



Property Tax Newsletter

March 1999

Special Edition

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1999 Legislative Update

The following is a summary of the property tax legislation that is still alive in the 1999 North Dakota Legislature as of March 12, 1999. A bill does not become law until it is signed by the governor, filed with the Secretary of State and has met the statutory effective date. Unless indicated otherwise, property tax laws become effective on August 1, 1999.

House Bill 1045

Amends North Dakota Century Code § 57-15-08 by removing the provision regarding levies in addition to the city general fund for band and library in cities with more than 5,000 population. Creates a new subsection to N.D.C.C. § 57-15-10 pertaining to exceptions to mill levy limitations. It provides that a city may levy an additional levy not exceeding one mill for support of a city band.

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:

<u>Income</u>	<u>Percentage Reduction</u>	<u>Maximum Dollar Reduction</u>
\$ 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 (law)

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 operations 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 (law)

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 (law)

Amends N.D.C.C. § 57-02-14 which requires assessors to prepare a separate list of real property exempt from taxation. Currently, property owned by governmental entities (U.S., state, political subdivisions) is excluded from the listing requirement. Beginning with 1999, exempt farm buildings and farm residences are also excluded from the exempt property list.

House Bill 1108

Creates new sections to N.D.C.C. ch. 57-34 pertaining to the audit and assessment of telecommunications carriers, deficiency notice, protest and appeal procedure, claim for credit or refund of the tax. Amends five sections of N.D.C.C. ch. 57-34 relating to definitions, identification of taxable resellers and pay telephone operators, elimination of tentative assessments, allocation of revenue, filing extensions, and tax liabilities of less than \$5.00. Provides for retroactive application to tax year 1998, and provides effective and expiration dates.

House Bill 1117 (law)

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 1196

Amends N.D.C.C. § 57-15-14.2 relating to authority of school districts to levy property taxes for operating an alternative school program. Effective for taxable years beginning with 1999.

House Bill 1201 (law)

Amends various sections in N.D.C.C. pertaining to the organization of firefighters relief associations by fire departments and rural fire protection districts.

House Bill 1247 (law)

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

House Bill 1271 (law)

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

House Bill 1281

Creates a new chapter to title 61 of the N.D.C.C. relating to the creation of an irrigation district finance program. The bill is declared an emergency measure.

House Bill 1342 (law)

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 (law)

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 (law)

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 (law)

Creates N.D.C.C. § 39-18-03.2 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 and duplicating instruments affecting real estate in the office of the register of deeds.

House Bill 1456

Amends N.D.C.C. § 40-57.1-03 to remove the restriction of time for which initial construction of buildings, structures, fixtures and improvements used in a new or expanding business project must begin in order for a municipality to establish an amount due as payments in lieu of property taxes. Amends N.D.C.C. § 57-02.2-03 to include an addition constructed to an existing building or structure to enlarge it as an improvement to a commercial or residential property. Increases the maximum period of time an improvement may qualify for exemption from three years to five years. Effective for taxable years beginning with 1999.

House Bill 1492

Provides for renaissance zones in cities. Provides for a five year income tax exemption for individuals, businesses, partnerships, limited liability companies, trusts or corporations that lease or purchase property within the renaissance zone. Provides for partial or complete property tax exemption on single-family residential buildings; buildings, structures, fixtures purchased by a business for any business purpose excluding investment; buildings, structures, fixtures, and improvements to residential and commercial property purchased solely for investment purposes and located in a zone area for a maximum of five taxable years beyond the date of acquisition. Provides for historic preservation and renovation tax credit and an income tax exemption for renaissance fund corporations. Effective for taxable years beginning with 1999 for investments occurring after January 1, 1999.

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

(law)

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

(law)

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 approve the classification of a parcel as inundated land. 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 seven year period ending in 1995. For taxable year 1999, the most recent nine years' statistics of indexes of prices paid are used, discarding the highest and lowest indexes, averaging the remaining seven years' indexes and dividing the resulting amount by the base year index of prices paid by farmers. For taxable year 2000 and thereafter, NDSU uses the national agricultural statistics service annual index of prices paid by farmers for ten years ending with the most recent year, discards the highest and lowest years' indexes, averages the remaining eight years' indexes and divides the resulting amount by the base year index. This amount is divided into the average annual gross return for each county. Effective for taxable years beginning with 1999.

Senate Bill 2100

(law)

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. Retroactively effective for taxable years beginning with 1998. The bill is declared an emergency measure.

