



Property Tax Newsletter

February 1999

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1999 Legislative Update

Following is a summary of the property tax legislation that is still alive in the 1999 North Dakota Legislature as of February 12, 1999. Unless indicated otherwise, property tax legislation becomes effective on August 1, 1999.

House Bill 1052

Amends N.D.C.C. § 57-02-08.1 regarding homestead credit for qualifying individuals. Provides that the income limitation for qualifying applicants for the homestead credit and renters refund increases from \$13,500 to \$14,000. Revises the schedule for income and credit levels as follows:

Income	Percentage Reduction	Maximum Dollar Reduction
\$ 0 - \$ 8,000	100%	\$2,000
8,001 - 9,500	80%	1,600
9,501 - 11,000	60%	1,200
11,001 - 12,500	40%	800
12,501 - 14,000	20%	400

The maximum amount of renter refund remains at \$240 per year. Effective for taxable years beginning with 1999.

House Bill 1053

Amends N.D.C.C. § 57-02-08(15)(2) pertaining to the definition of a farmer. Provides that fifty percent or more of annual net income must come from farming activities, including the *net* income of a spouse if married, during *any* of the three preceding calendar years. The definition includes a retired farmer and a beginning farmer. Defines a "beginning farmer" as one who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry,

livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years. Provides that retired farmers and beginning farmers are not restricted by the qualification that a farmer and spouse, if married, must not have nonfarm income exceeding \$40,000 during each of the three preceding calendar years. Effective for the 1999 assessment.

House Bill 1054

Amends N.D.C.C. § 57-02-08(15) pertaining to exemption of farm buildings. Provides that a building or structure must be used *primarily* for a retail or wholesale business other than farming for it to be taxable. Defines "business other than farming" to include processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale. Provides that, in addition to the other provisions, assessment officials may *not* consider the following factors when determining eligibility of buildings and structures for the farm building exemption.

- Whether the farmer grows or purchases feed for animals raised on the farm.
- Whether animals being raised on the farm are owned by the farmer.
- Whether the farm's replacement animals are produced on the farm.
- Whether the farmer is engaged in contract feeding of animals on the farm.

Effective for taxable years beginning with 1999.

House Bill 1055

Amends N.D.C.C. § 57-02-14 which requires assessors to prepare a separate list of property exempt from taxation. Exempt property owned by governmental entities (U.S., state, political subdivisions) is excluded from

that requirement. Beginning with taxable year 1999, exempt farm buildings and residences will not be included on the list of exempt property.

House Bill 1117

Amends N.D.C.C. § 57-28-21 by requiring that the county auditor need only notify the county treasurer of the board of county commissioners' resolution to cancel from the record all general taxes and special assessments remaining against the property sold for taxes, except installments of special assessments not due at the time of sale.

House Bill 1247

Amends N.D.C.C. § 40-23-07 by removing the requirement that members of the special assessment commission personally inspect all parcels of land which would be subject to the proposed special assessment.

House Bill 1271

Creates a new section to N.D.C.C. ch. 57-02. Provides that unless directed by court order or as allowed by law, information provided by the owner or occupant to assessment officials regarding income and expenses of commercial property is confidential. Statistics regarding that information may be published or disclosed whenever the owner or occupant requests review or reduction of the assessment.

House Bill 1342

Amends N.D.C.C. § 57-23-04(1)(g) by allowing an abatement or refund for part of a year when a building, mobile home, structure or other improvement is destroyed or damaged by not only fire, flood or tornado, but also any other natural disaster. Effective for taxable years beginning with 1999.

House Bill 1351

Amends N.D.C.C. § 57-02-08(37) relating to property tax exemption of nonresidential buildings and improvements used to provide early childhood day care services. Adds the provision for exemption of fixtures, buildings and improvements of nonresidential property used primarily as an adult day care center. Effective for taxable years beginning with 1999.

House Bill 1363

Amends N.D.C.C. § 57-02-08(15)(b)(3) regarding net income from farming activities. To determine net income from farming activities the assessor may add to the taxable farm income of an individual claiming to be a farmer not only net capital gain and interest expenses from farming activities, but also depreciation expenses from farming activities that were deducted in computing taxable income.

Effective for taxable years beginning with 1999.

