DEPARTMENT OF REVENUE

REVENUE CORRESPONDENCE:

Classification

Any correspondence posted within this file is deemed to be accurate and a true representation of the answer as of the date the original document was issued. The Department of Revenue will make every attempt to ensure letters that are no longer accurate due to law or policy changes are removed in a timely manner. If you find a document that you believe is no longer accurate due to a change in law or policy, please direct your concerns to us at proptax.questions@state.mn.us and we will attempt to resolve the situation.

Please understand that all answers are based on the specific question asked. If any of the facts of the situation change, our opinion will be subject to change as well.

This document is intended to be used as a supplement to the Property Tax Administrator's Manual, *Module 3: Classification*.

Updated December 2024

DEPARTMENT OF REVENUE

Agricultural Classification (2a)

Property Tax Division Mail Station 3340 Fax: (651) 297-2166
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April 9, 2002

Connie Erickson
Yellow Medicine County Assessor
Courthouse
415 9th Avenue
Granite Falls, Minnesota 56241

Dear Ms. Erickson:

In a telephone conversation yesterday afternoon you brought the following situation to my attention:

> A property owner on the western side of Yellow Medicine County owns some highly erodible poor quality farmland. At the present time, the land is row cropped. The property owner is proposing planting a portion of the property into grass and pasturing the property on roughly a five-year rotation. After five years in pasture, he would till up the pastureland and return it to row crop production. At the same time he would plant some of the land he was row cropping into grass and pasture the land. The property owner is requesting that the land planted into grass and pastured be classed as pastureland instead of tillable land. You have asked for our opinion on this request.

In our opinion, the proper valuation of the land continues to be as tillable. For as long as the land can be readily tilled, it should be classed as tillable. For instance if the property owner were planting his property into grass and pasturing the land, we would recommend valuing the property as tillable until it started to grow up into brush. Once the brush and trees grew to a size that it could not be cultivated under and planted, we would recommend at that point that the valuation be changed to pastureland.

Changing the value to reflect the use of the land is clearly inappropriate. If the land were not used at all and lay fallow would that make it valueless? Certainly not. The land should be valued at its "highest and best use," the use that would return the greatest economic return to the owner. Whether the owner chooses to use the land for purposes of its "highest and best use," is at his discretion. However, as long as the land can be used for a higher use than it is being used for, then that is the use that should be reflected on the valuation.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section

June 14, 2005

Robert Moe
Otter Tail County Assessor
Courthouse 121 West Junius Street
Fergus Falls, Minnesota 56537

Dear Mr. Moe:

In a telephone conversation today, you relayed a property owner's question and asked for an opinion. The question was as follows:

The property owner purchased a 21-acre parcel of land containing approximately three tillable acres. The property was purchased and split off a larger agricultural property late in 2004. Consequently, the classification for taxes payable in 2005 remained agricultural. In 2005, the classification was changed to residential nonhomstead. The property owner complained citing Minnesota Statute 273.13, subdivision 23, paragraph (c) which provides that:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes."*

He maintains that, since the new tract was part of a larger agricultural tract the year before, it was "used during the preceding year for agricultural purposes" and entitled to the agricultural classification.

I must admit this is a creative argument. However, upon closer examination, this argument does not stand up. The assessment date in Minnesota is January 2. This is the moment in time that is used to establish a property's classification. Obviously, very little farming can be done on January 2 so the reference to "used during the proceeding year" becomes necessary. In actual fact, this property was not "used during the preceding year for agricultural purposes" it was part of a larger tract that was classified as agricultural because the larger tract met the necessary criteria to be classified as agricultural.

If you have any other questions or concerns, give me a call.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 556-6106
E-Mail: john.hagen@state.mn.us

April 11, 2005

Farley Grunig
Pipestone County Assessor
Courthouse
416 S. Hiawatha
P.O. Box 458
Pipestone, Minnesota 56164-1566

Dear Mr. Grunig:

Your e-mail to John Hagen has been forwarded to me for reply. You have outlined the following situation. A seed cleaning plant is located on a farm. Grain is also grown on the farm and it is cleaned, packaged, and sold as seed. Other farmers also bring seed to the plant, have it cleaned and then take it home to plant. You have asked for our opinion on the proper classification of the seed cleaning plant.

In our opinion, the portion of the property used as a seed cleaning plant should be classified as Class 3a Commercial. In 1989, we issued a bulletin concerning these types of properties. At that time, we stated that the agricultural classification would be appropriate if the farmer used the seed cleaning plant to occasionally process their own seed with little wholesale or retail distribution. We also stated that if the seed cleaning plant did not fit the occasional use, small volume criteria and provided wholesale or retail distribution, it should be classified as commercial. The Tax Court also came to this conclusion in *Alan O. Loge vs. County of Kandiyohi*, 1987.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

April 27, 2004

Gregory Kramber
Wright County Assessor
Courthouse 10 NW 2nd Street
Buffalo, MN 55313

Dear Gregory:

Your request for a Department opinion regarding the classification of two properties has been forwarded to me for reply. The situations have been broken down into parcel #1 and parcel #2 for clarification purposes and are as follows:

Parcel #1 – base parcel
A person inherits a ten-acre tract in the City of Albertville with approximately eight acres used as a pasture for two horses. It is zoned Commercial. The property is improved with an older manufactured home and a galvanized pole building with a couple of box stalls. A billboard is erected, and the site that the sign is located on is leased. The site that the billboard is located on is classified as commercial. The property owner moves onto the property and files for homestead. Your office currently has the property split classed residential homestead and commercial.

Parcel #2 – non-contiguous parcel
The property owner of the base parcel (parcel #1) also purchased a 40-acre tract with 25 acres tillable. The property (parcel #2) is non-contiguous and is leased to a local farmer. The property owner purchased this property less than seven years ago. Your office has this property classified Agricultural non-homestead, and it is not receiving Green Acres.

The property owner is contesting the classification of both parcels, and you have asked if we agree with your current classification. You also asked if it is appropriate to deny green acres treatment on parcel #2.

We agree with your current classifications on both properties. Minnesota Statutes, Section 273.124, Subdivision 14, clause c, states:

"Noncontiguous land shall be included as part of a homestead under section 273.13, subdivision 23, paragraph (a), only if the homestead is classified as class 2a and the detached land is located in the same township or city, or not farther than four townships or cities or combination thereof from the homestead. Any taxpayer of these noncontiguous lands must notify the county assessor that the noncontiguous land is part of the taxpayer's homestead, and, if the homestead is located in another county, the taxpayer must also notify the assessor of the other county."

(Continued…)

The base homestead parcel (parcel #1) sets precedence over the non-contiguous parcel (parcel #2) and determines the homestead eligibility. Since the primary or base parcel (parcel #1) is not classified as agricultural homestead, the non-contiguous property (parcel #2) cannot be classified as agricultural homestead. Therefore, the non-contiguous property (parcel #2) cannot be linked to the homestead (parcel #1).

We also agree with your decision to deny green acres treatment. Since the non-contiguous property (parcel #2) is classified as agricultural non-homestead, it (parcel #2) will not qualify for green acres until the property owner has either homesteaded the property (parcel #2), or owns the property (parcel #2) for seven years and all provisions of the green acres law are met.

If you have any additional questions or concerns, please contact our office.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092
Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

C: Al Heim, Regional Rep.

February 4, 2005

Julie Hackman
Olmsted County Assessor's Office
1st Floor, Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Julie:

In your recent letter, you outlined the following situation. A property owner owns three parcels totaling approximately 44.29 acres. Parcel 64.06.33.041653 is approximately 18.75 acres in size, is fully wooded and contains the owner's residence as well as a second dwelling. Parcel 64.06.34.041649 consists of approximately 7.5 acres and is located directly east of the main parcel. This parcel is fully wooded and does not contain any dwellings. Parcel 64.06.32.055810 is directly north of the main parcel. The parcel consists of approximately 18.04 acres and is partially wooded. It contains a small building but does not have any tillable acres according to your crop equivalency ratings. With your letter, you also submitted some additional documentation provided by the property owner as well as aerial maps of the property. You have asked us how the property should be classified.

As you know, property is classified according to its use. After reviewing all of the information provided, it is our opinion that the property should be classified as residential since the property is clearly used residentially. There is no evidence that the property is being used agriculturally.

Minnesota Statute 273.13, subdivision 23 states in part that:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising or cultivation of agricultural products…*
>
> *(e) The term "agricultural products" as used in this subdivision includes production for sale (emphasis added) of:*
>
> > *(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;*
> >
> > *(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;*
> >
> > *(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);*
> >
> > *(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;*

(Continued…)

> *(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;*
>
> *(6) insects primarily bred to be used as food for animals;*
>
> *(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and*
>
> *(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."*

As you can see I have emphasized the fact that agricultural products must be produced for sale. Planting prairie grasses and a small amount of corn for use as a food plot for wildlife does not constitute an agricultural pursuit according to the statute.

In the absence of any identifiable agricultural use of the property, we must recommend that the property be classified according to its only other use – as a residential homestead. Please be aware that our opinion is only a recommendation. You must make the final determination of the proper classification of the property. If the property owner disagrees with your determination, he or she may follow the appropriate avenues of appeal.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

January 23, 2006

John Keefe
Chisago County Assessor
Chisago Co. Govt. Center
313 N. Main St. Room 246
Center City, Minnesota 55012-9663

Dear John:

Your e-mail to John Hagen has been forwarded to me for reply. You have outlined the following situation. A local taxpayer raises corn, hay, and several other different animals. In one pole shed, there are three tanks that are devoted to housing Japanese Koi. The owner imports the fish from Japan and sells them to clients. You have asked if this pole shed should be classified as agricultural or commercial.

In our opinion, the only possible classification for the pole shed that holds the Japanese Koi is commercial. Japanese Koi are typically used for ornamental purposes. If they are not bred for sale and consumption as required in Minnesota Statute 273.13, subdivision 23, paragraph (e), clause (2), they are not considered to be an agricultural product and therefore, do not qualify for the agricultural classification.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

February 16, 2006

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Thank you for your question regarding the classification of a property. You outlined the following situation:

- A married couple owns a 50.76-acre tract of land consisting of a 3-acre building site, 2.6 acres in road right-of-way, with the remainder of the land used as pasture.
- The buildings consist of a house, a large garage, and three small utility/garden sheds.
- The property has been classified as agricultural homestead for the past several years.
- The owner received $300 in 2004 for rental of the pastureland.
- Depending on weather conditions, etc., between five and ten horses graze the pastureland.
- In reviewing the 2005 assessment, you changed the classification from Agricultural homestead to Residential homestead.

With your letter, you also submitted a copy of the property owner's 2004 income tax return with Schedule E showing rental income of $300 as well as an aerial map of the property. You have asked if the property qualifies for the agricultural classification.

As you know, property is classified according to its use. Minnesota Statute 273.13, subdivision 23 states in part:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising or cultivation of agricultural products…*
>
> *(e) The term "agricultural products" as used in this subdivision includes production for sale (emphasis added) of:*
>
> > *(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;…*
> >
> > *(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);…"*

(Continued…)

As you can see I have emphasized the fact that agricultural products must be produced for sale. After reviewing all of the information provided, it is our opinion that the property should be classified as residential since the property is clearly used residentially. There is no evidence that the property is being used agriculturally. Renting out a pasture to another person to house a few horses is not agricultural production.

Therefore, we must recommend that the property be classified according to its only other use – as a residential homestead. Please be aware that our opinion is only a recommendation. You must make the final determination of the proper classification of the property. If the property owners disagree with your determination, they may follow the appropriate avenues of appeal.

We have formed this opinion based solely on the facts provided. If any of the facts differ, our opinion would be subject to change.

If you have any further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

March 6, 2006

Daniel Eischens
Jackson County Assessor
Courthouse
413 Fourth Street
Jackson, Minnesota 56143

Dear Mr. Eischens:

Thank you for your e-mail regarding the classification of property. You have outlined the following situation. A limited liability company (LLC) has been formed by a group of local farmers, all of whom are Minnesota residents. The LLC will own two 500,000 bushel grain bins which will be located on land that is owned by a local grain elevator. The LLC will pay rent to the grain elevator. The grain elevator will charge a fee to the farmer for handling and drying grain. You have asked how the bins that are owned by the LLC should be classified and taxed.

Since there is no agricultural production taking place on the site, we believe there is no potential to classify the grain bins as agricultural property. Therefore, based on the information provided, it is our opinion that the bins should be classified as commercial property and taxed as personal property to the LLC. The grain elevator should continue to be taxed for the land where the bins are located.

Please be aware that this opinion is only advisory in nature. You, as the county assessor, must make the final decision on the classification of the property. If the owners disagree with your decision, they may use the various avenues of appeal. We have formed this opinion using only the facts provided. If any of the facts were to change, our opinion would be subject to change as well.

If you have additional questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
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E-mail: stephanie.nyhus@state.mn.us

August 29, 2006

Gale Zimmerman
Morrison County Assessor's Office
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Mr. Zimmerman:

You e-mail has been assigned to me for reply. You outlined the following situation. A property in your county consists of approximately 45 acres. There is a riding arena with an attached two-story building. The main level has stables for the owners' horses, which are used for riding lessons and the upper level is a lounge and kitchen which is available for rent to the public. This building and 1.8 acres are currently classified as commercial. The remainder of the property consists of 20 acres that was tilled prior to being put into the Reinvest in Minnesota (RIM) program, and 10 acres which are used as pasture for the horses. The owner is considering hiring a trainer and boarding horses to be trained. You have asked the following questions which we will answer individually.

1. **How many acres need to be used for the raising of hay? Do they need to be contiguous? They own a parcel with ten acres of field that is approximately ten miles away (from the base parcel) and will be raising hay there.**

   Answer: Minnesota Statute 273.13, subdivision 23 requires 10 contiguous acres be used for the production of agricultural products for a property to qualify for the agricultural classification. Each property must stand on its own to qualify for the agricultural classification. The ten acre parcel used for hay may qualify for the agricultural class on its own, but it should not be used as a factor in the classification of the base parcel that is used for boarding and training horses.

2. **How many horses need to be boarded? They currently own 14 horses that are used for riding lessons and they are considering boarding an additional three to five horses.**

   Answer: Minnesota Statute 273.13, subdivision 23, paragraph (e), clause (3) specifies that commercial boarding of horses is not an agricultural pursuit unless it is done in conjunction with raising or cultivating agricultural products. It is our opinion the property that is used for raising and cultivating of agricultural products must be contiguous to the property used for the commercial boarding of horses to qualify as an agricultural pursuit for property tax purposes.

I hope I have satisfactorily answered your questions. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

May 7, 2007

John E. Keefe, Assessor
Chisago County
Chisago County Government Center
313 Main St., Room 246
Chisago MN 55012-9663

Dear Mr. Keefe,

Your email to John Hagen has been assigned to me for response.

You have received a green acres application that shows income from the processing and sale of maple syrup. The property owners have about 20 acres with a house that they homestead. They file a federal Schedule F claiming $805.00 in income from the sale of the maple syrup. Minnesota Statutes, section 273.23, subdivision 23, provides that a maple syrup processor must have a Chapter 28A food processor license from the Department of Agriculture. The applicant states that he is exempt from the Chapter 28A licensing provisions pursuant to section 28A.15, subdivision 10. That section provides exemptions for a number of reasons dealing with producers or processors of small amounts of farm and garden products.

You have asked us whether the applicant's property is eligible for agricultural classification and, if the property can be classed as agricultural, whether the applicant qualifies for green acres. Based on our understanding of the facts and applicable laws, we believe the property is not eligible for the agriculture classification and the applicant does not qualify for green acres tax deferral.

Minnesota Statutes, section 273.13, subdivision 23, provides an agricultural classification with a preferred class rate for qualifying property. Agricultural land means contiguous acreage of ten acres or more used for agricultural purposes. "Agricultural purposes" means the raising or cultivation of agricultural products. And clause (e) provides that agricultural products include "maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

We understand that the applicant is not **required** to have a food processor license in order to sell the maple syrup. But the legislature did include the license requirement in its definition of agricultural products and we believe that the legislature did so to make sure that smaller operations did not qualify. The clear language of the law requires the license and without a license, we would advise you to deny an agricultural classification.

If the property cannot be classed as agricultural, the applicant cannot qualify for green acres tax deferral. Section 273.111, subdivision 3, provides that real property qualifies if it is classed as 1b, 2a or 2b **and** meets the qualifications in subdivision 6. Subdivision 6 provides that the real property must be devoted to production of agricultural products as defined in section 273.13, subdivision 23, clause (e).

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

May 7, 2007

Keith Albertsen, Douglas County Assessor
Douglas County Courthouse
305-8th Avenue West
Alexandria, MN 56308

Dear Mr. Albertsen,

John Hagen has referred your inquiry to me for response.

A Douglas County taxpayer owns 140 acres with over 3400 feet of lake frontage. The land is not tillable and the person does not own livestock. He does have maple trees on the property and he either currently taps the trees for syrup or will tap the trees in the future. Your inquiry regards the provision in Minnesota law that requires the person to have a food processor's license issued by the Department of Agriculture in order to qualify for the agricultural classification.

We'll break your inquiry into two parts, the first dealing with the agricultural classification and the second part dealing with food processor's licenses.

Minnesota Statutes, section 273.13, subdivision 23, provides an agricultural classification with a preferred class rate for qualifying property. Agricultural land means contiguous acreage of ten acres or more used for agricultural purposes. "Agricultural purposes" means the raising or cultivation of agricultural products. And clause (e) provides that agricultural products include "maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

Historically, the Department of Revenue told assessors that tapping maple trees for their sap and processing that sap into syrup was not an agricultural pursuit. A bill was introduced in the legislature to include maple syrup as an agricultural product. Gail Ryan, counsel to the Commissioner of the Department of Agriculture, was asked to testify on the bill in a legislative committee. The original bill did not contain the licensing provision. According to Ms. Ryan, legislators expressed concern that the language was too broad, that anyone with a maple tree in their backyard could tap a single tree and then qualify for the agricultural classification. The bill was amended to add the licensing requirement, probably on the theory that if a person was a serious processor of maple syrup, that person would have a license.

You are correct that there was a recent Minnesota Supreme Court decision dealing with the Department of Agriculture's authority to license and regulate persons who sell the products of their farms and gardens. On July 28, 2005, the Court handed down its decision in a case entitled State of Minnesota v. Diane Marcella Hartmann and held that the Minnesota Constitution, Article XIII, section 7, limits the Department's authority to license farmers.

(Continued…)

Minnesota Constitution, Article XIII, section 7 reads:

> Sec. 7**. No License Required to Peddle.** Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefore.

I spoke to Gail Ryan and discussed this issue with her. According to Ms. Ryan, the Department of Agriculture still does issue food processor licenses. People want or need the licenses for many reasons even if the person may not constitutionally or statutorily be required to have the license. For example, if a person wants to sell the products from the farm or garden, the purchaser may require licensure. If the product is destined for interstate commerce, a license may be required.

Besides the constitutional restrictions on regulating a farmer's right to sell products produced on the farmer's land, there are also statutory exceptions to the requirement for licensure. Minnesota Statutes, section 28A.15 contains exclusions to the licensing provisions. Most of these exclusions describe smaller food operations with the products sold at mostly local events.

The recent Supreme Court case and the licensing exclusions found in the statutes are reason enough to reexamine our interpretation of section 273.13, subdivision 23. Based on our review and conversations with Ms. Ryan, we conclude that the licensure provision in section 273.13, subdivision 23, is still the minimum requirement to obtain agricultural classification. Absent the license, a property cannot qualify for class 2a and, therefore, cannot qualify for green acres pursuant to section 273.111. The legislature specifically added the license requirement and the legislature can remove it but until then, food processors can still be licensed in this state and so we should interpret the law as clearly written.

It is our opinion that an application for agricultural classification on a parcel of 140 acres with no tillable land should be denied if the only agricultural product produced is maple syrup and the person is not licensed as a food processor pursuant to Minnesota Statutes, chapter 28A.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

May 18, 2007

Dennis Ahern
Goodhue County Assessor's Office
509 W. 5th Street
Redwing, Minnesota 55066

Dear Dennis:

Thank you for your e-mail regarding the classification of a property used for growing ginseng. You presented the following information: ginseng is being grown on 10 acres of land under the shade provided naturally by woods (trees) rather than under the shade of canvas canopies. Your question was whether or not this qualified the property for the agricultural classification.

Minnesota Statute 273.13, subdivision 23 is consulted when determining a property's eligibility for the agricultural classification and lists a series of criteria. First, the property must be at least 10 contiguous acres unless it is "exclusively and intensively" used for agricultural purposes. Next, the property must be used to produce an agricultural product. Paragraph (e) of this subdivision goes on to define "agricultural products." It states, in part,

"The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

Based on the information you provided, it is our opinion that the property in question does not qualify for the agricultural classification because it does not produce an "agricultural product."

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

MICHAEL STALBERGER
State Program Administrator
Information and Education Section

March 19, 2008

Julie Hackman
Olmsted County Assessor's Office
1st Floor, Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Ms. Hackman,

Thank you for your classification question concerning a property located in Rochester Township. You have outlined the following situation: A taxpayer owns a property consisting of two parcels (one of 23.01 acres, the other of 7.60 acres). The 7.60 acre parcel contains his home, a cottage, and a barn with horse stalls. Much of the land here is used as secondary pasture. The 23.01 acre parcel consists of lowland and trees with some open space. The subject maintains that this is used for primary pasture for his horses, and is otherwise not tillable. The homeowner believes that he should qualify for agricultural classification due to his horse breeding business and the use of his property for pasture.

Based on the facts that you have provided, we do not believe the owner to be eligible for agricultural classification. Previously, the Department of Revenue has allowed agricultural classification on properties that board horses if the commercial boarding is done in conjunction with the raising or cultivating agricultural products (as stated in Minnesota Statutes, section 273.13, subdivision 13). We have also understood horse breeding to be agricultural production if it is the primary use of the property, and if the property owner has been able to provide a most recent Schedule F showing agricultural income. Neither of these instances are met in the situation that you have outlined.

The burden of proof of agricultural production rests with the property owner. If the property owner is able to provide a 2007 Schedule F showing significant agricultural income and is otherwise able to prove that the breeding and raising of horses for sale is more than an incidental use of his property, he may be eligible for agricultural classification. If not, we believe that a residential classification is correct.

Again, this decision is based solely on the facts provided. If the facts were to change, our opinion is also subject to change. Further inquiries can be sent to proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Mary Black, AMA
Cook County Assessor
411 2nd Street
Grand Marais, Minnesota 55604-1150

Dear Ms. Black,

Thank you for your question concerning the 2a productive agricultural land classification. You have presented us with the following scenario:

> Property owners in your county have made changes to their land during 2008 and have added additional acreage for production of hay for sale. The additional income from this production will not show until next year (2009), as they expanded their acreage after hay had already been cut and sold for this year.

You have asked if they should include this acreage as tillable on the "Agricultural Use" form in order to receive the agricultural classification for the 2009 assessment.

This acreage is more than likely "tillable" and should be included as tillable acreage on the "Ag use" form. However, just because the acreage is tillable does not mean that it was "tilled" or actually being used for agricultural purposes.

Minnesota Statutes, section 273.13, subdivision 23, paragraph (e), states in part:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale…"*

As per your example, the additional acreage was not actually used for agricultural purposes in 2008 because it was changed after the hay had already been cut and sold for the year. The acreage must have been used for agricultural purposes the preceding year to be classified as agricultural property. Therefore, this acreage should not be classified as productive agricultural land until assessment year 2010, assuming that it was used to produce hay (or another agricultural product) in 2009.

If you have any further questions or concern, please do not hesitate to contact us at proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Marian Paulson
Kittson County Assessor
410 S 5th Street
Hallock, MN 56728

Dear Ms. Paulson:

Thank you for your question concerning the classification of agricultural property. You have asked if property being used to raise deer, elk, or buffalo can be classified as agricultural. You also asked if there are any situations in which a property containing horses can receive the agricultural classification.

Property actually being used to raise and sell deer, elk, or buffalo as products for sale for human use, can be classified as Class 2a productive agricultural land. If the deer, elk, or buffalo are only being raised for show or as game to be hunted, the property should not be classified as agricultural and should instead be classified as commercial.

Horses are not considered livestock or an agricultural product in and of themselves. Raising and pasturing horses, with no other means of agricultural production, does not qualify the property as Class 2a productive agricultural land. According to statute, horses are only considered agricultural products when a property is used for the commercial boarding of horses **and** the raising or cultivating of actual agricultural products as defined in Minnesota Statutes 273.13, subdivision 23, paragraph (i). Just the commercial boarding of horses is not enough; it must be done in conjunction with the raising of agricultural products.

The department has also understood horse breeding to be agricultural production if it is the primary use of the property, and if the property owner has been able to provide a most recent Schedule F showing sufficient agricultural income. The burden of proof of agricultural production rests with the property owner. If the property owner is able to provide a Schedule F showing significant agricultural income and is otherwise able to prove that the breeding and raising of horses for sale is more than an incidental use of his/her property, he/she may be eligible for the 2a productive classification. *(Class 2a is only applied to those acres used for agricultural production.)*

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

2009003

January 15, 2009

Steve Hurni
Regional Representative
15085 Edgewood Road
Little Falls, MN 56345

Dear Mr. Hurni,

Thank you for your recent question concerning the agricultural classification. You have asked if alpacas are considered livestock. Minnesota Statutes, section 273.13, subdivision 23, paragraph (i) states:

> *(i) The term "agricultural products" as used in this subdivision includes production for sale of:*
> *(1) livestock, dairy animals, dairy products, poultry and poultry products,* ***fur-bearing animals****, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner…[emphasis added]*

Provided that the alpacas are shorn for their wool, which is sold as an agricultural product, they may be considered an agricultural product which qualifies the land as being used for a productive agricultural purpose. Land used for the raising and pasturing of alpacas may, under these circumstances, be considered class 2a agricultural productive land. As always, the assessor is in the best position to classify a property and may rely on income information and other documentation to verify agricultural production if there is a question.

If you have any further questions, please direct them to our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009006

January 20, 2009

Dave Oien
Goodhue County
509 West 5th Street Room 208
Red Wing, MN 55066

Dear Mr. Oien:

Thank you for your question concerning the 2a agricultural productive land classification. You have presented us with the following scenario:

> A property owner with a 0.82 acre wooded parcel plans to have bees on the property and expects to generate 100 to 200 pounds of honey each year. The owner also plans to produce maple syrup on the property but has no idea how much syrup would be produced. The owner has asked if the property would qualify for class 2a.

As noted in your question, the owner of the property only *plans* to have bees on the property and *plans* to produce maple syrup. Ordinarily, we do not answer hypothetical questions. However, it is highly unlikely that the 0.82 acre parcel could be classified as 2a agricultural productive land.

Without additional information (i.e. income information) on the *actual* production of honey and syrup on the property, we can not offer you a definitive answer to your question. The property owner would have to prove to you that there is an intensive use of the property for agricultural purposes, rather than an incidental use, in order for the property to qualify for class 2a. Also, please remember that Minnesota Statutes 273.13, subdivision 23, paragraph (e), specifies that "agricultural land" is land "used during the preceding year for agricultural purposes." Therefore, the soonest the property could qualify for class 2a would be for the 2010 assessment.

It may be helpful to review Minnesota Statute 273.13, subdivision 23, paragraph (f) to learn more about how the 2a productive (agricultural) classification applies to properties of less than 10 acres.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009015

January 15, 2009

Cynthia M. Geis
Scott County Auditor
Courthouse
Room 112
428 South Holmes
Shakopee, Minnesota 55379

Dear Ms. Geis,

Thank you for your recent classification question. You have outlined the following scenario: A platted parcel in your county is 10.6 acres in size. There are no improvements on this parcel, and eight acres are tilled with corn. You have asked how to classify this parcel.

As you are aware, Minnesota Statutes, section 273.13, subdivision 23 provides that:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity…Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land."*

In the scenario you have outlined, the parcel does not have ten contiguous acres of productive land. Further, you have not provided information which would show that the tilled acres are contiguous to other agricultural productive land. Therefore, the eight acres which are productive must be used intensively to qualify for the 2a productive agricultural classification. Tilled land producing corn is not considered an intensive use of a property which would qualify it for the 2a classification. That said, the parcel should be classified according to its highest and best use, most likely as residential property.

Please understand that our opinion is based on the facts as they are provided. If any of the facts of the situation were to change, our opinion is subject to change as well. If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 2, 2009

James Pagel, CMA
Itasca County Assessor's Office
Courthouse
123 NE 4th Street Room 202
Grand Rapids, Minnesota 55744-2600

Dear Mr. Pagel,

Thank you for your recent question to the Property Tax Division. You have asked if a property owner needs a license to sell maple syrup in order to qualify for classification as 2a agricultural property.

Under Minnesota Statutes, section 273.13, subdivision 23, paragraph (i), clause (8), maple syrup is considered an "agricultural product" for classification purposes under these specific guidelines: "maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

A 2005 Supreme Court case (State of Minnesota v. Diane Marcella Hartmann) found that maple syrup producers do not need to be licensed in order to sell maple syrup. However, legislature has specifically required that licensure is necessary for classification as agricultural property. In other words, a license may not be necessary to sell the maple syrup but it is specifically required for the agricultural classification. It is our understanding that language regarding agricultural classification was intended to preclude very small "hobby" operations from qualifying for the agricultural classification.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 12, 2009

Jerry Lehman
Waseca County Assessor
Courthouse
307 North State Street
Waseca, Minnesota 56093

Dear Mr. Lehman:

Thank you for your question regarding the classification of a property located in your county. You outlined the following situation: a property consists of 6.4 total acres; it contains a house which is occupied by the owner, a pole building, and approximately 5.4 acres of alfalfa. You currently have the property classified as residential and have asked if this is correct.

Based on the information submitted, it appears you have classified the property correctly. Since the property does not have 10 acres used for the production for sale of agricultural products, it must either qualify for class 2a under the exclusive or intensive use provisions in law. Clearly it is not exclusively used for agricultural purposes since there is a residential structure on the property. Therefore, we are left to determine if it qualifies under the intensive use provision. Minnesota Statutes, section 273.13, subdivision 23, paragraph (f) states that:

> *(f) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
>
> > *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
> >
> > *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
> >
> > *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*
> >
> > *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.*

Based on the information provided, the property does not meet the criteria for an intensive use as outlined in statute. Consequently, we concur with your residential classification on this property. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

June 25, 2009

Kathy Hillmer
Redwood County Assessor's Office
250 So. Jefferson/P.O. Box 130
Redwood Falls MN 56283

Dear Ms. Hillmer,

Thank you for your recent question concerning agricultural classification. A property owner in your county has requested agricultural homestead on a parcel totaling 8.34 acres. You have asked for our opinion as to whether the property might qualify for agricultural homestead.

