



Property Tax Newsletter

News and developments

A publication of the Property Tax Division

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Tax Commissioner

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Exemptions Applied to Assessments First - Before Credits

What is the difference between an exemption and a credit? An exemption is a reduction in value of a property, authorized by law, and may be discretionary (at the discretion of the local governing body) or non-discretionary (required by law). Affected political subdivisions forego taxes that would otherwise have been levied on the exempt property.

A credit is a non-discretionary reduction in value authorized by law for which the state reimburses affected political subdivisions for the amount of taxes that otherwise would have been lost.

The Office of State Tax Commissioner takes the administrative position that if a property owner qualifies for both a property tax exemption and a property tax credit, assessment officials must apply the exemption to the assessment prior to applying any credit.

As a matter of law, applicable exemptions reduce the (starting) true and full (T & F) value or taxable value of a property. In other words, property value is reduced due to an exemption without any further action by anyone – it simply renders the property value lower by operation of the law’s existence. That reduced value then serves as the starting point for the application of any credits.

For example, a property owner qualifies for the two-year single-family residence exemption according to North Dakota Century Code (N.D.C.C.) § 57-02-08(35) and also for the disabled veteran’s credit at 50 percent according to N.D.C.C. § 57-02-08.8.

The value of the two-year single-family residence exemption is not automatically the maximum amount stated in the resolution approved by the governing body. If the applicant’s building true and full (T & F) value is less than the maximum exemption allowed, which cannot exceed \$150,000, the value exempted should be the actual building value. For example, if the applicant’s building T & F value is only \$130,000, the value exempted for this applicant would be \$130,000 T & F value, NOT \$150,000. If the applicant’s building T & F value is more than \$150,000, the exemption is limited to \$150,000.

Apply the exemption first. Subtract the value of the exemption from the true and full value of the improvement to get the remaining T & F value of the improvement. Calculate the remaining taxable value of the improvement.

Subtract the taxable value attributable to the disabled veteran’s credit from the remaining taxable value of the improvement to calculate the taxable value of the improvement after the credit. Add the taxable value of the land to the taxable value of the improvement after the credit.

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An example of the calculation follows:

Total T & F Value of Property	\$ 245,000		
Building T & F Value	\$ 195,000		
Exemption	<u>- 150,000</u>	(maximum allowed)	
Non-exempt Bldg. T & F Value	\$ 45,000		
Taxable Value of Bldg.		2,025	(\$45,000 x 0.50 x 0.09)
Minus Disabled Veteran's Credit		<u>- 1,012</u>	(\$2,025 x 0.50)
Taxable Value of Bldg. After Credit		\$ 1,013	
Plus Taxable Value of Land		<u>+ 2,250</u>	(\$50,000 x 0.50 x 0.09)
Taxable Value After Exemption & Credit		\$ 3,263	

Indicate the reason for the reduction in assessment on the property record. The applicable statutes could be listed for the affected assessment year(s). Monitor duration of exemptions.

Agricultural Land Valuation

The Tax Commissioner certified the 2012 average agricultural land values to county directors of tax equalization in December 2011. There was a significant increase in the values for 2012. The average increase in agricultural land values across the state was 29 percent; however, the increases ranged from 19 to 39 percent. The significant decrease in the capitalization rate is the major contributor to the increase in agricultural land values, 26 percent on average. Higher production data also increased values from 6.73 to 17.53 percent. The cost of production index increased, causing an average decrease in value of 5.4 percent and therefore offsetting the amount of increase.

There are three main factors that determine agricultural land values as set out in N.D.C.C. § 57-02-27.2. This article explains briefly how the capitalization rate, cost of production index, and production data are developed and then used to determine agricultural land values.

Capitalization Rate

The capitalization rate is determined by a ten-year average of the gross agribank mortgage rate of interest for North Dakota [N.D.C.C. § 57-02-27.2(4)]. The ten-year average is calculated by using the most recent 12 years, discarding the highest and lowest years and averaging the remaining ten years. The agribank mortgage interest rate has been decreasing since 1994. Prior to 2012, rather than relying on the calculated capitalization rate, the law provided for a rate minimum or “floor” that resulted in an artificially higher rate than the calculated capitalization rate, which was declining during those same years due to lower mortgage interest rates. For 2012, the statutory floor was no longer applicable; therefore the calculated capitalization rate was used. The capitalization rate decreased from 7.4 percent for 2011 to 5.864 percent for 2012. A decrease in the capitalization rate causes an increase in value – 26 to 39 percent for 2012.