Senate Bill 2215

Amends various sections of N.D.C.C. ch. 15-10, 15-18 relating to the state board of higher education. Repeals N.D.C.C. § 57-15-06.7(11) pertaining to county levy #1234 for junior colleges.

Senate Bill 2231 (law)

Repeals N.D.C.C. §§ 11-13-10 and 11-14-05 that require the county auditor and county treasurer to certify on 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 2246 (law)

Amends N.D.C.C. § 57-20-07.1 regarding the procedure the county treasurer follows to mail the real estate tax statements. The tax statement must be in a form that allows the taxpayer to retain a printed record of the obligation for payment of the taxes and special assessments as provided in the statement. Amends N.D.C.C. § 57-20-08 to provide the county treasurer the option of not giving the county auditor a receipt showing who paid the tax, amount and date of payment, etc., unless the board of county commissioners directs the county treasurer to do so. If directed by the board of county commissioners, the county treasurer provides the county auditor with the receipts for each day and retains a copy of each receipt.

Senate Bill 2334

Rewrites the tax deed proceedings.

Senate Bill 2358

Creates a new section to N.D.C.C. ch. 57-15 and a new subsection to N.D.C.C. § 57-15-06.7 to create county levy authority for automation and telecommunications, within the levy authority for old-age and survivors' insurance. Amends N.D.C.C. §§ 52-09-08(3) and 57-15-28.1(5) pertaining to the levy limitation for old-age and survivors' insurance.

Senate Bill 2382

Amends N.D.C.C. § 57-15-06.7(25), 57-15-10(26) and 57-15-56(3) to increase the maximum mill levy from one mill to two mills for programs and activities for senior citizens. Effective for taxable years beginning with 1999.

Frequently Asked Questions

Representatives of the Property Tax Division attended the January meeting of the Region 6 North Dakota Association of Assessing Officers (NDAAO). Questions asked affect all assessment officials. Each question is followed with its answer.

1. Are CRP and Preventive Planting Payments included in the agricultural land formula?

The model used to calculate agricultural land values includes government payments reported by Farm Service Agency (FSA). CRP payments are also included; however, only one-half of the amount reported by FSA is entered into the model. The assumption is that the remaining one-half of the payment is used for establishing and maintaining the CRP grass cover.

Preventive planting payments are payments made to producers who were prevented from planting because of either wet or drought weather conditions. The payments are made by crop insurance and are similar to hail insurance payments. These payments are not included in the model for calculating agricultural land values.

2. What is considered inundated land for purposes of agricultural land valuation?

SB 2052 creates a special property tax valuation category for “inundated agricultural property which is inundated to an extent making it unsuitable for growing crops or grazing farm animals for a full growing season or more.”

Webster's Third New International Dictionary of the English Language Unabridged, G. & C. Merriam Company, Springfield, MA, 1971, defines the word “inundate” as: (a) to flood with water, submerge; (b) to flood as if with water.

The Office of State Tax Commissioner considers inundated land as any area of land within a parcel which was not used for crop production or grazing farm animals for a full growing season or more because it was covered by water.

It is anticipated that NDSU will obtain the number of acres of inundated land from the counties and enter them into the agricultural land valuation model in the same manner as the cropland and noncropland acres. The result will be a county average value per acre weighted by the number of acres of cropland, noncropland, and inundated land.

3. Do assessors apply the value determined for inundated lands to individual parcels?

Yes. Assessors first need to identify which lands are “inundated agricultural land.” “Inundated agricultural land” is agricultural land inundated to the extent that it is unsuitable for growing crops or grazing farm animals for a full growing season or more. To determine whether land is inundated for the current assessment year, assessors review the conditions that existed in the previous growing season. The Board of County Commissioners must approve the classification of inundated agricultural land before all or any part of a parcel may be classified as inundated agricultural land for the year.

Beginning with taxable year 1999, the average value of inundated land in the county is equal to ten percent of the average agricultural value of noncropland. Before February 1 each year the county director of tax equalization provides each township assessor with the average value of cropland, noncropland and inundated agricultural land for that township. From the township average value of inundated land, the assessor must determine the relative value of inundated land for each parcel by considering the degree of variation in severity of flooding and the potential for conversion to usability as cropland or noncropland in the future. The assessor may apply modifiers.

4. SB 2054 - How does the cost index figure into the capitalization for determining agricultural land values?

SB 2054 requires NDSU to incorporate a cost-of-production factor into the agricultural land

valuation model. This new adjustment factor is developed from the index of prices paid by farmers for production, interest, taxes and farm wage rates. (This information is compiled by National Agricultural Statistics Service, U.S.D.A.)