You have provided us with the following facts:

- The parcel is 8.34 acres total in size
- 5.47 acres are tilled (soybeans and corn)
- 1.83 acres contain bins, a barn, and a machine shed (not used in conjunction with farming done elsewhere by the owner)
- The property owner does not have any livestock
- The property owner lives on this property

As you are aware, for parcels of property less than ten acres in size, the property must be used either exclusively or intensively for agricultural production. As this parcel is the owner's homestead and contains a residence, it is not used exclusively for agricultural production. As such, we refer to Minnesota Statutes, section 273.13, subdivision 23, paragraph (f), which states:

> *"(f) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
> *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
> *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
> *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*
> *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated."*

Based on the information you have provided, the parcel does not meet the requirements for the 2a agricultural classification above. The appropriate classification of the property appears to be residential homestead. This opinion is based solely on the facts provided. If any of the facts were to change, our opinion is subject to change as well.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009194

October 1, 2009

Julie Hackman
Olmsted County Property Records and Licensing
1st Floor, Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Ms. Hackman:

Thank you for your inquiry regarding a property located in your county. You have outlined the following situation: a taxpayer in Salem Township owns two non-contiguous parcels of property. The main parcel is 10 total acres in size and contains a house, and an outbuilding of which a part is used as a garage and a part of which is used to produce wine. In addition, there are several acres of grapes used to produce wine. The taxpayer also owns another parcel consisting of 2.13 acres of property that is farmed. You have questioned the classification of the property as well as its eligibility for Green Acres.

As you are aware, the Legislature made several changes to the statute governing the classification of agricultural property in 2008. For properties of less than 10 acres used for agricultural purposes, requires either an exclusive use or an intensive use to be classified as class 2a agricultural land. Minnesota Statutes, section 273.13, subdivision 23, paragraph (f) states that:

> *"Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
>
> *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
>
> *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
>
> *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*
>
> *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated."*

(Continued…)

Based on the information provided, the property in question does not qualify for class 2a because the property that includes the house is not being used intensively for one of the four purposes outlined above. While raising grapes is an agricultural pursuit, the grapes in this case are being used to produce wine. Thus, it appears than the base parcel with the house should be split classed with the portion used to produce wine being classified as industrial, the portion used for wine tasting or sales classified as commercial, and the remainder of the property including the house and the grapes, classified as residential homestead, assuming it meets the qualifications for homestead. It also appears, based on the information provided, that the 2.13 acre parcel may be classified as class 2a productive agricultural land since it is farmed border-to-border and would therefore meet the exclusive use criteria. However, since the base parcel would be classified as residential/industrial/commercial, the only potential for homestead on that parcel would be as a special ag homestead which requires a parcel at least 40 acres in size. Therefore, the 2.13 acre parcel could not qualify for homestead, and would be classification s as agricultural non-homestead if it is exclusively farmed.

In conclusion, since the property does not meet the size requirements and is not primarily devoted to agricultural production, no potential exists for either parcel to qualify for Green Acres. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

2009009

October 14, 2009

Doreen Pehrson
Nicollet County Assessor
Courthouse 501 S. Front St.
St. Peter, Minnesota 56082

Dear Ms. Pehrson:

Earlier this year you forwarded several questions regarding the proper classification of properties with less than ten acres used for agricultural purposes. We sincerely apologize for the delay in answering your questions. However, we felt it important to wait until we at the department had completed our discussions about the effects of the law changes so that we could base the answers to your questions on the most current information. In your e-mail, you outlined several scenarios and requested our opinion on the proper classification. They are individually answered below.

1. **A parcel of 20 total acres has 2-3 acres of tillable land and the remainder is woods and waste. It is not contiguous to the owner's productive agricultural land. Should the property be classified as class 2b non-homestead?**
   Answer: In our opinion, so long as the property is unplatted, rural in character, and not improved with a structure, the proper classification of such a parcel is class 2b. Since the land is not contiguous to class 2a land under the same ownership, no potential exists to extend homestead to the parcel.

2. **Should the parcel above be split-classed?**
   Answer: No. Since the property does not have at least 10 acres in production, nor does it have an exclusive or intensive use, the law does not allow for any portion of the property to be classified as class 2a property. Therefore, it would appear that the most likely classification of the property would be as class 2b rural vacant land.

3. **Are there different qualifications for parcels 10 acres or less and those over 10 acres? Is the 10 acres, 10 acres in production?**
   Answer: Yes. The requirements in law are different. Minnesota Statutes, section 273.13, subdivision 23, paragraph (b) states in part that:
   "*Class 2a agricultural land consists of parcels of property, or portions thereof, that are agricultural land and buildings…*"
   Paragraph (e) of the same section goes on to state:
   "*Agricultural land as used in this section means <u>contiguous acreage of ten acres or more</u>, used during the preceding year for agricultural purposes...*[emphasis added]"

In our opinion, if a parcel is 10 acres in size or greater, the parcel must have at least 10 acres used for the production for sale of an agricultural product to qualify as class 2a property. If there are not at least 10 acres in production, the property cannot qualify for class 2a unless there is an exclusive (border-to-border production) or intensive (e.g. hog confinement, turkey barn, etc.) agricultural use. In the case of properties similar to your example in number 1 above, since there is no exclusive use, the only possible way for the 2-3 acres of tillable land to be classified as 2a property would be if there was an intensive agricultural use. If there was an intensive agricultural use, it would be appropriate to split-class the property (2a/2b) and to extend ag homestead if all other applicable requirements are met.

(Continued…)

4. **Beginning with the 2009 assessment, there is an allowance for agricultural on a property less than 10 acres if drying or storage of grain or storage of machinery or equipment used to support ag activities. Is this also for properties over 10 acres that would not otherwise qualify for ag?**
   Answer: That portion of the statute is identified in the definition of agricultural purposes in subdivision 23, paragraph (e) which states in part that:
   > *"Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility.*

This applies to properties of any size and simply means that storage and drying are considered to be agricultural activities. In our opinion, this does not mean that that the 10 acre requirement must not be followed. Rather, it simply means that drying/storage are agricultural activities. In addition, those activities may be considered to be an intensive use if they are located on a property less than 10 acres in size which contains a residential structure.

For example, an owner/farmer lives on a 7-acre parcel that contains several large grain bins and buildings used for grain drying/storage and machinery storage. In addition, the farmer owns and farms several non-contiguous agricultural parcels. In the past, the law did not allow the base parcel where the farmer lived to be classified as agricultural because there was not at least 10 acres in production on the parcel, nor was there an exclusive and intensive use. With the addition of the language specified above, the law now allows for the base parcel to be classified as agricultural land if the property is used intensively for drying/storage in support of other agricultural activities on other parcels of property operated by the same farming entity.

5. **If a non-contiguous site now qualifies under these circumstances, can additional farm land that qualifies for ag within 4 townships be linked to this parcel?**
   Answer: Yes, that is possible. Please see the example in answer number 4 above. Please keep in mind that for the base parcel to be linked to other property for homestead purposes, the properties must be owned by the same entity.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

2009168

October 1, 2009

John E. Keefe
Chisago County Assessor
Chisago Co. Govt. Center
313 N. Main St. Room 246
Center City, Minnesota 55012-9663

Dear Mr. Keefe:

Thank you for your question regarding the agricultural classification. It has been assigned to me for response. You outlined the following situation: A taxpayer has appealed the classification of a property and has indicated that the property is used intensively for the production of agricultural products.

The property consists of 10 total acres according to information on your website and has a house and garage that are occupied by the property owners. In addition the property owners have indicated that they produce organic apples and cider, vegetables and berries, and maintain five bee hives. On a portion of the property, the owners allow a neighbor to pasture cattle. In return, the owners receive beef for personal consumption. You have asked if the property qualifies for the 2a productive agricultural classification.

As you are aware, current law requires a minimum of 10 acres in production to receive the 2a classification. However, under certain circumstances, properties that are less than 10 acres in size but are used exclusively or intensively for agricultural purposes may receive the 2a classification. Based on the information provide, the property is not used exclusively (border-to-border) for agricultural production. Therefore, the only potential for the 2a classification is if the property is used intensively for the production for sale of agricultural products. Minnesota Statutes, section 273.13, subdivision 23, paragraph (f) states that:

> *"Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
>
> *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
>
> *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
>
> *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*

(Continued…)

> *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.*

Again based on the information provided, it appears that the owners produce some of the products listed in clause (iv). However, according to the owner's website, only about 2.5 acres of the 10 total acres are being used to produce apples, cider, honey and beeswax. While it is apparent that the property has some agricultural activity taking place, it appears that the production is incidental in relation to the residential use of the property. Therefore, we concur with your decision to classify this property as residential.

You also asked if the property would qualify for Green Acres if it was used intensively for agricultural purposes. In our opinion, no potential exists for this property to qualify for Green Acres, even if it were used intensively, because the law requires the property to have 10 acres of class 2a agricultural property to qualify for Green Acres.

If the taxpayer disagrees with your decision on the classification of the property, they may follow the appropriate avenues of appeal. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

2009327

October 21, 2009

Paul Knutson
Rice County Assessor's Office
Co Govt Center Suite 4
320 – 3rd St NW
Faribault, MN 55021-6100

Dear Mr. Knutson,

Thank you for your recent questions regarding the USDA's Direct and Counter-cyclical Payment Program (DCP) and whether a property enrolled in DCP would qualify for the agricultural classification. We reviewed the documents you have provided at length.

The DCP program does not appear to be a conservation program similar to RIM or CRP, therefore, in our opinion, it does not qualify for the 2a agricultural classification based on the provision in law under Minnesota Statutes, section 273.13, subdivision 23, paragraph (e), which states in part:

> *"'Agricultural purposes' also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment [emphasis added]."*

Based on the documentation you provided, the DCP program appears to make payments based on crop yield for a given year. As such, it may be that the property in question is used to produce an agricultural product for sale. If ten contiguous acres are used to produce an agricultural product for sale, the parcel may still qualify for the class 2a agricultural classification. If the property is not used for agricultural purposes, it must be classified based upon its use, likely as residential/2b rural vacant land based on the information provided to us.

If the property qualifies for class 2a agricultural land based on its production, it may also qualify for Green Acres provided those specific ownership and use requirements are met. If the property does not meet the qualifications for the 2a agricultural classification, it does not qualify for Green Acres. If the owner disagrees with the classification of his property, he may appeal to Minnesota Tax Court. The deadline for appealing his 2009 classification is April 30, 2010.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009445

November 23, 2009

Marci Moreland
Carlton County Assessor's Office
P.O. Box 440
Carlton, MN 55718

Dear Ms. Moreland:

Thank you for your question concerning the classification of property. You have a situation in which you changed a property owner's classification from agricultural homestead to rural vacant land based on the fact that there has not been any production of an agricultural product for sale in the last couple of years. The property owner has stated that he has intended to hay 15 acres (out of 120 acres) of the property but has never been able to bring his equipment out to the field because of the condition of the road leading to it. You informed this property owner that if the land was not hayed in 2009, the 2a classification would be removed. The land was not hayed in 2009, although he did have his tractor on the property for a couple of weeks, which he has argued should qualify the property as class 2a due to the language in Minnesota Statutes 273.13, subdivision 23, which states that "the storage of machinery or equipment used in support of agricultural production" may qualify as an agricultural purpose. You also supplied us with pictures of the property in question.

According to the facts as we understand them, and from inspecting the pictures provided to us of the subject property, our opinion is that the property is correctly classified as 2b rural vacant land. Classification as 2a agricultural land is based on the actual production of an agricultural product for sale. As both you and the property owner have stated, the property has not produced any agricultural product for sale. This is also apparent from the photographs you provided, as the field does not appear to be maintained to produce hay or any other agricultural product.

In addition, it is our opinion that having the tractor on the property for a couple of weeks does not qualify as "the storage of machinery or equipment used in support of agricultural production" (Minnesota Statutes 273.13, subdivision 23) and therefore class 2a property. This portion of statute refers to barns, pole sheds, etc., that are used to actually store farm equipment. The mere presence of a tractor or other piece of equipment on a property for a short period of time does not constitute an agricultural use.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

December 9, 2009

Judy Friesen
Brown County Courthouse
PO Box 248
New Ulm, MN 56073

Dear Ms. Friesen:

Thank you for your question concerning the contiguity of agricultural property. You have presented us with the following situation:

> A farmer owns a 50-acre parcel of land and a 30-acre parcel of land. The two parcels of land are separated by a 30-acre parcel that is owned by someone else. The farmer does have an easement (cart-way or road) across the parcel that he does not own so that he can get to and from both of his parcels of land.

You have inquired as to whether or not the easement would make the farmer's 50 acres and 30 acres contiguous.

In our opinion, the two parcels of land owned by the farmer are not contiguous. An easement does not constitute sufficient ownership interest to maintain contiguity across land that is owned by another person. In other words, an easement used to "connect" two parcels under the same ownership, but across a parcel owned by someone else, does not make the two parcels contiguous for property tax purposes.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

December 30, 2009

Jack C. Renick
Lake County Assessor
Courthouse Room 202
601 Third Avenue
Two Harbors MN 55616

Dear Mr. Renick:

Thank you for your question concerning the agricultural classification. You have provided us with the following scenario:

> A 40-acre parcel has 35 acres enrolled in the SFIA program. The remaining 5 acres contain a house, barn, several outbuildings, 2 greenhouses, a one-acre garden, orchard, blueberry plants, and pasture. The property owner claims that the farm activities normally gross between $10,000 and $15,000 annually.

You have asked if this property would qualify as an intensive agricultural use and therefore be classified as 2a agricultural property.

According to Minnesota Statute 273.13, subdivision 23, properties that are greater than ten acres in size must have at least ten contiguous acres of land in agricultural production to qualify for the 2a classification. The intensive or exclusive question only comes into play for properties that are less than ten acres in size; therefore it is not a factor to be considered in this scenario. The property in question is forty acres in size; only four acres are being used agriculturally. Consequently, the property does not qualify for class 2a because at least ten acres are not being used for agricultural purposes.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

January 5, 2010

Jack Renick
Lake County Assessor
Courthouse
601 3rd Ave
Two Harbors, MN 55616

Dear Mr. Renick,

Thank you for your recent question to the Property Tax Division. You have outlined the following scenario: A parcel in Lake County is 30.99 acres and is the owner's homestead. The owner raises some poultry, has planted some spruce trees which he plans to market as Christmas trees, and he also has some horses pastured on the parcel. You have asked if this parcel would qualify as an agricultural homestead under Minnesota Statutes, section 273.13, subdivision 23, paragraph (f). This section of statute provides:

> *(f) Real estate of less than ten acres [emphasis added], which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
> *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
> *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
> *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*
> *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.*

However, the parcel you describe is greater than ten acres in size. The "intensive" provision of law only applies to parcels less than ten acres. In order to qualify for the agricultural homestead, therefore, the property must meet the requirements of M.S. 273.13, subdivision 23, paragraph (e), "Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes."

If ten contiguous acres on this parcel are used for agricultural purposes, then the parcel may qualify for an agricultural homestead. If less than ten acres are used for agricultural purposes, it does not qualify.

You have also asked if there is a definition or prescribed level of activity to be considered a "market farmer" for the provisions of paragraph (f). We do not recognize an animal unit (e.g. your example of 200 chickens), but rather that the assessor look for a preponderance of evidence of market farming such as income per acre, labor required for the market farming practices, etc.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

May 6, 2010

Mike Dangers
mike.dangers@co.aitkin.mn.us

Dear Mr. Dangers:

Thank you for your question concerning the agricultural classification. You have presented us with the following scenario:

> A property owner has a 16.5 acre pond that he claims produces fish that are sold for consumption and the property is located in an agriculturally zoned area. The pond that holds the fish is considered to be an exempt wetland. The owner is not sharing income information with you and will not tell you how the fish are sold.

You have asked if this property should be classified as agricultural.

In our opinion, unless the property owner is able to show you that fish are actually being produced and sold for sale for consumption, the property should not be classified as agricultural. Simply raising a product and selling a small amount of it does not necessarily qualify a property for the agricultural classification. If the agricultural production on the property is questionable, the property owner should be able to provide evidence of agricultural income via receipts of sales or by providing a copy of his/her tax returns to verify that he/she has filed a Schedule F. If the property owner cannot provide this evidence, the agricultural classification should not be granted.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

May 6, 2010

Bob Martin
Carlton County Assessor's Office
PO Box 440
Carlton, MN 55718

Dear Mr. Martin:

Thank you for your e-mail regarding minimum income requirements for the agricultural classification. In your e-mail you referenced a letter we had written in 2005 indicating that Mille Lacs County was awaiting an opinion from the Attorney General's Office as to whether it was appropriate for counties to require at least $1,000 of income to qualify for the agricultural classification. You have asked if that issue has ever been addressed. You also indicate that you have a form you require ag applicants to complete to provide information about their farm. Many applicants indicate they have no farm income, nor do they file a Schedule F for taxes. You have asked for our advice.

Minnesota Statutes, section 273.13, subdivision 23 provides a number of requirements that must be met in order for a property to be classified as class 2a agricultural land. Generally:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible federal farm program);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

While the law requires that the agricultural product be produced for sale, it does not require a minimum income amount. This is likely because farm income can vary greatly from year to year due to any number of factors such as natural disasters, livestock disease, etc. In addition, because there is no minimum income requirement in law, counties cannot require one on an individual basis. This was stated in the AG opinion that was issued to Mille Lacs County.

Although the law does not require that a minimum income threshold be met, assessors can consider income and whether a taxpayer files a Schedule F in cases where the classification of a property is questionable. Such factors were discussed in the bulletin Classifying Agricultural and Rural Vacant Lands which we issued on September 24, 2009. We have enclosed another copy for your review. In cases where it is questionable as to whether there is enough agricultural production to sustain the agricultural classification and the taxpayer cannot show evidence of agricultural income via receipts of sales or by showing a copy of their tax returns to verify that they have filed a Schedule F to show their farm income, it appears it would be appropriate to classify the property as something other than class 2a agricultural property.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

Enclosure

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6091
Fax: (651) 556-3128

MINNESOTA ▪ REVENUE

May 24, 2010

Chase Philippi
Property Appraiser
Wright County Assessors Office
10 2nd St NW, Room 240
Buffalo, MN 55313

chase.philippi@co.wright.mn.us

Dear Mr. Philippi,

Recently, you asked the Department of Revenue Property Tax Division for our opinion regarding a property in Wright County. The property is currently classified as residential/rural vacant land. The owner believes it should qualify for the agricultural classification, and for tax deferral under the Green Acres program. The property is 37.60 acres, of which six acres are currently tilled. They have some farm equipment and storage sheds on site as well. Approximately 27 acres of the property are low ground and not tillable. The owner says that he makes a few hundred dollars annually selling hay, however he has not provided a recent Schedule F showing farm income. The property owner is appealing his classification to the Wright County Board of Appeal and Equalization. You provided us with photographs of the property, including an aerial image.

As we have previously stated, unless it is a parcel of less than ten acres which is used exclusively or intensively for agricultural purposes, a parcel must have ten contiguous acres used for agricultural purposes to qualify for the agricultural classification. This is provided in Minnesota Statutes, section 273.13, subdivision 23:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity [emphasis added]."*

Therefore, it is our opinion that this property does not qualify for the agricultural classification. Because it does not appear to qualify for the agricultural classification, it would not qualify for Green Acres tax deferral either. Minnesota Statutes, section 273.111, provides that to qualify for Green Acres deferral, a property must meet the following requirements (as well as ownership and primary use requirements):

> *"Real estate consisting of ten acres or more or a nursery or greenhouse, and qualifying for classification as class 2a under section 273.13[emphasis added]…"*

You may use this opinion for any and all future questions regarding the classification of large parcels of land that have less than ten acres used for agricultural purposes. Unless the facts of

any situation are to differ, our opinion is not likely to change that the ten acre requirement must be met to qualify for agricultural classification (and, therefore, Green Acres deferral).

If you have any further questions, you may contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 2, 2010

Gary Grossinger
Stearns County Assessor
gary.grossinger@co.stearns.mn.us

Dear Mr. Grossinger,

Recently, you contacted the Property Tax Division regarding the classification of a property located in Stearns County. For the 2010 assessment, you had classified this property as residential on one parcel, and rural vacant land on the remaining contiguous parcels under the same ownership. The property owner successfully appealed his classification to the Collegeville Township Local Board of Appeal and Equalization and was granted the agricultural classification on these parcels. You have provided information about this property and have asked for the department's opinion and recommended action.

According to the information provided by your office, the property (four contiguous parcels) is 62.78 acres, of which 10.45 acres are used for maple syrup production. However, the 10.45 acres are not contiguous, rather they are small fields spread throughout the property. Also, while the property owner produces maple syrup, he is not a licensed maple syrup producer.

In our opinion, Minnesota Statute is very clear regarding the potential for agricultural classification for maple syrup producers. Minnesota Statutes, section 273.13, subdivision 23, paragraph (e) provides:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity.[Emphasis added.]"*

Paragraph (i) defines "agricultural products" for classification purposes and includes the following:

> *"(i) The term 'agricultural products' as used in this subdivision includes production for sale of:…*
> *… maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor. [Emphasis added.]"*

In other words, the property in question does not, in our opinion, meet the necessary criteria for agricultural classification because ten contiguous acres are not used for statutorily-defined agricultural purposes. If ten contiguous acres were used for the production of maple syrup, the

producer must be licensed by the Minnesota Department of Agriculture in order for the property to meet the requirements for the agricultural classification.

We recommend that the classification of these parcels be appealed to the Stearns County Board of Appeal and Equalization.

Please be advised that our opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please do not hesitate to contact our division.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

August 24, 2010

Marian Paulson
Kittson County Assessor
410 S 5th St. Ste. 206
Hallock MN 56728

mpaulson@co.kittson.mn.us

Dear Ms. Paulson,

Recently, Brad Averbeck forwarded an agricultural question from Kittson County to the Department of Revenue for review. You have outlined the following situation: A property in your county has grain storage bins and hopper bins in addition to the residence of the property owner. The property is a 16.07-acre tract. A portion of the property is used for storing sunflowers and processing them. The processing that takes place at this property is cleaning, hulling, and sizing of sunflowers. No sunflowers are produced at this property or by this property owner. Currently, the property is split-classified as residential and commercial.

All property is classified according to its use. For the agricultural classification, ten contiguous acres must be used for production of agricultural products. Minnesota Statutes, section 273.13, subdivision 23, paragraphs (i) and (j) provide the following:

> *"The term "agricultural products" as used in this subdivision includes production for sale of:*
> *(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;*
> *(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;*
> *(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);*
> *(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;*
> *(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;*
> *(6) insects primarily bred to be used as food for animals;*
> *(7) trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products; and*
> *(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.*
>
> *(j) If a parcel <u>used for agricultural purposes is also used for commercial or industrial</u> purposes, including but not limited to:*

(1) wholesale and retail sales;
(2) processing of raw agricultural products or other goods;
(3) warehousing or storage of processed goods; and
(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose. [Emphasis added.]"

Because the property is not used for agricultural purposes under paragraph (i), it appears that no potential exists for the custom processing of the sunflower seeds to qualify as an agricultural purpose under paragraph (j). By definition, this use of the property is a "commercial or industrial" use, and is appropriately classified as such.

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

November 23, 2010

Doreen Pehrson
Nicollet County Assessor
dpehrson@co.nicollet.mn.us

Dear Ms. Pehrson:

Thank you for your question concerning the agricultural classification. You have presented us with the following situation:

> A 13.76 acre property is mostly covered by woods and ravine and contains a residence that the property owners rent out to a non-relative. The owners have established approximately one-half acre of grapes on the property and plan to eventually have two acres.

You have asked if one-half acre to two acres of grapes is sufficient to establish the agricultural classification.

Based on the information provided, the property in question does not qualify for class 2a because the property does not have ten acres of property used for agricultural purposes. While raising grapes is an agricultural pursuit, the property in question does not have at least ten acres of grape production. Minnesota Statute 273.13, subdivision 23, paragraph (e) states that:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes."*

Properties that are greater than 10 acres in size must have at least ten acres being used to produce an agricultural product. This property does not meet this requirement and therefore does not qualify for the agricultural classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

February 14, 2011

Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for your question regarding agricultural classification. You have outlined the following scenario:

> A 40-acre parcel has 35 acres enrolled in a permanent RIM easement. Of this, 5 acres are kept out as a building site and a home is built (as well as a pole building to house boats, mowers, ATVs, etc). Is the entire parcel to be classed as agricultural or just the acres enrolled in RIM?

Minnesota Statutes, section 273.13, subdivision 23 provides the following:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes…"Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections* 103F.501 *to* 103F.535 *or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment."*

In other words, the 35 acres enrolled in RIM are eligible for the agricultural classification if they were used agriculturally in the year prior to enrollment or for the 2002 assessment year. The remaining 5 acres, which according to your office contains a building and a house, would likely be classified as residential based on its use.

If the property is homesteaded the entire property receives the agricultural homestead classification and corresponding class rates. The permanent conservation easement disqualifies the property from Green Acres Deferral but not the agricultural classification.

If you have additional questions or concerns, please contact our division by email at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey
State Program Administrator
Information and Education Section
Property Tax Division

April 27, 2011

Peggy Trebil
Goodhue County Assessor
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for your question concerning the classification of a 10-acre parcel in Goodhue County. You have provided us with a number of photos, aerial maps, and the following information:

> The parcel is 10 acres consisting of:
> - 1 acre building site with a house and garage
> - .9 acres road right-of-way
> - 6.75 acres being tilled
> - 1.35 acres for approximately 15 cattle.
>
> The property consists of an older barn (1200 square feet), a 1988 lean-to (720 sf), an older granary (536 sf), and a 1986 machine shed (2400 sf) where the property owner stores his tractor and machinery. The owner also rents an additional 6 acres where he harvests hay for his cattle. He has shared his feed slips and schedule F (farming loss statement) with your office.

The property owners are appealing the 2011 classification of this property and you have asked for our opinion concerning the correct classification of this property.

Based upon our review of the information you have provided, we concur with the county's opinion that this property is not used intensively for agricultural purposes. Minnesota Statute 273.13, subdivision 23, paragraph (f) provides that:

> *"(f) Real estate of less than ten acres, which is exclusively or intensively used for raising or cultivating agricultural products, shall be considered as agricultural land. To qualify under this paragraph, property that includes a residential structure must be used intensively for one of the following purposes:*
> *(i) for drying or storage of grain or storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;*
> *(ii) as a nursery, provided that only those acres used to produce nursery stock are considered agricultural land;*
> *(iii) for livestock or poultry confinement, provided that land that is used only for pasturing and grazing does not qualify; or*
> *(iv) for market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated [emphasis added]."*

Again, upon review of the information provided to us, we believe the determination that this property is not used intensively for the purposes above is appropriate. It is not clear that the tilled property qualifies as intensive market farming, nor does pasture qualify as intensive livestock use. Ultimately, the classification of the property is the responsibility of the assessor based on the facts of the situation. If the property owner does not agree with the classification of the property, he or she can appeal to the boards of appeal and equalization or Minnesota Tax Court.

If you have additional questions about classification or other property tax questions, please contact our division at proptax.questions@state.mn.us. Response times may take up to three weeks, particularly during the legislative session. We may not be able to answer each appeal question in a timeline that is helpful to you. Ultimately, the classification is the assessor's determination, and the boards of appeal and equalization may make changes if they deem it necessary.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 26, 2011

Chase Philippi
Wright County Assessor's Office
chase.philippi@co.wright.mn.us

Dear Mr. Philippi,

Recently, you contacted Stephanie Nyhus of the Property Tax Division about a property in your county. She has forwarded your question to me for response. You have requested our opinion on the appropriate classification of a property that is to be appealed to a board of appeal and equalization.

You provided the following details about the property: It is a 10.29-acre tract that is homesteaded and is comprised of two separate tax parcels. Combined, the parcels have 7 to 8 acres of hay ground that is cut and fed to horses which the property owner breeds for sale. She believes that she should have her classification changed to agricultural from residential. The Wright County Assessor's Office classified the property as residential based on guidance from the horse breeding & boarding guidelines from 2010.

As you correctly stated in your email, the classification guidelines for properties used for horse breeding/boarding operations were released last year and have not changed since that time. The following guidelines from the bulletin to all assessors may be helpful to you based on the situation you have outlined:

- at least 10 contiguous acres must be used for agricultural production
- ten acres or more of pasture being used to provide feed as part of a commercial boarding operation on the same property DOES qualify the property for the agricultural classification
- land used to produce horses bred or raised for sale should qualify toward the 10-acre requirement for the agricultural classification; however, breeding/selling 1-2 horses is not likely enough to qualify a property for the agricultural class (neither is selling 1-2 cows, 1-2 sheep, etc.), and assessors must use good professional judgment to differentiate between hobby and business enterprises
- ten acres or more of pasture being used to feed horses that are being bred/raised for sale DOES qualify for the agricultural classification since there is a product being sold (the horses)

There does not appear to be ten contiguous acres used for agricultural purposes on this property at this time based on the information you have provided. To make decisions based on whether the property is used intensively for agricultural breeding (i.e., livestock confinement), it may be appropriate to ask for additional information such as receipts of sale, Schedule F, etc. However, it must be noted that land used for pasture is not considered intensive agricultural use.

If you have additional questions about classification or other property tax questions, please contact our division at proptax.questions@state.mn.us. Response times may take up to three weeks, particularly during the legislative session. We may not be able to answer each appeal question in a timeline that is helpful to you. Ultimately, the classification is the assessor's determination, and the board of appeal and equalization may make changes (which are in turn appealable by the assessor to the County Board of Appeal and Equalization if the assessor disagrees with the board's decision).

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

May 19, 2011

Steve Skoog
Becker County Assessor
slskoog@co.becker.mn.us

Dear Mr. Skoog,

Thank you for your recent classification questions to the Property Tax Division. You have outlined three scenarios pertaining to properties used by maple syrup producers, and have asked for our opinion on each scenario. They are outlined below.

Scenario #1:

- A property consists of 80 acres of woods owned by a licensed maple syrup producer,
- The land is currently enrolled in the 2c managed forest land classification.
- More than ten acres of maple trees are tapped by a non-licensed producer on this property; the balance of woods does not have any other agricultural use.

