



## INDIA – October 2020

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### All you need to know about Chennai Corporation's property tax rules

Property tax is a prime tax charged by corporations and local bodies which has to be paid by every building owners and takes primacy over all other taxes. The property tax is calculated for the annual year and divided into two terms of six months each. In a full financial year (April to March) the two cycles comprise April to September and October to March (next year).

The civic body has 12,40,000 assessed properties of which 1,75,000 are identified to be non-residential (commercial and other types) properties.

What is the incentive scheme and who is eligible to receive the incentives?

The Chennai Corporation to motivate the tax payers have announced an incentive scheme whereby an assessee pays advance tax or the assessed amount within 15 days of tax starting cycle (April 1-15 and October 1-15) they would be eligible for 5% incentive. However the incentive would not exceed more than ₹5,000. The 5% incentive would be subtracted in the next tax cycle. The incentive scheme was introduced by the civic body through an amendment in the Chennai City Municipal Corporation (CMCC) Act, 1919.

What will happen if the property tax is not paid on time?

A penalty of 2% would be charged automatically to the assessed value after the end of the incentive period of 15 days of the tax cycle. Also name change of any property would be made only in case of nil balance of property tax.

On what basis is the property tax assessed?

According to the CCMC Act every building shall be assessed together with its site and other adjacent premises occupied. The annual value of lands and buildings shall be calculated based on the gross annual rent that is expected to yield per month or year. The assessed value would be 10% of the annual rent attributable to the buildings and adjacent sites.

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In what manner a property is differentiated as residential and non-residential?

A property to be taxed is classified as residential and non-residential. Residential properties includes individual houses, flats and apartments, which have not been rented for any office or other commercial purpose. Whereas non-residential properties come under the commercial category and would have shops, offices, malls, cinema theatres, marriage halls and any building rented for commercial purposes.

Who can claim Vacancy Remission?

According to the CMCC Act under section 105 "Any building whether rented or occupied by the owner himself has been vacant for thirty or more consecutive days in any half-year, the Commissioner shall remit so much not exceeding one-half of such portion of the tax as relates to the building."

For the financial year 2020-21 of the 2nd half-year term till October 15, the civic body has given relief to 5.75 lakh tax assesseees to more than ₹5 crore. The civic body has collected ₹45 crore of property tax in the 15 days of the October-March tax cycle.

### **Centre has no right to impose property tax: Akbar lone**

Srinagar: Senior NC leader and member of Parliament M Akbar lone on Saturday said that centre has no right to impose property tax here in J&K.

While talking exclusively with PTK, lone said if there would have been legislative Assembly and such issues should have been decided by them not by Centre.

He said that on what ground they have imposed property tax here, when the market value of property here is very low.

Govt must re-consider its decision and revoke this decision immediately so that locals who have been going through tough times already must feel a sigh of relief.

According to the recent order the property tax shall be levied at such percentage not exceeding fifteen per cent of the taxable annual value of land and building or vacant land or both, as the Government may, by notification, from time to time specify.

These laws also empower the government to exempt certain classes or categories of persons or lands and buildings, or vacant lands or both from the payment of the property tax.

They also define methodology for determination of property tax.

"Subject to the provisions of section 86 and rules, if any, made by the Government in this behalf, the taxable annual value of land and building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total built-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building," reads the laws.(PTK)

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## Property tax imposed in J&K: All you need to know about it

The Ministry of Home Affairs has made a substantial move enabling the government of the Union Territory of Jammu and Kashmir to impose Property Tax through municipal corporation and committees.

The changes have been brought in by way of several amendments in the Jammu and Kashmir Municipal Act, 2000 and Jammu and Kashmir Municipal Corporation Act, 2000 carried through the Jammu and Kashmir Reorganization (Adaptation of State Laws) Order, 2020 issued by the Union Home Secretary, Ajay Kumar Bhalla.

