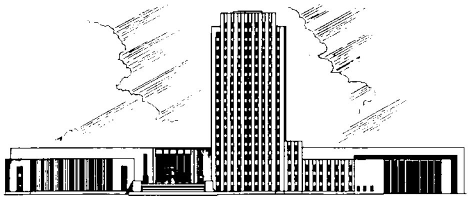

RICK CLAYBURGH
TAX COMMISSIONER

Property Tax Newsletter

March 2000

In This Issue . . .

Assessors Work on New Millennium Assessments

The first assessment of the new millenium is in full swing – actually half way to the local board of equalization meeting in April! County directors of tax equalization have completed the assessor seminars and are busy completing their own work as well as assisting township and class II city assessors, when needed.

Assessors should make every effort to review all properties for accuracy of data, quality, condition and correct valuation. Whether buildings are completed or partially completed on the assessment date (February 1), assessors must assess property based on the true and full value as of February 1. Assessors must send notices of increase in assessment to property owners whenever they increase the true and full value by 15 percent or more AND $3,000 or more over the 1999 assessment.

Assessors and their boards of equalization should use the sales ratio study as a tool to check the quality of residential and commercial assessments in their jurisdictions and to determine what needs to be done to correct inequities. If assessments do not follow changing market conditions, older properties tend to be over-assessed compared to what they would typically sell for in the open market and newer buildings may be under-assessed. The sale prices of property sold in arm's-length transactions are good indicators of value for similar properties that have not sold. Assessments should reflect that.

Agricultural property is valued according to agricultural value. Assessors need to have similar values on parcels with similar soils. The best way to allocate agricultural land values equitably is to use the detailed soils survey. Boards of equalization need to review the agricultural land values for equality and to verify that the township average agricultural value determined by the assessor represents the township average agricultural value certified by the county director of tax equalization.

Courses Rescheduled

The Property Tax Division revised the schedule of courses that will be offered through May 2003. Generally, two courses will be offered per year – in May and November. Course 303, scheduled for this May, will be the second course offered in 2000. The revised course schedule is as follows:

Date	Course #	Course Title
May 15-19, 2000	303	Teaching Appraisal Techniques
May 7-11, 2001	102	Principles & Theory of Value
Nov. 26-30, 2001	101	Tax Administration
May 20-24, 2002	203-C	Introduction to Income Approach
Nov. 18-22, 2002	202	Agricultural Land Valuation
May 12-16, 2003	303	Teaching Appraisal Techniques

Class I city assessors and county directors of tax equalization must become certified by the state supervisor of assessments within three years of appointment and may need to obtain some appraisal courses from other sources.

Listed below are names and telephone numbers of appraisal organizations that offer real estate appraisal courses pertaining to theory and valuation of residential and commercial properties.

Organization	**Telephone Number**
Appraisal Institute	(312) 335-4100
IAAO	(312) 819-6100
ProEd	(800) 658-3959
ProSource	(800) 373-1295
University of MN	(612) 624-3745

Assessment officials need to plan their education accordingly. Direct questions regarding education to LuElla Wedge.

Homestead Credit Statute – Current vs. Previous

Anyone looking in Section 1 of the Assessor's Manual for the current statute for homestead credit may get a bit confused.

North Dakota Century Code (N.D.C.C.) § 57-02-08.1, pertaining to homestead credit, is listed on pages 44-48. The phrase following the section number listed on page 44 indicates that the law is effective for taxable years beginning *on or before* December 31, 1999. The phrase listed next to the section number on page 46 indicates that the law is effective for taxable years beginning *after* December 31, 1999. Why is it listed this way?

The 1999 Legislature amended N.D.C.C. § 57-02-08.1 to allow homestead credit applicants to earn a maximum income of $14,000 to qualify for the year 2000. Assessors need to read the statute beginning on page 46 to administer credit for 2000 and beyond.

Individuals may apply for homestead credit for 1999 and, until November 1, 2000, may also apply for homestead credit for 1998 by filing an application for abatement with each homestead credit application. The law, as it pertains to homestead credit applications for 1998 and 1999, begins on page 44.

Committees Study Assessment Problems

Study committees were formed to discuss two assessment problems – inundated lands and valuation of low-income housing tax credit property.

The Advisory Committee on Inundated Lands was created by North Dakota County Commissioners Association President Barry Cox and State Tax Commissioner Rick Clayburgh. The committee is made up of county commissioners, tax directors and a representative from the ND Township Officers Association. The committee was formed to identify criteria for legislative changes to N.D.C.C. § 57-02-27.2, valuation of inundated lands. The committee held its first meeting on February 2 and considered the following items:

- Minimum acreage
- Time inundated (2-3 years)
- Value of inundated land
- Revenue potential
- Equalization
- Application deadline

The committee recommended the following criteria for future legislative changes, possibly for consideration by the 2001 Legislature.

- Minimum acreage – 10 contiguous acres
- Time inundated – 3 consecutive growing seasons
- Value of inundated land – 10% of non-cropland value
- Revenue potential – if average income of inundated acres is less than the average income of non-cropland acres of each county
- Equalization – not a problem if all counties follow the same pattern
- Application deadline –
  - Purpose – to reduce or eliminate abatement process for inundated lands
  - Legal research necessary to determine if application deadline can be imposed

Another committee consisting of representatives of developers, assessors, the ND Housing Finance Agency, Tax Commissioner's Office and state legislature met February 24, 2000, to discuss valuation of low-income housing tax credit property. The committee considered the following concerns:

- Valuation methods reflect market value of these properties given the restrictions on rent and the impact of the tax credits
- These properties should be assessed in a uniform manner across the state

The committee discussed the low-income housing tax credit (LIHTC) program. It's purpose is to provide affordable housing for low-income persons. The committee discussed how LIHTC property is assessed in other states, including the method specified in Minnesota legislation and methodology imposed by the Kansas Supreme Court.