Question: What is the correct property class? Should it be split-classified as agricultural non-homestead and class 2c, or all 2c?
Answer: If the property owner has enrolled all 80 acres in the 2c managed forest land classification program, and the forest management plan covers all 80 acres, than the entire property is appropriately classified as 2c and not as agricultural. The application and enrollment of the property into the 2c classification clearly outlines the use to which the property is classified. The owner would need to remove the property or a portion of the property from the 2c classification before other property classifications may be considered.

Scenario #2:
A number of maple syrup producers join together and form a legal entity such as a partnership, LLC, LLP, or cooperative.

- The group applies for, and is granted, a license as a maple syrup producer for the entity.
- Each of the members taps ten or more acres of maple trees on their individually-owned properties.
- The maple syrup produced is marketed and sold by the entity or by each individual member.

Question: Would each individual that is a part of the legal entity be eligible for the agricultural class (assuming that they do not have enough other agricultural activity to qualify)?
Answer: For any property used to produce maple syrup to qualify for the 2a agricultural land classification, the following requirements must be met:

1. Minnesota Statutes, section 273.13, subdivision 23, paragraph (e) requires, "contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale…"
2. Section 273.13, subdivision 23, paragraph (i) states, "The term 'agricultural products' as used in this subdivision includes production for sale of:… maple syrup taken from trees grown by

> a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

Chapter 28A allows licenses for any individuals, firms, corporations, companies, associations, cooperatives, and partnerships. Therefore, any land owned by such an entity that is ten or more contiguous acres used for producing maple syrup for sale may qualify for the agricultural classification. Depending on ownership, occupancy, and farming practices of the land, it may or may not be agricultural homestead land if the specific requirements of Minnesota Statutes, section 273.124 are met. You may refer to the Department of Revenue's agricultural homestead flow chart for more information concerning agricultural homesteads.

Scenario #3:
An individual taps maple trees on ten or more acres and hauls the sap to a licensed processing facility to have it processed into maple syrup. The syrup is then bottled by the individual producer in a commercial kitchen rented from a business incubator property. The syrup is then sold at farmers markets by the individual producer.

Question: What is the correct classification of the processing facility, agricultural or commercial?
Answer: The processing of the maple syrup (including bottling) is not considered an agricultural purpose, and therefore the facility used for that purpose would be classified according to its use (likely class 3a commercial/industrial property). The land where the maple syrup is produced would be agricultural if at least 10 acres are used to produce syrup, but processing is not considered production.

Question: Can an individual become a licensed producer without owning a processing facility?
Answer: The licensing requirements under chapter 28A are not under the purview of the Department of Revenue and we are not experts on the specific licensing requirements for maple syrup producers. The licenses granted under chapter 28A appear to be available for a number of different uses including retail food handlers, wholesale food handlers, wholesale food processers and manufacturers, and food brokers. The Minnesota Department of Agriculture may have more information available if a property owner has questions about licensing requirements.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 9, 2011

Marcy Barritt
Murray County Assessor
mbarritt@co.murray.mn.us

Dear Ms. Barritt:

Thank you for your questions concerning the agricultural classification. You have provided us with the following scenarios and questions:

Scenario 1: Farmer A owns a 13.52-acre building site, which consists of a house/garage and two small sheds. He has unspecified acreage of pasture that he rents to a farmer. He also owns 17.42 acres that are contiguous, 9.60 acres of that is enrolled in CRP, and the rest is rural vacant land. Could the 2 acres of pasture be added it to his 9.60 acres in CRP to come up with 10 acres in production?
Yes, CRP acres are considered agricultural property if the land was classified as agricultural for assessment year 2002 or in the year prior to enrollment in CRP. Therefore, the CRP acres could be added to other agricultural land to meet the requirement of ten acres in production and receive an agricultural homestead.

Scenario 2: Farmer B owns a 2.17-acre site which consists of a house/garage and 36' x 56' commercial pole shed that is used for his plumbing business. He also owns 17.60 acres which are contiguous and contain 5.10 acres of CRP land and 12.50 acres of land enrolled in the Wildlife Habit Imperative Program (WHIP). Is this property eligible for an agricultural homestead?
In our opinion, this property would likely not qualify for an agricultural homestead. Minnesota Statutes 273.13, subdivision 23, paragraph (e) states that:

> *"'Agricultural purposes' also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment.* [Emphasis added.]"

The purposes and functions of the WHIP program are entirely different than those of either RIM or CRP. The WHIP program is a cost share program designed to provide financial assistance to persons interested in developing wildlife habitat. The program places no deed or easement restrictions on the property, unlike lands enrolled in CRP or RIM. Therefore, in our opinion the WHIP program is not considered a "similar state or federal program" and consequently is not considered an agricultural purpose. As a result, Farmer B does not have the necessary 10 acres in production needed to be eligible for the agricultural classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 22, 2011

Kimberly Karch
Otter Tail County Assessor's Office
505 Fir Avenue West
Fergus Falls MN 56537
kkarch@co.ottertail.mn.us

Dear Ms. Karch,

Thank you for your recent question to the Property Tax Division regarding the proper classification of a property used in part for horse boarding operations. Otter Tail County had split-classified the property as commercial and agricultural. The owners appealed the classification of the property, based on their opinion that most of the horse boarding operation should be agricultural. You have asked for our opinion.

Based on information from your office, the property is 224.50 acres. Of this, 41 acres are building site, and the remainder of the land is pastured by cattle. Because more than ten acres are used for pasture, those acres appear to have been appropriately classified as agricultural (class 2a). Because of the 2a classification on those acres, the property owners refer to Minnesota Statutes, section 273.13, subdivision 23, paragraph (i), clause (3) which includes in the list of agricultural products:

> *"the commercial boarding of horses, which may include related horse training and riding instruction, if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products as defined in clause (1)…"*

Using this clause, the property owners believe that the horse boarding operation also qualifies for the agricultural classification. The building sites consist of a hayshed, 2 pavilions (shelters by outdoor arenas), 46 electric camp sites, a maintenance building, a residential structure which is used by the caretakers of the facility, stables, arena, rest rooms, wash bays for horses, and a cattle barn. Additionally, there is a commercial kitchen/concession area, an office area, a merchandise shop, and conference rooms which (based on our understanding) the property owners agree should be classified as commercial.

We reviewed documentation provided by the property owners and the horse boarding operation's website. The arena is used for horse training activities, but also for birthday parties, indoor motocross events, wedding receptions, horse shows, an equine science educational program, tractor shows, auctions, and many other events.

Based on all of the information provided, it appears that the overall use of the arena facilities is commercial. Guidance issued by the Department of Revenue in 2010 included the following statement:

> *"In addition, horse training and riding instruction related to the commercial boarding <u>may</u> also be included in the agricultural classification if the boarding is done on property that is also used for raising pasture to graze horses or raising or cultivating other agricultural products specified in section 273.13, subdivision 23, paragraph (i), clause (1). It is the*

expectation that the training and riding instruction related to the commercial boarding is that which is provided to those individuals who are boarding their horses onsite. If the training and riding instruction are provided to the general public (e.g. those who do not board their horses onsite) that portion of the property would be classified as commercial [all emphasis added]."

This guidance was based on a working group discussion regarding the commercial boarding of horses and the potential for agricultural classification, as well as a Minnesota Tax Court case regarding the commercial boarding of horses. In *Sommerdorf v. Sherburne* (file no. 71-CV-08-752, dated January 21, 2010), the court determined that a commercial horse training area on a property used for boarding and pasturing horses qualified for the agricultural classification because:

"[The] Respondent did not present evidence that horses other than those boarded were brought to the Subject Property for training. Thus, we find that the arena and its riding ring are integral to horse boarding. We find the arena meets the requirements for agricultural classification."

In the situation you have outlined, the arena is used for more than just those activities that are directly associated with the on-site horse boarding operation. Rather, the arena area is made available to persons who are not boarding their horses on site, as well as for activities that are not related to horse boarding or any other agricultural activity.

In summary, we agree that the portion of the property used to pasture cattle which are raised for sale should be agricultural, as well as any barns used with that cattle operation. Any portion of the property that is used for commercial horse boarding on-site may also be included, along with pasture and training areas that are integral to that specific boarding operation. However, the public arena, concessions, tack shop, and event center uses do not appear to qualify for the agricultural classification. The arena does not appear integral to the commercial horse boarding use of the property.

Please note that our opinion is based solely on the facts as provided. If any of the facts were to change, our opinion would be subject to change as well. The property owner may appeal the 2011 classification of the property to Minnesota Tax Court if the local appeal options are no longer available. If you have any additional questions, please contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 2, 2011

Keith Albertsen
Douglas County Assessor
Keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertson,

Thank you for your recent question to the Property Tax Division regarding agricultural classification. You have asked the following question:

> "If a parcel has permanent RIM acres and no other ag use, should the classification of the entire parcel be agricultural if there are 10 or more RIM acres or are just the acres enrolled eligible for the ag class?"

Minnesota Statutes, section 273.13, subdivision 23 provides the following:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes…"Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment."*

In other words, all permanent RIM acres are eligible for the agricultural classification if they were used agriculturally in the year prior to enrollment or for the 2002 assessment year (provided there are ten or more contiguous RIM acres). As outlined in a letter to you in February of this year, if the property is homesteaded, the entire property receives the agricultural homestead classification and corresponding class rates. The permanent conservation easement disqualifies the property from Green Acres Deferral but not the agricultural classification.

If you have any additional questions or concerns please direct them to our division by email at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

February 1, 2012

Michael Stalberger
Blue Earth County Assessor
Michael.Stalberger@co.blue-earth.mn.us

Dear Mr. Stalberger:

Thank you for your question concerning homestead. You have provided us with the following scenario:

> A person has a 5-acre property with a house that was residential homestead for the 2011 assessment and in June of 2011 the person purchased another 10 acres that are contiguous to the homestead and are all tilled (and classified as agricultural non-homestead at the time of purchase). Is it appropriate to change the property (both the base parcel and the newly-acquired parcel) to an agricultural homestead for the 2011 assessment, or should the change be made for the 2012 assessment?

It is the department's opinion that the classification to agricultural homestead can be made during the current assessment year (i.e. the year of acquisition). Provided that ownership and occupancy qualified the property for an agricultural homestead by December 1, and that application was made by December 15, both the residential homestead parcel and the newly-acquired ten acres that are also used for a homestead would be granted the 2a agricultural homestead classification. Therefore, in the scenario outlined above, we recommend changing the classification to an agricultural homestead for the 2011 assessment year, for taxes payable in 2012.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

March 29, 2012

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore:

Thank you for your question concerning the agricultural classification. You have asked if a property owner enrolled in and receiving payments from the Farm Service Agency's (FSA) Direct and Counter-Cyclical Payment Program may qualify for the 2a agricultural classification.

Enrollment in the FSA's Direct and Counter-Cyclical Payment Program does not preclude a property from being classified as 2a agricultural land. This program does not prevent a property owner from using the land for agricultural purposes and therefore does not inhibit the property from receiving the 2a classification.

If you would like to learn more about the Direct and Counter-Cyclical Payment Program you can review a factsheet located on the FSA website here:
http://www.fsa.usda.gov/FSA/newsReleases?area=newsroom&subject=landing&topic=pfs&newstype=prfactsheet&type=detail&item=pf_20081219_insup_en_dcp.html

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

April 18, 2012

Peggy Trebil
Goodhue County Assessor's Office
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil,

Thank you for your recent email regarding agricultural classification. You provided us with the following information:

> A property owner in your county has a 32-acre parcel. Located on that parcel are two non-contiguous fields, one is 7.4 acres of hay ground and the other is 1.9 acres of tilled field. The two fields are 200 feet away and separated by woods. There is a 100-foot wide trail between the two fields. The property owner mentioned that he plans on clearing some woods around one of the fields to get 10 acres as well as crop the trail if needed to get the 10 acres he needs to get the agricultural classification. You are asking if the property owner made these changes could the fields be classified as 2a agricultural property?

At this time the property owner only has 9.4 acres of productive field and to qualify for the agricultural classification you must have a minimum of 10 contiguous acres. That being said, if the property owner clears out a portion of woods around one or both of the fields so that they do equal 10 acres (combined) the property would still not qualify for the agricultural class because the two fields are not contiguous. If land in between the separate fields is farmed so that the property owner has ten contiguous (i.e., not separated) acres of farmed land, the property may qualify for agricultural classification.

Therefore, it is our opinion that at this time the fields are not ten contiguous acres and they would not qualify for the ag classification.

If you have any further questions or concerns please feel free to contact us at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 2, 2012

Mark Vagts
mark.vagts@co.waseca.mn.us
Waseca County Assessor's Office

Dear Mr. Vagts:

Thank you for your question concerning the classification of property. You have provided us with the following scenario:

> John Doe owns a rural 8.2-acre residential homestead parcel. There is a house, garage, and pole shed on this parcel. In December of 2011 John purchased three contiguous parcels.
>
> The south contiguous parcel is 13.86 acres. It is currently enrolled in CRP with a contract expiring in 2018. It was classified as Ag 2a before the sale and as Ag before it was signed into CRP. It has been planted entirely in trees with the CRP contract.
>
> The west contiguous parcel is 5.46 acres. It is a mature wooded parcel with pole shed. It was previously classified as 2b before the split.
>
> Finally the north contiguous parcel is 12.24 acres. There are roughly 5 acres tillable and 7 acres of woods. It was previously classified as Ag 2a and 2b before the split.

You have asked for our opinion concerning the correct classification of this property.

In our opinion, the property is correctly classified as an agricultural homestead. CRP land that was classified as agricultural land before enrollment into the program qualifies as class 2a agricultural land. Therefore, because the homestead property (including contiguous parcels) contains at least 10 contiguous acres of class 2a land, the entire contiguous land mass qualifies for agricultural homestead. The CRP land and any tilled land are 2a land, and remaining non-tilled/non-CRP land would be 2b rural vacant land. Both the land classified as 2a agricultural land and the land classified as 2b rural vacant land and would be eligible for the 0.50 percent agricultural homestead class rate.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

May 15, 2012

Marci Moreland
Carlton County Assessor's Office
marci.moreland@co.carlton.mn.us

Dear Ms. Moreland,

Thank you for your recent question concerning the agricultural classification. You have provided us with the following information:

- A property owner has 10 acres of property
- There is a homestead on the property
- There are 2 bee hives located on the property
- The property owner does not file a Schedule F
- The property owner does not plant clover and/or flowers for the bees to suckle
- The property owner does collect honey from the bees but did not specify on how much is collected
- You have denied the property owners' request for the Ag Class

You are questioning whether a property has to have a minimum number of bee hives for the land to qualify for the Ag class. You are also questioning whether the property owner needs to plant clover or flowers for the bees to suckle on to qualify for the Ag class.

Currently there is no minimum number of bee hives that need to be located on the property to qualify for the Ag class. Also, the property does not need to have clover and/or flowers planted to qualify for the Ag class. Therefore, to qualify for the Ag class there needs to be ten contiguous acres used to produce an agricultural product for sale. Based on the information you provided, the lack of a Schedule F makes it unlikely that the property meets the requirement of producing an agricultural product for sale. Additionally, the minimal number of hives makes it difficult to determine whether (if there were sales occurring) the property has ten contiguous acres used for agricultural purposes. Therefore we concur with your denial of the agricultural classification.

If you have any additional questions or concerns please feel free to contact our division us at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 29, 2012

Michael Frankenberg
Goodhue County Assessor's Office
michael.frankenberg@co.goodhue.mn.us

Dear Mr. Frankenberg:

Thank you for your question concerning the classification of property. A property owner in your county questioned the 2b rural vacant land classification that your office had applied to a 20-acre wooded parcel that he owns and which is contiguous to his homesteaded agricultural property. The property owner believes that the 20-acre nonagricultural parcel should be classified as class 2a along with the rest of his agricultural property. You have asked us for clarification concerning this issue.

The county's current classification of the 20-acre parcel not used for agricultural production as class 2b rural vacant land with a class rate of 0.50 percent (to reflect that it is contiguous to agricultural homestead property owned by the same property owner) is correct. Class 2b property that is contiguous to agricultural homestead property owned by the same property owner is eligible for the agricultural homestead class rate of 0.50 percent but retains the 2b rural vacant land classification.

If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

August 23, 2012

Terry Schaedig
Itasca County Assessor's Office
terry.schaedig@co.itasca.mn.us

Dear Mr. Schaedig,

Thank you for your recent email regarding agricultural land. We apologize sincerely for the delay in response. You have provided us with the following question:

> "Agricultural land is defined as being at least 10 contiguous acres used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program). What are those eligible conservation programs and could one combine 5 acres of them with 5 acres of agricultural land to get the 10 acre total?"

Minnesota Statutes, section 273.13, subdivision 23 provides the following:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes..."Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program* ***if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment*** *[emphasis added]."*

The three main conservation programs are CRP – Conservation Reserve Program, CREP - Conservation Reserve Enhancement Program, and RIM - Reinvest in Minnesota. There are other similar federal and state conservation programs that may also qualify for the agricultural classification but these three are the most common.

As stated in the statute above, the property must have been classified as agricultural for the assessment year prior to the land's enrollment into one of these conservation programs. Therefore, if the 5 acres of CRP land was classified as agricultural land then you could combine those 5 acres with another 5 acres of contiguous agricultural land to meet the 10 acre requirement. If those 5 acres were not classified as agricultural land then you cannot combine the two and meet the 10 acre requirement.

If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 13, 2012

Marci Moreland
Assessor
Carlton County
Marci.moreland@co.carlton.mn.us

Dear Ms. Moreland:

Thank you for your question submitted to the Property Tax Division regarding a property in your county. You have provided the following:

- A property consists of 40 acres; 5 of the 40 acres are planted into grapes.
- 8 of the surrounding acres are mowed, not hayed. These 8 acres used to be hayed but they were having problem with the mice getting into the grapes so they now mow the property with a lawn mower.
- They have a separate building where they extract the juice from the grapes and sell to a local winery where they make the wine

You have asked the following question:

The property does not have 10 acres of grapes in production- does the property qualify for agricultural classification under the exclusive clause?

The intensive or exclusive clause for agricultural classification is only applicable when the property is less than 10 acres in size (see Minnesota Statute 273.13, subdivision 23, paragraph (f)). The parcel in question is 40 acres in size; therefore the intensive or exclusive clause does not apply. In order to qualify for agricultural classification on property that is 10 acres or greater in size, there must be at least 10 contiguous acres used to produce an agricultural product for sale. As we understand the situation, the property in question has only 5 acres of land being used to produce grapes. This is not enough agricultural activity to receive the agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 8, 2012

Larry Austin
PTCO, MN Department of Revenue
larry.austin@state.mn.us

Dear Mr. Austin:

Thank you for your question concerning the classification of a property enrolled in the federal Environmental Quality Incentives Program (EQIP). The property was classified as agricultural before being enrolled in the EQIP program. To qualify for the EQIP program, the property owner received a conservation plan written for the property through the U.S. Department of Agriculture's Natural Resources Conservation Service. Your question is: Does the property still qualify for the agricultural classification, and if not, would the management plan qualify the property for the 2c managed forest land classification?

EQIP *is* a conservation program administered by a governmental entity (i.e., a unit within the U.S. Department of Agriculture). However, our understanding of the program is that EQIP does not require a producer to take the land out of agricultural production. It merely provides money to assist the producer in converting to more environmentally friendly methods of production.

Conversely, land in CRP or similar programs *are* required to be taken out of production. Therefore, a specific provision in statute was passed to cover land if it were to be enrolled in CRP or other similar programs (i.e., for agricultural land "forced" out of production by a conservation program).

> *"'Agricultural purposes also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment."*

In our opinion, the intent of this language was not to cover programs that allow land to stay in production if the owner chooses to do so. Rather, it was meant for programs that require the land to be taken out of production. In other words, we do not believe that EQIP is a "similar state or federal conservation program" to CRP, RIM, or other programs described in the language above.

However, this does not necessarily mean that the land cannot be classified as agricultural property. If the land does in fact stay in agricultural production while enrolled in EQIP, it may be appropriately classified as 2a agricultural property based on that production, and not based on its enrollment in EQIP. Due to the nature of the EQIP program, this is a determination that will need to be made on a case-by-case basis, as the management plan required for the program can be different from one enrollee to another.

Additionally, the management plan would not qualify the property for 2c classification unless it was registered with the Minnesota Department of Natural Resources (DNR). The DNR must make the determination that the management plan fits the state definition of a forest management plan.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

December 20, 2012

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore:

Thank you for your question submitted to the Property Tax Division regarding agricultural classification. You have provided the following: You have a taxpayer in your county who currently has part of his land enrolled in the USDA Natural Resource Conservation Service's Wildlife Habitat Incentive Program (WHIP). You have asked if this land can be classified as agricultural.

In our opinion, this property would likely not qualify for agricultural classification. Minnesota Statutes 273.13, subdivision 23, paragraph (e) states that:

> *"'Agricultural purposes' also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 or a similar state or federal conservation program if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment.* [Emphasis added.]"

Based upon our understanding, the purposes and functions of the WHIP program are entirely different than those of either RIM or CRP. The WHIP program is a cost share program designed to provide financial assistance to persons interested in developing wildlife habitat. The program places no deed or easement restrictions on the property, unlike lands enrolled in CRP or RIM. Therefore, in our opinion the WHIP program is not considered a "similar state or federal program" and consequently is not considered an agricultural purpose that would qualify a property for the 2a agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 23, 2013

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore:

Thank you for your question submitted to the Property Tax Division regarding land enrolled in the WHIP program. This question was a follow-up to a previous question you had asked. You have provided the following question:

By saying that land enrolled in WHIP does not qualify for agricultural classification, do you mean it cannot be productive agricultural land, or that it should not be classified as agricultural land at all, but should be classified as rural vacant land?

It is our opinion that land enrolled in WHIP cannot receive the 2a agricultural classification. The purposes and functions of the WHIP program are entirely different than those of either RIM or CRP. The WHIP program is a cost share program designed to provide financial assistance to persons interested in developing wildlife habitat. The program places no deed or easement restrictions on the property, unlike lands enrolled in CRP or RIM. Therefore, in our opinion the WHIP program is not considered a "similar state or federal program" and consequently does not qualify as class 2a agricultural property. Therefore, class 2b rural vacant land is the appropriate classification for land enrolled in WHIP.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 13, 2013

Daryl J. Moeller
Chisago County Assessor's Office
DJmoell@co.chisago.mn.us

Dear Mr. Moeller:

Thank you for submitting your question to the Property Tax Division regarding the 2a agricultural classification and agricultural homestead. You are questioning the classification of a property in your county that contains a homestead, 75 acres that are rented and being tilled (class 2a land), and 45 acres that are a mixture of woods, fenced land that has not been pastured for more than 10 years, and wetland. The owner of the property claims that the 45 acres should be classified as 2a agricultural land because she uses the wood as fuel for the agricultural operation and she gathers fruits, berries, and herbs and hunts animals for food to support the agricultural operation. You have asked if this land should be considered class 2a agricultural land.

According to the information that you have provided, it is our opinion that the 45 acres of woods, unused pastureland, and wetlands are not class 2a land. The most likely classification of this land would be as class 2b rural vacant land. However, class 2b property that is contiguous to class 2a homestead land is eligible to receive the reduced class rate of 0.50 percent. This 2b land is considered part of the agricultural homestead, but is not classified as 2a *agricultural* land. Class 2a land requires "the raising, cultivation, drying, or storage of agricultural products for sale [emphasis added]," which is not taking place on the 45 acres in this situation.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55146

Tel: 651-556-6084
Fax: 651-556-3128
TTY: Call 711 for Minnesota Relay
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MINNESOTA · REVENUE

July 3, 2013

Dan Whitman
Martin County Assessor
dan.whitman@co.martin.mn.us

Dear Dan:

Thank you for submitting your question to the Property Tax Division regarding classification.

Scenario:
At your County Board of Appeal and Equalization (CBAE) meeting, a property owner appealed the classification of his property. The property owner mills grain at his farm, and packages and sells the milled products. Occasionally, he sells the milled grain to individuals at the farmstead, but typically he sells it wholesale to retailers or to food service businesses. He believes that, since it is his own grain, the property should not be taxed as a commercial property. The CBAE changed his property's classification from commercial to agricultural. You have asked our opinion.

Answer:
Minnesota Statutes, section 273.13, subdivision 23, paragraph (j) provides the following:

> *"If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:*
> *(1) wholesale and retail sales;*
> *(2) processing of raw agricultural products or other goods;*
> *(3) warehousing or storage of processed goods; and*
> *(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),*
> *the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose [emphasis added]."*

"Grading, sorting, or packaging" the products for first sale may be an agricultural purpose; however, processing grains does not qualify as an agricultural pursuit and is appropriately classified as industrial. Additionally, wholesale and retail sales are clearly defined as commercial purposes. Therefore, the portion of the property used to mill grain and/or sell the grain should be appropriately classified as 3a commercial/industrial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 31, 2014

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following question.

Question: For a property to be classified as 2a, does mixing generally-intensive crops (e.g. blueberries) with non-intensive crops make a difference?

Answer: Property uses which may qualify a property for the agricultural classification include 10 or more contiguous acres used for production for sale of one or more of the agricultural products listed in Minnesota Statutes, Section 273.13 subdivision 23. The mixing of intensive crops and non-intensive crops will not make a difference in meeting the requirements to be classified as 2a. Any types of agricultural products produced for sale may be counted toward the ten acre minimum.

If you have any further questions, please contact our division at proptax.question@state.mn.us

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 6, 2014

Cindi Crawford
Cook County Assessor's Office
cindi.crawford@co.cook.mn.us

Dear Ms. Crawford:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- A homeowner has a maple syrup processing business along with his house and sugar shack on 5 acres.
- He also has another 5.33 acres approximately 1 ½ miles away.
- He taps trees for his maple syrup business on both parcels listed above.
- He leases approximately 40 acres contiguous to his home from the Forest Service to also tap for his maple syrup business.

Question:
Can the homeowner receive agricultural classification on the 5-acre parcel with the sugar shack and on his 5.33-acre parcel which is 1 ½ miles away?

Answer:
Minnesota Statutes, section 273.13, subdivision 23, requires at least 10 contiguous acres used for agricultural purposes to qualify for the agricultural classification.

As stated in the Property Tax Administrator's Manual, *Module 3 - Classification of Property*:

> *"Contiguous" is defined by the dictionary provided by law.com as "connected to or 'next to,' usually meaning adjoining pieces of real estate." This does not mean a property should be classified as agricultural when there is a total of 10 acres if the acres are broken up into small plots."*

Therefore, it is our opinion that the two 5 acre parcels do not meet the statutory requirements listed under Minnesota Statutes, section 273.13, subdivision 23 and would not qualify for the agricultural classification. Additionally, the 40 leased acres may not be included for classification purposes, as they are not under the same ownership as the homestead parcel.

Please note that this opinion is based solely on the facts as provided. If any of the facts were misunderstood or change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 11, 2014

Jay Sowieja
Le Sueur County Assessor's Office
jsowieja@co.le-sueur.mn.us

Dear Mr. Sowieja:

Thank you for submitting your question to the Property Tax Division regarding special agricultural homestead.

Scenario: A taxpayer is asking about receiving actively farming special agricultural homestead. He owns a 60-acre parcel consisting of 24 tillable acres, 16.5 acres of woods, 19 acres of wetland, and 0.5 acres of road. He lives within the 4 townships of the property, but he intends to rent the tillable ground out to a neighboring farmer and is wondering if he were to grow ginseng in the woods and any additional acres, could that count towards reaching the requirement that 50% of the 2a land be actively farmed by the person claiming homestead.

Question: Could the woods be considered 2a agricultural land and count towards the land actively farmed by the owner if the farmer grew ginseng in enough of the wooded land /wetland?

Answer: The department holds the opinion that ginseng does not qualify as an agricultural product under Minnesota Statute 273.13, subdivision 23. Therefore, any acres used to grow ginseng would not qualify towards meeting the active farming requirement. The use of the property, as described above, would not qualify for an actively farming special agricultural homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

April 3, 2014

Wendy Iverson
Dodge County Assessor's Office
22 6th St E, Dept 44
Mantorville, MN 55955
wendy.iverson@co.dodge.mn.us

Dear Ms. Iverson:

Thank you for submitting your question to the Property Tax Division regarding property classification. You have provided the following scenario and question.

Scenario:
There are two 80 acre contiguous parcels; parcel A consists of 2a agricultural land and parcel B consists of woods and waste. Both parcels are owned by the same owner and are non-homestead.

Question:
Would parcel B be classed as 2b rural vacant land non-homestead with a second half tax due date of October 15th or would it be classed as 2a non-homestead because it is contiguous to the 2a parcel?

Answer:
In our opinion, based on the information you provided, parcel B would not be classed as 2a non-homestead, though contiguous to parcel A, because parcel B does not meet any of the requirements for classification as 2a agricultural land. Parcel B should be classed as 2b rural vacant land non-homestead. Since parcel B is not part of a 2a homestead linkage, as stated in Minnesota Statutes 279.01, subdivision 1, the property is subject to an October 15 due date for second half property taxes.

Please understand this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 26, 2014

Cynthia Blagsvedt
Fillmore County Assessor's Office
cblagsvedt@co.fillmore.mn.us

Dear Ms. Blagsvedt:

Thank you for submitting your question to the Property Tax Division regarding homestead classification. You have provided the following scenario and question.

Scenario
A property owner has a homestead residential parcel in his name that is contiguous to his agricultural land under the same ownership consisting of 158.44 acres that he rents out.

Question
Can these two parcels be linked for homestead purposes without requiring the eligibility for special agricultural homestead?

Answer
Yes, this can be agricultural homestead. For the agricultural classification, there must be at least ten contiguous acres of 2a land that are part of the owner's homestead. Minnesota Statutes, section 273.13, subdivision 23 provides:

> *"'Contiguous acreage,' for purposes of this paragraph, means all of, or a contiguous portion of, a tax parcel as described in section 272.193, or all of, or a contiguous portion of, a set of contiguous tax parcels under that section that are owned by the same person [emphasis added]."*

In the scenario you have outlined, a set of contiguous tax parcels that are owned by the same person include at least ten acres of agricultural land, it is treated as an agricultural homestead in its entirety. It is not that they are "linked" per se, rather that the contiguous land mass qualifies for agricultural homestead. Because it is owner-occupied, participation is not a factor.