One major amendment in the J&K Municipal Act, 2000 whereby the Municipal Councils and Committees have been established, the Ministry of Home Affairs has substituted Sections 72 to 80 and now Section 72 states: “Unless exempted under this Act or any other law for the time being in force, Property Tax shall be levied on all lands and buildings or vacant lands or both situated within the Municipal area. The Property Tax shall be levied at such percentage not exceeding 15 per cent of the taxable annual value of land and building or vacant land or both as the Government may, by notification, from time to time specify”.

Similarly, Section 73 read: “The taxable annual value of land and building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total build-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building”.

By virtue of the amendments, a J&K Property Tax Board has also been constituted.

While in 2011 the then J&K government had sought to introduce amendments in J&K Municipal Act and J&K Municipal Corporation Act as a first step towards imposition of Property Tax in the state, owing to stiff political opposition the bills lapsed and no such amendments could be made.

Those who had then opposed the move had argued that due to a fragile economic environment, often hit by hartals, curfews and other disruptions, introduction of property tax could impede efforts towards economic revival, especially in tourism and real estate sectors.

In the amended J&K Municipal Act, 2000, Section 72 states: “Unless exempted under this Act or any other law for the time being in force, Property Tax shall be levied on all lands and buildings or vacant lands or both situated within the Municipal area. The Property Tax shall be levied at such percentage not exceeding 15 per cent of the taxable annual value of land and building or vacant land or both as the Government may, by notification, from time to time specify”.

Similarly, Section 73 read: “The taxable annual value of land and building or vacant land assessable to taxes under this Act shall be calculated by multiplying the corresponding unit area value with the total build-up area of a building or the total area of land, as the case may be, minus depreciation, at such rates as may be prescribed, depending on the age of the building”.

Can a lump sum amount also be introduced rather than blanket percentage?

However, a proviso has been incorporated vide which the Municipality may, after passing a resolution, fix a lump sum amount not exceeding the sum payable as annual tax for certain categories of property. However, the resolution shall come into effect only after it is approved by the Government.

Are self-occupied residential properties taxable?

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The Property Tax payable shall be reduced by 25 percent in respect of a self-occupied building used for residential purpose and such class of self-occupied non-residential building as may be notified by the Government on the recommendation of the Municipality. Moreover, there is a provision vide which a person liable to pay the Property Tax shall pay the same in two equal instalments.

How will tax assessment be done?

“Every owner or occupier, who is liable to pay Property Tax, shall every year submit to the Executive Officer or any officer authorized by him in this behalf a return in the prescribed form within the stipulated period and in the prescribed manner”, the new Sections read. Moreover, there is a provision for scrutiny of the return filed and in case of non-compliance action will be initiated.

The Property Tax assessed and levied shall be subject to revision once in three years by enhancing the tax by such percentage not exceeding 10 percent of the tax as may be prescribed, commencing from the financial year from which the Property Tax is determined.

The Property Tax shall be primarily leviable and payable if the land or building is let upon the lessor; if the land or building is sub-let upon the super lessor and if the land or building is unlet upon the person in whom the right to left the same vests. However, if any land has been let for a term exceeding one year to a tenant and such tenant has built upon the land, the Property Tax assessed in respect of that land and the building erected thereon shall be primarily leviable upon the said tenant whether the land, building or both are in occupation of such tenant or a sub-tenant of such tenant.

As per the new provisions, the Government may, by order exempt, in whole or in part, from the payment of any tax payable under the Act by any person or class of persons or in respect of any property or description of property. Any appeal against the tax shall lie to the Jammu and Kashmir Property Tax Board.

As per the new provisions, when any new building is erected or any existing building is reconstructed or altered or improved or when any building which has been vacant is re-occupied, the person primarily liable to pay tax shall give notice in writing to the Executive Officer within 15 days from the date of its completion or occupation.

When any building or any portion thereof, which is liable to tax, is demolished or removed, otherwise than by or under an order of the Municipality, the person primarily liable for the payment of tax shall give notice in writing. Until notice is given, the person primarily responsible for payment of tax shall continue to be liable to pay such taxes as he would have been liable to pay in respect of such building if the same or any portion thereof had been demolished or removed.