Cost of Production (CoP) Index

The CoP index increased from 139.34 to 147.30 for 2012. An increase in the CoP index will lower values. The CoP index is based on USDA Economic Research Service prices paid by farmers. Production costs include input cost, fuel, fertilizer, equipment, and other capital expenditures; wages and benefits; taxes; and other costs.

Production Data

Production data is obtained from USDA’s Risk Management Agency (RMA) and National Agricultural Statistics Service (NASS). It includes data from 25 crops for cropland and two categories of noncropland. Production data uses the county average yield per acre for each crop, acres of each crop or agricultural use in the county, and statewide price. Animal unit months (AUM) per acre and the price of calves and cull cows are considered for noncropland. The yield per acre and acres for each crop in the county are USDA data, either from the RMA or NASS. As the yield increases, the value of the

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land increases. As commodity prices increase, the value of the land increases. The landowner share is set by N.D.C.C. § 57-02-27.2(2) at 30 percent for growing crops other than sugar beets and potatoes, 20 percent for sugar beets and potatoes, and 25 percent for grazing land. (Yield x Acres x Price) x Landowner share is calculated for each county. A 10-year Olympic average is used. This is the average of the remaining eight years of data after the highest and lowest years of production are excluded. The production year of 2010 was the highest for 52 of the 53 counties. This forced the previous record production years of 2007 or 2008 into the average. Higher production contributes to a higher land value.

Applying Average Value per Acre

To apply the certified average value per acre for your county, start by determining the amount of overall increase needed.

- Formula:

$$\frac{2012 \text{ all agricultural land average value}}{2011 \text{ assessment abstract agricultural land average value}} - 1 = \% \text{ of change}$$

- Example with values:

$$\frac{240.28}{187.49} = 1.2816 - 1 = 0.2816 \text{ or } 28\%$$

- Counties that have not yet implemented the Soil Survey Method of Valuation, may increase all property whether cropland or noncropland at the same percentage. Many counties apply different percentages to each of the classes, based on the change in value for each class. This may be most appropriate in counties that have a large amount of noncropland acreage, because noncropland values do not change as dramatically as cropland values can.

Implementation of the Detailed or General Soil Surveys

North Dakota Century Code § 57-02-27.2(10), regarding use of soil type and soil classification, was amended by the 2011 Legislature. For a county that has not fully implemented use of soil type and soil classification data by February 1 of any year after 2011, the state treasurer shall withhold 5 percent of that county's allocation each quarter from the state aid distribution fund. The amount withheld must be deposited in the newly established agricultural land valuation fund. Funds withheld from a county must be allocated to that county upon certification from the tax commissioner of implementation of § 57-02-27.2(7). The property tax division has updated its procedures on the review of agricultural land valuation to reflect the law change. Counties will be receiving notification of the review procedure in early March 2012.

Disabled Veteran's Letters of Eligibility – Confidential

The Dept. of Veteran's Affairs (VA) made changes to the open records laws pertaining to the hearings for determining veteran disability.

The letter of eligibility that is issued to a disabled veteran shows the veteran's service dates, VA file number, and Social Security number (for certain veterans). These items are considered protected information by the Federal VA.

The letter of eligibility should be considered by assessment officials as a protected document such as the DD form 214 would be. It should not be available for public release but could be available for auditors, review boards and state official having a responsibility to review source documents to support audits, qualification, etc. Any information provided to support qualification for the credit should not contain any of the above-mentioned information.

The letter of eligibility that is issued to a disabled veteran shows the veterans' service dates, VA file number and SSN.

Certain Taxing Districts Must Comply With Provisions of N.D.C.C. § 57-15-02.1

Before a taxing district, defined for purposes of this section as a city, county, school district, or city park district, may impose a property tax levy in a greater number of mills than the zero increase number of mills, the taxing district must be in substantial compliance with this section. The governing body must publish a notice and hold a meeting to allow public input regarding the taxing district's intention to increase the levy. A taxing district that levied a property tax levy of less than \$100,000 for the prior year and sets a similar budget for the current year is exempt from that requirement.

“Zero increase number of mills” means the number of mills against the taxing district's current year taxable valuation excluding consideration of new growth which will provide the same amount of property tax revenue as the property tax levy in the prior year.

North Dakota Century Code § 57-15-02.1 requires the governing body to publish notice in its official newspaper at least seven days before a public meeting on its property tax levy. The statute provides that the meeting may not be scheduled to begin earlier than 6 p.m. and sets out requirements for the size and text of the notice.