You can find more information regarding homestead in the Property Tax Administrator's Manual, *Module 4-Homesteads* which can be found on our website at:
http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/ptamanual.aspx

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

July 10, 2014

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan:

Thank you for submitting your question to the Property Tax Division regarding classification. You provided the following scenario and question.

Scenario:

- A farmer has 175 acres dedicated to the production of maple syrup, beekeeping, and apple trees.
- The farm is licensed by the Minnesota Department of Agriculture for the maple syrup production and the farmer has provided the county his Schedule F.
- The farmer is considering installing tanks to ferment the apples for apple cider.
- The area where the tanks will be set up is a 12 x 12 insulated room in the pole shed.

Question: What is the appropriate classification for the portion of the property used to cook and bottle maple syrup and ferment and bottle apple cider?

Answer: The processing of maple syrup (including bottling) is considered a commercial use and therefore the area used for that purpose would be classified as class 3a commercial/industrial property. The land where the maple syrup is produced would be agricultural if at least 10 acres are used to produce syrup, but processing is not considered production.

Minnesota Statutes, section 273.13, subdivision 23, paragraph (j) states:

""j) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:
(1) wholesale and retail sales;
(2) processing of raw agricultural products or other goods;
(3) warehousing or storage of processed goods; and
(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3)
the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use [emphasis added]."

The same would apply to the proposed area (12 x 12 insulated room in the pole shed) used for processing apples to produce apple cider. The most likely class would be 3a commercial/industrial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 19, 2014

Cynthia Blagsvedt
Fillmore County Assessor's Office
cblagsvedt@co.fillmore.mn.us

Dear Ms. Blagsvedt:

Thank you for submitting your question to the Property Tax Division regarding commercial property. You have provided the following scenario and question.

Scenario: In Fillmore County you have a property that is zoned commercial by the request of the owner (or representative of the owner), of which 20 acres are used for agricultural crop research and the remaining acres are rented out. The property also consists of private quarters and guest quarters which are used by visiting researchers.

Question: You have asked if this property should be classified as agricultural because of the agricultural research being done on this property.

Answer: The acres used for agricultural crop research should not be classified as 2a agricultural. Minnesota Statutes, section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as class 2a land:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program, or be used for intensive livestock or poultry confinement);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

In this scenario, there is greater than 10 contiguous acres and an agricultural product appears to be grown as defined by statute; however, the agricultural product grown is not produced for sale. The product is grown for research. For classification purposes there is no provision under Minnesota Statute granting the 2a agricultural classification for agricultural crop research.

If the remaining acres are used for qualifying agricultural purposes, they may be classified as 2a.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

September 17, 2014

Sherry Steffl
Mahnomen County Assessor's Office
Sherry.Steffl@co.mahnomen.mn.us

Dear Ms. Steffl:

Thank you for submitting your question to the Property Tax Division regarding agricultural relative homestead. You have provided the following scenario and questions.

Scenario:

- A property contains 155 acres, of which 103 acres are tilled and the rest is pasture.
- Owner does not occupy the property and does not live within 4 cites or townships.
- The owner's son is occupying the agricultural property.
- Currently the property is receiving an agricultural homestead on the entire parcel.

Question 1: Should the agricultural property (land, farm buildings) be split "coded" from the house, garage, and one acre (HGA)?

Answer 1: In this scenario all eligible land may be classified as 2a, agricultural land. However, the HGA is treated similar to a 1a residential homestead in that the taxation rate is 1% for the first 500,000 of market value and 1.25% for market value over 500,000. As far as split "coding" the property, that would depend on the computer consortium your county utilizes. Most likely there would be separate codes for the HGA and the regular 2a agricultural land (agricultural homestead first tier, etc.). It may be beneficial to consult with the vendor who has set up your mass appraisal system to better assist you with your specific questions.

Question 2: Does it make a difference on who is farming the tillable acres?

Answer 2: Since the property is owned by a natural person (mother) and occupied by a qualifying relative (son) the participation level is not a factor for farming. From the information provided it appears this property would qualify for an agricultural relative homestead as long as all other requirement are met as outlined in Minnesota Statute 273.124, subdivision 1 (d).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 10, 2014

Nancy Gunderson, SAMA
Clay County Assessor
807 North 11th Street
Moorhead MN 56560
Nancy.Gunderson@co.clay.mn.us

Dear Ms. Gunderson:

Thank you for submitting your question to the Property Tax Division regarding classification of a property.

Scenario:

- A property in your county is 37.7 acres.
- 17 acres are used to pasture horses.
- The owner pastures 6 of his own horses and boards 7 other horses (this number changes throughout the year).
- The parcel also includes his residence, a large stable, and several outbuildings.

Question: What is the appropriate classification for this property? Agricultural/rural vacant land split, or residential/rural vacant land split?

Answer: It appears that the property might qualify for a split agricultural/rural vacant land classification.

According to department guidelines, to qualify as agricultural use for horse boarding a property must meet the following requirements:

1. At least 10 contiguous acres must be used for the agricultural activity (e.g. pasture).
2. The agricultural use must be a product for sale (e.g., horse boarding for sale and not simply allowing neighbors to use the land for free).
3. Acres used only to provide pasture for the owners' horses do NOT count as agricultural.
4. Pasture used for commercially-boarded horses may qualify as agricultural.

You may wish to look further into the use of this property in terms of the boarded horses. You mentioned that the number can change throughout the year. While there is no minimum number of horses, if the owner only boarded 1 horse for most of the year and occasionally kept more, that might change this opinion. However, if you believe the property qualifies for classification as agricultural/rural vacant land, we would agree with your decision.

More information on the department's horse boarding guidelines is available in the Property Tax Administrator's Manual, *Module 3 – Classification of Property*.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

December 22, 2014

Mark Meili
Dakota County Assessor's Office
Mark.Meili@CO.DAKOTA.MN.US

Dear Mr. Meili:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question.

Scenario: You have received a request by Farmer's Mill and Elevator for an agricultural classification on three of their parcels. The Farmer's Mill & Elevator consists of several parcels in Castle Rock. All their parcels are zoned commercial and are classified as industrial. The mill is not engaged in any active farming (i.e., the grain they store is not their own product).

- Parcels 07.03100.50.017 and 077.03100.50.052 are primarily utilized for grain, agronomy, and seed storage.
- Parcel 07.03100.50.021 is home to the mill's management office and parking area for mill vehicles and equipment. It also has a large storage/drying building under construction.

Minnesota Statutes, section 273.13, allows the agricultural classification on property used for the "drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the same farm entity."

Question: Can the properties described above qualify for the agricultural classification if the grain is not a product of the owner?

Answer: No, the property cannot be classified as agricultural. "Agricultural purposes" means the raising, cultivation, drying or storage of agricultural products for sale, or the storage of machinery or equipment used **in support of agricultural production by the same farm entity**.

For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been produced by the same farm entity as the entity operating the drying or storage facility. Some examples of activities that would not qualify as agricultural purposes under this section include: grain bins used for storing crops produced by other farmers; buildings used for storing another farmer's machinery; and grain elevators.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 23, 2015

Stephen L. Baker, Ramsey County Assessor
County Assessor's Office
90 W. Plato Blvd
Saint Paul MN 55107
stephen.l.baker@co.ramsey.mn.us

Dear Stephen:

Thank you for submitting your questions to the Property Tax Division regarding the agricultural classification.

Scenario: "Urban Farms" are proliferating in Ramsey County. Your office believes that they meet the "intensive" requirements for agricultural classification, but you do have some questions and have asked for clarification.

Question 1: Do these facilities need one year of agricultural income prior to being eligible for the agricultural classification? Or are they eligible for the agricultural class immediately following licensing and set-up of the equipment?

Answer 1: The agricultural classification applies to property that had been used "in the preceding year" for agricultural purposes. We believe that this language is specific to agricultural properties because most traditional agriculture cannot be accomplished on January 2 in Minnesota. Because of the unique nature of some non-traditional farming, the use on January 2 may still drive the classification for the assessment year. This would also likely presume that the property had been in use for at least part of the year prior to the January 2 assessment.

Question 2: One of the possibilities for "intensive" agricultural use is intensive market farming of products for sale "to local markets" by the farmer. What constitutes a "local market"?

Answer 2: While there is no strict definition for what is a "local" market, we believe that it would be based on the market demanding the agricultural product. There are no strict bounds to what is a local market.

Please note that the "intensive" use application of the agricultural classification applies only to properties smaller than 11 acres in size that are improved with a residential structure. Exclusive agricultural use (which does not need to be "intensive" would apply to properties smaller than ten acres in size.

Question 3: One of the urban farms is a fish hatchery. Statute defines one of the agricultural products as "fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use." Is a permit adequate to meet the zoning requirement in order to receive the agricultural classification?

Answer 3: No; the property must be zoned for agricultural use in order to receive the agricultural classification for fish bred for sale.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

March 4, 2015

Steve Hurni
Property Tax Compliance Officer
steve.hurni@state.mn.us

Dear Mr. Hurni:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following question.

Question: If the property owner transfers bee hives and wax from different states to Minnesota, does that affect an agricultural classification in Minnesota, or does that action imply more of a commercial venture than agricultural use?

Answer: Minnesota Statutes, section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as class 2a land:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program, or be used for intensive livestock or poultry confinement);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

From the information provided, it is unknown if the acres in Minnesota equal 10 continuous acres and are used for an agricultural purpose.

It appears that the owner is only extracting bee wax and honey from hives that are transported to Minnesota. As we understand the extraction process, most facilities are typically pretty small and most people only extract honey once a year; and while it might be an intense weekend of production, it's not a large input of labor and capital throughout the year to qualify for intensive agricultural use.

It is not clear that the property would be classified as agricultural, and the land solely being used for extraction purposes may be considered a commercial/industrial purpose. However, the use may be very limited or small overall compared to the use of the parcel as a whole. If, for example, the parcel is entirely residential homestead but contains a shed which is used only once or twice per year for honey or wax extraction, that would not definitively affect the property's classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

March 26, 2015

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@StLouisCountyMN.gov

Dear Ms. Dunsmore:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question.

Scenario:

- In St. Louis County you have a maple syrup producer that has 10 acres of hardwood trees, and is classified as agricultural for this activity.
- You called the Department of Agriculture to verify this individual's maple syrup license.
- You have been told by the Department of Agriculture that maple syrup producers who produce on their own land do not have to be licensed to sell the syrup.

Question: Does a maple syrup producer have to be licensed by the Department of Agricultural as part of the qualifications for agricultural class?

Answer: Yes. For any property used to produce maple syrup to qualify for the 2a agricultural land classification, the following requirements must be met under Minnesota Statutes, section 273.13:

- There must be ten contiguous acres or more, used during the preceding year for production for sale of an agricultural product.
- To be an "agricultural product," maple syrup must be taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor.

Chapter 28A allows licenses for any individuals, firms, corporations, companies, associations, cooperatives, and partnerships. Therefore, any land owned by such an entity with a license from the Minnesota Department of Agriculture that is ten or more contiguous acres used for producing maple syrup for sale may qualify for the agricultural classification.

It very well may be true that if you are producing something on your own land you do not have to be licensed to sell it. However, for a property used to produce maple syrup to qualify for the 2a agricultural land classification for property tax purposes, the above requirements must be met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

April 1, 2015

Brian Arndt
arndtbp@hutchtel.net

Dear Mr. Arndt:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following question.

Question: Is rural vacant land that is enrolled in a lifetime United States Fish and Wildlife Service wetland easement considered land for an agricultural purpose.

Answer: Property in federal and state easement programs could be classified as class 2a agricultural property; however, if the property does not meet either of the requirements in Minnesota Statutes 273.13, subdivision 23 paragraph (e) the most likely classification would be class 2b rural vacant land. Generally, the requirements to be classified as agricultural are that the land must have an agricultural land easement similar to the federal Conservation Reserve Program and the property must have been using agriculturally prior to being put in the easement.

For specific property information we advise that you contact the County Assessor's office in the county where the property is located.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax Division
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

September 10, 2015

Joe Skerik
Beltrami County Assessor
joe.skerik@co.beltrami.mn.us

Dear Mr. Skerik:

Thank you for submitting your question to the Property Tax Division regarding 2a agricultural classification. You have provided the following scenario and question:

Scenario:

- A farmer has planted prairie grass/wildflowers (they are not exempt native prairie grasses) and plans to harvest the seed and sell it.
- The farmer currently has more than 10 acres on which he or she grows hay (currently receiving agricultural classification).
- The owner would like to plant the rest of the land with prairie grass and wildflowers.

Question: Does planting prairie grass/wildflowers qualify for the agricultural classification if the product is sold?

Answer: No; based on our understanding, the planting of prairie grass/wildflowers does not fall under the definition of an agricultural product as outlined in Minnesota Statues 273.13, subdivision 23. From the information provided, it is unclear how many acres the famer will be using for the planting of prairie grass and wildflowers. If the acres are deemed practical to separate from the 10 acres used for growing hay, then the acres most likely would be classified as 2b land.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

October 15, 2015

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan,

Thank you for contacting the Property Tax Division regarding agricultural products. You provided us with the following information.

Scenario:

- A 15.21 acre parcel is completely fenced except for the house
- 4 acres are dedicated for a few beef cattle
- The rest of the fenced land is used for "wildcrafting"; it is not cultivated, but the owners have planted 300 ginseng plants and 1000 ginseng seeds
- They also craft bloodroot, morel mushrooms, and other natural horticultural herbs and medicinal plants
- They are contracted with a local health food store and also one in Minneapolis for their products

Question: Is "wildcrafting" considered an agricultural pursuit? Are ginseng, bloodroot, morel mushrooms, and other natural horticultural herbs considered an agricultural product?

Answer: The use of the property as described is not agricultural purposes, and this property would not qualify for the agricultural classification and would likely be classified as rural vacant land. The activities taking place here don't fit within the definition of cultivating agricultural products. Cultivating implies focused and purposeful input and expected results for the input to the property. On this property, there aren't necessarily active steps taking place in the production of these products. Additionally, the Department of Revenue has made the determination in the past that ginseng is not considered an agricultural product.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

December 3, 2015

Joseph Tschida
Pope County Assessor's Office
joseph.tschida@co.pope.mn.us

Dear Mr. Tschida:

Thank you for submitting your question to the Property Tax Division regarding agricultural homestead. You have provided the following scenario and question:

Scenario:

- A land owner has 43 tillable acres in the Conservation Reserve Program (CRP).
- The land was classified as agricultural prior to enrollment in CRP.
- The land owner's house is on a separate contiguous parcel from the CRP land.

Question: Would the homeowner get agricultural homestead on both parcels?

Answer: Yes; from the information provided the property should be classified as an agricultural homestead. Conservation Reserve Program (CRP) land that was classified as agricultural land before enrollment into the program qualifies as class 2a agricultural land. Because the homestead is contiguous to the agricultural land, it all qualifies as one agricultural homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

January 13, 2016

Lorna Sandvik
Marshall County Assessor's Office
Lorna.Sandvik@ci.marshall.mn.us

Dear Ms. Sandvik,

Thank you for contacting the Property Tax Division regarding agricultural classification. You provided us with the following information.

Scenario:

- There is a 2.33 acre parcel of vacant land in the City of Marshall that is zoned commercial.
- It is currently being marketed for sale for commercial use.
- Alfalfa grows on the parcel border to border.
- A local horse owner (not the owner of the land) cuts the alfalfa and uses about 75% of the "crop" for his horses.
- He sells approximately 25% of the alfalfa that he cuts to other horse owners.
- In the past, he has also sold a small amount to a local cattle farmer.
- No rent changes hands between the owner of the land and the horse owner taking the alfalfa.

Question: Does this parcel qualify for the agricultural classification?

Answer: Yes, this property would qualify for the agricultural classification based on the current use of the property. Since the property is currently being used as agricultural you do not need to consider the zoning of the property. Zoning is considered when an assessor is reviewing the highest and best use of property that is vacant/unused.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 11, 2016

Mike Dangers
Aitkin County Assessor
mike.dangers@co.aitkin.mn.us

Dear Mr. Dangers:

Thank you for submitting your question to the Property Tax Division agricultural classification. You have provided the following scenario and question.

Scenario:

- An owner cuts hay on 5 separate fields and claims they are 2a agricultural property.
- These fields are each less than 10 acres in size.
- A total of approximately 10 acres of hay field exist on the subject property in separate locations.
- The owner has stated that he gets approximately 500 small square bales of hay off of this property and sells the hay. He has no livestock of his own and there is no active pasture on the property.
- The overall size of the property is 120.76 acres according to the county tax records. All of the parcels are contiguous.

Question:
Can small fields that are each less than 10 acres in size be combined to reach the 10 acre minimum threshold for agricultural classification? Can the areas such as machinery storage and setbacks be used to calculate the initial 10 acres for agricultural classification?

Answer:
No, to qualify for the agricultural classification there must be a minimum of 10 contiguous acres used for agricultural purposes. This does not include separate fields of smaller acreage combined to equal 10 acres, therefore the property would not qualify for the agricultural class because the fields are not contiguous to one another.

Areas such as machinery storage may be included in the initial 10 acres but again, it must be contiguous to the tillable land.

Therefore, it is our opinion that at this time the separate fields are not ten contiguous acres and they would not qualify for the agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

February 16, 2016

Doreen Pehrson
Nicollet County Assessor's Office
dpehrson@co.nicollet.mn.us

Dear Ms. Pehrson,

Thank you for contacting the Property Tax Division regarding agricultural classification. You provided us with the following information:

Scenario:

- Property owners have land that is currently classified as agricultural homestead.
- 10.5 acres of the land is tillable.
- They also own 112+ acres of farmland that is non-contiguous and linked for homestead.
- The property owners are considering installing a pond to prevent erosion on a portion of the 10.5 tillable acres.
- The pond will be larger than .5 acres, leaving them with less than 10 acres in production.

Question: Would this property still qualify for the agricultural classification if the pond was installed?

Answer: If the pond is bigger than .5 acres, then the property would have less than 10 acres in production and would not qualify for the agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

February 25, 2016

Jeff Johnson
Stearns County Assessor's Office
Jeff.johnson@co.stearns.mn.us

Dear Mr. Johnson,

Thank you for submitting your question to the Property Tax Division regarding agricultural classification and maple syrup production. You have submitted the following scenario and questions:

Scenario:

- A resident owns a 27.84-acre property. 10 acres are classified as residential homestead and 17.84 are classified as rural vacant land.
- All of the land is used to tap maple trees to produce sap for maple syrup.
- The owner has a wholesale food processing license from the Minnesota Department of Agriculture.
- The owner also taps maple syrup from a neighboring parcel that he does not own. This neighboring parcel has over 10 acres of land where the maple trees are being tapped for maple syrup.

Question 1: Should the owner's property be classified as agricultural?

Answer 1: Yes. For any property used to produce maple syrup to qualify for the 2a agricultural land classification, the following requirements must be met under Minnesota Statutes, section 273.13:

1. There must be ten contiguous acres or more used during the preceding year for production for sale of an agricultural product.
2. To be an "agricultural product," maple syrup must be "taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

In this situation, these requirements have been met and the property may qualify for agricultural classification.

Question 2: Should the neighboring parcel be classified as agricultural?

Answer 2: No. As quoted above, per Minnesota Statute 273.13, subd. 23, paragraph (g), clause (8), the maple syrup is to be "taken from trees grown by a person licensed" as a food processor by the Minnesota Department of Agriculture in order for it to be deemed an "agricultural product." Based upon the information outlined in your email, the maple trees in the neighboring parcel are not being grown by the person who is licensed and instead are being grown by the owner of the neighboring property. Therefore, it is not an agricultural product and the land would not be classified as agricultural.

If any of the facts outlined previously were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

April 19, 2016

Ron Vikre
Fillmore County Assessor's Office
rvikre@co.fillmore.mn.us

Dear Mr. Vikre:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and questions.

Scenario:

- Properties #1, #2, and #3 are all located in a township or city with a population of 2,500 or less located outside the metro and contain a portion of state trail administered by the Department of Natural Resources.
- Property #1:
  - Owned by husband and wife
  - Classed as 4(c)1
- Property #2:
  - Owned by XXXX LLC (husband and wife are only members)
  - Has one unit and is contiguous to property #1
- Property #3:
  - Owned by YYYY LLC (daughter and son-in-law are only members)
  - Has two units and is approximately 1 block away from the other two properties
- All properties are operated as a single resort and they meet the less than 250 day rule.

Question 1:
Can property #2 be classified as 4(c)1 even though it only has one unit and owned by XXXX LLC?

Answer 1:
No, property #2 does not qualify for the commercial Seasonal Residential Recreational (resort) classification because it does not meet the statutory requirements of having three or more rental units. The two parcels cannot be linked to achieve the resort classification because they are not owned by the same individuals or entity.

Question 2:
If the daughter becomes part owner of property #1 and a member of the XXXX LLC that owns property #2, will that change the 3a commercial classification on property #3?

Answer 2:
No, the two properties are not owned by the same entity. It does not make a difference if the same individual is a member of different entities, the entity itself is what we look at for ownership.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Property Tax Division
Email: proptax.questions@state.mn.us

April 26, 2016

Peggy Trebil
Goodhue County Assessor
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- Owners live on a property being used for market farming.
- The property is approximately 1.5 acres of land used for organic farming produce and approximately 2 acres of pasture for the mobile chicken coop.
- They raise over 20 different types of produce and chickens for eggs.
- The property owner provided a Schedule F for the past two years.

Question:
Does the property qualify for agricultural classification?

Answer:
From the information provided it appears the property meets the qualification to be considered agricultural for a parcel of less than 11 acres and improved with a residential structure. If a property is less than 11 acres in size and has a residential structure, one of the possibilities for "intensive" agricultural use is intensive market farming of products for sale "to local markets" by the farmer.

Market farming is the cultivation of fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated. This includes selling the agricultural products at a farmers market.

There is no minimum acreage or income requirement in statute. The assessor should, however, use their professional expertise and judgment to determine if the property is being used intensively for agricultural purposes rather than just a token or nominal use. Because the law does not provide any guidelines for determining whether or not agricultural production is intensive on any given property, the Department of Revenue has previously relied on the income generated by agricultural production on a property and the amount of labor required for production. The assessor may request the property owner to provide income information, farmers' market applications/permits, or any other information deemed necessary to help the assessor make this determination.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

April 29, 2016

Doug Walvatne
Otter Tail County Assessor
dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- A 25.8 acre parcel has 15.5 acres of woods and around 7 open acres containing a residential home and 3 greenhouses.
- Annual plants and vegetables are grown in the greenhouses and sold at an offsite location.
- The parcel also has a small apple orchard, a small plowed area for strawberry production, and 2 beehives.

Question: Does the parcel qualify for agricultural classification due to the greenhouses?

Answer: There are limited ways for a property to attain agricultural classification when it does not have at least 10 contiguous acres of agricultural production. Per Minnesota Statute 273.13, subdivision 23, paragraph f(2)(ii), contiguous acreage that is less than 10 acres can be classified as agricultural if it was used "as a nursery, provided that only those acres used intensively to produce nursery stock are considered agricultural land."

For this parcel and based upon the information provided, that would mean that only the land that is specifically used for the 3 greenhouses may be classified agricultural as long as all other requirements are met. The remaining acreage does not appear to qualify for agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information and Education Section, Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

May 13, 2016

Jamie Freeman
Clearwater County Assessor
jamie.freeman@co.clearwater.mn.us

Dear Mr. Freeman:

Thank you for submitting your question to the Property Tax Division regarding 2c managed forest land. You have provided the following scenario and question:

Scenario:

- In Clearwater County you have land owned by a married couple (JW & LW) and is enrolled in class 2c managed forest land.
- The land has recently been deeded to The Bat Cave LLC.
- Clearwater County sent a 2c managed forest application since the ownership has changed.
- JW & LW are the shareholders of The Bat Cave LLC and are reluctant to update their forest management plan, stating that the ownership has not changed.

Question: Has the ownership changed and is a new forest management plan needed?

Answer: Yes; ownership has changed. However, in our opinion we do not consider this enough of a change in ownership to warrant a new forest management plan (FMP) because the individual owners are the same owners of the LLC. The FMP must remain the exact same and there cannot be any new owners added to the LLC; otherwise a new FMP would be appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

June 28, 2016

Dave Sipila
St. Louis County Assessor
sipilad@StLouisCountyMN.gov

Dear Mr. Sipila:

Thank you for submitting your question to the Property Tax Division regarding the definition of a parcel for classification 4(c)12 and how it should be reported for PRISM.

Scenario:

- Under M.S. 273.13 Subd. 4(c)12, *"each parcel of noncommercial seasonal residential recreational property under clause (12) has the same classification rates as class 4bb property,"*

- M.S. 272.03, Subd. 6(a) provides a definition of parcel: *"(a) "Tract," "lot," "parcel," and "piece or parcel" of land means any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same claimant or person."*

Question: Does the definition of "parcel" in M.S. 272.03, Subd. 6(a) apply as it is used in M.S. 273.13, Subd. 4(c)12?

Answer: No. The definition in M.S. 272.03 would seem to indicate that a "parcel" could mean any amount of contiguous land owned by the same person, including several tax parcels. However, Subd. 3, of M.S. 272.03 says:

> *"**Construction of terms.** For the purposes of chapters 270 to 284, unless a different meaning is indicated by the context, the words, phrases, and terms defined in this section have the meanings given them [emphasis added]."*

When the term "parcel" is considered in the context of classification rates as described in M.S. 273.13, it is clear that the references are for the administration of the property tax and refer to tax parcels. In addition, there is no language in M.S. 273.13 that states that 4(c)12 properties should be "linked' or "borrow" classification rates or value tiers. Therefore, each parcel of 4(c)12 property would receive a classification rate of one percent on the first $500,000 of market value and 1.25 percent on the market value over $500,000.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

August 22, 2016

Wendy Iverson
Dodge County Assessor's Office
Wendy.iverson@co.dodge.mn.us

Dear Ms. Iverson,

Thank you for submitting your question to the Property Tax Division regarding classification. You have submitted the following scenarios and questions:

Scenario 1:

- A residential parcel has two homes on the property.
- One home is owner occupied and the other is empty but has been rented out.
- Both are currently classified as residential homestead 1a.

Question 1: How should the unoccupied home be classified?

Answer 1: Property is classified based upon use. Based upon the information you provided, it appears the second home is being used for residential purposes. However, it should not be classified as 1a residential homestead. It should instead be classed as 4b(1) Residential Non-Homestead because there are two units on the parcel.

Homestead can be extended in certain and limited situations to secondary buildings that are on the same property when they are being used as part of the homestead by the qualifying occupant. A common situation where this can occur is with storage sheds. In your situation, the second home is not being used in a manner that would allow homestead to be extended to it.

Scenario 2:

- An agricultural parcel has 3 homes.
- All 3 homes are rented out by the property owner.
- Currently one home is classed as 4bb and the other two are classed as 4b(1).

Question 2: How should this be classified?

Answer 3: Based upon the information you provided, it appears that all 3 homes are similar and have the same use. It is our opinion that the three homes should all be treated the same and be classified as 4b(1) In order to ensure all property owners are treated equitably, properties with the same characteristics should not be classified differently.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
Senior State Program Administrator
Information & Education Section
Property Tax Division
Phone: 651-556-4861
Email: proptax.questions@state.mn.us

September 13, 2016

Kelly Schroeder
Pine County Assessor's Office
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the following information.

Scenario:
There are two parcels owned by the same owners:

- **Parcel A:** 80 acres, owners run a 6 unit bed and breakfast on this parcel
  - The property has a current forest management plan
  - The owners do not occupy the bed and breakfast
  - 70 acres are currently classified as 2c, Managed Forest Land
  - 9 acres are currently classified as 1a, Residential Homestead
  - 1 acre is currently classified as 4c(9), Bed and Breakfast

- **Parcel B:** 10 acres, with a home in which the owners occupy
  - The property is contiguous to Parcel A
  - The property also has a forest management plan
  - Currently the property is currently classified as 2c, Managed Forest Land

Question: How should these parcels be classified?

Answer for Parcel A: Let's begin with the 70 acres that are currently classified as 2c, Managed Forest Land. As long as those 70 acres are unplatted, rural in character and meet all of the requirements to qualify as rural vacant land, those 70 acres are classified correctly. The remaining 10 acres are not classified correctly according to the information you provided. The property does not qualify for a 1a residential homestead since the owners of the property do not occupy the property. Since the owners do not occupy the property, the property also does not qualify for the 4c(9) classification.

The criteria to qualify for 4c(9) are very specific and they must be met. Statute states that class 4c(9) is residential real estate, **a portion of which is used by the owner for homestead purposes**, and that is also a place of lodging, if all of the following criteria are met:

1. rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;
2. meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;
3. meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of assessment; and
4. the owner is the operator of the property.

It is clear that the owner of the property must occupy a unit/portion of the bed and breakfast to qualify for the 4c(9) classification. In addition to that requirement not being met, you stated that the bed and breakfast has 6 units. The market value subject to 4c(9) classification is limited to five rental units. Any

rental units on the property in excess of five must be valued and assessed as class 3a commercial. The portion of the property used for homestead purposes by the owner must be classified as 1a residential homestead.

It is our recommendation that the 10 acres with a structure being used as a bed and breakfast should be classified as 3a commercial since the requirements for 4c(9) are not being met.

Answer for Parcel B: This parcel is less than 20 acres and is improved with a structure so it would not qualify for 2c. According to the information you provided, we would recommend this parcel be classified as 1a residential homestead.

You can find additional information regarding 2c, Managed Forest Land and 4c(9) Bed and Breakfast classifications in our *Property Tax Administrator's Manual, Module 3 Classification of Property.*

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY
State Program Administrator Coordinator
Property Tax Division
Phone: 651-556-6091

March 8, 2017

Michael Wacker
Pope County Assessor's Office
michael.wacker@co.pope.mn.us

Dear Mr. Wacker,

Thank you for submitting your question to the Property Tax Division regarding agricultural classification and CRP land. You have provided the following scenario and question:

Scenario:

- There is a 12 acre parcel of land with a home/garage on it without any other buildings.
- This parcel has almost 2.5 acres of road on it and is classified as an Ag homestead.
- All the land is in CRP with the exception of the house and roads.

Question: Should this parcel be classified as 2a, agricultural? If not, what would be the correct classification be?

Answer: According to the information you provided, this property would not qualify for the 2a, agricultural classification. The parcel is 12 acres, however there is not 10 acres of agricultural production on this parcel; 2.5 acres are a road, 1 acre homesite, and CRP land. This parcel should be classified as a residential. Acreage enrolled in a state or federal conservation program is considered 2a, agricultural, but when the acreage amount does not statutorily comply with the 10 acre 2a minimum, and there is a non-agricultural use on those acres, the CRP acreage is not required to be classified as 2a agricultural and would be considered a part of the non-agricultural use of the property.

