



# Property Tax Newsletter

July 2000

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### **State Board of Equalization will Meet in August**

The North Dakota State Board of Equalization (Board) will meet Tuesday, August 1, 2000, at 9:00 a.m. CDT in the Conference Room of the Office of State Tax Commissioner, located on the 8<sup>th</sup> floor of the State Capitol. The purpose of the meeting will be to hold hearings on assessments of centrally assessed property in North Dakota.

On Tuesday, August 8, 2000, the State Board of Equalization will again meet at the State Capitol. However, *instead* of meeting in the Pioneer Room, the Board will meet in the Brynhild Haugland Room which is on the ground floor near the west end of the Capitol. At 8:30 a.m. CDT, the Board will consider applications for income tax exemption of new and expanding businesses, if any. At 9:30 a.m. CDT, the Board will review assessments finalized by all of the county boards of equalization in the state, beginning with Rolette County.

The Board has not indicated any change in its policy of allowing a five percent tolerance for assessments of residential, commercial and agricultural property. The Board will not order a change in assessments of residential and commercial property in any county in which the median ratio represents 95 to 105 percent of market value. The Board will not order a change in agricultural land assessments of any county for which the average agricultural value approved by the County Board of Equalization represents between 95 and 105 percent of the county average value per acre as certified by the Tax Commissioner.

County directors of tax equalization are encouraged to notify the Property Tax Division beforehand of any assessments that may be appealed to the Board. Tax directors should inform property owners that the State Board of Equalization does not have authority to reduce an assessment unless the owner or representative has first appealed to the local and county boards of equalization. Individuals who intend to present supporting evidence to the Board should bring ten copies of every handout.

### **Assessment Questions**

Property Tax Division personnel respond to many questions regarding administration of property taxation in North Dakota. Listed below are a few questions regarding assessment topics of general interest and the corresponding response given as the position of the Office of State Tax Commissioner.

#### **Proper notification of increase in assessment**

North Dakota Century Code (N.D.C.C.) § 57-12-09 provides that whenever the assessor increases an assessment of real property more than 15 percent *and* \$3,000 true and full value, the assessor must send a notice of increase in assessment to the property owner at least 10 days before the local board of equalization meeting.

**Question:** Does N.D.C.C. § 57-12-09 require that multiple owners of the same parcel of land receive written notice of an increased assessment to that parcel, or may one owner on behalf of the others receive the notice?

**Response:** If there is more than one owner of the same assessment parcel, each owner listed on the deed should be given written notice of an increased assessment.

### **Classification of land for assessment purposes**

An individual buys rural land, takes it out of agricultural production, and uses it for hunting.

**Question:** How should the property be classified for assessment purposes?

**Response:** The land should be classified as commercial property.

North Dakota Century Code § 57-02-01, in part defines six classes of property for assessment purposes:

- Agricultural land (subsection 1)
- Air carrier Transportation (subsection 2)
- Centrally assessed (subsection 4)
- Commercial (subsection 5)
- Railroad (subsection 11) and
- Residential (subsection 12)

Land used for hunting cannot be considered agricultural land because it is no longer used for growing crops or grazing farm animals. It is not centrally assessed or railroad property. There is not a residence located on any portion of the land so it cannot be classified as residential. The only possible classification remaining is commercial property. North Dakota Century Code § 57-02-01(5) defines commercial property as “. . . all property, or portions of property, not included in the classes of property defined in subsections 1,4,11, and 12.” Commercial property is a “catch all” term used to classify property that doesn’t fit any of the other definitions. Therefore, land used for hunting should be classified as commercial property and valued according to market value.

Many counties have parcels of agricultural land that have gravel pits on them. Acreage of land used for growing crops or grazing farm animals as part of a farm operation should be classified as agricultural land. Acreage used in connection with mining gravel should be classified as commercial. If a parcel contains 160 acres and has 25 acres used in connection with the gravel pit, the assessment would contain 135 acres classified and valued as agricultural land and 25 acres classified as commercial property and valued according to market value. When the gravel supply is depleted but the site has not been restored to its natural state and is not used for growing crops or grazing farm animals, assessors should classify those acres as commercial land but value them as wasteland.

### **Property owned and used by Farm Credit Services**

**Question:** Should property owned and used by the Farm Credit Services be exempt from property taxation?

**Response:** Farm Credit Services is an agency of the federal government. N.D.C.C. § 57-02-08(1) provides that property owned by the federal government is exempt from taxation. However, Congress waived the federal exemption (12 United States Code Section 2023). Local governments should assess property owned by the Farm Credit Services. If Congress had *not* waived the federal exemption, property owned and used by Farm Credit Services would be exempt from taxation.

### **Exemption of farm residences and farm buildings**

The 1999 Legislature amended N.D.C.C. § 57-02-08(15) specifying that the following factors *cannot* be considered in determining qualification for exemption of farm buildings:

- 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

The assessor and boards of equalization must determine if an operation is part of a farm plant as it is ordinarily understood.

Example: An individual has a large poultry operation and claims property tax exemption of the residence and buildings.

**Question:** Can the income earned from the poultry operation be considered as farm income for purposes of qualifying for the farm residence exemption?

**Response:** The income from the poultry operation should be considered farm income *only* if it is reported as farm income for income tax purposes. In order to qualify for exemption of a residence, the income of the applicant must meet the requirements defined in N.D.C.C. § 57-02-08(15)(b)(3). If the income listed for income tax purposes is *not* farm income, the operation is a business and therefore, is not part of a farm plant. That income must be considered nonfarm income for purposes of the farm residence exemption.