### **Tax Court affirms reduced assessment of Grant County golf course property**

The Indiana Tax Court has affirmed the Indiana Board of Tax Review’s final determination that reduced the assessment of a Grant County couple’s golf course land.

In 2018, Randy and Sara Ballinger owned 302 acres of land in Grant County, roughly 298 acres of which housed two 18-hole golf courses, referred to as Walnut Creek. The remaining acreage contained two single-family residences, two clubhouses, multiple pole barns, and at least two utility sheds.

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During that tax year, the Ballingers' property was assigned a total assessed value of \$619,700, with \$379,600 for land and \$240,100 for improvements. Of that value, \$312,600 was allocated to Walnut Creek's land and \$31,700 was allocated to Walnut Creek's yard improvements, consisting of the 36 golf course holes.

Believing that the Walnut Creek portion of the assessment was inconsistent with Indiana Code § 6-1.1-4-42, the Ballingers filed a notice of intent to appeal, which the Grant County Property Tax Assessment Board of Appeals denied after holding a hearing.

The Ballingers then filed a petition for review with the Indiana Board, where they asserted that Walnut Creek's land should be valued at \$131,196.75 for 2018.

After hearing arguments from both the Ballingers and the Grant County assessor, the Indiana Board issued its final determination in April 2019, finding that the assessor "blatantly failed to value [Walnut Creek] in accordance with Indiana Code § 6-1.1-4-42." It further found that the Ballingers made a prima facie case for reducing their assessment despite any flaws in their evidentiary presentation.

It therefore found that Walnut Creek's land assessment should be \$131,196 as indicated in the Ballingers' income approach, reducing the Ballingers' 2018 total assessment from \$619,700 to \$438,296. Although the assessor appealed to the Indiana Tax Court, Judge Martha Wentworth affirmed, agreeing with the Indiana Board's final determination.

Addressing the issue of burden of proof, the Tax Court first found the assessors' arguments to be unavailing in the case of *Grant County Assessor v. Randy & Sara Ballinger*, 19T-TA-19.

<https://www.in.gov/judiciary/opinions/pdf/09302001mbw.pdf>

"First, prior Indiana Board decisions are not binding on the Court, which has long-held 'that each tax year stands alone for property tax assessment administrative and judicial appeals.' In addition, the Assessor did not establish that Walnut Creek's assessment was lower than other Grant County golf courses on a per hole basis because the other assessments included more than just the golf course property alone," Wentworth wrote.

"Finally, the Assessor's failure to assess the Ballingers' golf course using the mandated income approach methodology makes the assessment ineligible for the presumption of correctness. Accordingly, the Court is not persuaded that any of these reasons support the claim that the Indiana Board improperly shifted the burden of proof to the Assessor," it wrote.

Moving next to the assessor's claims that the Indiana Board erred in concluding that the Ballingers made a prima facie case for reducing their 2018 assessment, the Tax Court found that the Ballingers' lack of a USPAP-compliant appraisal was not fatal to making their prima facie case.

Next, it found that the assessors' criticism to be hollow on the issue of conflicts with Indiana Code § 6-1.1-4-42 and Indiana's constitutional requirements of uniformity and equality. Ultimately, while it noted that the statement in the Department of Local Government Finance's PowerPoint "is troubling, it is insufficient, without something more, to support a finding that all the DLGF's rules for assessing golf courses and its related memoranda conflict with Indiana Code § 6-1.1-4-42 and the constitutional requirements of uniformity and equality."

Additionally, in the absence of market-based evidence, the Tax Court concluded that it could not find that the Ballingers' use of the DLGF's 2018 statewide capitalization rate weakens the probative value of their income approach simply because the memorandum did not explain how the rate was derived. Lastly, it noted that the Tax Court may not reverse an Indiana Board final determination because it "simply disagrees with the Indiana Board's factual findings because it may not substitute its judgment for that of the Indiana Board."

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“The Court finds no basis for reversing the Indiana Board’s conclusion, and therefore, its final determination is affirmed,” the Tax Court concluded.

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