Question: There is a 40 acre parcel, 20 acres of the parcel are enrolled in CRP, 1 acre is road, and the remaining 19 acres are tillable agricultural land. Since the entire 40 acre parcel is not enrolled in CRP, how should the county treat this parcel?

Answer: First, the county must classify the parcel according to use. The use of the parcel is agricultural with 20 acres in CRP and 19 tillable acres, therefore the property would qualify for the 2a, agricultural classification. When property is enrolled in a conservation program like CRP, the 50% rule does apply. In this example, 20 acres of the 40 acre parcel is enrolled in CRP and 1 acre is a rode. Therefore, at least 50% of the remaining 19 acres must be tillable to qualify for special agricultural homestead. Since all 19 acres are tillable, the entire 40 acre parcel would qualify for special agricultural homestead assuming all other requirements are met.

Please note, if less than 50% of the 19 acres of 2a land is being tilled, then the parcel would still qualify for the 2a classification however, it would not meet the requirements for special ag homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey
State Program Administrator Coordinator
Property Tax Division, Information & Education
Phone: 651-556-6091

June 8, 2017

Laura Hacker
Sibley County Assessor's Office
lauraw@co.sibley.mn.us

Dear Ms. Hacker,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A large horse barn was built in Sibley County on land classified as agriculture land in 2000.
- In 2005 the owners of the barn applied for and received a conditional use permit from its township to host rodeos and related activities.
- The owners claim to host 6-8 events per year, but there are advertisements and social media pages indicating the number of events may be considerably higher.
- The owners claim they use the barn for their own horses when not used for rodeo related activities.
- The property was recently split-classified by changing 4.46 acres, including the building, to commercial, while the remaining 32.56 acres continuing as agricultural homestead.
- The owners appealed the classification at the local board of appeal and equalization (LABE) meeting and the board changed the classification back to 100% agricultural citing the rodeo activities were of incidental use.

Question: Should the 4.46 acres, including the building be classified as agricultural if the multiple rodeos and related activities are hosted at the barn?

Answer: No, in the scenario you have provided the use of the property as a venue for rodeos and related activities appears to exceed incidental use. Incidental use would indicate that the property is operated in a manner outside of its normal purpose without altering the property's classification. In this scenario it is the property's significant use as an arena that likely indicates a commercial classification is more appropriate. The owners advertise rodeo events, charge for admittance, and the arena has been a part of a scheduled rodeo tour in the past, all indicating the property has a significant commercial purpose.

Additionally, the township's requirement that the owners obtain a yearly permit to operate the arena should be considered when reviewing the property's classification. Such a requirement indicates the property's intense use as an arena places it outside its usual agricultural classification; therefore, a permit must be granted for the owners to host rodeos and related activities.

Please note that this opinion is based solely on the information provided. If any of the facts were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

October 19, 2017

Joel Miller
Dakota County Assessor's Office
joel.miller@co.dakota.mn.us

Dear Mr. Miller,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A parcel in your county contains a large 56,000 square foot building (and two smaller outbuildings) used primarily for consignment horse sales.
- The parcel includes 24 acres of pasture and the land owner actively farms 290 contiguous acres that include a homestead.
- It does not appear the owner boards, trains, or raises horses on the parcel in question.
- The building and the parking lot are currently classified as 3a commercial.
- A Revenue Analysis from 2009 indicates that "horse facilities" would receive 2a agricultural classification.

Question: Should the building used primarily for consignment horse sales receive a 2a agricultural classification due to the Revenue Analysis?

Answer: No. The Revenue Analysis you reference appears to be in response to a 2009 bill proposal that would have expanded the definition of livestock under M.S. 273.13 to include horses and other equines as an agricultural pursuit. The bill did not become law and has no bearing on the above mentioned statute. The information provided indicates that current classification of 3a commercial is the correct classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 26, 2017

Jason McCaslin
Jackson County Assessor's Office
jason.mccaslin@co.jackson.mn.us

Dear Mr. McCaslin,

This communication is intended to further clarify the subject of feed mill classification discussed in a correspondence we sent on October 3, 2017. You provided the following scenario and question:

Scenario:

- A large hog operation operated by a Limited Liability Partnership (LLP) has proposed the construction of a feed mill.
- The LLP will produce feed at the mill that will only be used for the hogs owned by the LLP and do not plan to sell the feed.

Question: What is the proper classification of the proposed feed mill?

Answer: After further review of additional information provided, a distinction should be drawn between processing which supports the agricultural use of the parcel and the processing of a product for sale. If the processing of feed is done for the purpose of feeding livestock owned by the feed producer, the property associated with the milling should be 2a agricultural. Property associated with the processing of raw agricultural goods for sale should be classified as 3a commercial/industrial.

Please not that our opinion is based solely on the information provided. If any of the fact are misinterpreted, or if any of the facts change, or opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 5, 2017

Brad Averbeck
PTCO Minnesota Department of Revenue
brad.averbeck@state.mn.us

Dear Mr. Averbeck,

Thank you for submitting your question to the Property Tax Division regarding the production of honey. You have provided the following scenario and question:

Scenario:

- A honey producer in Clearwater County owns a building in Clearbrook City.
- The honey producer uses the building to extract honey from hives in preparation for shipping the product to a honey seller.
- The building is also used to store equipment and vehicles used in preparing the product.
- The county assessor recently changed the classification from agricultural to commercial based on past Department of Revenue opinion letters stating honey processing is not an agricultural activity.

Question: Would collecting and preparing raw honey for sale to a honey processor and distributor be considered an agricultural activity?

Answer: The Department's recent guidance concerning the issue of bees and the production of honey has focused on the statutory requirements for agricultural classification. Minnesota Statute 273.13 Subdivision 23 states the three main requirements for a property to be classified as agricultural are:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program, or be used for intensive livestock or poultry confinement);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

Since statute specifically lists bees and the housing of bees as an agricultural product, and since it appears the product in this scenario is produced for sale, the assessor must determine if the property used to harvest the raw honey is at least 10 contiguous acres in order to meet the minimum requirements for a property to be classified as agricultural. Typically bee keeping is performed in conjunction with other agricultural pursuits on a parcel classified as 2a. The information provided makes no mention of the amount of acreage dedicated to the production of the raw honey, or the overall size of the parcel, only that the property was at one time classified as agricultural. Please note however, if the property is less than 10 contiguous acres, then the parcel must be used in an "exclusive" manner to qualify for the agricultural classification. If the assessor determines that the property used to harvest the honey meets the requirements for the agricultural classification, or determines the parcel is less than 10 acres and meets the exclusive standard, then the property may be classified as agricultural.

In our opinion, it appears that the owner is only extracting bee wax and honey from hives in preparation for transportation to the honey seller. As we understand the extraction process, most facilities are typically small and most people only extract honey once a year; and while it might be an intense week or weekend of production, it's not a large input of labor and capital throughout the year to qualify as an exclusive agricultural use.

Question: Is the grading, sorting, or packaging of raw honey considered a first sale and thus an agricultural activity?

Answer: If the assessor determines the property meets the requirements for 2a agricultural classification, the grading, sorting, or packaging of raw honey for first sale would fall within the definition of the agricultural classification. Any *processing* of the raw honey at the property would indicate a non-agricultural use, resulting in the property being classified as commercial.

Assessors may be required to make some subjective decisions to determine if statutory requirements are met before classifying a property as class 2a agricultural land, but the decision should be based on a list of objective factors that are always considered before the decision is finalized. You can find more information about the agricultural classification in the Property Tax Administrator's Manual, Module 3.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

January 5, 2018

Mike Sheplee
Martin County Assessor's Office
mike.sheplee@co.martin.mn.us

Dear Mr. Sheplee,

Thank you for submitting your question to the Property Tax Division regarding the expanded definition of agricultural purposes to include participation in a local conservation program. You have provided the following scenario and question:

Scenario:

- Property owner lives on an 8.75 acre parcel currently receiving a residential homestead.
- A 51.31 acre contiguous parcel is classified 2b Rural Vacant Land for the 2017 assessment.
- The contiguous parcel had been classified 2a agricultural homestead from 2001-2016.
- Less than 10 acres of the 51.31 acre parcel is being farmed and the remaining is used for wildlife and/or recreational purposes.
- There are no recorded RIM or CREP easements on the 51.31 acre parcel.
- Owner submitted a Conservation Reserve Program (CRP) approval letter, conservation plan, schedule of operations, and map of the 8.6 acres.
- Owner states that $95 has been received, but has not submitted contract showing payment amount or frequency.
- A portion of the parcel is used to produce hay which is paid for in cash so a schedule F will show only the CRP income and related expenses.
- Owner keeps bees on the property.

Question 1:

Is a program with the USDA Farm Service Agency, signed by the County Executive Director, considered a local conservation program for agricultural purpose?

Answer: No. Minnesota Statutes, section 273.13, subdivision 23 specifically lists the entities eligible to administer a local conservation program for the purposes of maintaining the 2a classification. The USDA Farm Service Agency would not qualify under this specific language. However, land enrolled in CRP is eligible for the 2a classification if all other requirements of MS 273.13, subdivision 23 are met.

Question 2:

The Certification of Participation in Local Conservation Program application mentions a $50 minimum incentive payment. Is that required minimum payment a one-time payment or an annual payment?

Answer: Since the minimum $50 per acre is received *"in exchange for the use or other restrictions placed on the land"* and the fact that these programs are not perpetual agreements, it is our opinion this is an annual fee to compensate the landowner for that use or restriction during the assessment year in which the fee was paid.

Question 3:

Is the requirement for at least 10 acres used for agricultural purposes producing an agriculture product for sale still applicable?

Answer: Yes. Although the CRP program you referenced is not a Local Conservation Program, it is a qualifying program for the 2a classification. Since the 8.6 acres currently enrolled do not meet the 10-acre minimum, the owner would have to demonstrate that additional acres on the parcel are producing an agricultural product for sale in order to satisfy the 10-acre requirement.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

January 12, 2018

John Carlson
Private Forest Management Coordinator
MN DNR Forestry
john.c.carlson@state.mn.us

Dear Mr. Carlson,

Thank you for submitting your question to the Property Tax Division regarding the Sustainable Forest Incentive Act (SFIA). You have provided the following questions:

Question: Does the planting of hybrid poplar trees or Christmas trees require the land to be classified as 2a agricultural?

Answer: No. Land is classified according to its use. Minnesota Statutes, section 273.12, subdivision 23 requires the following to be met for 2a agricultural classification:

- at least 10 acres must be used to produce an agricultural product,
- the product produced is defined in statute as qualifying as an agricultural product, and
- the product is produced for sale.

If the use does not meet the above requirements the land cannot be classified as 2a agricultural. However, if it does meet the requirements then the assessor will classify the property as 2a agricultural.

Question: If the owner has no intent of harvesting an agricultural product would the land still be classified as 2a agricultural?

Answer: Classification of property is not based on future use or intentional future use. The property is classified according to its use on January 2 of every year. If the owner meets the first two requirements of class 2a agricultural, but is not harvesting an agriculturally defined product, then the land would not meet the classification requirements for 2a agricultural.

Question: Could 2a agricultural land planted in hybrid poplar trees or Christmas trees ever qualify for SFIA?

Answer: No. As long as the land is classified by the assessor as 2a agricultural it would not be eligible for SFIA. However, if the assessor changes the classification of the land to something other than 2a agricultural because the use of the land has changed, the land may be eligible for SFIA if all other requirements for the program are met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

January 16, 2018

Gale Bondhus
Cottonwood County Assessor's Office
gale.bondhus@co.cottonwood,mn.us

Dear Ms. Bondhus,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A commercial truck wash facility was constructed in 2016 and classified as commercial.
- The owner of the truck wash also owns adjacent agricultural property.
- In 2017, the owner built a 9,600 square foot building on the adjacent agricultural property.
- 800 square feet of this building are used as settling tanks to process wastewater from the truck wash.
- 1,600 square feet are used as a shop and storage for farm machinery.
- The remainder of building is used as a manure pit.
- Wastewater treatment involves separating wood chips and manure before the wastewater is discharged to the municipal sewer system.
- The manure and woodchips are applied to farmland owned or leased by the property owner.

Question: Should the wastewater treatment portion of the building be classified as commercial or agricultural?

Answer: In the situation you have outlined it would appear that the majority of the building is being used for agricultural purposes. The area devoted to wastewater treatment is not as clear. In this case you would need to determine if the primarily use relates to the truck wash or to the agriculture use of the land upon which it was built and classify accordingly.

The determination of whether to split classify the building would be at the discretion of the assessor. However, it appears from the information provided that this use is not required for the operation of the truck wash, but rather serves an agricultural purpose. This assumes the byproducts from the wastewater treatment are incorporated into the farm and not sold to the public. In that case, the area of the building containing the settling tanks may qualify as an agricultural purpose and classified as 2a agricultural.

This opinion is based solely on the information provided. If any of the facts were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

February 22, 2018

Liz Lund
Roseau County Assessor's Office
liz.lund@co.roseau.mn.us

Dear Ms. Lund,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There are multiple properties located in Roseau County that are owned by entities.
- The entities deal with specialized grass seed that is grown and cleaned prior to being sold.
- It is sold in bulk to other companies to be blended with various other types of grass seed and then re-packaged and sold for residential yards, golf courses, or sporting fields, etc.
- The product remains raw even until the consumer buys and utilizes the product.
- Some of the agricultural product comes from other farmers and is stored in the farming entities storage facilities.
- The properties are used for both agricultural purposes and commercial purposes.

Question: In situations where there are both agricultural and commercial purposes, is there a defining line of when something classed as Agricultural should no longer be Agricultural and should change to Commercial?

Answer: The defining line behind classification is use. The assessor must classify property according to the primary use of the property. There are times where a property has multiple uses and an assessor must consider split classifying the property.

Minnesota Statute 273.13, subdivision 23(e) states:

> *Agricultural purposes is defined as the raising, cultivation, drying or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production by the **same farm entity**. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored must have been **produced by the same farm entity** as the **entity operating** the drying or storage facility.*

An example of activity that would not qualify as an agricultural purpose is a grain bin used for storing crops produced by other farmers, etc.

Therefore, when determining whether a property should be classified as agricultural and/or commercial there are many factors the assessor must consider. If at any time a farm entity that operates a drying or storage facility stores agricultural products that are **not produced by the same farming entity**, the assessor should then classify those portions of the property as commercial. It is clear that the products that are stored by the operating entity must be also produced by that same entity.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

March 13, 2018

Daryl J. Moeller
Chisago County Assessor's Office
Daryl.Moeller@chisagocounty.us

Dear Mr. Moeller,

Thank you for submitting your question to the Property Tax Division regarding bees and honey production. You have provided the following scenario and questions:

Scenario:

- A property owner owns and occupies 20 acres.
- Although the property is currently not farmed, the owner wants to raise bees and produce honey.

Question 1: How should the assessor confirm 10 acres or more of agricultural use for the agricultural homestead classification?

Answer: In the production of honey, similar to guidance given by the department concerning the production of maple syrup, only land directly used in the production of the agricultural product can be considered to fulfill the 10 acre requirement for 2a agricultural classification. In the scenario described, honey is a product that qualifies for 2a classification under Minnesota statutes, section 273.13, subdivision 23; however, since honey is produced at the hive, only land in relation to the hive would qualify for 2a, making it unlikely that an apiary would ever qualify for 2a as a standalone operation. Typically, bee keeping is performed in conjunction with other agricultural pursuits due to the size of the honey production necessary to qualify for the 2a agricultural classification.

Question 2: Is there a specific number of hives or amount of honey that must be produced to obtain and maintain the 2a agricultural classification?

Answer: No. M.S. 273.13, subd. 23, does not specify a minimum number of hives or the amount of honey that must be produced to qualify and maintain the 2a agricultural classification; only that the land be:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program, or be used for intensive livestock or poultry confinement);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

Question 3: Is there a specific amount of income that must be earned to qualify for the 2a classification as related to honey production?

Answer: No; however, a schedule F on the owner's tax return would be an indication that an agricultural product has been produced.

Question 4: What is the threshold for intensive apiary use?

Answer: For a property to qualify for intensive use, the property must meet the requirements listed in Minnesota Statute 273.13, subdivision 23(f)(2). The property must contain a residence **and** is less than 11 acres in size as well as meet one of the three intensive uses. In this situation, the only intensive use that could possibly qualify would be if there is intensive market farming taking place where the agricultural product is for sale to local markets by the farmer. If the property meets the requirements of intensive use, then the assessor may classify the property as 2a, agricultural.

If the parcel is less than 10 contiguous acres, then the parcel must be used in an "exclusive" manner to qualify for the agricultural classification. If the assessor determines that the property used to harvest the honey meets the requirements for the agricultural classification, or determines the parcel is less than 10 acres and meets the exclusive standard, then the property may be classified as agricultural.

Question 5: When does the selling of honey produced and bottled on the owner's farm become 3a commercial?

Answer: If the assessor determines the property meets the requirements for 2a agricultural classification, the grading, sorting, or packaging of raw honey for first sale would fall within the definition of the agricultural classification. Any *processing* of the raw honey at the property would indicate a non-agricultural use, resulting in portions of the property being classified as commercial.

You can find more information about the agricultural classification in the Property Tax Administrator's Manual, Module 3.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 2, 2018

Tyler Synstelien
Otter Tail County Assessor's Office
tsynstel@co.ottertail.mn.us

Dear Mr. Synstelien,

Thank you for submitting your question to the Property Tax Division regarding exclusive agricultural use. You have provided the following scenario and questions:

Scenario:

- A 2.59 acre parcel is landlocked with no direct access or easement to get to it.
- The owner has given the neighbor permission to allow cattle to graze on the parcel.
- There is no fencing and the owner does not receive rent payments from the neighbor.

Question: Is this parcel an example of exclusive agricultural use and if so, could this parcel be classified as agricultural?

Answer: According to the information provided, it appears that this parcel would not qualify for the agricultural classification. Since the property does not have 10 acres used for production for sale of agricultural products, it must qualify for class 2a agricultural under exclusive or intensive use provisions. It is not clear that the property is intensively used because there isn't a residential structure on the parcel. Therefore, we are left to determine if it qualifies under the exclusive use provision.

Minnesota Statute 273.13, subdivision 23(f) defines exclusive use as a parcel less than ten acres in size and exclusively used in the preceding year for raising or cultivating agricultural products. In the scenario you provided the cattle are casually grazing on the property, this does not meet the definition of raising or cultivating agricultural products.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 14, 2018

Tom Ernste Reineke
Ramsey County Assessor's Office
thomas.ernstereineke@ramseycounty.us

Dear Mr. Ernste Reineke,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and questions:

Scenario:

- There are two contiguous parcels located in Ramsey County that are owned by a corporation.
- Parcel 1 has a commercial building located on the parcel. The building is being used to as a corporate headquarters and as a greenhouse to grow seeds which are genetically modified to create plants that have desirable traits.
- Parcel 1 is classified as commercial.
- Parcel 2 was purchased to use as a field, in which the seedlings that are raised in the greenhouse will be planted to allow the crops to grow.
- In 2017, the field was planted with wheat and soybeans.
- Parcel 2 is about 3 acres.
- The 3 acre parcel is not planted border to border due to trees that are located on the parcel.
- The county has requested a schedule F, however since the parcel is owned by a corporation they cannot provide a schedule F, they can only provide a Form 1120.

Question: Does parcel 2 qualify for the agricultural classification?

Answer: According to the information provided, it appears that this parcel would not qualify for the 2a, agricultural classification. To qualify for the agricultural classification a parcel must meet the requirements in Minnesota Statute 273.13, subdivision 23:

1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program, or be used for intensive livestock or poultry confinement);
2. The agricultural products are defined by statute; and
3. The agricultural product must be produced for sale.

Since this parcel does not meet the 10 acre requirement, then it must be exclusively used for agricultural purposes to be considered agricultural land. Exclusively means the entire parcel, border to border, is used for an agricultural product. It appears that the parcel is not planted border to border due to numerous trees which are also located on the parcel.

It is important to note that our decision is based off of the information provided. If the county feels the parcel is being used exclusively for agricultural purposes the parcel may qualify for the agricultural classification. All other requirements must be met and the decision is ultimately up to the assessor.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 16, 2018

Joseph Tschida
Pope County Assessor's Office
joseph.tschida@co.pope.mn.us

Dear Mr. Tschida,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There is a 5 acre parcel of land that is classified as agricultural homestead and has been since 1998 because of the special provision in Minnesota Statute 273.124, subdivision 14.
- The owner has recently sold the non-contiguous, 40 acre parcel that is required in the statute mentioned above.
- The owner has purchased a new 40 acre parcel that is located within 4 cities/townships from the 5 acre homesteaded parcel.
- The new parcel has no actively farmed land but contains 33 acres in CRP.

Question: Does the 5 acre parcel still qualify for agricultural homestead under Minnesota Statute 273.124, subdivision 14 now that the original 40 acre parcel, that qualified the parcel for ag homestead, was sold?

Answer: The 5 acre parcel can retain the agricultural homestead classification, even after selling the original 40 acre agricultural parcel and acquiring a different 40 acre agricultural parcel, because the ownership in the five acre parcel with the homestead has not changed and all of the other conditions in Minn. Stat. 273.124, subd. 14(a) are met.

In the paragraph at the end of subd. 14(a), the statute provides that homesteads classified under this provision remain classified as 2a "as long as the homestead remains under the same ownership" and "the owner owns" a noncontiguous agricultural parcel. The statute only requires that the homestead remain under the same ownership, not the noncontiguous land. Rather, the owner must merely own a noncontiguous agricultural parcel that is at least 20 acres that meets the statute's agricultural classification requirements.

As stated in statue, the noncontiguous parcel must be agricultural for the 5 acre parcel to qualify for ag homestead. Therefore, the county must determine if the newly acquired parcel is agricultural before continuing to grant ag homestead on the 5 acre parcel. The information you have provided states that the parcel is not actively farmed but contains 33 acres in CRP. CRP land is only considered an agricultural purpose if the property was classified as agricultural property:

- since the 2002 assessment; or
- in the year prior to its enrollment in the conservation program.

If the property was not classified as agricultural property before it was enrolled in CRP, then the property would not qualify for the agricultural classification. In that situation, then the 5 acre parcel would no longer qualify under the 1998 rule in Minnesota Statute 273.124, subd. 14(a).

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

July 11, 2018

Doug Walvatne
Otter Tail County Assessor's Office
dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner has 40 acres which includes his primary residence.
- The property owner entered into a 10-year *Partners for Fish and Wildlife Habitat Development Agreement* with the U.S. Fish and Wildlife Service on August 8, 2010.
- Owner has planted 22.2 acres in grasses for wildlife habitat.
- Otter Tail County has split classified the parcel residential homestead and rural vacant land for the 2018 assessment.
- The property was classified as agricultural prior to the agreement with the U.S. Fish and Wildlife Service.

Question: Would the program described above qualify as a "similar state or federal conservation program" outlined in Minnesota Statutes, section. 273.13, subdivision 23, paragraph (e) and be considered an agricultural purpose?

Answer: No. The purposes and functions of certain U.S. Fish and Wildlife Service programs to increase wildlife habitat are entirely different than those of either the Reinvest in Minnesota Program (RIM) or the federal Conservation Reserve Program (CRP). Based on the material your office has provided this appears to be a cost share program designed to provide financial assistance to persons interested in developing wildlife habitat. The program places no deed or easement restrictions on the property, unlike lands enrolled in CRP or RIM. Rather it provides a 10-year agreement to allow access to facilitate the habitat program. Therefore, in our opinion this program would not be considered a "similar state or federal program" and consequently is not considered an agricultural purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 21, 2018

Laura Ramboldt
Goodhue County Assessor's Office
laura.ramboldt@co.goodhue.mn.us

Dear Ms. Ramboldt,

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- There is a 10 acre parcel that is owner-occupied and currently classified as Agricultural Homestead.
- There is a 1 acre building site with house and garage, .85 acres road right of way, 6.1 acres being used for pasture, hay, and corn, and 2.05 acres of remaining yard.
- The property has an older barn (2,640 sqft) with two pole additions (4,656 sqft), two concrete silos, and two large sheds to house the cattle (10,000 sqft).
- The owner has a feedlot permit for 105 animal units and rents the feedlot to a neighboring cattle operation, with cattle occupying the feedlot an average of 279 days per year.
- The owner also files a farm rental income and expense form 4385.

Question: Does this parcel meet the requirements for agricultural homestead classification or should it be classified as residential homestead?

Answer: According to the information you have provided, it appears the parcel is 10 acres and includes multiple structures. Minnesota Statutes, section 273.13, subdivision 23, explains that if a parcel that is less than 11 acres with a structure, it must be used for one of the following to be considered agricultural:

- Intensive grain drying or storage;
- Intensive storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the same farming entity;
- Intensive nursery stock production, provided that only those acres used to produce nursery stock are considered as agricultural land (land used for parking, retail sales, etc. does not qualify);
- Intensive market farming, which means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

This requirement in statute would apply to this parcel because the parcel is less than 11 acres with multiple structures and being used agriculturally. The assessor will need to determine if the agricultural use on the parcel meets one of the four intensive use requirements listed above. If the assessor determines that there is not an intensive use on the parcel, then the parcel would not qualify for the agricultural classification. The parcel would then be classified according to the use of the residential structure.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 8, 2018

Tom Houselog
Rock County Land Records Office
tom.houselog@co.rock.mn.us

Dear Mr. Houselog,

Thank you for submitting your question to the Property Tax Division regarding aquaculture. You have provided the following scenario and question:

Scenario:

- A company plans to establish an aquatic farming facility in the City of Luverne.
- The site will be located in an area zoned "special industrial district" and not agricultural as required by Minnesota Statutes 273.13, subdivision 23 i (2).
- Agriculture is a permitted use in the special industrial zone.

Question: Will the facility and the aquatic farming of shrimp be eligible for agricultural classification if the site where it will be located is not zoned agricultural?

Answer: No. M.S. 273.13, subd. 23 i (2) is very specific in that property producing an aquaculture product must be zoned agricultural. Although the allowed use would permit the operation of the aquaculture facility in the special industrial zone, it would not rise to the level statute requires to qualify for the 2a agricultural classification.

Please note that our opinion is based solely on the information provided. If any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 15, 2018

Connie Erickson
Yellow Medicine County Assessor
Connie.Erickson@co.ym.mn.gov

Dear Ms. Erickson,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Several seed dealerships are located on agricultural property or residential building sites.
- The seed is stored on these sites for approximately 5-6 months; the land is otherwise used for agricultural purposes.
- Most seed dealerships have an office that is also used for personal farm business.
- Seed is purchased from a separate retailer.
- Most seed dealerships have signs advertising the business.
- Some seed dealerships have loading docks or hopper bottom bins.

Question: Should seed dealerships operated on agricultural property be classified as agricultural or commercial?

Answer: Land should be classified according to its use. When a property has multiple uses, the assessor must consider split-classifying the property. Minnesota Statute 273.13, subdivision 23(j) states that parcels used for agricultural purposes that are also used for commercial or industrial purposes, including wholesale and retail sales, should be split-classified, with the "*part of the parcel used for agricultural purposes classified as 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use*." In the case of the seed dealerships, wholesale and retail sales are clearly defined as commercial purposes, and should be classified as such.

Additionally, structures used for storing of seed that is purchased from a separate retailer do not qualify as being used for an agricultural purpose. Minnesota Statute 273.13, subdivision 23(e) states that:

"'Agricultural purposes' as used in this section means the raising, cultivation, drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production ***by the same farm entity****. For a property to be classified as agricultural based only on the drying or storage of agricultural products, the products being dried or stored* ***must have been produced by the same farm entity*** *as the entity operating the drying or storage facility"* (Emphasis added).

Therefore, the portions of the property used as a seed dealership would not be classified as agricultural for two reasons: the seed dealerships are conducting wholesale/retail sales, and the seeds being stored are not

produced by the same operating farm entity. From the information provided, the seed dealership should be split classified as 3a commercial/industrial based on its current use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

January 29, 2019

Betty Schultz
Goodhue County Assessor's Office
betty.schultz@co.goodhue.mn.us

Dear Ms. Schultz,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner applied for and received a conditional use permit to operate a hay & straw reselling and trading business on four acres of a larger 13 acre parcel.
- The four acres, which include hay storage buildings, a scale, and an office, are classified as 3a commercial, while the remaining 9 acres are classified as 2b rural vacant land.
- The business advertises its services, operates six days a week, moves up to 15 loads of hay per day, employs five semi drives, and advertises the business online.

Question: If the owner were to enter into a business agreement with two large local farms to produce 20,000 acres of hay, would the classification of the 13 acres change from 3a commercial/2b rural vacant land to 2a agricultural if the 13 acres were used as a "distribution" site?

Answer: As a general rule the department does not answer hypothetical questions; however, if the processing of a farm product is done for the purpose of feeding livestock *owned by the feed producers*, then the property associated with the processing should be classified 2a agricultural. Property associated with the processing of agricultural goods *for sale* should be classified as 3a commercial.

In the hypothetical example provided it is unknown what is meant by a distribution site. If weighing, prepping, transporting, selling, and general business activities continue to occur on the parcel, then that would be an indication that the overall use the property has not changed and the current split classification of 3a commercial/2b rural vacant land should remain on the parcel.

Question: If the property owner's father, who owns a farm across the road from the parcel in question, were to buy or jointly own the property with his son, would the 13 acres qualify as 2a agricultural?

Answer: As above, this is a hypothetical question with varying possibilities that may or may not impact the use of the 13 acres. That being said, the answer depends on the use of the land. If the use changes then the classification would need to be reviewed to determine the correct classification. The assessor must make the determination on whether the property is being used agriculturally and meets all the requirements in statute to qualify for the agricultural class.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

March 5, 2019

Shayne Bender
Le Sueur County Assessor's Office
sbender@co.le-sueur.mn.us

Dear Mr. Bender,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario 1:

- A 5.8 acre parcel includes a grain elevator, shed, scale, and dryer.
- The grain elevator is used for the purposes of buying, selling, drying, and storing grain.
- The parcel was owned by the same owner for many years and had received a 3a commercial classification before it was sold in 2010.
- The new owners used the parcel for their personal grain storage so the classification was changed to 2a agricultural.
- The parcel was sold again and has been used for personal grain storage purposes since 2018 under the name of a LLC, which is different from the name of the entity that produces and stores grain on the parcel.