**Question:** Should the time spent on the poultry operation be considered farming in regard to the time test for the farm residence exemption?

**Response:** If the income qualifies as farm income, then the time involved in generating the income would be considered as time spent in farming activities.

**Question:** Should the time the spouse spends on the poultry operation be considered?

**Response:** The individual claiming to be the farmer must meet the time test. The amount of time the spouse spends on the operation is not a factor for qualification of the farm residence exemption.

## **Evidence of Veteran Status For Property Tax Exemption Purposes**

North Dakota Century Code §§ 57-02-08(20)(a) and (b) provide for property tax exemption of fixtures, buildings, and improvements up to \$80,000 true and full value when owned and occupied as a homestead by a qualifying veteran or the unremarried surviving spouse. It is the responsibility of the person claiming exemption to provide evidence to support that claim.

To qualify for exemption according to N.D.C.C. § 57-02-08(20)(a), the applicant must be *one* of the following:

- Paralegic disabled veteran of the U.S. armed services
- Veteran awarded specially adapted housing by the Veterans Administration (V.A.) or
- Unremarried surviving spouse if the veteran is deceased

It is not necessary for paralegic disabled veterans to have acquired the disability during active duty. However, to claim exemption for the first time, applicants should be willing to provide evidence of their veteran status *and* medical condition. Veterans Administration (V.A.) Form DD-214 is evidence of an honorable discharge from the U.S. armed forces and therefore, veteran status. A letter or statement from the veteran's physician attesting to the veteran's paralegic condition is sufficient evidence for exemption purposes.

U.S. veterans awarded specially adapted housing are individuals who were given a one-time award of money to use to remodel their own home to meet certain needs recognized by the V.A. based upon the veteran's level of disability.

These veterans will possess the following forms:

- V.A. Form DD-214 (evidence of honorable discharge from the armed forces and veteran status),
- V.A. Certificate of Eligibility (confers disabled status), and
- V.A. Rating Decision (confers award of money for special adaptation of the residence)

To qualify for exemption according to N.D.C.C. § 57-02-08(20)(b), the applicant must be *one* of the following:

- Disabled veteran of the U.S. armed forces who was discharged under honorable conditions,
- Disabled veteran who retired from the U.S. armed forces with a service-connected disability of 50 percent or greater, or
- Unremarried surviving spouse if the veteran is deceased

Disabled veterans of the U.S. armed services who were discharged under honorable conditions need not have acquired the disability during active duty. However, to claim exemption for the first time, applicants should be willing to provide evidence of their disability *and* veteran status; i.e., letter or statement from the veteran's physician *and* V.A. Form DD-214.

Evidence of qualification for exemption as a disabled veteran who retired from the U.S. armed forces with a service-connected disability consists of V.A. Form DD-214 and a V.A. Certificate of Eligibility (confers disabled status).



When a U.S. service veteran described in N.D.C.C. § 57-02-08(20) dies, a statement of discharge (V.A. Form DD-214) is issued for the deceased person and automatically establishes veteran status. The surviving spouse receives the statement of discharge and obtains all the rights and benefits of a veteran. Individuals claiming exemption as the unremarried surviving spouse should be willing to provide assessment officials with a copy of the statement of discharge (V.A. Form DD-214), evidence of the spouse's status of being the un-remarried surviving spouse of a disabled (deceased) veteran, and, as required by N.D.C.C. § 57-02-08(20)(b), itemization of income.

Refer to N.D.C.C. § 57-02-08(20) and Property Tax Guideline "Exemption of Qualifying Veterans and Disabled Persons Confined to Use of a Wheelchair" (Assessor's Manual, Section 2, p. 11,12) for additional qualification requirements.

## **Administration of Tax Incentives For New And Expanding Businesses**

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County Directors of Tax Equalization are responsible for monitoring the administration of tax incentives available according to N.D.C.C. ch. 40-57.1. They notify assessors of the taxable and exempt status of property or portions of property entitled to exemption or payments in lieu of taxes. City and county auditors are required to submit a copy of approved applications to both the Tax Director's Office of the county in which the property is located *and* to the Office of State Tax Commissioner. It would be helpful if tax directors would periodically remind auditors to submit copies of the applications. Both assessors and tax directors are generally good sources of information regarding the properties themselves, exemption background, and equalization of administering the incentives.

Project operators may apply for making payments in lieu of taxes after construction of the project has begun; however, the payment cannot begin until there is evidence that the buildings and improvements are actually used in the operations of the project.

It has been confusing regarding the amount of time allowed for project operators to make their application for exemption. North Dakota Century Code § 40-57.1-07 provides that application for the exemption must be made and granted prior to commencement of construction; or

if the project will be located in an existing building, application must be made and granted prior to commencement of project operations. It is easy to determine what a new building is and that the application for exemption must be granted before any construction begins. North Dakota Century Code ch. 40-57.1 does not define "existing building". The Office of State Tax Commissioner takes the position that once a building is completed, it is an existing building. If the project operator has started construction of a new building and then decides to apply for the exemption, the project could qualify for exemption as an existing building provided the application is approved after the building is completed and before the project operator occupies the building. County and city governing boards may consider applications for payments in lieu of taxes if applications are filed after commencement of construction of projects.

### **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: [bhasti@state.nd.us](mailto:bhasti@state.nd.us)  
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