The process involves calculating a base index which is compared to a moving average index and this quotient is divided into the annual gross returns of eight of the ten most recent years. Using a cost-of-production factor deflates the landlord’s gross return due to rising input costs.

5. How should road rights-of-way and shelter belts be considered for agricultural land valuation purposes?

In an October 3, 1985, letter from Attorney General Nicholas J. Spaeth to William A. Herauf, Slope County State’s Attorney, the Attorney General opined that under N.D.C.C. § 57-02-10 “... a county does have to remove private property from the tax rolls if that property has been taken for public use only as an easement and the owner retains all other property rights.” Therefore, any road right-of-way easement on which a road is constructed should be exempt from property valuation and taxation.

Regarding shelter belts, the Office of State Tax Commissioner takes the position that land under a planted shelter belt should be classified and valued similarly to the adjoining land; or in counties using the detailed soil survey to value agricultural land, the land under the shelter belt should be classified and valued based on soil capability.

6. Must the county auditors submit both the supplementary abstract of assessments (#1) AND the supplementary abstract of exempt charitable buildings and discretionary exemptions (#2) to the Office of State Tax Commissioner or should supplementary abstract (#2) be submitted to the county auditor only?

County auditors are required to submit the abstract of assessments and the supplementary abstract of taxable property (#1) to the State Tax Commissioner. Both abstracts are necessary to complete the assessment/sales ratio study.

The valuation changes listed on the form entitled “Changes in True and Full Value” because of

reasons numbered 1, 2, 3, 4, and/or 5 are used for the assessment/sales ratio study and must be included on the supplementary abstract of taxable property (#1) that is submitted to the Office of State Tax Commissioner.

County auditors use the valuation changes listed on the "Changes in True and Full Value" form because of reasons numbered 3, 4, 6, and/or 7 to calculate the maximum levies for each taxing district according to N.D.C.C. § 57-15-01.1. Note that reasons numbered 3 and 4 are used for both the assessment/sales ratio study and the maximum levy calculation.

The county auditor may have to regroup the values on the "Changes in True and Full Value" forms to reflect changes within each taxing district because taxing districts do not always follow the same boundaries as assessment districts.

The Office of State Tax Commissioner has no need for a supplementary abstract of exempt charitable buildings and discretionary exemptions (#2). Therefore, assessment officials do NOT need to complete this abstract.

7. If property goes from exempt status to taxable status, how should assessment officials list the value on the supplementary abstracts? Does the assessor need to enter the value on both supplementary abstracts - supplementary abstract of assessments of taxable property AND the supplementary abstract of certain exempt property for purposes of N.D.C.C. § 57-15-01.1?

If exempt property becomes taxable (Reason #1 on "Changes in True and Full Value" form), list the increase in value on the supplementary abstract of assessments of *taxable* property only. A supplementary abstract of certain exempt property is not needed. (See question 6.)

8. Does anyone assess gravel pits? If so, how do you classify the land and determine the value?

North Dakota Century Code ch. 57-02 does not provide any statutory exemption for gravel pits; therefore, assessors must assess them.

Classification of a gravel pit depends upon its use on the assessment date. If a gravel pit area is currently mined, the assessor should classify the area as commercial and value it according to its current market value. If the area was mined but not reclaimed to an agricultural use, the assessor should classify it as commercial land and value it according to its current market value. If an area designated as a gravel pit is not mined but is used to grow crops and/or graze farm animals, the assessor should classify and value it as agricultural land. If the designated area is neither mined nor used to grow crops or graze farm animals, the assessor should classify and value the area as commercial.

Valuation of a gravel pit is based on anticipated future profits from operation of the gravel pit by a lessor or owner-operator. Therefore, the income approach to value is the best method by which to estimate the value of gravel pits. Proven gravel reserves are those that can be profitably mined and processed for their mineral value in future years. Therefore, an assessor may estimate the value of a gravel pit by treating the expected annual net profit after taxes as an annuity over the life of the gravel pit and discounting the annual annuity payments by a capitalization process. The discount rate used reflects the risks involved in the removal of the gravel.

To determine the annual net profit, the assessor estimates total costs and deducts this total from gross income derived from the sale of the gravel. Costs include but are not limited to royalties to the owner, mining and development, compliance with environmental regulation and pollution control, overhead, and marketing. Treat each year's profit separately. Use a uniform discount rate for all gravel pits within the jurisdiction.

Need Assistance?

Please direct property tax questions or concerns to:

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