Question: How should the property be classified?

Answer: Minnesota Statutes, section 273.13, allows the agricultural classification of property used for the "drying, or storage of agricultural products for sale, or the storage of machinery or equipment used in support of agricultural production *by the same farm entity*." The information provided indicates that the entity that owns the elevator is different from the entity that produces the agricultural product stored in the elevator. Since the entity that owns the grain elevator parcel is different from the agricultural producer utilizing the property, the elevator does not meet the ownership requirements of M.S. 273.13; therefore, the parcel must be classified as commercial. For the elevator to qualify under M.S. 273.13 the owner storing the agricultural product on the site and the owner of the elevator must be the same.

Scenario 2:

- A 5.2 acre parcel includes a grain elevator, shed, scale, dryer, and other equipment.
- The parcel operates as a fully operational grain elevator; however, the owner has added at least one new grain elevator on the parcel for his own personal grain storage.
- Of the 2,360,000 bushel storage capacity available on the parcel, the owner's total storage capacity is 45 percent.
- The entity that owns the parcel containing the grain elevators is different from the entity producing the agricultural product stored on site.

Question: Should the property be split classified?

Answer: No. As in the first scenario, M.S. 273.13 requires the entity owner of the grain elevator to be the same as the producer of the agricultural product stored on the parcel to qualify the property for the 2a agricultural classification. Since this requirement has not been met the classification should remain commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

July 10, 2019

Connie Erickson
Yellow Medicine County Assessor's Office
connie.erickson@co.ym.mn.gov

Dear Ms. Erickson,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Swine confinement barns (finishing or nursery) are owned by an individual who does not own the livestock. The livestock within the barns are nursery or finishing hogs.
- The owner of the hog barn is considered the caretaker of the livestock and is also known as a "custom feeder".
- The owner of the livestock compensates the custom feeder for his labor.
- The custom feeder is raising the nursery and finishing hogs to bring them to market weights. Once the animals are at market weights, they will be delivered and sold to various slaughter plants.

Question: What is the classification of swine confinement barns owned by an individual who does not own the livestock, but is custom feeding for the owner of the livestock?

Answer: From the information provided it would appear that these swine confinement barns would be classified as agricultural. For property to be classified as agricultural, it must be used for agricultural purposes, which is defined in statute as "the raising, cultivation, drying, or storage of agricultural products for sale". Minnesota Statutes 273.13, subdivision 23 (i), clause (1) defines the production for sale of livestock as an agricultural product.

Swine confinement would appear to be a part of "raising" an agricultural product, which would then qualify it as an agricultural purpose. Statute puts restrictions on the origins of production when an agricultural product is stored or dried, however swine confinement would not appear to be defined as "storage".

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 31, 2019

Jeanne Runge
Dakota County Assessor's Office
Jeanne.Runge@CO.DAKOTA.MN.US

Dear Ms. Runge,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property is split classified as 3a commercial and 4bb residential non-homestead, due to commercial use on the property.
- The owner has requested that the property be classified as agricultural.
- The owner cited Minnesota Statute 168.002, subdivision 8 as justification for their request for agricultural classification.
- The business' website states that they are a wholesale forestry products supplier, including firewood, firewood logs, live edge slabs, lumber, saw logs, and woodchips.
- In a letter to the county, the business stated that most of the wood processing is done at the customer's sites, and that they are certified with the Minnesota Department of Agriculture.
- The website also states that they provide services such as tree removal, stump grinding, brush mowing, and land/lot clearing.

Question: Should this property qualify for the agricultural classification?

Answer: From the information provided, the property in question does not qualify for the agricultural classification. Minnesota Statute 273.13, subdivision 23 defines what land may be classified as agricultural; it must have at least 10 contiguous acres in production (with some specific exceptions), it must produce an agricultural product defined in statute, and the agricultural product must be produced for sale. In this scenario, the products that the business produces are not statutorily defined agricultural products. While trees may be considered agricultural products if grown for sale as a crop, trees sold for timber, lumber, wood, or wood products are specifically listed in statute as not being agricultural products. Additionally, the services provided by the business indicate that this property should be classified as commercial. Minnesota Statute 168.002 is not related to property taxes and has no effect on the classification of the property.

It is also important to keep in mind that property classification is determined on January 2nd of the assessment year. Classification cannot be changed after this date except for after a successful appeal through the local or county board of appeal and equalization process or a change in homestead status.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division
Phone: 651-556-6091

June 1, 2020

Mark Koehn
MAAO Ag Committee Chair
MARK.KOEHN@co.stearns.mn.us

Dear Mr. Koehn & Committee Members,

Thank you for contacting the Property Tax Division regarding classification of agricultural land in regard to land that provides an environmental benefit. You have provided the following scenario and questions:

Scenario:

- A law enacted in 2019 updated the definition of agricultural purposes in Minnesota Statute 273.13, subdivision 23 to include up to 3 acres of land that provides environmental benefits.
- The law does not limit the definition of environmental benefits to the examples listed. Rather it states "such as" making it difficult to determine what environmental benefits would be considered as an agricultural purpose.
- "Environmental benefits" is broad and could be interpreted differently between county assessors and property owners.

Question: What is the definition and intention of "environmental benefits" in relation to Minnesota Statute 273.13, subdivision 23?

Answer: When this provision was added to the definition of "agricultural purposes," the legislature did not define what "environmental benefits" means, in the context of "use of land…to provide environmental benefits." There has also not been any caselaw treatment of this term thus far.

When statutes do not include specific definitions, it is appropriate to use words and phrases "according to their common and approved usage." Accordingly, a reasonable, common usage of the phrase "use[d]…to provide environmental benefits" would be if a property owner **puts the land to a use** that is supportive of the health of the surrounding environment (e.g., preserving or enhancing water, air, or soil quality). In other words, something would need to be done to the land with the intention of providing a benefit or supporting the health of the environment.

While the legislature did not enact a specific definition of this term, the statutory language includes examples of uses that the legislature considered as providing environmental benefits—specifically, buffer strips, old growth forest restoration and retention, and retention ponds used to prevent soil erosion. These examples support the earlier interpretation of **putting the land to a use** that supports the health of the water, air, and soil. For example, if a property owner replaced some agricultural acres with a riparian buffer to assist with water quality, up to three of those acres would qualify as an environmental benefit and could be classified as agricultural in conjunction with the surrounding agricultural acres.

In most situations where there is a naturally occurring land feature, that land feature would **not qualify** as an environmental benefit. Examples would be a grove of trees that are providing a wind break to the residence located on the property or a property with one acre of natural woods or wetlands. Those land features naturally provide benefits to the environment in general, however they would not qualify as an environmental benefit because the property owner did not add the woods/wetland area for the purpose of supporting the health of water, air, and/or soil.

Finally, there may be situations where a naturally occurring land feature would also be used for environmental benefits. That determination would need to be made by the assessor based on a variety of factors. Two factors that should be considered when trying to determine whether a naturally occurring land feature is providing an environmental benefit would be:

1. the surrounding agricultural activities and
2. whether the decision to leave a naturally occurring land feature in place (versus tilling it) **protects or enhances** the health of the environment, in light of the adjoining agricultural practices.

If an assessor determines that a naturally occurring land feature is protecting or enhancing the health of the environment then the assessor could consider, up to three acres of that land feature, as meeting the requirement for agricultural purposes and potentially classify the property as agricultural.

The department recommends that assessors view this provision narrowly and use the guidance above when reviewing properties that lost their agricultural classification or were denied the agricultural classification due to creating environmental features or preserving environmental features that support the health of the environment. It is important to remember that per Minnesota Statutes, the assessor has the authority to classify property according to use. Ultimately, it is the assessor's responsibility to classify property accurately and uniformly while abiding by the classification laws and procedures.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

October 30, 2020

Lorri Houtsma
Pine County Assessor's Office
Lorri.Houtsma@co.pine.mn.us

Dear Ms. Houtsma,

Thank you for contacting the Property Tax Division regarding agricultural classification. You have provided the following scenario and questions:

Scenario:

- A conversation easement was recently recorded on an agricultural homestead parcel
- The easement states that the agricultural use may continue up to eight years from the date of the easement
- This perpetual easement is a Minnesota Land Trust
- The property owner has provided a plan for when each field will cease to operate as agricultural

Question 1: Will the parcels continue to be classified as agricultural after the agricultural use has ceased due to the easement restrictions?

Answer: No. Classification is based on use, and therefore the land would no longer be eligible to be classified as agricultural once the land ceases to be used for agricultural purposes. While there are exceptions for state or federal conservation programs, an easement filed under the Minnesota Land Trust is not eligible for the 2a agricultural classification. The Minnesota Land Trust is a private, non-profit organization whose goal is to preserve open space and rural land. Once the agricultural use ceases the agricultural classification must be removed. At that time, it is likely that the land would be classified as 2b, rural vacant land. It is also important to note that the agricultural homestead would need to be removed as well.

Question 2: If the property still qualifies for the agricultural classification, would it also continue to qualify for Green Acres and Rural Preserve? If no, would this constitute a payback?

Answer: Once the agricultural use ceases and the agricultural classification is removed, then the property would no longer meet the requirements for Green Acres or Rural Preserve. Since the property would no longer qualify, a payback would be required.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

November 17, 2020

Austin Noble
Goodhue County Assessor's Office
Austin.noble@co.goodhue.mn.us

Dear Mr. Noble,

Thank you for contacting the Property Tax Division regarding the agricultural classification. You have provided the following scenario and question:

Scenario:

- There is an 18.98-acre property located in Goodhue County.
- During a recent review, the county found that the property consists of 2 acres tillable, 10.98 waste, 5 acres building site, and 1 acre of road.
- The owner resides on this property and it is currently classed agricultural homestead due to having 14 acres of active pasture use in previous years.
- Currently there are no livestock pasturing on the property and the agricultural products the owner does produce are not being produced for sale.

Question: Should this property continue to qualify for the agricultural classification?

Answer: According to the information provided, it appears that the property does not meet the statutory requirements to qualify for the agricultural classification. Minnesota Statute 273.13, subdivision 23 states that a property must meet the following three requirements to qualify for the agricultural classification:

1. 10 or more contiguous acres that are used to produce agricultural products for agricultural purposes during the preceding year
2. The agricultural products must be defined by statute
3. The agricultural products must be produced for sale

Minnesota Statute 273.01 requires assessors to set their values and classification each year on January 2, therefore the classification that is determined for this property must be set by the assessment day of January 2, 2021 for the 2021 assessment year. Because there were not 10 acres used for agricultural purposes during the preceding year (2020), the property would not qualify for the agricultural classification and should be classified according to its current use. If in the future the use of the property changes back to an agricultural use, the property owner should notify the assessor's office so a property review can be completed.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 23, 2020

Laura Ramboldt
Goodhue County Assessor's Office
laura.ramboldt@co.goodhue.mn.us

Dear Ms. Ramboldt,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A nine-acre parcel is improved with a house and several outbuildings.
- The house was rented to someone (not related to the owner) until November 2019 and is currently classified as residential non-homestead.
- The house is currently not used as a residence, it is used exclusively as a farm store and the "operations hub" for the business.
- One of the outbuildings has previously been used as a seasonal attraction and vehicle storage.
- Two other outbuildings are used exclusively for seasonal and year-round attractions.
- The last outbuilding is used to raise quails and harvest eggs.

Question: Can this property qualify for the agricultural classification based on "intensive use"?

Answer: According to the information provided, the house appears to be used exclusively in relation to the business and should be classified as 3a commercial. Since the house is currently used commercially and not being used as a residence, the property no longer contains a "residence" which is required in Minnesota Statute 273.13, subdivision 23(f) for a property to receive agricultural classification under intensive use. Therefore, the property would not qualify for the 2a agricultural classification. The rest of the property should be classified according to use.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

April 13, 2021

Dan Panka
Property Tax Compliance Officer
Dan.panka@state.mn.us

Dear Mr. Panka,

Thank you for contacting the Property Tax Division regarding the agricultural classification. You have provided the following scenario and question:

Scenario:

- A property owner purchased a 3-acre parcel (parcel A).
- Parcel A was enrolled in the Conservation Reserve Program (CRP) at the time of purchase.
- Under the previous owner, the classification of parcel A was 2a agricultural land due to the enrollment in CRP and being contiguous to agricultural parcels under common ownership.
- Parcel B is 5 acres, owned by the new owner, and contiguous to parcel A.
- Parcel B does not have any agricultural use.
- Parcel B does not contain a structure and is not occupied.
- Parcel B is platted.
- Parcel B is currently classified as 4bb(1) residential non-homestead, based on the highest and best use.

Question: Does parcel A still qualify for the agricultural classification? If not, what should it be classified as?

Answer: Parcel A would not qualify for the agricultural classification because it does not meet the statutory requirements to be classified as agricultural. Minnesota Statute 271.13, subdivision 23(f)(1) states that acreage that is less than 10 acres in size must be used exclusively in the preceding year for **raising or cultivating agricultural products.** Since this parcel has been enrolled in CRP, there are no agricultural products being raised or cultivated, therefore it does not meet the statutory requirements.

Minnesota Statutes allows land that was at one point actively farmed and then enrolled into CRP to be considered an agricultural purpose. However, the agricultural purposes definitions only relate to situations where there are 10 or more acres of land being used agriculturally. The exception to the 10-acre rule mentioned above is more restrictive in that it requires the raising or cultivating of agricultural products.

Based on the information provided, it appears that parcel A would be classified in conjunction with parcel B since they are contiguous and owned by the same owner. Therefore, it appears that the correct classification for both parcel A and B would be 4bb(1) residential non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

April 28, 2021

Josh Hoogland
Hennepin County Assessor's Office
Joshua.Hoogland@hennepin.us

Dear Mr. Hoogland,

Thank you for contacting the Property Tax Division regarding intensive use and the agricultural classification. You have provided the following scenario and questions:

Scenario:

- The parcel is 9.02 acres and contains a homesteaded residence.
- The property consists of growing apples, plums, pears and a raspberry patch.
- The apples, plums, pears and raspberries were donated to a food shelf as well as sold via a stand on a friend's property.
- They estimate their profit from selling was approximately $60.
- They provided a receipt for the donation that indicates they donated approximately 685 pounds of fruit to the local food shelf.
- The property owner also has future plans to grow and sell cucumbers to pickle and sell to local restaurants.
- Approximately .63 acres are used for fruit tree production.
- Approximately .16 acres that would likely be used for a garden patch to support their intention of growing cucumbers in the future.
- The property was originally classified as 1a residential homestead.
- The Local Board of Appeal and Equalization has since changed the property's classification to 2a, agricultural.

Question 1: Does this property in whole or in part qualify for the agricultural classification?

Answer: From the information provided, it appears the property does not qualify for the agricultural classification. Typically, the property must have at least 10 contiguous acres of agricultural land that is used for an agricultural purpose to qualify for the agricultural classification. Minnesota Statute 273.13, subdivision 23(f) provides an exception to the 10-acre minimum law for parcels that are less than 11 acres, improved with a structure, and have less than 10 acres of agricultural use. To qualify for this exception, there are specific requirements that must be met.

The first requirement is that the agricultural acres are used in the preceding year for an intensive use. The three intensive uses listed in statute are:

1. for an intensive grain drying or storage operation, or for intensive machinery or equipment storage activities used to support agricultural activities on other parcels of property operated by the same farming entity;
2. as a nursery, provided that only those acres used intensively to produce nursery stock are considered agricultural land; or

3. for intensive market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.

Based on the information provided, it appears that while agricultural products are being produced, those agricultural products are not being sold to or at local markets.

Additionally, the Department of Revenue has advised assessors to consider the income generated by the agricultural production and the amount of labor required to produce the product when determining whether a property meets the requirements for intensive market farming. Since the agricultural products are not being sold to or at a local market and the income generated is a small amount, it appears that the statutory requirements are not met, and the property cannot be classified as agricultural. Based on the primary use of the structure the correct classification of this property is residential.

Question 2: If the entire parcel doesn't qualify for the agricultural classification, should the county split classify the property for the portions that have an agricultural use?

Answer: When a property has multiple uses, the assessor must split-classify the property according to those uses. Before an assessor can split classify, the property must first meet the requirements for the classifications that the assessor is considering. In this scenario, the agricultural production does not meet the requirements for the agricultural classification. Therefore, a split classification would not be appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 12, 2021

Corey Erickson
Ramsey County Assessor's Office
Corey.Erickson@CO.RAMSEY.MN.US

Dear Corey Erickson,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A laboratory is located on seven acres of land
- The lab is involved with genetic engineering and testing
- Multiple rooms contain plants that are grown for the above purpose
- Other rooms in the building are used for office space or other commercial purposes
- The parcel contains outdoor plots are devoted to research and development

Question: Would any of the parcel qualify for the agricultural classification?

Answer: No. For a parcel to qualify for the agricultural classification, it must be at least 10 acres in size and be used for agricultural purposes, or meet one of the following exceptions:

- For parcels less than 10 acres, it must be used exclusively in the preceding year for raising or cultivating agricultural products.
- It must be 11 acres in size, contain a residence, and meet certain use requirements.

Because the parcel is less than 10 acres in size, it may only qualify via one of the exceptions. Because the parcel is not used exclusively for cultivating agricultural products and it does not contain a residence, it would not qualify for either exception. Therefore, the parcel does not qualify for the agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 12, 2022

Dear Valerie,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the following information.

Scenario:

- There is a 5.67 acres parcel, occupied by the owner
- There are 6 structures on the property
- A 20 x 20 shed is used for farm use, tools, and skid loader
- A 30 x 45 machine shed contains more tools and houses 15 chickens (eggs are donated)
- A 24 x 20 grain bin is used for storage of grain that is harvested by the property owner
- A 48 X 25 grain bin and the 60 x 120 machine shed, are used by the property owner's father-in-law
- The property owner rents and operates 80 acres of agricultural land from the father-in-law
- The property owner and the father-in-law operate additional agricultural land owned by the father-in-law
- The property owner does file a Schedule F
- The 5.67-acre parcel is currently classified as residential homestead

Question: Can 5.67-acre parcel qualify for agricultural homestead?

Answer: Based on the information you provided it appears the parcel may qualify for the agricultural classification if the assessor determines that there is enough intensive use taking place on the parcel. Minnesota Statutes, section 273.13, subdivision 23 explains that if a parcel that is **less than 11 acres with a structure** and used for intensive grain drying/ storage or intensive storage of machinery or equipment used to support agricultural activities on other parcels of property operated by the **same farming entity or person**, it may qualify for the agricultural classification. Since some of the buildings on the property are being used by someone other than the owner, the assessor will need to consider those details when deciding on whether the property is being used intensively by the owner of the property.

If the assessor determines that the property meets the requirement for intensive storage listed in statute, then the 5.67-acre parcel would qualify for the agricultural homestead classification. If the assessor determines that there is not an intensive use on the parcel, then the parcel would not qualify for the agricultural classification. The parcel would then be classified according to the use of the residential structure.

Sincerely,

Information & Education Section
Property Tax Division
Minnesota Department of Revenue
Phone: 651-556-6922

September 20, 2022

Dear Shawn,

Thank you for submitting your question to the Property Tax Division regarding the agricultural classification. You have provided the following scenario and question:

Scenario:

- A property owner owns a wooded parcel.
- The property owner sells the trees for harvest by a paper mill.

Question: Are trees for harvest by a paper mill an agricultural product?

Answer: No. Minnesota Statute 273.13, subdivision 23, paragraph (i) lists what are considered agricultural products for the agricultural classification. Clause (7) states that: "*trees, **grown for sale as a crop**, including short rotation woody crops, **and not sold** for timber, lumber, wood, or wood products"* are considered agricultural products (emphasis added).

While some other agricultural products listed simply state the product that must be grown (e.g. livestock, grains, vegetables) without any stipulations on what the product is used for, statute is very clear that trees must be grown for sale as a crop and specifically states that it cannot be grown to be sold for other purposes. This means that in order for the trees to be considered as an agricultural product, they must be grown and sold solely for the **tree itself**, and not to be sold for any other purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 10, 2023

Dear Brock,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the following scenario and question.

Scenario:

- A 22.23-acre property contains 9.4 acres of fenced pasture
- The property owner grazes a maximum of nine cows on the pasture
- The property is currently classified as residential
- The property owner has indicated he occasionally lets the cattle graze outside the fenced pasture and therefore meets the 10-acre minimum for the agricultural class

Question: Does this property qualify for classification as agricultural?

Answer: No. If the property does not contain the minimum of 10 contiguous acres used for an agricultural purpose required for the agricultural classification, it would not qualify. The owner occasionally allowing livestock outside of the fenced pasture area would not rise to the level required in statute that those other areas were devoted to an agricultural use in the preceding year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 4, 2023

Dear Anne,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner owns a 14.1 acre parcel and boards approximately 20 horses for commercial purposes
- Of the 14.1 acres, approximately 0.75 acres are used as hay meadow and two acres are used as tillable land
- There is also a house on the property and some woods

Question: Does this parcel qualify for the agricultural classification?

Answer: From the information provided, it is unlikely that the property would qualify for agricultural classification. For parcels larger than 11 acres that contain a house, the only way to qualify for the agricultural classification is to have ten acres of land used for agricultural purposes. While land used for the purposes of commercially boarding horses may qualify as agricultural if it is on property also used for raising pasture to graze horses, the acreage requirement must still be met to receive the classification.

From the information provided, it does not appear that there are at least ten acres of land used for agricultural purposes on this property at this time based on the information you have provided. If the property owner is able to show the assessor that there are ten acres of land used for those purposes, then it could qualify for the agricultural classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 7, 2023

Amanda,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the follow scenario and question.

Scenario:

- A property owner is starting a tree farm business and believes their property should be classified as agricultural.
- The property is 10.1 acres and contains a residential structure.
- The owner planted approximately 300 trees/seedlings in 2021, but most of them died.
- The area of the parcel used to plant trees is approximately 1.1 acres.
- The property owner was licensed as a Nursery Stock Grower in 2021 but did not hold a Nursery Stock Grower or Dealer license in 2022.
- The property owner did not have income from the stock therefore they did not file a Federal Schedule F to report income.
- The property owner believes their property should be classified as agricultural and has asked for leniency due to the drought conditions in 2022, and due to the length of time it takes for trees to grow.

Question: Does the property qualify for the agricultural classification?

Answer: Based on the information provided, the property in question does not meet the statutory requirements to be classified as agricultural. Minnesota Statutes section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as agricultural. These can be divided into requirements for parcels that are greater than 10 acres in size, and parcels that either are 10 acres or less or 11 acres or less with a structure. Given that this property has a residential structure and is under 11 acres, it would need to meet the requirements of "intensive use" under the subdivision.

While intensive nursery stock production is an acceptable intensive use for the agricultural classification, it is not clear that the trees grown qualify as nursery stock. Additionally, the fact that the property did not receive any income reported on their schedule F and that the property owner did not hold a Nursery Stock Grower License or Dealer during 2022 suggests that the property would not qualify for the agricultural classification at this time. Classification is based on use, and the property owner would need to show the assessor that this production met the requirements of intensive use to receive the agricultural classification. It is important to note that if the property did meet the "intensive use" requirements, only the area used to produce the nursery stock would be classified as agricultural.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 6, 2023

Dear Stacy,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Two contiguous 20-acre parcels are held under common ownership.
- One of the parcels contains the homestead with part being a vineyard and orchard. It also has a fenced area used by the owner's four horses.
- The second parcel has additional vineyards, a meadow used for hay, and pine trees that are sold.
- The second parcel contains a building used for wine tasting and retail that is split classified commercial.
- The orchards, vineyards, and area used for the vineyard total 8 acres.
- The owners do not have an FSA number, file a schedule F, nor have proof of profit or loss from farming.
- The owners have stated they filed a 4835 Farm Rental Income and Expense form, which has not yet been provided.

Question: At what point do the areas used for the trees and meadows for hay become eligible acres for the agricultural classification?

Answer: For this property to qualify for the agricultural classification it must have 10 contiguous acres used for qualifying agricultural purposes. When defining agricultural products that would meet this requirement, statute states they must be produced for sale. While land used for the purposes of **commercially** boarding horses may qualify as agricultural use, the fenced areas, acres used to provide pasture, and any buildings used for the owner's horses would not qualify. If the hay is cut and sold, and the owner can provide documentation that the use of that meadow is to produce a product for sale, it may qualify.

Minnesota Statutes 273.13, subdivision 23 (i)(7) allows "trees, grown for sale as a crop, including short rotation woody crops, and not sold for timber, lumber, wood, or wood products" to be agricultural products as long as they are cultivated for sale. We have in the past offered guidance on determining if trees planted for later sale would meet this requirement. That guidance is below although each situation should be looked at individually:

- Trees are planted in an orderly fashion in a way that would facilitate being harvested with a tree spade;
- Surrounding vegetation is necessarily controlled to allow easy access for removal;
- Trees are not logged and sold for timber, lumber, wood, or wood products;
- Property owner is properly licensed with the Minnesota Department of Agriculture (MDA) if required. MDA website contains information on the limited exceptions for individuals.

The Property Tax Administrator's Manual offers guidance on the issue of the production for sale requirement:

The agricultural product being produced on the land must be produced for the purpose of sale. Although income should not be the sole determining factor, the assessor may want to consider the following factors:

- *Income (Schedule F) from sale of agricultural products (crops, livestock, etc.)*
- *How the agricultural products were sold (wildlife food plots do not qualify)*
- *Income earned in the past year from the sale of animals*
- *The income from the productive acres divided by the number of total acres*
- *Rental income from an agricultural lease*

Although you have stated that the property owner filed a 4835 Farm Rental Income and Expense form it is not clear if it relates to any of the areas being used for hay or tree production or is related to some other part of the property. That information could make a material difference in the ultimate classification determination.

In both cases, it appears your office does not have the necessary information to classify either of these areas as agricultural. Classification of property is not based on future use or intentional future use. The property is classified according to its use on January 2 of every year and must have been used during the preceding year for agricultural purposes.

If documentation is provided and shows that the additional acres meet the statutory requirements, and those additional acres would result in 10 or more contiguous acres used for an agricultural purpose then the property may qualify at that time. Until that time, it appears this property does not meet the requirements to be classified as agricultural.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

January 4, 2024

Dear Macy,

Thank you for submitting your question to the Property Tax Division regarding the agricultural classification. You have provided the following scenario and question:

Scenario:

- A 7.82-acre parcel is improved with a residential structure.
- The parcel contains a 3,200 square foot building used to store farm equipment.
- The parcel contains two greenhouses, one 1,000 square feet and one 95 square feet used in the market farming operation, as well as a room in the residential structure.
- The owner rents and farms 380 additional acres.
- The owner also does market farming on this and another parcel. Products are sold to two local grocery stores, one restaurant, and a local farmer's market.
- The owner's cottage food producer license was provided.
- The owner files and has provided to your office a Schedule F for both operations and a 156EA showing the owner as the operator for the acres farmed.

Question: Does this parcel qualify for the agricultural classification based on an intensive use?

Answer: From the information provided it appears the property may meet the intensive use qualifications to be considered agricultural as a parcel of less than 11 acres and improved with a residential structure. The ultimate decision would be made by the assessor using their professional expertise and judgment to determine if the property is being used intensively for agricultural purposes rather than just a token or nominal use based on the specifics of the parcel. Statute does not provide any minimal income or acreage requirements for use in making this determination.

If a property is less than 11 acres in size and has a residential structure, two of the possibilities for "intensive" agricultural use are intensive market farming of products for sale "to local markets" by the farmer, and intensive machinery or equipment storage activities "used to support agricultural activities on other parcels of property operated by the same farming entity," or a combination of the two. In this case, the parcel appears to contain both uses which may qualify the entire property as 2a.

Because the law does not provide any guidelines for determining whether agricultural production is intensive on any given property, the Department of Revenue has previously advised that a review of the income generated by agricultural production on a property, and the amount of labor required for production would be tools to help make that determination as it relates to intensive market farming. The assessor may request the property owner to provide income information, farmers' market applications or permits, and any other information deemed necessary to help the assessor make this determination. Similarly, a review of the overall agricultural operation, and the machinery or equipment stored as it relates to that operation, should be used to determine qualification as it relates to intensive storage.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 10, 2024

Dear Jessica,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A 3.79-acre property contains a home and is receiving residential homestead.
- Part of the property is used to grow flowers that are cut and sold at farmer's markets.
- The property owner has also installed two hoop barns for sale of flowers on site.
- Recently the property owner purchased 10 additional contiguous acres.
- Five of the newly acquired acres are steep slopes.

Question: Is this property eligible for agricultural homestead?

Answer: From the information provided, it does not appear the property qualifies for the agricultural classification before or after the acquisition of the additional acreage. Prior to the acquisition, because the parcel was under 11 acres with a residence, it would only be eligible for the agricultural classification under "intensive use". Minnesota Statutes 273.13, subdivision 23(f)(2) lists those intensive uses as:

> *(i) for an intensive grain drying or storage operation, or for intensive machinery or equipment storage activities used to support agricultural activities on other parcels of property operated by the same farming entity;*
> *(ii) as a nursery, provided that only those acres used intensively to produce nursery stock are considered agricultural land; or*
> *(iii) for intensive market farming; for purposes of this paragraph, "market farming" means the cultivation of one or more fruits or vegetables or production of animal or other agricultural products for sale to local markets by the farmer or an organization with which the farmer is affiliated.*

Statute defines agricultural products in M.S. 273 subd. 23 (i)(1) as "*livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner*." As this does not specifically include cut flowers, we would need to look to the language defining horticulture and nursery stock for qualification. While there is no specific definition for horticulture stock, statute does define nursery stock in M.S. 18H.02 where it specifically states that cut flowers are not defined as nursery stock:

> *"Nursery stock" means a plant intended for **planting or propagation**, including, but not limited to, trees, shrubs, vines, perennials, biennials, grafts, cuttings, and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants. Nursery stock **does not include**:*
> *(1) field and forage crops or sod;*
> *(2) seeds;*
> *(3) vegetable plants, bulbs, or tubers;*
> *(4) **cut material such as flowers** or other herbaceous or woody plants, unless stems or other portions are intended for propagation;*

(5) tropical plants;
(6) annuals; or
(7) Christmas trees.

Based on this, it does not appear that an exclusive use of producing cut flowers qualifies as an agricultural use.

Since the parcel is now greater than 11 acres, qualifying under intensive use provisions would no longer be an option for the next assessment year regardless of the agricultural use. Minnesota Statute 273.13, subdivision 23, requires a minimum of 10 contiguous acres used for agricultural purposes to classify a property as 2a agricultural. The information provided indicates that the property does not meet this requirement, both from an acreage and agricultural product standpoint.