If the governing body of the taxing district does not make a final decision on imposing an increase in mill levy at the public meeting, it must announce at that meeting the scheduled time and place of the next public meeting at which it will consider adoption of a property tax increase greater than the zero increase number of mills.

The governing body must publish a notice and hold a meeting to allow public input regarding the taxing district's intention to increase the levy.

County Auditors May Annotate Tax List Under Certain Conditions

What happens to the assessment when real property subject to assessment on February 1 has been put to an exempt purpose before the end of the year by an owner entitled to exemption?

Let's use an example. A religious organization purchases property on January 17th and plans to build a church building. On February 1, the assessment date, the property is owned by a religious organization; however, the property is not used for the religious services of the organization so the property is not eligible for exemption according to the provisions of N.D.C.C. § 57-02-08(9). The assessor must place an assessment on that property for the assessment year. Before the end of the year, the church building is completed and the organization is holding religious services in the building.

When the ownership and use requirements are satisfied before the end of the year for which the property was assessed, the conditions for exemption are regarded as having been satisfied before the attachment of the lien for real estate taxes on the following January 1st and thereby makes that lien unenforceable by tax foreclosure proceedings or otherwise.

Although collection of the tax in this situation cannot be enforced, the abatement process according to N.D.C.C. ch. 57-23 does not provide a method for removing this tax from the tax records. The North Dakota Attorney General, on page 113 of the published report of the Attorney General for period July 1, 1942 to June 30, 1944, stated that for this type of situation, the county auditor should annotate the tax records so that the particular item of tax is shown to have been extinguished.

County auditors should not annotate the tax list and cancel the tax until they are satisfied that the real estate assessed on the assessment date has been put to an exempt use by an exempt owner before the end of the year. The owner claiming exemption should file an affidavit or an application for property tax exemption with the county auditor stating the necessary facts to indicate that the property is used for the exempt purpose by an exempt owner prior to the end of the year.

Applicants for any Property Tax Benefit Must be of Legal Age

For purposes of eligibility for any benefit that requires the applicant to be the owner, the applicant must be legally able to own the property. The legal age for owning property in North Dakota is 18.

Individuals who request a property tax credit or exemption for which one of the criteria for qualification is ownership must provide evidence to assessment officials, upon request, that they are of legal age to own property and that they actually own the property. In the case of homestead credit, the applicant must have an interest in the property such as having a life estate interest in the property.

Value of Discretionary Exemption Applied to Incremental Value in TIF District

The Office of State Tax Commissioner responded to a question regarding the following situation.

A property came into a tax increment financing (TIF) district many years ago. The property is eligible for a discretionary exemption for the current year. The question asked was whether the expected incremental value is based on the full value prior to the discretionary exemptions or after the discretionary exemption is applied.

The value of the discretionary exemption needs to be applied somewhere – either off the original taxable value or the incremental value. There is no provision in law to change the original taxable value. Therefore, it would be reasonable to deduct the discretionary exemption from the incremental taxable value. When the exemption expires, the formerly exempt value will be added back to the incremental value.

The value of the discretionary exemption in a TIF district needs to be applied to the incremental value.

Qualifications for Farm Building and Farm Residence Exemptions

North Dakota Century Code § 57-02-08(15) provides for exemption of farm structures and improvements located on agricultural land. That subsection is divided into two subdivisions – “a” and “b”.

Subdivision “a” of subsection 15 pertains to exemption of farm structures and buildings. The basic requirements for qualification for exemption as a farm structure or building are as follows:

1. Location on agricultural land.
 - a. Land must actually be used for growing crops or grazing farm animals.
 - b. There is no minimal acreage requirement
 - c. There is no ownership requirement
2. Structures or buildings must be used for farming activities
 - a. Primary use must be for farming activities
 - b. Actual or intended use for farming activities
 - c. Buildings used for retail or industrial purposes - taxable

Subdivision “b” of subsection 15 pertains specifically to exemption of farm residences. The basic requirements for qualification for exemption as a farm residence follow:

1. Location on a farm
 - a. “Farm” means single or contiguous tracts of *at least* 10 acres of agricultural land and for which the “farmer” has received annual net income from farming activities which is 50 percent or more of annual net income including that of a spouse during any of the three preceding calendar years.
 - b. Ownership not required except for individual claiming exemption as a retired farmer

2. Occupied or used by a farmer
 - a. “Farmer” – one who is actively farming, a beginning farmer, retired farmer, or surviving spouse of a farmer.
 - i. Specific qualifications for each category
 - ii. Income requirements for beginning farmer and active farmer

Assessment officials should monitor the exemption status of properties on a regular basis. Just because a residence or building qualified for the exemption last year does not necessarily mean that building qualifies for exemption this year. Just because a building or structure is located on agricultural land does not mean that the building is eligible for exemption; it must also be used for farming purposes. It is not necessary for a residence to qualify for exemption in order for out buildings to qualify for exemption as farm structures or farm buildings. Individuals who claim their property should be exempt have the responsibility to provide the necessary evidence to assessment officials to support their claim.

