the time period shown. For each district, the most recent data was used. However, due to the fact that different assessors have different fiscal years (see Endnote 153), the data for each district is not for an identical time period.
- ¹⁵⁶ The assessors' 2000 budget was published in the Times Picayune, December 13, 1999, page B-3.
- ¹⁵⁷ Louisiana Revised Statutes § 47:1907, as amended by 1999 La Acts 571, which increased all assessors' salaries by \$10,000.
- ¹⁵⁸ Mississippi Code Annotated, §§ 25-3-3 and 25-3-5. The Mississippi statute recognizes IAAO designations, and provides salary supplements that range from \$1,500 to \$8,500, depending on the level of attainment in IAAO's hierarchy of designations.
- ¹⁵⁹ Louisiana Revised Statutes § 11:1410
- ¹⁶⁰ The information presented on the Assessors' Retirement Fund was taken from a description in the audit of the 3rd Municipal District for the year ending December 31, 1997.
- ¹⁶¹ *Louisiana Assessor's Retirement Fund v. City of New Orleans*, Orleans Parish Civil District Court, No. 94-5896 (consolidated with No. 94-5901).
- ¹⁶² Calculated using the Board of Assessors' 2000 budgeted expenditures of \$2,377,600. The assessors' 2000 budget was published in the Times Picayune, December 13, 1999, page B-3. A range of figures on the number of parcels was used. BGR was unable to establish a definitive parcel count for Orleans Parish. Parcel counts reported range from a low of 148,131 parcels, based on LTC's 28th Biennial Report, Table 44, p. 144. The higher estimates were taken from data supplied by the assessors in 1998 to support their analysis of a proposed millage increase for the assessors. The data from that source ranged from 150,309 parcels to 159,598 parcels. It is unclear which of these parcel counts include exempt properties, which total approximately 8,116 parcels, based on BGR's 1996 study. In analyzing the reasonableness of the parcel counts, BGR concludes that the 148,131 parcel count in LTC's data probably does not include exempt parcels, but that the tabulation of parcels by the assessors probably does. It is important to note that even using the highest parcel count (which results in the lowest per parcel cost), the cost per parcel in Orleans Parish still exceeds the IAAO benchmark range.
- ¹⁶³ BGR Report: *Orleans Assessors Tax Proposal on October 3, 1998 Ballot*, September 1998.
- ¹⁶⁴ Additionally, BGR's 1998 publication reported a national average assessment cost of \$18 - \$24 per parcel, which came from material supplied by the Orleans Parish assessors. Upon reevaluation of those figures in connection with this report, BGR was unable to validate the cost range reported in 1998. In fact, an interview with IAAO's research staff indicated that IAAO does not have data indicating such a high range, and that cost per parcel is actually falling nationwide because of increasing use of computerized mass appraisal systems. BGR now believes that the national range of per parcel costs reported in 1998 was in error.
- ¹⁶⁵ Source: *Assessment Administration Practices in the U.S. and Canada*, IAAO, Chicago: 1992. Fifteen states failed to respond to a survey question on interior inspections. The remaining 15 states do not conduct interior inspections.
- ¹⁶⁶ Almy, R. R. et al., *Assessment Practices - Self Evaluation Guide*. IAAO, Chicago: 1991.
- ¹⁶⁷ Another IAAO rule of thumb sets a minimum suggested threshold jurisdiction size, and estimates a reasonable cost of assessment administration at 1.5% of tax collections for a small jurisdiction with collections of \$4,000,000 in 1991 dollars, or a budget of \$60,000. *Assessment Practices Self-Evaluation Guide*, IAAO, Chicago: 1991, p. 7. The district that produces the lowest tax collections (the 4th District) easily satisfies this threshold.

Property Tax Exemption and Assessment Administration

- ¹⁶⁸ At a rate of $\frac{1}{4}\%$ of collectible taxes for 2000, Orleans Parish would have to contribute about \$772,000. At a 1% rate, the contribution would be about \$3,087,000. The cost per parcel also depends on the parcel count. The range shown in the text is based on a parcel count between 148,131 and 159,598. See Note 162 above.
- ¹⁶⁹ Almy, R. R. et al., *Assessment Practices Self Evaluation Guide*. IAAO, Chicago: 1991.
- ¹⁷⁰ *Computer Assisted Appraisal System Maintenance Procedures Manual*, State of Tennessee, Division of Property Assessments, (1994). The annualized workload of 8,800 parcels assumes 220 working days per year.
- ¹⁷¹ IAAO, *Assessment Administration Salaries in the United States: An Overview from the Salary Survey*, Assessment Journal, Vol, 5, No. 4 (July/August 1998: pp. 39-40).
- ¹⁷² *Property Appraisal and Assessment Administration*, IAAO, Chicago: 1990, p. 305.
- ¹⁷³ *Property Appraisal and Assessment Administration*, IAAO, Chicago: 1990, p. 408.
- ¹⁷⁴ A direct example of this problem is provided by the public debate surrounding substantial differences between assessments of hotels on the upriver side of Canal Street versus those on the downriver French Quarter side of the street. In this particular instance, the two sides of this street are located in the 1st and 2nd municipal districts respectively. Source: *Times Picayune*, Monday, May 3, 1999, Section A, p. 4.
- ¹⁷⁵ Separate exemption sections are common. For example, Seminole County Florida, a county with a population of less than 350,000 has an exemption division supervisor overseeing four staff members. Source: IAAO Newsletter.