The correct classification appears to be 1a residential homestead. If the assessor determines the use of the hoop barns is primarily commercial, a 1a/3a commercial split may be appropriate. Any portion of the property that is being used for commercial purposes should be classified as commercial, the remaining acres of the parcel would go with the use of the residential structure.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Apartments (4a)

July 1, 2004

Sandy Vold
Big Stone County Assessor
Courthouse
20 SE 2nd Street
Ortonville, MN 56278

Dear Sandy:

Your e-mail to John Hagen has been forwarded to me for reply. In your e-mail, you outlined the following situation. A 34-unit apartment building is being constructed by the city of Ortonville. It is presently owned by the Ortonville EDA. When complete, the complex will have 12 independent living units that will rent for $600 - $800 per month. It will also have 16 assisted living units which will rent for $1,700 - $1,900 per month. The remaining six units will be memory care units and will rent for $2,550 per month. Other similar facilities you have researched are exempt from property tax but pay five percent of shelter rents as payment in lieu of tax. You have asked if this is correct.

In our opinion that is correct – as long as the property continues to be owned and operated by the Ortonville EDA. This situation is covered by Minnesota Statute 469.040 (copy enclosed). Under this statute, the property is exempt from real property taxes. Please be aware that this does not include any special assessments or utility charges. In addition, the authority must file a statement with the assessor on or before April 15 of each year. The statement must show the aggregate shelter rentals collected during the preceding calendar year (M. S. 469.040, subdivision 3). Five percent (5%) of the aggregate shelter rentals are then charged to the authority as payment in lieu of tax.

I sincerely apologize for the delay in getting you a response. If you have additional questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

Enclosure

MINNESOTA · REVENUE

April 11, 2014

Dana Beasley
City of Minneapolis Assessors Office
Dana.beasley@minneapolismn.gov

Dear Mr. Beasley:

Thank you for submitting your question to the Property Tax Division regarding valuation methods. You have provided the following scenario and question.

Scenario: In Minneapolis, an owner has two apartment buildings that have been converted into condominiums. One building sold more than 60% of the residential units and went from 4a apartment classification to all the units becoming classified as residential (1a and 4bb). The other building was also marketed as condos but none were sold and the property remained classified as 4a. The owner is no longer marketing them for sale and has not done so for years. The owner is questioning the 4a classification.

Question: What is the correct classification of the buildings, and how should the property be valued?

Answer: If a declaration has been filed for the property and the building has been given multiple PIDs (separate PID for each unit), then it may be appropriate to classify the property on a unit-by-unit basis as either residential homestead or residential non- homestead, depending on the use of each unit. In the unlikely event that the building still has only one PID, the 4a classification would appear to be more appropriate, based on the use of the property.

If 60% or more of the individual units have been sold as condominiums (residential homestead and/or residential non-homestead) or retained by the converters for their own investment, then the entire property may be valued as condominium property. However, if that is not the case, the property would be valued as its highest and best use (most likely as apartments).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 25, 2015

Bonnie Lay
Pope County Assessor's Office
bonnie.lay@co.pope.mn.us

Dear Ms. Lay:

Thank you for submitting your question to the Property Tax Division regarding homestead. You have provided the following scenario and question.

Scenario:

- Mother owns a property containing four units.
- She occupies one of the units.
- The remaining three units are rented out.

Question:
Can the mother receive homestead on the unit she occupies?

Answer:
The owner is eligible to receive class 1a residential homestead on the one unit she occupies as her principle place of residence. The remaining three units which are rented out should be classed as 4a residential non-homestead (4 or more units).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

November 18, 2020

Joshua Hoogland
Hennepin County Assessor's Office
Joshua.Hoogland@hennepin.us

Dear Mr. Hoogland,

Thank you for submitting your question to the Property Tax Division regarding 4a classification. You have asked for clarification on several topics regarding the classification of hospitals:

Question: Minnesota Statute 273.13 states in part that "Class 4a also includes hospitals licensed under sections 144.50 to 144.56". Are all MN hospitals required to be licensed under this statute?

Answer: Yes, the Minnesota Department of Health has verified that all MN hospitals must be licensed under the above statute.

Question: Is there a way to verify that a property is a licensed hospital?

Answer: Yes. If the assessor is unsure whether the property qualifies as a hospital, the hospital should be able to produce their license to verify their status as a hospital. Additionally, the Minnesota Department of Health provides an online directory of all licensed hospitals. This is updated daily, and can provide the address, the "doing business as" name, and information about the hospital's administrator.

Question: Should hospital and non-hospital property, located on a single parcel, be split-classified?

Answer: Yes. There are frequently additional, non-hospital clinics or other services located on hospital campuses or even within hospital buildings. Non-hospital property should be classified according to use; clinics not operating under a hospital license would likely be classified as 3a commercial.

Question: How should assessors differentiate between hospital property and clinics or other services located inside the hospital building or on the hospital campus?

Answer: Minnesota Statute 273.13, subdivision 25 states that licensed hospitals and "contiguous property used for hospital purposes" should be classified as 4a. While there may be clinics or other ancillary services located within the hospital or contiguous to the hospital property that are operating under the hospital's license, those clinics or services still must be used for hospital purposes to qualify for the 4a classification. To determine if the clinic or ancillary service is used for hospital purposes, the assessor should evaluate if the clinic or other service is **functionally interdependent** with the hospital.

Examples of interdependence for clinics include:

- shared space (including labs, common areas, etc.)
- admitting privileges at the hospital are only for the associated clinic's doctors
- same pharmacy
- same beds/rooms

For example, if a clinic and hospital share a building, shared spaces such as beds, pharmacies, or labs would likely be classified as 4a, however areas solely utilized by the clinic (such as a visiting room for routine care) would be classified as 3a commercial.

Ancillary services operating under the hospital's license may be entirely classified as 4a if is totally functionally interdependent with the hospital, assuming that it is operating under the hospital's license. These again assume that the clinic is operating under the hospital's license; if not, they should be classified as 3a commercial regardless of interdependency.

A memo issued by the Department of Revenue in September 2015 titled "Hospital and Clinic Properties – Taxation vs. Exemption" provides useful definitions of clinics and hospitals that can provide additional guidance to distinguish what would or would not be regarded as a hospital. Please note that the elements of necessity of use and exclusivity are related directly to property tax exemption, and therefore should not be considered when determining the use of the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Classification Issues

Property Tax Division Mail Station 3340 Fax: (651) 297-2166
St. Paul, MN 55146-3340 Phone: (651) 296-0335
E-mail: stephanie.nyhus@state.mn.us

July 3, 2002

Janene L. Hebert
Anoka County Assessor
Government Center
2100 3rd Avenue
Anoka, Minnesota 55303

Dear Janene:

Your inquiry regarding the proper classification of "condominiumized" mini storage facilities has been assigned to me for a reply. As I understand the situation, you have several such facilities in your county. Each unit has it's own legal description and is individually owned.

There are several possible classifications for these types of units, each dependent on how the property is used. It is our opinion that the proper classification for each unit would be residential non-homestead if it is used for residential storage purposes. If the property is used by a commercial entity, for commercial storage, the unit should be classified as commercial. Finally, if the unit is used in conjunction with their homesteaded property, is located in the immediate proximity of the homestead, and the owner makes application, the unit may be granted homestead treatment.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section

May 13, 2004

Lori Schwendemann, SAMA
Lac Qui Parle County Assessor
Courthouse
600 6th Street
Madison, Minnesota 56256

Dear Lori:

This letter is a follow-up of the letter we sent you dated May 5, 2004, with regard to taxing a swimming pool, tennis court, and RIM land which are owned by a homeowners association.

Our response was that the value of each, including the RIM land, should be apportioned to each parcel in the development. We indicated that the parcel with the swimming pool and tennis court should be treated as townhouse property along with the RIM land of 114.48 acres.

As we noted in our May 5 letter, we had some difficulty making a determination on the RIM land. In the end for lack of a better answer, we concluded that the RIM land should be treated like other common area property. However, once we realized that this would result in a split class res/ag split for each property, we decided to rethink our original conclusion.

After additional discussion, we have concluded the parcel with the swimming pool and tennis court on it should be assessed to the homeowners as stated in our letter of May 5, 2004. However, because the RIM land has a separate use and class not conducive to residential use, we are of the opinion that the RIM land should continue to be assessed to the homeowners association, independent of the other common areas.

If you have any additional questions or concerns, please contact our office.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114
Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

August 8, 2005

Loren H. Benz
Wabasha County Assessor
Courthouse
625 Jefferson Avenue
Wabasha, Minnesota 55981

Dear Mr. Benz,

Thank you for your email regarding classification of a property in Wabasha County. You stated the following:

- A duplex property consists of one unit used seasonally and one unit used by a relative as his/her homestead.
- The property was classified as relative homestead until the relative died.
- The owners will continue to use their unit on a seasonal basis.
- The unit previously occupied by the relative is now being rented out.

You have asked if it is appropriate to split class the property as part seasonal residential recreational noncommercial and part residential non-homestead.

Yes, it is appropriate to split class the property as seasonal residential recreational non-commercial and residential non-homestead.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092
Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

October 27, 2005

Dave Oien
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Mr. Oien:

Thank you for your letter regarding classification. You stated that a residential house located in Red Wing, Minnesota sold for $536,000 on August 29, 2005. You have confirmed with the buyers that they will continue to homestead their main residence in Hastings, Minnesota. The buyers are planning on using the Red Wing property three to four days a week. However, during the remainder of the time they will rent out a majority of the house to another family to use as a "scrapbooking retreat center." According to an article in the local newspaper, the Red Wing City Council approved the proposed use and called it a "semi-transient accommodation". In your opinion, the property should be split classed seasonal residential recreational and commercial. You have asked if we agree.

As you already know, a property should be classified according to its use or uses. Based on the information you provided, we are uncertain of exactly how the new buyers plan on using the property during the three to four days a week. Since they are maintaining their homestead in Hastings, Minnesota, in our opinion, the portion of the newly acquired property that they use three to four days per week should most likely be classified seasonal residential recreation if they are simply using it as a second home. The seasonal residential recreational classification is partly defined as real property that is devoted to temporary and seasonal residential occupancy for recreational purposes.

Also, renting a majority of the property to a family to be used as a scrapbooking retreat center is, in our opinion, a commercial activity which should be recognized for property tax purposes.

Therefore, we agree with your decision to split-class the property seasonal residential recreational and commercial. Please note that the percent of allocation would be dependent upon the use with which it conforms.

Also, our opinion is based on the information provided. Therefore, if the information in which you provided is altered in anyway, our opinion may be subject to change.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

December 16, 2005

Ted Mershon
Cook County Assessor
411 W. 2nd Street
Grand Marais, Minnesota 55604

Dear Mr. Mershon,

Thank you for your letter concerning classification. You stated that a limited liability company owns two contiguous parcels. Parcel #1 is improved with a residence and a store/café. The residence on parcel #1 was previously occupied by a member of the limited liability company. However, the member of the limited liability company, recently built a new home on parcel #2 and is claiming it as his primary residence. His son now occupies the old residence on parcel #1. In addition to the newly built residence, parcel #2 is improved with five bunkhouses and a canoe outfitting building.

Your question is: Can the son who occupies the old residence on parcel #1 qualify for homestead.

To best understand the situation at hand, I have put the information of which you provided into parcel #1 and #2 format.

Parcel #1

- Owned by LLC
- Consists of an old house and a store/café building
- The LLC member's son occupies the old house as his residence.
- Abuts to lakeshore

Parcel #2

- Owned by LLC
- Consists of a newly built house, 5 bunkhouses, and a canoe outfitting building
- The member of the LLC occupies the new home as his residence.
- Abuts to lakeshore

Per our phone conversation on 11/22/05, you stated that the property is classified as a ma and pa resort (class 1c). You also stated that the property meets all requirements of class 1c such as the property abuts to lakeshore, it is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year proceeding the year of assessment. The property also has two commercial components, the canoe outfitting building and the store/café.

(Continued)

However, upon reviewing the business on their website (www.wayofthewilderness.com), it advertises winter accommodations and states that the café offers three meals a day, every day. Such uses would seem to preclude the ma and pa resort class 1(c) and the seasonal residential recreational class 4(c).

Therefore, in our opinion, the property should be split classed residential non-homestead for the home sites and commercial for the bunkhouses, canoe outfitting building, and the store/café.

In this case, neither property qualifies for homestead treatment because homesteads cannot be granted to residential properties that are owned by entities.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092
Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

January 6, 2006

Patrick Todd
Supervisor, Real Estate Assessment
Department of Assessor
City of Minneapolis
309 2nd Avenue South – Room 100
Minneapolis, MN 55401-2234

Dear Patrick:

Thank you for your question regarding a fraternity/sorority use. You have asked if there is a document that outlines the criteria used for determining a fraternity/sorority use.

Minnesota Statute 273.13, subd. 25, paragraph (d), clause (4) states:

> *"postsecondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus;"*

The law mentioned above only defines 4c(4) property to be housing used exclusively by a student coop, sorority, or fraternity for on-campus housing or housing which is located within two miles of the border of a college campus. It does not define criteria for determining a fraternity/sorority use. To the best of our knowledge, there is nothing in law that outlines the criteria used for determining a fraternity/sorority use.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

February 8, 2006

Noreen Curry
Watonwan County Assessor
Courthouse
2nd Avenue South & 7th Street S.
St. James, Minnesota 56081

Dear Noreen:

Your question on property owned by a homeowners association has been assigned to me for reply. You indicated that the homeowners association owns a four-acre parcel that is solely used for septic systems. The septic systems are for twelve houses that are located across a township road. You have asked how the property that contains the septic systems should be classified for property tax purposes.

Based on the information provided, the property should be assessed much like the common area of a condominium complex. The law clearly states that common areas of a development must not be taxed separately. Therefore, in this case you would value the parcel used for the septic systems at its market value and distribute the total value of the parcel equally among all the parcels in the development, assuming that they all have equal ownership interest in the parcel that holds the septic systems.

Distributing the value prevents problems in the event of non-payment of tax. It also allows individual parcel owners to carry over any benefits of the homestead classification from their base parcel to their interest in the parcel that has the septic systems.

This opinion has been based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

February 7, 2006

A. Keith Albertsen
Douglas County Assessor
Courthouse
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Mr. Albertsen:

Thank you for your question regarding a resort property and agricultural homestead.

You have a property owner who owns several contiguous parcels consisting of over 100 acres. The property contains a resort/campground and the owner's homestead. You indicated that the remaining land is farmed. If the primary parcel qualifies as class 1c (Ma & Pa Resort class), you have asked if it is correct to classify the remainder of the parcel and the adjoining parcels as agricultural homestead.

In our opinion, if the property meets all of the requirements for class 1c as stated in Minnesota Statute 273.13, subd. 22, paragraph c, and the remainder of the primary parcel and adjoining parcels meet the qualifications to be classified as Agricultural property under Minnesota Statute 273.13, subd. 23, the property should be split-classed as class 1a Residential Homestead, 1c Resort and 2a Agricultural Homestead.

Please be aware that all parcels must be titled in the exact same name in order for them to be linked together to receive the agricultural homestead classification.

We have formed this opinion based solely on the facts provided. If any of the facts differ, our opinion would be subject to change as well. Please be aware that our opinion is only a recommendation. The county assessor must make the final determination of the proper classification of the property. If the property owner disagrees with your determination, he or she may follow the appropriate avenues of appeal.

If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

February 21, 2006

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Your question to John Hagen has been forwarded to me for reply. You have outlined the following situation. A married couple owns a parcel that consists of approximately 80 acres. The property contains their residence, garage, shop/storage building, grain bin and hay shed. The couple also owns a bait and tackle shop in the city of Park Rapids. On their 80-acre site, the owners have constructed a manmade pond that is used to breed and raise minnows that are sold in their bait and tackle shop. Since the Department of Agriculture considers this an "aquacultural" pursuit under Minnesota Statute 17.49, you have asked if this property should be classified as agricultural for property tax purposes.

Unfortunately, not everything that is considered by the Department of Agriculture to be agricultural production is considered an agricultural use for property tax purposes. Therefore, in our opinion, the answer is no because raising minnows for retail sale is not considered to be agricultural production for property tax purposes. Minnesota Statute 273.13, subdivision 23, paragraph (e) only references fish that are grown for human consumption. It states in part that:

> *(e) The term "agricultural products" as used in this subdivision includes production for sale of:*
>
> *…(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;…*

In the situation you have described, the minnows are not bred for consumption. They are bred for retail sale at the owners' bait and tackle shop. This seems to indicate a commercial use of their property.

Please understand that this opinion is merely advisory in nature. You, as the county assessor, must make the final decision on the classification of the property. If the taxpayer disagrees with your determination, they may follow the appropriate avenues of appeal. We have formed our opinion using the facts provided. If any of the facts were to change, our opinion would be subject to change as well. If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

February 7, 2006

Peggy Trebil
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Peggy:

Thank you for your question regarding the classification of a property in the city of Cannon Falls.

You stated that a husband and wife are owners of a home in the city of Cannon Falls where the wife has a daycare on the first floor and the second floor is rented out to another daycare provider who provides daycare services in that portion of the property. You classified the property as 3a commercial for the 2005 assessment. As of January 2, 2006, the first floor is still being used as a daycare by the owner but the second floor is now being rented out as an apartment. You stated that for the 2006 assessment year, you split classed the property as 50% residential non-homestead and 50% commercial. You have asked if you have correctly classified the property.

Yes, in our opinion, you have classified the property appropriately. Since the use of the second floor changed as of January 2, 2006, and is now being used as an apartment instead of a daycare, we feel it is appropriate that you split class the property as class 4b residential non-homestead and class 3a commercial for the 2006 assessment.

We have formed this opinion based solely on the facts provided. If any of the facts differ, our opinion would be subject to change. Please be advised that this opinion is only advisory in nature. The county assessor must make the final determination as to the appropriate classification of property. If the taxpayers disagree, they may follow the appropriate avenues of appeal.

If you have any further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

03/13/2007 07:38 AM

jo.dooley@co.wadena.mn.us
Classification question

Dear Jo:

Thank you for your question regarding the proper classification of a residential care facility for adolescents who are chemically dependent. The owner-occupied facility is licensed for up to eight children. One bedroom will be used exclusively by the owner. Three additional bedrooms will be used by the children who will reside in the home. The bathrooms and the kitchen space are shared. The owner uses a small office solely for the purposes of the residential care facility. You asked about the proper classification of the property.

We recommend that the entire property be classified as residential homestead. Since the licensing requirements for residential care facilities are different from group homes, we believe that this situation is more analogous to a foster home than a group home. Given the details that you provided, we also see no need to recognize the use of the office as anything other than a residential use.

If you have any further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

Jacquelyn J. Betz**,** State Program Administrator Senior
Information and Education Section
Property Tax Division
Phone: (651) 556-6099
Fax: (651) 556-3128
E-mail: jacquelyn.betz@state.mn.us

July 28, 2006

Connie Erickson
Yellow Medicine County Assessor
Courthouse
415 9th Avenue
Granite Falls, Minnesota 56241

Dear Connie:

Thank you for your question regarding the classification of land that is being used to stockpile rocks for sale. The taxpayer is excavating rocks from his pasture, sorting them by size and unique characteristics, and then selling them for landscaping. You also indicated that the stockpile covers approximately 10 acres. You asked how the land where the rocks are stockpiled should be classified.

In our opinion, you should consider several other factors when making a determination as to whether a portion of this property should be classified as commercial. Some indications that the property is being used commercially include the existence of signs or other advertising, and a specific, identifiable area dedicated to the sorting and sale of the rocks with no other identifiable use. If either of these is present, it is a good indication that a portion of the property is being used commercially.

This advisory opinion has been based solely on the facts provided. If any of the facts were to differ, our opinion would be subject to change as well. If a taxpayer disagrees with your determination of the classification of the property, he or she may appeal to Minnesota Tax Court for the 2006 assessment. If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

JACQUELYN J. BETZ, Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6099
Fax: (651) 556-3128
E-mail: jacquelyn.betz@state.mn.us

September 6, 2006

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Your e-mail to John Hagen has been forwarded to me for reply. You outlined three situations and asked if the proper classification for each one is Class 4b or Class 4bb.

Class 4b as defined in Minnesota Statute 273.13, subdivision 25, paragraph (b) includes:

> *"(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational property;*
>
> *(2) manufactured homes not classified under any other provision;*
>
> *(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units; and*
>
> *(4) unimproved property that is classified residential as determined under subdivision 33."*

Paragraph (c) of the same statute goes on to state that Class 4bb property includes:

> *"(1) nonhomestead residential real estate containing one unit, other than seasonal residential recreational property; and*
>
> *(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b)."*

Scenario #1

A parcel of land is located in a neighborhood consisting of residential homestead and non-homestead properties. There is a driveway and electric service to the property. However, there is no well or septic system on the property. The parcel contains a 2-car garage. There are no other structures on the property. The property owner does not own any adjoining property and it is not used in conjunction with a homestead.

In our opinion, while there is a structure located on the property, the fact that it is only a garage does not indicate the use of the property. Therefore, the appropriate classification would be Class 4b.

(Continued…)

Scenario #2

A parcel of land is located in a neighborhood consisting of residential homestead and non-homestead properties. There is a driveway and electric service, well and septic system on the property. There is a vacant, dilapidated, mobile home or uninhabitable home located on the property. The property owner does not own the adjoining property and it is not used in conjunction with a homestead.

Again, in our opinion, while there is an uninhabitable structure located on the property, it does not indicate the use of the property. Therefore, the appropriate classification would be Class 4b.

Scenario #3

A parcel of land is located in a neighborhood consisting of residential homestead and non-homestead properties. There is a driveway and electric service to the property. However, there is no well or septic system on the property. The property has a small storage shed, bunkhouse, and an outhouse. The property owner does not own the adjoining property and it is not used in conjunction with the homestead.

In our opinion, the existence of a bunkhouse may indicate a potential use of the property for seasonal residential recreational purposes. However, if you believe that the true use of the property is residential non-homestead, we believe the appropriate classification would be Class 4b.

It is important to note that the structures you describe are not clear indicators of the use of the property. Therefore, you are left to classify these types of properties according to their most probable, highest and best use. We would encourage you to analyze this particular market and consider whether or not the properties will potentially be used seasonally before making a final classification determination.

This opinion is based solely on the facts provided. If any of the facts were to change, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

September 6, 2006

Dan Whitman
Martin County Assessor
Security Building
201 Lake Avenue - Room 326
Fairmont, Minnesota 56031

Dear Dan:

Your e-mail to John Hagen has been assigned to me for reply. You outlined the following situation. There is a 5.55 acre parcel in Martin County that is classified as residential property. Recently, the owner of that parcel purchased a contiguous parcel of property that is twelve acres in size. Of the twelve acres, ten of the acres are in the Reinvest in Minnesota (RIM) program. The land was farmed prior to being entered into the RIM program. You have asked how the property should be classified.

Minnesota Statute 273.13, subdivision 23, paragraph (c) states in part that:

> *"'Agricultural purposes' also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law 99-198 if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment…."*

The provision means that any property that was classified as agricultural land prior to its enrollment in the RIM program may continue to be classified as agricultural property. However, it does not mean that an owner of a residential property who purchases contiguous land that is classified as agricultural property causes the residential property to thereby be classified as agricultural property.

Therefore, in our opinion, the property should be split-classed with 5.55 acres being classified as residential and the twelve acres that were recently purchased being classified as agricultural. This opinion was based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

September 12, 2006

Judy Shire
Crow Wing County Assessor's Office
Courthouse 2nd Floor
326 Laurel Street
Brainerd, MN 56401

Dear Ms. Shire,

Your e-mail has been assigned to me for reply. You outlined the following situation. John and Jane Doe are trustees of Jane Doe Revocable Trust dated 02-05-96. The trust owns property in your county which qualifies for homestead since it is occupied by the grantors of the trust. John Doe is looking to purchase a home in Florida and claim his homestead there. He will be a Florida resident. Jane Doe will be a Minnesota resident. The couple will split their time equally between both the Florida and the Minnesota homes. Florida told John Doe that he can receive a Florida homestead if Jane Doe does not have a homestead in Minnesota. You asked what the appropriate classification will be for the Minnesota property, residential non-homestead or seasonal recreational residential.

Since the property will be used seasonally by the grantors of the trust that owns the property, it is our opinion that the property should be classified as Seasonal Residential Recreational property.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Very truly yours,

LEANNA V. SARTIN, State Program Administrator
Information and Education Section
Property Tax Division
Phone: (651) 556-6084
leanna.sartin@state.mn.us

January 17, 2007

Mr. Donald Lovstad
Appraisal Supervisor
Washington County Assessor's Office
Woodbury Branch
2150 Radio Drive
Woodbury, MN 55125

Dear Mr. Lovstad:

Your e-mail has been assigned to me for reply. You outlined the following situation. A taxpayer owns a 13.03 acre parcel in the city of Woodbury. The site is heavily wooded and is classified as a residential homestead. The taxpayer also owns two other contiguous parcels in conjunction with family members. These two parcels total 54 acres. They are rented to a farmer and are classified as agricultural property. You have asked if the taxpayer's individually-owned parcel qualifies for the agricultural classification.

In our opinion, the 13.03 acre parcel cannot qualify for the agricultural classification because there are not at least 10 contiguous acres being used agriculturally. Minnesota Statute 273.13, subdivision 23, paragraph (c) states in part that *"agricultural land…means contiguous acreage of ten acres or more used during the preceding year for agricultural purposes."* The statute further states that *"contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify for agricultural land, but only if it is pasture, timber, waste, unusable wild land…"* Furthermore, the parcels that are contiguous to the 13.03 acre parcel are not under the same ownership. The owner of the 13.03 acre parcel only owns a share of the 54 acres that are being farmed.

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

April 3, 2007

Jo Dooley
Wadena County Assessor's Office
Courthouse
415 Jefferson Street South
Wadena, Minnesota 56482

Dear Jo:

Thank you for your question regarding homestead. I sincerely apologize for the delay in answering your question.

You provided the following: A taxpayer owns a 155.21-acre parcel, 148 acres of which are enrolled in the sustainable forest incentive act (SFIA) program. The taxpayer's house is located on a portion of the remaining 7+ acres which you have classified as residential homestead. You asked if the entire 155.21-acre parcel is eligible to receive the homestead classification.

In our opinion, no. Minnesota law requires assessors to classify property according to its use. As you know, a condition of the SFIA program is that none of the lands enrolled can be used for residential purposes. Since the 148 acres are enrolled in the SFIA program and a forest management plan for the land was prepared and is currently being implemented during the period in which the land is enrolled, the appropriate classification is timber.

Please understand that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

February 27, 2007

Sandy Vold
Big Stone County Assessor
Courthouse
20 2nd Street SE Suite 102
Ortonville, MN 56278

Dear Sandy:

Your e-mail has been assigned to me for reply. You outlined the following situation. A taxpayer owns, occupies, and receives a residential homestead on Lot A which is located on Big Stone Lake. Lot C, which is approximately 2.18 in size, is contiguous to Lot A. The taxpayer who homesteads Lot A also owns Lot C in conjunction with two other individuals. Lot C has approximately 1.5 acres of apple trees. The taxpayer has asked for the ag classification on Lot C. You have asked if this is appropriate.

In our opinion, Lot C should not be classified as agricultural property. As you know, in order to qualify for the agricultural classification, there must be at least 10 contiguous acres used for the production for sale of an agricultural product, or there must be an exclusive and intensive agricultural use (i.e. hog confinements, turkey barns, etc.) if a property is less than 10 acres in size. In our opinion, 1.5 acres of apple trees falls short of the statutory requirements.

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

04/03/2007 02:38 PM

dpehrson@co.nicollet.mn.us
Fw: Mobile Home Classification

Doreen,

Thank you for your email regarding the proper classification of manufactured homes. I apologize for the delayed response. You asked if nonhomestead manufactured homes located in a manufactured home park are eligible for the 4bb residential nonhomestead classification. You referenced a memo from John Hagen dated August 14, 1997, which states that they are not. You wanted to know if that is still the case.

In the August 14, 1997, memo, it was our opinion that manufactured homes assessed as personal property would not be eligible for the 4bb residential nonhomestead class because Minnesota Statutes, Section 273.13, subdivision 25, paragraph (c), clause (1) references “real estate,” not personal property.

We have since reversed our opinion on this issue. A May 14, 1998, memo from John Hagen to all county assessors noted this change. This decision was made after further review of the law which deals with the assessment of manufactured homes. Minnesota Statutes, Section 273.125, subdivision 8, paragraph (c) states:

> *“A manufactured home that meets each of the following criteria must be assessed at the rate provided by the appropriate real property classification but must be treated as personal property, and the valuation is subject to review and the taxes payable in the manner provided in this section:*
> *(1) the owner of the unit is a lessee of the land under the terms of a lease, or the unit is located in a manufactured home park but is not the homestead of the park owner;*
> *(2) the unit is affixed to the land by a permanent foundation or is installed at its location in accordance with the Manufactured Home Building Code contained in sections 327.31 to 327.34, and the rules adopted under those sections, or is affixed to the land like other real property in the taxing district; and*
> *(3) the unit is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.”*

Therefore, it is our opinion that manufactured homes assessed as personal property are eligible for the 4bb classification.

If you have further questions, please direct them to us at proptax.questions@state.mn.us.

Jacque Betz, State Program Administrator Senior
Minnesota Department of Revenue
Property Tax Division
600 North Robert St.
Mail Station 3340
St. Paul, MN 55146-3340

March 16, 2007

A. Keith Albertsen
Douglas County Assessor
Courthouse
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Keith:

Thank you for your e-mail. You have asked if planted trees should be classified as agricultural or timber property.

It depends on how the trees will be used. As you know, the Department of Revenue issued a report to the Minnesota Legislature in 2006 regarding the proper assessment of rural woodlands. As a part of that report, the committee requested that the Legislature add language to Minnesota Statute 273.13 to clarify that land that is being used to produce short rotation woody crops such as hybrid poplar trees should be included in the definition of agricultural property. This was due to the fact that production of these trees is a hybrid of traditional agricultural practices and timber management. Legislation has been introduced that would formalize that recommendation.

