Guideline - Property Tax: Classification Of Property For Assessment Purposes

Classification Of Property For Assessment Purposes

North Dakota Century Code (N.D.C.C.) § 57-02-31 instructs the county auditor to provide the assessors within the county with a real property assessment book which lists all lands or lots subject to taxation. North Dakota Century Code provides that land descriptions located outside a city shall be listed on the assessment book in subdivisions not to exceed 160 acres. Real property in platted portions of city shall be listed separately as to each lot, except under certain conditions. Since most personal property in the state has been exempted from taxation, it is important that each description of property be classified correctly for purposes of determining whether it is taxable as real property or exempt from taxation as personal property.

Real Property Or Tangible Personal Property

Personal property, for the purpose of taxation, shall include all property that is not included within the definition of real property.

Real property, for the purpose of taxation, is identified as the land itself and improvements to the land. This includes items such as ditching, surfacing, and leveling, except plowing and trees, along with all rights and privileges, mines, minerals, and quarries in and under the surface of the land. Additionally, all improvements to land owned by any railroad company which is not used exclusively for railroad purposes, and improvements to land belonging to any other corporation not subject to the same mode and rule of taxation as other property is considered to be real property.

Structures and buildings, including systems for the heating, air conditioning, ventilating, sanitation, lighting, and plumbing of such structures and buildings, and all rights and privileges appertaining to the property are real property.

A “structure” is anything constructed or erected from an assembly of materials, which requires a permanent location on or in the ground or is attached to something having permanent location on or in the ground. It includes, but is more general, than the term “building”. For assessment purposes it would include large permanent storage tanks, towers, green houses, permanent type swimming pools, and basements or storage space that is built beneath the surface of the earth. For assessment purposes the term structure would not include such items as advertising signs, service stations gas pumps, small portable buildings, portable storage tanks not affixed to a permanent foundation, and attached machinery and equipment used in the operation of a business or industrial building.

A “building” is a structure designed to stand permanently, and covering a space of land, which is enclosed by walls and is covered with a roof. In normal use the word “building” includes the whole structure, the basement as well as any addition, and is used as a dwelling, warehouse, storehouse, factory, shelter for animals or some other useful purpose.

Determining Classification Of Property

In some instances it can be a difficult task for the assessor to determine when property is personal property or real property, such as when items which pertain to the use of structures and buildings such as machinery or equipment become a fixture. These determinations must be made on a case by case basis using all available and pertinent information available to the assessor.

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With the exception of machinery and equipment used or intended to be used in the process of refining products from oil or gas extracted from the earth, all other attached machinery and equipment effectuating a business process is classified as personal property and is thereby exempt from property taxation unless items can be classified as fixtures.

Where the proper classification of commercial and industrial machinery and equipment used for trade or manufacture is not clearly determined, the assessor shall use the three part fixture test as set forth in N.D.C.C. § 57-02-04 (2) and shall consider the following in determining if items which pertain to the use of such structures and buildings are classified as real or personal property:

a) Are items constructed as an integral part of the structure or building?
b) Are items essential for the support of such structures or buildings?
c) Are items removable without materially limiting or restricting the use of such structures or buildings?

The answer must be "YES" to questions A and B, and "NO" to question C before it can be said that an item has become a fixture and thus part of the real property. The word "removable" requires that the movability of property be considered in determining whether an item is real or personal property for tax purposes. From a theoretical standpoint, any structure or building ever built might conceivably be moved. The movability aspect of question C is to encompass both economic as well as physical considerations. Where physical or economic considerations make moving items of property impractical, the property should be found to be real property.

The following items are set out specifically with correct classification to establish uniformity in some of the areas that have been difficult to classify.

RESIDENTIAL PROPERTY

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Patio, Decks, Porches, Canopy	Real Property
4.	Paving	Real Property
5.	Fireplaces-Permanent (Indoor, Outdoor)	Real Property
6.	Carports	Real Property
7.	Permanent type swimming pools/hot tubs	Real Property
8.	Permanent Built-In appliances,	Real Property
9.	Elevators	Real Property
10.	Small buildings (less than 120sf)	Personal Property
11.	Portable window air conditioner	Personal Property

PETROLEUM SERVICE STATIONS

1.	Land and surfacing	Real Property
2.	Buildings & Improvements	Real Property
3.	Underground tanks	Real Property
4.	Aboveground tanks of 2,000 gallons or more	Real Property
5.	Canopies	Real Property
6.	Sign – pylon (footing, foundation, structure)	Real Property
7.	Pumps	Personal Property
8.	Hoists	Personal Property

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9.	Signs	Personal Property
10.	Exterior lighting	Personal Property
11.	Air compressors	Personal Property

COMMERCIAL GRAIN ELEVATORS

1.	Land	Real Property
2.	Building & Improvements	Real Property
3.	Attached transfer equipment (an integral part of the building or structure)	Real Property
4.	Grain storage tanks and silos (an integral part of the building or structure)	Real Property
5.	Scale	Personal Property
6.	Cleaning equipment	Personal Property
7.	Food grinding equipment	Personal Property
8.	Pelleting equipment	Personal Property
9.	Air compressors	Personal Property

RECREATIONAL FACILITIES

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Structure Holding Screen	Real Property
4.	Alleys	Personal Property
5.	Auto pin setters	Personal Property
6.	Projection Screen	Personal Property
7.	Projection Equipment	Personal Property
8.	Theater seats	Personal Property
9.	Microphones and car stall equipment	Personal Property

BAKERIES/CREAMERIES

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Stoves and ovens	Personal Property
4.	Mixing equipment	Personal Property
5.	Churns	Personal Property
6.	Walk-in coolers (not constructed as an integral part of the building)	Personal Property
7.	Milk vats	Personal Property
8.	Refrigeration equipment	Personal Property

NEWSPAPERS AND COMMERCIAL PRINTERS

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Printing press	Personal Property
4.	Composing equipment	Personal Property

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COMMERCIAL RETAIL STORES

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Wall shelving	Personal Property
4.	Walk-in coolers (not constructed as an integral part of the building)	Personal Property
5.	Portable window air conditioner	Personal Property
6.	Liquor bars	Personal Property
7.	Liquor back bars	Personal Property
8.	Restaurant booths	Personal Property
9.	Retail Counters	Personal Property

INDUSTRIAL PLANTS

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Chimney stacks	Real Property
4.	Storage Tanks	Real Property
5.	Processing Tanks	Personal Property
6.	Assembly Lines	Personal Property
7.	Blast furnaces	Personal Property
8.	Boilers (not for heating the building)	Personal Property
9.	Vats	Personal Property
10.	Refrigeration equipment (not for air conditioning the building)	Personal Property
11.	Processing equipment	Personal Property

TV AND RADIO STATIONS

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Towers	Real Property
4.	Transmitting equipment	Personal Property
5.	Receiving equipment	Personal Property
6.	Antennas	Personal Property
7.	Cable connected T.V.	Personal Property

PETROLEUM BULK PLANTS

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Large permanent type storage tanks	Real Property
4.	Piping	Personal Property
5.	Pumps	Personal Property
6.	Outside lighting	Personal Property

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COMMERCIAL AGRICULTURAL PRODUCT STATIONS (NON-GRAIN ELEVATORS)

1.	Land	Real Property
2.	Buildings & Improvements	Real Property
3.	Scale	Personal Property
4.	Dump and Loading Equipment	Personal Property

PARKING LOTS

1.	Land and paving	Real Property
2.	Buildings & Improvements	Real Property
3.	Gates (manual or coin operated)	Personal Property
4.	Small buildings (less than 120sf)	Personal Property

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