With the demand for large tracts of land and buildings capable of being used commercially for hunting purposes, businesses providing services for oil or other mining activity, and any other non-farming activity, particularly in the western part of the state, assessment officials need to monitor activities in their jurisdictions and know what is happening on assessment parcels.

Mobile Home Taxation

Because there is a heightened demand for manufactured housing in ND and placement of these homes on parcels of land developed into mobile home courts, it is good to review the basics of mobile home taxation.

County directors of tax equalization are responsible for maintaining an inventory of mobile homes and placing a value on those mobile homes for taxation purposes. Tax directors should review the provisions for mobile home taxation in N.D.C.C. ch. 57-55 and the Property Tax Guideline for Mobile Home Taxation (G-27).

The owner of a mobile home must file an application for a mobile home permit with the county director of tax equalization with ten days after a mobile home is acquired, moved or first brought into the state. Upon payment of the tax due, the mobile home owner is issued a mobile home permit.

Tax directors may use the mobile home schedule provided by the ND Tax Commissioner’s Office as a guide to determine the value of mobile homes within their county. It is important for tax directors to analyze sales of new and used mobile homes and local market conditions to determine depreciation schedules. Mobile homes that have not sold but are similar in size and quality to mobile homes that have sold should have similar values for taxation purposes.

A parcel of land on which there are hookups and the capacity to handle four or more mobile homes should be classified as commercial property.

Real property includes land, buildings attached to the land and the rights & privileges that go with that. Therefore, garages located on mobile home lots within mobile home courts should be assessed as real property to the owner of the mobile home court.

Before a mobile home may be moved from its current location, a moving permit indicating that all taxes, penalties and interest have been paid must be obtained from the tax director and displayed during transport.

The abatement process is available to any person having right, title, interest or lien upon any mobile home assessed for mobile home taxes.

The owner of a mobile home must file an application for a mobile home permit with the county director of tax equalization with ten days after a mobile home is acquired, moved or first brought into the state.

Tax Directors' Assistance Enhances Local Assessors' Performance

The Property Tax Division relies on tax directors to provide information and assistance to township and class II city assessors serving within their counties. For example, we notify tax directors when a new issue of the Property Tax Newsletter, property tax guidelines, and forms are available on our website. We ask tax directors to pass that information on to assessors in your county. If we notify you of an Attorney General's Opinion or a Supreme Court decision, please pass that on to your assessors.

Township and class II city assessors are responsible for the majority of assessments outside of the major cities. They need current information. Sometimes that is hard to get. For example, several bills enacted by the 2011 Legislature were effective for the 2011 assessments. How many local assessors were aware of those changes? Did they apply them to the 2011 assessments?

A lot of tax directors are doing a remarkable job assisting their assessors. If you are one of them, thank you. If you can do more, thank you in advance.

Notifying Property Owners of Increased Assessment

North Dakota Century Code § 57-12-09 provides that whenever any assessor increases the true & full value of any tract & improvements by \$3,000 or more and 10% or more over the last assessment, the assessor must deliver a written notice to the property owner at least 15 days prior to the local board of equalization meeting.

If the township board of equalization orders an increase in assessment for any amount over the assessment determined by the assessor, the township clerk, on behalf of the township board of equalization, must send a notice to the property owner indicating the board's intention to increase the assessment.

If the city board of equalization orders an increase in assessment of more than 25 percent over the assessment determined by the assessor, the city auditor, as clerk for the city board of equalization, must send a notice to the property owner indicating the board's intention to increase the assessment. If the city board of equalization orders an increase of 25% or less over the assessment determined by the assessor, the city board of equalization is not required to notify the property owner of its intention.

The county board of equalization may increase the assessment on any property provided the board first notifies the local board of equalization and the property owner of its intention. The written notice to the property owner must be mailed at least five days before the county board of equalization meets a second time to finalize the assessments. The county board of equalization does not need to provide written notification to property owners if the county board of equalization orders the same percentage increase in assessment for an entire class of property, e.g., commercial property. See the Attorney General's Opinion beginning on page O-259 of Section O of the Property Taxation Manual.

