



Property Tax Newsletter

News and developments

A publication of the Property Tax Division

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2013 Legislative Session Coming Soon

The 63rd Legislative Assembly will convene in January 2013. The Capitol will be filled with legislators, lobbyists, government officials, employees and interested persons – all concerned with legislation that will or will not meet their needs.

It is important to participate in the legislative process. If there are property tax issues that you and your governing board consider worthy of new legislation, please contact your local legislative representatives or personnel in the Property Tax Division. It is important to voice your opinions to your area legislators and those who are on the Finance and Taxation Committee or other legislative committees. Anyone can testify at the committee hearings. Governmental officials should provide accurate information that affects the application of proposed legislation and they should make positive suggestions to the committees.

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Preparing for the 2013 Assessment Cycle

The State Board of Equalization (SBOE) has finalized 2012 assessments of property in North Dakota. Now is the time to begin working on the 2013 assessments.

The SBOE lowered the tolerance level for 2012 agricultural, residential, and commercial property assessments from 95 to 100 percent of true and full value down to 90 to 100 percent for counties and the major cities. The main reasons for lowering the tolerance level were the significant increases in agricultural land values statewide and the increases in residential and commercial property assessments, with most of the significant increases taking place in the western part of the state. Even though we have lower tolerance levels, we encourage assessors to work on getting assessments closer to 100% of true and full value as required by statute.

True and full value of agricultural property should represent agricultural value as defined by statute. Agricultural values could increase significantly again for 2013. Counties whose average 2012 agricultural value was close to 90 percent of the certified value should anticipate needing a sizeable increase to be at, or near, the certified value for 2013. The true and full value of residential and commercial property should represent fair market value. Jurisdictions having assessments representing an average close to the low end of the tolerance level need to look at problem areas and bring those assessments closer to market value. The assessments need to be equalized and fair. It is difficult to keep up with the market value in areas of high demand and rapid change, such as in the western part of the state. Assessment officials need to be diligent in analyzing market data and adjusting assessments for the next assessment cycle.



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Assessment officials should review the statistics in the 2012 Sales Ratio Study to determine potential changes needed for the 2013 assessments. The 2011 Sales Ratio Study statistics may also be helpful in counties having few sales transactions. Look at the range of assessment sales ratios to determine where assessments are compared to market value. An ideal range is narrow with ratios close to 100 percent (e.g., 92% to 102%). A wide range of ratios (e.g., 225% to 35%) clearly indicates that some properties are over-assessed while others are under-assessed. If the range is wide, assessment officials need to review assessments of properties with extreme ratios as well as other similar property to ensure fair treatment. The median ratio indicates the typical level at which properties are assessed. Ideally, the median ratio is close to 100 percent. Assessment officials need to look at the price-related differential (PRD), a statistic used to measure assessment equity between low-value and high-value properties. A PRD greater than 1.00 indicates that high-value properties are under-appraised. A PRD less than 1.00 indicates that high-value properties are over-appraised. Vertical assessment equity is indicated when the PRD for a jurisdiction is between 0.98 and 1.03. The coefficient of dispersion (COD) measures assessment uniformity among groups. Good appraisal uniformity is indicated by CODs of 15.0 or less for residential property and 20.0 or less for commercial property. Any jurisdiction having CODs greater than these should consider reappraisal.

We encourage assessment officials to review assessment statistics every year. Use the current sales ratio statistics to determine which jurisdictions, neighborhoods, and property types need priority for reappraisal. Jurisdictions should have rotating schedules for property inspections and reappraisal. Make it a goal to achieve equitable residential and commercial property assessments that represent current market value for the 2013 assessment year. Property owners deserve fair and equitable property values so they pay fair and equitable property taxes.

Assessment officials need to investigate the situation to determine if the acreage claimed meets the requirements for inundated agricultural land classification.

Agricultural Land Valuation

Most counties now use the detailed soils survey to implement agricultural land valuation for assessment purposes. The detailed soils survey provides a more detailed listing of the various soils in assessment parcels.