House Bill 1375

Creates N.D.C.C. § 30-18-03.2 and provides that owners of park model trailers must pay an annual \$20 fee to the Department of Transportation to qualify for exemption from the mobile home tax under N.D.C.C. § 57-55-10. Amends N.D.C.C. § 57-40.3-01(2) to include park model trailers in the definition of "motor vehicle" for purposes of requiring a certificate of title. Amends N.D.C.C. § 57-55-10(2), which provides that a mobile home is not subject to mobile home taxation if it is used only for temporary living quarters of the owner while engaged in recreational activities if the unit displays a current travel trailer license or is a park model trailer as defined in the bill. Effective for taxable years beginning with 1999.

House Bill 1406

Amends N.D.C.C. §§ 11-18-05 and 11-18-11 relating to various fees and requirements for recording certificates and instruments in the office of the register of deeds.

Senate Bill 2006

Provides an appropriation for defraying the expenses of the office of state tax commissioner and for the state's reimbursement under the homestead tax credit.

Senate Bill 2051

Amends N.D.C.C. § 40-57.1-03 to include a representative appointed by the school board of each school district affected by the proposed action and a representative appointed by the board of township supervisors of each township affected by the proposed action as nonvoting ex officio members of the governing board in deliberations on granting property tax exemptions or payments in lieu of taxes for new industries.

Senate Bill 2052

Amends N.D.C.C. § 57-02-27.2. Provides that, in addition to calculating the average agricultural value per acre of cropland and noncropland, North Dakota State University (N.D.S.U.) must also compute the average value of inundated agricultural land at ten percent of the average agricultural value of noncropland for the county. Defines inundated agricultural land, provides that each year the board of county commissioners must classify each property as inundated land in order for it to be valued as such. When valuing individual parcels of inundated land, assessors may recognize the probability that the property will be suitable for agricultural production as cropland or for grazing farm animals in the future. Effective for taxable years beginning with 1999.

Senate Bill 2054

Amends N.D.C.C. § 57-02-27.2 to include a production cost factor in the formula for valuation of agricultural land. N.D.S.U. establishes a base year index of prices paid by farmers using annual statistics compiled by the national agricultural statistics service for a ten year period ending in 1998. Each year after 1998, the most recent ten years' statistics of indexes of prices paid are used, discarding the highest and lowest indexes, averaging the remaining eight years' indexes and dividing the resulting amount by the base year index of prices paid by farmers. That amount is divided into the annual gross returns of eight of the ten most recent years. Effective for taxable years beginning with 1999.

Senate Bill 2100

Amends N.D.C.C. § 23-15-01 by removing reference to personal property taxes on fireworks. Amends N.D.C.C. § 57-15-01.1 and simplifies calculating a maximum levy by deleting a duplicate reference to mill levy limitations. Effective for taxable years beginning with 1999.

Senate Bill 2101

Amends N.D.C.C. § 57-34-05 to provide for distribution of the telecommunication carriers tax. On or before March 1 of each year, the tax commissioner must certify for payment to the state treasurer an amount of the tax due each county. The state treasurer then remits the certified amount to the county treasurer no later than the 10th working day in March of each year. Effective for taxable years beginning with 1998. The bill is declared an emergency measure.

Senate Bill 2105

Provides that the state treasurer must allocate state aid distribution fund revenues remaining unexpended as of December 31, 1998, in a single quarterly allocation under the formula contained in N.D.C.C. § 57-39.2-26.1, as effective January 1, 1999. The act is declared an emergency measure.

Senate Bill 2215

Repeals N.D.C.C. § 57-15-06.7(11) pertaining to county levy #1234 for junior colleges.

Senate Bill 2231

Repeals N.D.C.C. §§ 11-13-10 and 11-14-05 that provide for the certification of the county auditor and county treasurer attached to abstracts of title covering real estate as to the amount of taxes due and any tax unpaid or any tax title affecting the land described in the abstracts.

Senate Bill 2334

Rewrites the tax deed proceedings.

Assessors Encouraged to Review Applications For Property Tax Exemptions

North Dakota Century Code § 57-02-03 provides that “all property in this state is subject to taxation unless expressly exempted by law.” North Dakota Century Code § 57-02-14.1 provides that any person or organization owning real property within a city must file an application for property tax exemption with the city assessor before February 1 each year in order to claim property tax exemption. The provision does *not* apply when property is owned by the U.S., state of N.D. or any of its departments, institutions, agencies or political subdivisions. Unless an assessor has an application for property tax exemption on or before February 1, the assessor should assess the property. Township assessors and county directors of tax equalization often ask persons claiming a farm residence exemption under N.D.C.C. § 57-02-08(15) to complete an application to determine if the property qualifies for the exemption.