The form titled "Notice of Increase in Real Estate Assessment" is meant to be used only by assessors. It is available at <http://www.nd.gov/tax/property/forms/>. The notice sent by any of the boards of equalization may be in letter format or a form containing information similar to what is contained in the notice of increase which is sent by the assessor.

The requirements pertaining to notification about increases in real estate assessments is explained in the Property Tax Guideline beginning on page G-39. It is available at <http://www.nd.gov/tax/property/pubs/>.

Anyone having questions regarding the requirements for notification of increased assessments may contact the Property Tax Division.

The county board of equalization may increase the assessment on any property provided the board first notifies the local board of equalization and the property owner of its intention.

Consideration of Vacant Lot Assessments

In 2007 and 2011, the North Dakota Legislature changed North Dakota Century Code § 57-02-27.1. As a result, the governing body of the city or township may establish valuations that recognize the supply of vacant lots available for sale. The Property Tax Division has established a process to collect information that recognizes the supply of vacant lots.

Jurisdictions can choose whether to use the combined commercial ratio or the improved commercial property ratio.

Throughout an assessment year, the Schedule Bx forms are used to report vacant lot sales. Assessors complete and submit these forms to the Property Tax Division. The sales data is then compiled into certain median ratios. The median ratios are used to determine if a jurisdiction is within a certain tolerance level. There is a section for agricultural sales, commercial sales, residential sales and mobile home sales.

There are two parts to the commercial sales median ratio. One part is the sales of improved commercial properties and the other part is sales of vacant lots. There are three median ratios for commercial property on the sales ratio study; improved commercial properties, vacant lots, and combined improved commercial properties and vacant lots.

The combined median sales ratio is used on the Sales Ratio Adjustment (SRA) worksheet. The SRA worksheet compares the prior year values to the current year values with the median ratio. It is a way to check whether or not values have increased or decreased based on the market. Vacant lot values might not be at market value during the time of the sale. The median ratio is the standard used to adjust values to get closer to market value. Because the vacant lots can be valued at something other than market value, the median ratio might not reflect the true adjustment needed. To determine the level of adjustment needed for commercial property, remove the vacant lot median ratio from the combined ratio if you also remove the total true and full values of vacant lots from consideration.

The Property Tax Division provides a vacant lot worksheet to collect the data needed to adjust the SRA. To use the uncombined commercial ratio on the SRA, remove the true and full vacant lot values along with any supplementary changes for the year. The SRA then compares true and full values of improved commercial properties along with the uncombined improved commercial median ratio. Tolerance levels are determined without the consideration of the vacant lots.

Jurisdictions can choose whether to use the combined commercial ratio or the improved commercial property ratio. If the jurisdiction wants to use the uncombined improved commercial ratio, they need to complete a vacant lot worksheet. The worksheet is available in the Property Tax Forms section of our web site at www.nd.gov/tax. Complete and return the form to the Property Tax Division before July 15th each year. After July 15th, any jurisdiction wishing to use the uncombined ratio will need to make the request to the State Board of Equalization at its yearly meeting. The annual State Board meeting is held on the second Tuesday in August.

Educational Opportunities

Following are courses available from the Office of ND State Tax Commissioner's Office.

Date	Course #	Course Title
April 16 – 20, 2012	101	Tax Administration
May 7 – 11, 2012	303	Teaching Appraisal Techniques
Nov. 26 – 30, 2012	201	Appraisal of Residential Property
May 13 – 17, 2013	101	Tax Administration
Nov. 18 – 22, 2013	203	Commercial Property Appraisal
May 12 – 16, 2014	102	Principles & Theory of Value
Nov. 17 – 21, 2014	202	Agricultural Land Valuation

The South Dakota Association of Assessing Officers and the SD Dept. of Revenue offer several assessment and appraisal courses mid-September in Pierre SD. Inquiries regarding courses and dates may be directed to Colleen Skinner, SD Dept. of Revenue at colleen.skinner@state.sd.us.

The MN Association of Assessing Officers offers week-long courses. A listing of the courses and course information is available at www.mnmaao.org/educational-offerings.

Before registering for a course not offered by the North Dakota Tax Commissioner's Office, contact LuElla Dahme to find out whether the course would contribute educational hours towards certification as a county director of tax equalization or class I city assessor.

Electronic Newsletter

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