The relative soil composition is the basis for the production index of each soil type. This includes such things as organic content, slope, depth, alkalinity (pH), water holding capacity, and salinity. Some highly productive soils may be located in areas that are difficult to access with planting and harvesting equipment. This could include areas that are hilly or rugged terrain, in low-lying areas, near rivers, etc. That is why it is important for assessment officials to become familiar with all areas of their jurisdictions. Assessment officials may need to physically inspect areas of concern, review aerial photos, and rely on analysis by soils committee members and property owners. This will help determine if there are limits to the functional utility of individual soil types. If it is determined that an adjustment should be made to the price per acre of a soil type in specific areas, modifiers are used to indicate the reduction in the value. Modifiers should not be over used. The productivity index for a map unit reflects the dominant characteristics of a soil type within the county. Modifiers should only be used to reflect a loss in functionality in specified areas.

If the county is not using a modifier for areas covered with water, assessment officials can provide good public service by informing affected property owners of the inundated agricultural land classification and providing the annual application. Specific requirements must be met to qualify for the classification. Assessment officials need to investigate the situation to determine if the acreage claimed meets the requirements for the inundated agricultural land classification. North Dakota Century Code (N.D.C.C.) § 57-02-27.2 provides the definition and requirements for qualification as inundated agricultural land status. The application is available on the Tax Department web site at www.nd.gov/tax/property. Anyone having questions regarding agricultural land valuation may contact Sara Meier at the North Dakota Tax Commissioner's Office.

Assessment and Tax Lists Must Contain Names of Property Owners

County auditors are responsible for preparation of the assessment and tax lists. North Dakota Century Code § 57-20-03 specifies the contents of the tax list. The tax list should correspond with the assessment books with respect to ownership and property descriptions. North Dakota Century Code § 57-02-31 provides that the assessment list for each assessment district must contain a complete listing of legal descriptions and property owners.

Property owners are responsible for payment of the property tax. Individuals who purchase property on a contract for deed (vendees) are typically responsible for payment of property taxes during the term of the contract. They may request that the county treasurer send the property tax statement to them. While the vendee may be responsible for payment of the tax, the vendee does not acquire title to the property (become the property owner) until the terms of the contract are fulfilled. If the vendee defaults on the terms of the contract by not paying the property tax, the property owner could lose title to the property through foreclosure of tax lien.

The assessment and tax lists must contain the names of the property owners. North Dakota Century Code § 57-20-07.1 provides that, upon request, the county treasurer will send additional copies of the tax statement, provided names and addresses are furnished to the treasurer.

Individuals who purchase property on a contract for deed (vendees) are typically responsible for payment of property taxes during the term of the contract.

Determination of Taxable Status of Property

North Dakota Century Code § 57-02-03 provides that “all property in this state is subject to taxation unless expressly exempted by law.” That means assessors should consider all property taxable unless a statute specifically provides for exemption. North Dakota Century Code § 57-02-08 provides for exemption of several types of properties, including personal property.

North Dakota Century Code § 57-02-04 defines real property as land, improvements to the land, structures and buildings, and all rights and privileges thereto belonging or in anywise appertaining. When determining whether property is assessable as real property, assessors should consider the method of attachment, the owner’s intention, and suitability of the property for use. There is no minimum size for buildings or structures to be considered as real property. Section R of the Property Taxation Manual contains some guidelines for assessors to use in determining whether an item is real or personal property. If there is no statute providing for exemption of a property in question, assessors should assess the property.

Notice of Increase in Assessment

North Dakota Century Code § 57-12-09 provides that whenever the assessor increases the true and full value of an assessment parcel by \$3,000 or more and 10 percent or more, the assessor must deliver a written notice of the increase. Delivery of the notice must be completed at least 15 days prior to the meeting of the local board of equalization. The cost of mailing or delivering the notice of increase is the responsibility of the assessment district.