The State Supervisor of Assessments reminds assessment officials to review all applications submitted together with the specific statute used to claim exemption. *Most* property tax exemptions listed in N.D.C.C. § 57-02-08 require two things in order for the property to qualify for exemption: (1) the property must be owned by the individual or organization for which the exemption is claimed, and (2) the property must be used for the purpose stated in the specific statute for the exemption claim.

For example, N.D.C.C. § 57-02-08(20)(a) provides that in order to be exempt from property taxation, the fixtures, buildings and improvements must be owned and occupied as a homestead by a paraplegic disabled veteran of the U.S. or any veteran that has been awarded specially adapted housing by the Veteran’s Administration, or the unmarried surviving spouse if the veteran is deceased. Subsection 20 also provides that upon claiming the exemption for the first time, the applicant must file with the county auditor an affidavit stating the facts.

Another property tax exemption about which there is confusion is the one provided by N.D.C.C. § 57-02-08(8). It provides for exemption of property owned by institutions of public charity and used by those organizations for the charitable purposes for which they were organized. Assessors should obtain a copy of the articles of incorporation of the organization claiming exemption. The articles of incorporation must indicate that the organization is not organized for profit and the purpose of the organization. Having IRS 501(c)(3) status is not enough evidence to support the applicants claim for exemption.

Generally, if an organization is *not* organized for profitable gain, the articles would contain a statement that upon dissolution of the corporation/organization the assets will *not* be distributed to any individuals; but rather they will be distributed to another charitable, educational or scientific organization. The articles should state the purpose of the organization. Assuming it is organized for charitable purposes, the assessor must determine whether the actual use of the property on the assessment date is the same as that for which the articles indicate the organization was formed. This generally requires a personal inspection of the property.

Anyone having questions or concerns regarding property tax exemptions may contact the Property Tax Division.

Tax Directors Are Responsible For Assessments of Unorganized Districts

The State Supervisor of Assessments was recently asked for a clarification of the certification requirements for district assessors, also known as assessors of unorganized districts.

An individual was appointed district assessor for a four-year term according to the provisions of N.D.C.C. § 57-02-33. The individual failed to become certified by the state supervisor of assessments within 12 months. The question presented was whether an individual who did not become certified within 12 months may continue to serve the remaining 3 years of the term without being certified.

North Dakota Administrative Code (N.D.A.C.) § 81-02.1-02-01(5) defines township assessor as a person appointed or elected as assessor according to N.D.C.C. ch. 58-05 or a person appointed as a district assessor according to N.D.C.C. § 57-20-33. N.D.A.C. § 81-02.1-02-03(2) requires a “township” assessor to become certified within twelve months of appointment or election. It also provides that any “township” assessor who does not become certified within 12 months of appointment or election is not eligible for reappointment.

N.D.C.C. § 57-02-33 provides that the county director of tax equalization is eligible for appointment to the district assessor position. N.D.C.C. § 11-10.05 provides that “. . . the county director of tax equalization *shall* succeed to all the powers and duties of assessors of . . . unorganized districts within the county . . .” Because N.D.C.C. § 11-10.1-05(2) was enacted after N.D.C.C. § 57-02-33, the county director

of tax equalization, who must be certified, has the assessment responsibilities for the unorganized districts. N.D.C.C. § 57-02-33 authorizes the board of county commissioners to appoint deputy district assessors as needed.

The Office of State Tax Commissioner takes the position that the county director of tax equalization assumes the assessment responsibilities of the district assessor for the remaining three years of the term. The board of county commissioners may appoint the individual who did not become certified as deputy district assessor to assist the county director of tax equalization. While deputy assessors do not have to become certified, the instruction for assessor certification would be helpful in the completion of their duties.

Upcoming Education

The following educational opportunities are available to assessment officials before midMay:

- Valuation of Apartment Buildings
International Association of Assessing Officers
March 15, 1999
Fargo, ND
- Property Tax Changes
Barry Hasti, ND Tax Commissioner’s Office
May 11, 1999
IVN Network - Minot, Grand Forks, Fargo,
Bismarck

Anyone wanting more information about these opportunities may contact LuElla Wedge at the number listed below.

Need Assistance?

Please direct property tax questions or concerns to:

Office of State Tax Commissioner
Property Tax Division
600 E. Boulevard Ave.
Bismarck, ND 58505-0599
Phone: (701)328-3127
Toll free within state: 1-800-638-2901, option 5
Fax: (701)328-3700
E-mail: msmail.bh758@ranch.state.nd.us
Website: <http://www.state.nd.us/taxdpt>