The committee members agreed that the income approach to value is the best method of determining market value of LIHTC property because of lack of sales, and the relationship between cost of construction and rental income is not the same as other residential rental property. The concern was what income should be capitalized into value – rent that could be obtained in the market if restrictions imposed by the LIHTC program were absent *or* the rent available under the LIHTC restrictions. The committee determined that legislation is necessary to create a class of property that would be valued in a method other than the market value of the full, unencumbered property rights.

Assessment of Possessory Interests

The definition of real property in N.D.C.C. § 57-02-04 includes not only land and improvements but also the rights and privileges that pertain to land and improvements. Generally, assessors consider ownership of all rights (fee simple ownership) when determining valuation of real property. Those rights are the right to sell, lease, use, give away, enter, and refuse to do anything with the property. When a lease exists, the owner gives up some rights. A tenant's rights, created by a lease, are referred to as leasehold interests.

Property owned by the U.S. , State of North Dakota, city, county or other political subdivisions and their agencies is exempt from property taxation, based solely on ownership. Whenever anyone who is not exempt from taxation uses a property owned by one of the political entities or agencies, or a railroad corporation, that possessory interest is subject to tax according to N.D.C.C. § 57-02-26. Examples include residential property owned by the U.S. Forest Service, USA Fish Hatchery, N.D. Park Service, and school district residences occupied by employees. Examples of commercial property subject to possessory interest assessment include leases of airport hangers, pro shops at municipal golf courses, and buildings along railroad right-of-way. The key to eligibility for possessory interest assessment is ownership of property by a governmental entity or railroad and use for non-exempt purposes.

Mobile homes are not subject to possessory interest assessment because they are personal property and therefore nontaxable. Also, when a non-exempt person or entity leases space from a privately-owned exempt property for a non-exempt use, that right is assessable to the owner of the property. There is no statutory provision to assess it as possessory interest to the lessee. Examples include a hospital corporation leasing space in the hospital to someone to operate a gift shop, or the American Legion leasing kitchen and dining area to an individual to operate a restaurant. While the leasehold interest in properties such as these is not subject to possessory interest assessment to the lessee, the real property interest is taxable and assessed to the owner of the property.

How are possessory interests listed on the assessment roll? A new parcel is created which lists the taxpayer's name, and the statement "possessory interest in *legal description*." The parcel of the government-owned property is still listed as exempt. A sample listing of a government-owned residence occupied by an employee follows:

Parent Parcel			
USA Fish Hatchery *(owner)*	Exempt		
S½NW¼ of Section 1, *(legal desc.)*			
T139-R70W, Dakota County			

Possessory Interest Parcel	Res. Land	Res. Bldg.	Res. Total
John Smith			
Possessory interest in			
S½NW¼ Section 1	$1,200	$55,000	$56,200
T139-R70W, Dakota County			

Possessory interests are valued according to N.D.C.C. § 57-02-26 which provides that property held under a lease for a term of years or under a purchase contract, belonging to a governmental entity or railroad must be taxed as though the person holding the lease or contract holds all the rights of property ownership. Because the possessory interest is taxable as real property, it should be assessed at true and full value. For residential and commercial property, true and full value represents market value. Possessory interest assessments should reflect a land value and improvement value. Although a lease may specify use of a building, land is needed to enter/exit, load/unload, support the building, etc. so the lessee also has interest in the land. When a lease is held for less than a term of years, the value of the possessory interest is less than the value of the physical property . The assessment should reflect that.

N.D.C.C. § 57-02-41 provides for proration of taxes. It pertains to possessory interest assessments in government-owned real property in the following instances:

1. When the leasehold begins, real property rights are transferred from an exempt entity to a nonexempt entity
2. When a leasehold terminates, real property rights transfer from a non-exempt entity to an exempt entity
3. When a month-to-month lease continues for only part of the year

When a leasehold begins (#1 above) after February 1, the assessment for the number of months of the calendar year it is taxable is added as omitted property (N.D.C.C. §§ 57-14-01 through 57-14-07). In situations #2, 3 the leasehold ends during the year. The assessment on the leasehold is based on the number of months it was taxable.

Assessors and tax directors need to review taxable and exempt property annually and assess any possessory interests according to true and full value.

Update on Guidelines

Not all of the Property Tax Guidelines have been updated since the 1999 Legislature. The guidelines titled "Property Tax Incentives for New or Expanding Businesses" and "Assessment Terms and Concepts" were updated and mailed to assessment personnel (pages G-15, 36, Section 2, Assessor's Manual).

Because of new legislation, the following guidelines also need to be revised:

- Property Tax Credits for ND Homeowners and Renters G-1
- Improvements to Commercial and Residential Buildings G-8
- Farm Structures and Other Improvements G-9
- Valuation Concepts – Agricultural Property G-22
- Taxation of Mobile Homes G-27
- Abatement and Refund of Taxes G-30

If questions arise that pertain to any of the above topics, it would be best to read the statute first or contact the Property Tax Division. The guidelines will be sent to assessment officials as soon as possible.

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
Website: http://www.state.nd.us/taxdpt