The statute is mandatory, not optional or discretionary. This applies whether it is the township assessor, city assessor, or the county director of tax equalization who serves as assessor for an assessment jurisdiction. The assessor must deliver a notice of increase to property owners any time the increase in assessment meets the statutory provision. It does not matter if the increase applies to an entire class of property, the assessor needs to deliver a notice of increase to the property owner. Some townships are unorganized. The county board of equalization reviews the assessments of those jurisdictions at their June meeting. Whoever is serving as assessor of those jurisdictions needs to make sure written notices are delivered timely prior to the county board of equalization meeting

The purpose of the written notification is to allow property owners a chance to discuss the increase with the assessor prior to the local board of equalization, and to appeal through the informal appeal process, if desired.

The only exception to the provision of the notice to the property owner involves the county board of equalization. On January 7, 1983, the North Dakota Attorney General issued an opinion on this issue. The Attorney General opined that for purposes of the notice required by N.D.C.C. § 57-12-09, the word “assessor” in that statute cannot be construed to include the county board of equalization. Therefore, the county board of equalization does not need to notify property owners whenever it increases the assessment on an entire class of property by the amount stated in that statute. This opinion is available in the Property Taxation Manual, Section O, page O-259. It is also available on the Office of the ND Attorney General web site, at www.ag.nd.gov/Opinions/Opinions.htm

The assessor is the official charged with determining assessments initially each year. The county board of equalization is charged with making sure all taxable property is accounted for and equalized at true and full value. If assessments don’t reflect true and full value as required by statute, the county board of equalization is responsible for making the necessary adjustments to assessments.

For the 2012 assessment, many counties implemented use of the detailed soils survey for agricultural land valuation for the first time. This and expiration of the capitalization rate floor resulted in a need to increase agricultural land assessments significantly to comply with the requirements for ensuring that the average agricultural value for the county is close to the value certified by the tax commissioner, or at least within the tolerance level allowed by the state board of equalization. Regarding notification of property owners, it is better to notify property owners of an increase, whether or not required to do so, rather than take a chance that owners are not notified as required by statute.

If assessments don't reflect true and full value as required by statute, the county board of equalization is responsible for making the necessary adjustments to assessments.

Governing Board Approval for 2-Year Residence Exemption

North Dakota Century Code § 57-02-08(35) provides for exemption of new single-family, condominium, and townhouse residential properties subject to meeting certain requirements. One such requirement involves a resolution allowing the exemption by the governing body of the city for property located within city limits, or the governing body of the county for property located outside city limits.

Some cities have zoning and building permit authority outside city limits. The Office of State Tax Commissioner was asked its opinion regarding a specific situation wherein the property in question is located outside city limits. The County passed a resolution to allow the exemption. A city that has zoning/building permit authority over property located within 1 mile of its boundaries had not passed the resolution to allow the exemption. The property in question is located within the 1 mile jurisdiction. The question asked was whether the city also needs to have a resolution in place to allow the exemption.

The Office of State Tax Commissioner takes the position that the county is the jurisdiction directly affected by the loss of revenue because of the exemption granted. That is why the North Dakota legislature provided that the governing body of the county needs to pass a resolution to allow the exemption for property located outside city limits.

Although the city has the zoning/building permit authority within one-mile of its boundaries, the city does not need to pass the resolution required by N.D.C.C. § 57-02-08(35) to allow the exemption. This means that a property located within that one-mile jurisdiction would be eligible for the exemption. If, in the future, the city annexes the property, the city must recognize the county-granted exemption until its expiration. If the city governing body wants to allow the exemption for property located within its boundaries, it must pass a resolution to allow that exemption.

Assessment and Appraisal Education Scheduled Through 2014

Dec. 3 – 7, 2012	201	Appraisal of Residential Property
May 13 – 17, 2013	102	Principles & Theory of Value
Nov. 18 – 22, 2013	203	Commercial Property Appraisal
May 12 – 16, 2014	202	Agricultural Land Valuation
Nov. 17 – 21, 2014	303	Teaching Appraisal Techniques

Electronic Newsletter

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