In the meantime, the Department is in the process of formalizing a bulletin that will instruct assessors to classify land that is used for the production of short rotation woody crops as agricultural property. Therefore, we recommend that you classify property that is used for the production of short rotation woody crops as agricultural property for the 2007 assessment. However, if the trees are used for the production of timber, lumber, wood or wood products, the property should be classified as timber.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Information and Education Section
Principal Appraiser
Property Tax Division

March 16, 2007

Jo Dooley
Wadena County Assessor's Office
Courthouse
415 Jefferson Street South
Wadena, Minnesota 56482

Dear Jo:

Thank you for your e-mail. You outlined the following situation. Cooney's Oakridge Farms, LLP owns three parcels. Joan Cooney is the mother and main partner in the LLP. She lives on the main parcel. Cooney's Oakridge Farms, LLP has not been approved by the Department of Agriculture. None of the property is being farmed. You have denied Joan Cooney's application for homestead due to the fact that the limited liability partnership has not been approved by the Department of Agriculture and have asked if this is correct.

In our opinion, this property cannot qualify for the agricultural classification since there is no agricultural production taking place on the property. Minnesota Statute 273.13, subdivision 23, paragraph (c) states in part that:

> *"Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. 'Agricultural purposes' as used in this section means the raising or cultivation of agricultural products. "Agricultural purposes" also includes enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program…"*

If there was no agricultural production taking place on the property during 2006, it cannot be classified as agricultural property for the 2007 assessment. Based on the information provided, it appears that the appropriate classification would be residential. Furthermore, since the appropriate classification appears to be residential, the property cannot qualify for a homestead because it is owned by an entity. Only hotels, resorts and farms that are owned by entities may qualify for homestead.

If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Information and Education Section
Principal Appraiser
Property Tax Division

April 9, 2007

Gary Grossinger, Stearns County Assessor
Admin Center Room 37
705 Courthouse Square
St. Cloud, Minnesota 56303

Dear Gary:

Your e-mail has been assigned to me for reply. You outlined the following situation. An individual owns a parcel consisting of approximately 8.5 acres. The parcel includes a residential dwelling, and a 40 foot by 100 foot pole building where the owner raises and milks approximately 30 to 40 goats. Within the pole building there is a 32 foot x 40 foot goat cheese processing facility. The owner produces approximately 300 pounds of goat cheese per week. The dairy has received a permit as a Farmstead Cheese Plant from the Minnesota Department of Agriculture. The permit allows them to process the milk into cheese, which includes placing the milk into a vat with micro-organisms which ferment the milk into cheese.

For the 2006 assessment, you split classed the property as agricultural/commercial. The property owner appealed the classification to both the local and county boards of appeal and equalization. The county board changed the classification to agricultural. You have again split classed the property as agricultural/commercial for 2007. You have asked for our opinion on the proper classification of this property.

Minnesota Statute 273.13, subdivision 23, paragraph (f) states in part that:

> *"If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:*
> *(1) wholesale and retail sales;*
> *(2) processing of raw agricultural products or other goods;*
> *(3) warehousing or storage of processed goods; and*
> *(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose."*

Based upon the information provided, it appears that the owner of the property is processing and selling cheese, rather than simply packaging the raw agricultural product for first sale. Therefore, it is our opinion that the property should be split-classed as agricultural and industrial property based on the portion of the statute outlined above.

Please be aware that this opinion is advisory in nature and is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, SAMA
Information and Education Section
Property Tax Division

August 10, 2007

Mr. Bob Lindvall
Stearns County Assessor's Office
Administration Center Room 37
705 Courthouse Square
St. Cloud, MN 56303

Dear Bob:

Thank you for your letter. It has been assigned to me for reply. You outlined the following situation. A taxpayer owns a shooting preserve, a portion of which is used as his residence. There are enough acres devoted to the production for sale of agricultural products that the property qualifies as an agricultural homestead. There is also a clubhouse/lounge that is connected to the residence. The clubhouse is where clients of the shooting preserve can leave their personal items while using the property for shooting purposes. It is also where the business portion of the shooting preserve operation takes place. You have asked how this portion of the property should be classified.

Minnesota Statute 273.13, subdivision 23, paragraph (f) states in part that:

> *"If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:*
> *(1) wholesale and retail sales;*
> *(2) processing of raw agricultural products or other goods;*
> *(3) warehousing or storage of process goods; and*
> *(4) office facilities for the support of the activities in clauses (1), (2), and (3),*
> *the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use…."*

Based on the information provided, it appears that the clubhouse is used primarily by patrons of the shooting preserve and by the owner to conduct the business of the shooting preserve. For this reason, it is our opinion that this portion of the property should be classified as commercial property.

This opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion may be subject to change as well. If you have additional questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

September 24, 2007

Wendell Engelstad
Dodge County Assessor
Courthouse
22 6th Street East
P.O. Box 18
Mantorville, Minnesota 55955

Dear Wendell:

Your e-mail has been assigned to me for reply. In your e-mail you asked several questions which we will respond to individually.

Question: You have asked if linking parcels is equivalent to physically occupying the property. You outlined an example in which a husband and wife own and occupy three adjoining parcels totaling 45.54 acres in the city of Dodge Center and Ashland Township. These parcels have been classified as agricultural owner-occupied homestead. In addition, the husband and wife have set up a trust. The trust, with the husband and wife as grantors of the trust, owns approximately 110.54 acres of agricultural property. You asked if it was appropriate to link the individually owned property to the property held by the trust.

Answer: In our opinion, that is the correct way to classify the property. Trust-held property may be linked to property that is individually-owned if the grantors of the trust are the same as the individuals that own property. In our opinion, these types of cases are the only way to link property that is owned by different entities. For example, if an individual owns property, that property cannot be linked to property owned by a corporation, even if the individual is a shareholder in that corporation.

Question: How do you define and verify the difference between "farming on one's own behalf" and "farming on behalf of an authorized entity?" What one fact in the FSA office, lease, or Schedule F would be the best indicator?

Answer: Oftentimes, there is no single fact that will help you define this difference. Rather, you should review the information presented to you by the taxpayer on the special ag homestead application. The FSA office should be able to tell you who is listed as the operator of the property and whether that person is an individual or an entity. You may also want to consider who gets the production income from the property? Is it an individual person or is it an entity of which they are a member? The Schedule F may be helpful in this case.

Question: At what point does a passion or hobby become a commercial avocation. You included a copy of a newspaper article about a grief and loss center that operates in a converted granary.

(Continued…)

Answer: Unfortunately, there is no simple answer to this question. You must look to the overall use of the property and try to determine if there is enough of a distinct use to split-classify the property. Some issues to consider include: whether regular business hours are posted and advertised, whether the entity advertises for business in local newspapers, whether an area of the property is exclusively used for business purposes, whether a conditional use permit has been issued for the non-conforming use (i.e. a hair salon in a residential structure), whether a sign is posted indicating the use of the property, whether business income and expenses are reported on the owners tax return, etc. Once you are convinced that the use is not merely an incidental use of the property, the property should likely be split-classed to reflect the separate uses.

We hope we have provided you with the necessary guidance you requested. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

November 14, 2007

Wendy Iverson
Dodge County Assessor's Office
Courthouse
22 6th Street East
P.O. Box 18
Mantorville, Minnesota 55955

Dear Wendy:

Thank you for your e-mail regarding the proper classification of property. You outlined the following situation. A parcel of property was classified as class 4c(5) manufactured home park on January 2, 2007. The manufactured home park has now been platted into a single family subdivision. Several of the newly platted lots now have single family homes on them and the owners have filed for homestead. You have questioned how those properties should be classified.

As you are aware, under ordinary circumstances, the classification of a property cannot be changed during the course of the assessment year, even after a property split, unless it is to extend homestead to a property. For example, a taxpayer who purchases a non-homestead residence and occupies that property as a homestead can be granted a homestead after the assessment date if the owner occupies it by December 1 and makes proper application to the assessor by December 15.

As such, it is our opinion that in this narrowly defined circumstance, you may change the classification of the newly occupied properties in order to grant homestead to the new owners that qualify. Therefore, you may change the classification of the sites that meet the ownership and occupancy requirements for homestead from class 4c(5) manufactured home park to class 1a residential homestead for the 2007 assessment.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

January 2, 2008

Doreen Pehrson
Nicollet County Assessor
Courthouse
501 S. Minnesota Ave
St. Peter, Minnesota 56082

Dear Doreen,

Thank you for your recent question regarding the correct classification of non-homestead residential property; it has been forwarded to me for a reply. In your email, you presented the following information: a single family residence has been historically used as a single rental unit. Prior to the 2007 assessment, a piece of plywood was used to cover a stairway opening, and the property was rented to two unrelated persons. The property has two rental certificates from the municipality. The owner is asking if your classification of 4b for the property is correct. He also wonders what would happen if he only retains one rental certificate for the property.

As you know, property is classified according to its use on each assessment date. These classifications are listed in statute and may result in different tax rates. The 4b classification is one of the more difficult determinations for the assessor to make as it is very similar to class 4bb. Both are listed in Minnesota Statutes 273.13, subdivision 25, paragraphs (b) and (c).

To determine the classification for a non-homestead residential property, the assessor will need to verify the number of dwelling units. In February 2007, the Department of Revenue submitted an assessment and classification practices report pursuant to legislative mandate regarding residential use property, including 4b and 4bb. It is available on the department's website. This report describes a dwelling unit as "*a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation*."

The report recommends, and relevant statute supports, that in order to be classified as 4bb, the property must be improved with only one dwelling unit. If there is more than one dwelling unit, the assessor then must look for another classification. In your example, you verified that there was more than one dwelling unit at the property as of the 2007 assessment. Even though there was only a rudimentary divider creating the two units, each had suitable living facilities as evidenced by the two rental certificates and your investigation. In our opinion, based on the information provided, you made the proper classification of 4b for the property.

The property owner in your question then asks what would happen if he would retain only one rental certificate for the property. In our opinion, the assessor would still need to classify the property based on use by determining the number of units. The number of rental unit certificates would be a good indication of the permitted use of the property, but may not always reflect actual use.

If you have any further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

MICHAEL STALBERGER
State Program Administrator
Information and Education Section
Property Tax Division

January 16, 2008

Richard Mollin
Mollin Law
118 N. Jackson Ave.
Fosston MN 56542

Dear Mr. Mollin,

I am responding to your recent inquiry regarding the classification of a parcel of lakeshore property in Clearwater County. The lakeshore lot is unimproved except that in the summer the owners place a dock in the lake for their private use. The owners have an 85 acre farm located very near the lakeshore lot. The owners reside on the farm and that property is classified as an agricultural homestead. The lakeshore lot is separated from the farm by two roads and part of a residential lot owned by another person. Until this year, the Clearwater County assessor classed the lakeshore lot as part of the owner's agricultural homestead but has now advised the owner that the classification will be changed to seasonal residential recreational. You have asked our opinion.

We believe that the appropriate classification of the noncontiguous lakeshore lot is seasonal residential recreational. The lakeshore lot has no agricultural activity and is not used as part of the farm. From the facts you supplied, the owners use the lakeshore lot seasonally.

We did look at Minnesota Statutes, section 273.124, subdivision 1, clause (b) which refers to nonadjacent parcels that may be treated as a part of a homestead. We believe that language is not applicable to these facts. In the past we have applied this language to residential homesteads only, not agricultural properties. There are several provisions for extending the agricultural homestead benefits to noncontiguous parcels but the noncontiguous parcels must qualify as agricultural properties.

If you have any further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

Cc Clearwater County Assessor
213 Main Ave. N.
Dept. 203
Bagley MN 56621-8304

February 14, 2008

Larry Johnson
Lead Programmer/Analyst
MCIS
413 SE 7th Ave
Grand Rapids, MN 55744

Dear Larry,

Thank you for your recent question regarding the proper classification of a vacant lot; it has been forwarded to me for a reply. In your email, two unrelated people equally own two parcels. One parcel is improved with a single dwelling unit and the other contiguous parcel is vacant and currently being used for the owners' garden plot. The improved parcel is classified as 50 percent 1a residential homestead and 50 percent 4bb(1) nonhomestead residential real estate. You ask how the vacant parcel should be classified.

The vacant parcel will need to be split classed. **50 percent of its value should be classified as 1a residential homestead as a carryover from the improved parcel.** Minnesota Statutes, section 273.13, subdivision 22, states, in part, "…*real estate which is residential and used for homestead purposes is class 1a*…" Minnesota Statutes, section 273.124, subdivision 1, clause b, allows for this real estate to be separated from the homestead by intervening property (i.e. road, street, lot, waterway) to also qualify as homestead. It also provides examples of "homestead purposes," including gardens, garages, or other outbuildings commonly associated with a homestead. Since the vacant parcel contains the owners' garden plot, 50 percent of its value is eligible to carryover the 1a residential homestead classification.

The other 50 percent of its value should be classified as 4b(4) residential nonhomestead not containing a structure (vacant land). This classification is described in Minnesota Statutes, section 273.13, subdivision 25, clause b. This 50 percent of value is not eligible for class 4bb because that classification requires the parcel to be improved with one dwelling unit.

As always, any classification must meet all applicable statutory requirements; for example, the homestead application must be complete, filed timely and approved. You should also note that the 4bb(1) portion of the house must have never been classified seasonal residential recreational while owned by these individuals. If you have any further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

MICHAEL STALBERGER
State Program Administrator
Information and Education Section
Property Tax Division

February 26, 2008

Michael Frankenberg
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Mike:

Thank you for your email, which has been forwarded to me for response. You have outlined the following situation: A property owner in Goodhue County currently owns a building that has previously been classified as agricultural. The building had been used as part of a shooting preserve where the owner bred water foul and game birds. Recently, this property owner has refurbished the building to include a clubhouse, game cleaning area, and bathroom facilities for his customers. You have asked how this portion of the property should be classified.

Minnesota Statute 273.13, subdivision 23, paragraph (f) states in part:

> *"If a parcel used for agricultural purposes is also to be used for commercial or industrial purposes, including but not limited to:*
> *(1) wholesale and retail sales;*
> *(2) processing of raw agricultural products or other goods;*
> *(3) warehousing or storage of processed goods*
> *(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use."*

Based on the information provided, it appears that the portion of the property in question is used primarily by customers of the shooting preserve, or by the owner to conduct business of the preserve. It does not appear to be used for agricultural production purposes. For this reason, we are of the opinion that this portion of the property should be class 3(a), commercial property.

Please note that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion may be subject to change as well. If you have any further questions pertaining to this property, please let us know. Questions may be directed to proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

February 26, 2008

Patricia A. Stotz
Mille Lacs County Assessor
Mille Lacs County Courthouse
635-2nd St. S.E.
Milaca, Minnesota 56353

Dear Ms. Stotz,

I am responding to your inquiry regarding the appropriate classification of a former resort property in Mille Lacs County. During 2007, the former owners of the Rocky Reef Resort on Lake Mille Lacs recorded a Rocky Reef Resort Declaration for the purpose of creating the Rocky Reef Resort as a planned community. The Declaration and the attached site plan show that 30 units are created with common areas to support the units. At least five of the units have been sold and you have classified the five units as class 4c(1), seasonal residential recreational non-commercial, for the 2008 assessment. The Declarants, John and Patricia Odle, own the remainder of the lots and are asking you to classify them and the unit they occupy as a "Ma and Pa resort" for the 2008 assessment and all future assessments until the lots are sold. You have asked for our advice.

We assume that the resort property was class 1c, "Ma and Pa resort," for the 2007 assessment. In our opinion, if John and Patricia Odle continue to occupy one of the units that they still own as their homestead, the property, excluding the units sold prior to January 2, 2008, is entitled to the class 1c benefits for the 2008 assessment. The unit owned and occupied by John and Patricia Odle should be class 1a.

In 2006, the Department issued an Assessment and Classification Report regarding resort properties. The issue of how to classify resort units that are sold was addressed in the report. The report concluded that the "class should be changed on a unit-by-unit basis as the ownership changes." The "base" property would continue with a resort classification until all the units were transferred or the parcel was no longer operated as a resort.

In the case you presented, the Declaration was filed in mid-2007 and five units have already been sold. It makes sense to continue the class 1c benefits for the 2008 assessment and reexamine the classification for the 2009 assessment. The 2008 sales season may result in most or all of the remaining units being sold and the class 1c classification may no longer be appropriate.

If you have any further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

February 13, 2008

Cynthia Blagsvedt
Fillmore County Assessor's Office
Courthouse
PO Box 67
Preston, Minnesota 55965

Dear Cindy,

Thank you for your question concerning windmills/ wind turbines. You have asked how to classify the land where the windmills are located. Minnesota Statute 272.02 states that:

> *All real and personal property of a wind energy conversion system… is exempt from property tax except that the land on which the property is located remains taxable. If approved by the county where the property is located, the value of the land on which the wind energy conversion system is located shall be valued in the same manner as similar land that has not been improved with a wind energy conversion system. The land shall be classified based on the most probable use of the property if it were not improved with a wind energy conversion system.*

In other words, Fillmore County would most likely not change the current classification of the land that the windmills/ wind turbines will be built on. For example, if the windmills/ wind turbines are being built upon a parcel of land that is classified as agricultural property, that parcel would maintain agricultural classification.

Please let us know if there is anything else that we can help you with.

Sincerely,

Andrea Fish, State Program Administrator
Information and Education Section
Property Tax Division

February 14, 2008

Cindy Blagsvedt
Fillmore County Assessor's Office
Courthouse
PO Box 67
Preston, Minnesota 55965

Dear Cindy:

Thank you for your question regarding classification. You outlined the following situation: A taxpayer has indicated to you that he will be purchasing approximately 40 tillable acres which will be used to grow vegetables. In addition, he plans to build a warehouse of approximately 5,000 square feet on that property. You have asked how that warehouse should be classified for property tax purposes.

We are assuming that the property to be purchased will have enough acres in production to qualify for agricultural classification. Therefore, we are left to determine the proper class of the warehouse, should it be built.

Minnesota Statute 273.13 subdivision 23, paragraph (f) continues:

> *" If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:*
> *(1) wholesale and retail sales;*
> *(2) processing of raw agricultural products or other goods;*
> *(3) warehousing or storage of processed goods; and*
> *(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use [emphasis added]."*

Assuming that the warehouse in question would be used for production purposes including washing, producing, and packaging the vegetables for first sale, the part of the building devoted to this purpose may also have agricultural classification. However, should the building include any space for selling or processing the vegetables, that space should be classified as commercial. In addition, the office space should also be classified as commercial.

Please be aware that this opinion is advisory in nature and is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. This is especially true when basing our opinion future use of a property. Please do not hesitate to contact us with further questions.

Sincerely,

Andrea Fish, State Program Administrator
Information and Education Section
Property Tax Division

June 9, 2008

Wendy S. Iverson
Assessment Support Specialist
Dodge County Assessor's Office
22 6th St E, Dept 44
Mantorville MN 55955

Dear Ms. Iverson,

Thank you for your recent letter submitted to the property tax division. You have outlined the following scenario: A parcel was classified as commercial for the 2008 assessment. The property owner is remodeling the structure as a single-family home and will be moving into it on June 20. The parcel no longer operates as a commercial business. You are wondering if you can change the class from commercial to residential for the 2008 assessment.

As you know, property is classified according to its use on January 2 of a given year. Typically, that classification stays the same through the assessment year. However, in some circumstances, the classification may be subject to change. In the scenario you have outlined, it is possible for the property owner to apply for mid-year homestead. As homestead cannot be granted to commercial property, it would be advisable to change the classification from commercial to residential if the application for homestead is accepted. We do not recommend changing the classification before receiving a homestead application. The homestead application will serve as verification that use of the property has changed from commercial to residential.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

September 10, 2008

Robert E. Moe
Otter Tail County Assessor
505 Fir Avenue West
Fergus Falls, MN 56537-1364

Dear Mr. Moe:

Thank you for your question concerning multiple homes on a single parcel. You have asked if you should assign more than one 10 acre split on 2b property that has more than one residential structure (or structure not qualifying as a minor ancillary structure).

In our opinion, it depends on how the structures are located on the property. If the structures are located on the same building site, only 10 acres need to be split classed and assigned to the portion of the property containing the structures. If the structures have different building sites, each structure should be split classed and assigned 10 acres separately.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

Becca Pryse
Vice President of Public Affairs
Ewald Consulting
651-265-7858 (o)
612-490-2651 (c)

Dear Ms. Pryse:

Thank you for your questions concerning the new *Aggregate Resources Preservation* program. Your questions have been forwarded to me for a response. You have asked the following questions:

1. Does property in the preservation program need to be valued the same as Green Acres?
The valuation provision for the *Aggregate Resources Preservation* program can be found in Minnesota Statutes 273.1115, subdivision 4. According to statute, property enrolled in the program, no matter what it is classified (must be 1a, 1b, 2a, 2b, or 2e), will be valued as if it were agricultural property. The agricultural value is determined by using the current assessment year's average per acre value of agricultural land in the county where the property is located. This is not exactly the same as Green Acres, but the concept is very similar (there may be a few technical differences).

The department will be requesting a law change so that the prior year's average agricultural value per acre is used, rather than the current assessment year's average, because the current year's value may not be finalized at the time of assessment.

2. Why is the 2e classification referenced in the "Application" section of 273.115, subdivision 3, but omitted under the "Requirement" section?
This was a drafting error. The Department of Revenue has concluded that the 2e classification was unintentionally omitted from the "Requirement" provisions of the law. The department will be seeking legislative clarification during the next session.

3. Should aggregate property which is not being mined but being farmed, be assessed as agricultural property (if it is enrolled in the preservation program)?
Yes. This type of property will be classified as agricultural property and valued as agricultural property. All property enrolled in the program will be valued as agricultural property, even if it is classified otherwise.

4. If it is not being mined, not being farmed, and also not enrolled in the program, is it to be assessed as aggregate property?
Yes. The land would be classified as 2e (if an affidavit is recorded and the property qualifies) and valued in regards to its market value. Any buildings on the property should be classified according to their use (e.g. residential, commercial, etc.).

Sincerely,

Drew Imes
State Program Administrator
Property Tax Division

October 1, 2008

Gary Griffin
Todd County Assessor's Office
Courthouse
221 1st Avenue South
Long Prairie, Minnesota 56347

Dear Mr. Griffin,

Thank you for your recent question concerning classification of a parcel in your county. You have outlined the following scenario:

> A parcel of property was classified as agricultural non-homestead for the 2008 assessment year. During the year, a five-acre portion of that parcel was split off and sold to a new owner as a standalone parcel. This new owner has applied for mid-year homestead on the five-acre parcel.

You have asked how homestead treatment should be granted on this parcel: whether as an agricultural homestead since it was classified as agricultural on the January 2 assessment or whether classification should be changed to residential, since there is no agricultural activity on the five-acre parcel.

Property is classified according to its use on January 2 of a given year. Typically, that classification stays the same throughout the assessment year. However, we recognize that in some circumstances the classification may be subject to change. For example, if a property owner had a commercial property as of January 2 and then later that year decided to occupy the property and apply for mid-year homestead, the classification would need to be changed if homestead treatment were granted, as commercial property cannot be homesteaded. In the scenario you have outlined, the new property owner is eligible to apply for mid-year homestead as well. If homestead treatment is granted, it is advisable to change the classification to residential for the remainder of the assessment year.

We do not typically advise changing classification of a property at this point of the year. However, a new property owner seeking homestead on a given parcel may be sufficient reason to change the classification at this opportunity. As there is no agricultural activity on this five-acre parcel, we see no reason to grant an agricultural homestead classification. More importantly, the property does not qualify for agricultural homestead as it is less than ten acres in size and there is no agricultural production on this parcel.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Mary Black
Cook County Assessor's Office
411 2nd Street
Grand Marais, MN 55604-1150

Dear Ms. Black,

Thank you for your recent question concerning the class 4c(10), seasonal restaurants on a lake. You have asked if the class pertains to standalone restaurants or restaurants that operate as part of a resort.

Minnesota Statutes, section 273.13, subdivision 25, paragraph (c), clause (10), outlines the following qualifications for the 4c(10) classification. It states the following in part concerning a property's eligibility:

> *"real property up to a maximum of three acres and operated as a restaurant as defined under section 157.15, subdivision 12…The property's primary business must be as a restaurant, not a bar."*

The cited section defines a restaurant as:

> *"a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit."*

We have determined that the 4c(10) classification is appropriate in the case of any restaurant that meets the provisions listed above whether that restaurant be a standalone restaurant or is operated as part of a resort. Therefore, the restaurant may be either standalone or part of a resort to qualify for the 4c(10) classification. However, if a restaurant on a resort is classified 4c(1) based on its use for resort patrons only, it may be beneficial to the property owner to retain the 4c(1) classification.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

November 24, 2008

Doreen Pehrson
Nicollet County Assessor
Nicollet County Government Center
501 South Minnesota Avenue
Saint Peter, MN 56082

Dear Ms. Pehrson,

Thank you for your recent questions to the Property Tax Division. Each of your questions is answered below.

1. A 26.60 acre parcel contains two separate residences, a personal property manufactured home assessed as personal property, and a large commercial shed. The property is non-homestead. How should this parcel be classified?
Answer: As you are aware, a property is to be classified according to use. In the scenario you have outlined (and according to the picture you have provided), the use of this property appears to be residential with the exception of the commercial shed. The commercial shed would be classified as 3a commercial property, and the remainder of the parcel classified as residential. Since there is more than one residence, the property should likely be classified as 4b. The split-classification rules pertain only to land that would otherwise be classified as 2b rural vacant land. In other words, as this property does not meet the statutory requirements for 2b rural vacant land, it is to be classified according to its highest and best use. The improvements on this parcel disqualify it from the 2b classification.

2. Three five-acre parcels lie contiguous to each other and are held under the same ownership. One of the parcels contains a residence, while the other two parcels are vacant. What is the correct classification of these parcels?
Answer: The parcel containing a residential structure would properly be classified 1a residential homestead property if the requirements for homestead are met. The two parcels that are vacant may be as 2b rural vacant land if the requirements for this classification are met (rural in character, unplatted, etc.). If the parcels are platted or do not otherwise qualify for class 2b, they should be classified according to their highest and best use.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

January 15, 2009

Larry Johnson
Lead Programmer/Analyst
MCIS
413 SE 7th Ave
Grand Rapids, MN 55744

Dear Mr. Johnson:

Thank you for your question regarding classification of property. It has been assigned to me for reply. You outlined the following situation. A property consists of three parcels of land that are contiguous to each other and are currently classified as residential homestead. The main parcel contains the house which is located on 22 acres. The second parcel is 18 acres in size and contains the garage and the third parcel is 6 acres in size and contains a garden used by the owners. You did not indicate how the remainder of the land is used so we will assume that it is simply rural vacant land. You have asked how the property should be classified.

Minnesota Statutes, section 273.13, subdivision 23, paragraph (c) states in part that:

> *"Class 2b rural vacant land consists of parcels of property, or portions thereof, that are unplatted real estate, rural in character and not used for agricultural purposes, including land used for growing trees for timber, lumber, and wood and wood products, that is not improved with a structure. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph. Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure…"*

After several discussions within our office, it is our conclusion that the property should be classified as follows:

Parcel 1 with house =	10 acres class 1a residential homestead/12 acres class 2 rural vacant land
Parcel 2 with garage =	18 acres class residential 1a (this parcel is not at least 20 acres in size so the requirement to split class the parcel does not apply)
Parcel 3 with garden =	6 acres class 2b (if the garden is in close proximity to the house the potential exists to class as 1a residential homestead)

Please remember that for property tax refund purposes, the qualifying tax amount is based only on 10 acres of property. Please understand that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

April 7, 2009

Judy Friesen
Brown County Assessor
Courthouse Square
P.O. Box 248
New Ulm, Minnesota 56073

Dear Ms. Friesen:

Thank you for your questions concerning the 2b rural vacant land classification. You have asked several questions which are answered in turn below:

Can 2b land be platted?
No. 2b rural vacant land cannot be platted. Minnesota Statutes 273.13, subdivision 23, paragraph (c), specifically states that 2b rural vacant land is "unplatted real estate."

Do government lots count as platted? Do metes and bounds properties count as platted?
Government lots and metes and bounds properties do not count as platted land. In general, platted land will be described with a lot and block system. "Olson's 3rd Subdivision" would constitute platted land.

How would you classify land consisting of woods and waste that did not have a structure?
This land could be classified as 2b rural vacant land if it is unplatted real estate that is rural in character and not used for agricultural purposes.

How would you assess land previously classified as SRR that contained a structure?
The answer depends on the acreage. If the property is over 20 acres, you must assign 10 acres to the structure. The 10 acres assigned to the structure should be classified according to its use (i.e. SRR); the remaining acreage would be class 2b. If the property is less then 20 acres then you could classify the entire property according to its use, such as SRR.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

May 1, 2009

Cindy Geis
Scott County Assessor's Office
Courthouse
Room 112
428 South Holmes
Shakopee, Minnesota 55379

Dear Ms. Geis,

Thank you for your recent question to the property tax division concerning classification of a 60-acre parcel in your county. This parcel is mostly rural vacant land, but one acre of the parcel is improved with two state-assessed power lines and utility sheds. This one-acre portion is under a permanent easement with the Northern States Power Company. You have asked how this parcel should be classified.

Typically, on a parcel of rural vacant land greater than 20 acres in size that is improved with a structure, ten acres is split-classified with that structure and the remaining acres are class 2b rural vacant land. However, in this specific case, we would treat the situation differently. In this scenario, the property owner does not have control over the state-assessed utility property. The property owner may not remove the structures, and they are under a permanent easement. As that is the case, we recommend only the acre containing the structures be split-classified as commercial-industrial property, and the remaining 59 acres maintain the 2b classification.

Please note that this opinion is based solely on the facts provided. If any of the facts were to change, our opinion is subject to change as well. If you have any further questions, please contact proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

May 28, 2009

Steve Hurni
Regional Representative
15085 Edgewood Road
Little Falls MN 56345

Dear Mr. Hurni,

Thank you for your recent questions to the Property Tax Division, which are answered below.

1. Will the Property Tax Division be providing a statewide standard affidavit for counties to use for the 2e classification?
Answer: No. The affidavits required for the 2e classification contain information which is not under the purview of the Department of Revenue, therefore we will not issue any standard affidavits. As an aside, any county which has opted out of the Aggregate Resource Preservation Property Tax Law (under Minnesota Statutes, section 273.1115) has also opted out of the 2e classification.

2. Do recent changes made to Green Acres law allow those properties which had less than 10 acres in production, but were erroneously granted Green Acres treatment, to re-enroll until the 2013 assessment?
Answer: No. These properties are not allowed into the Green Acres program, as they should not have been at any time. However, as the enrollment was in part due to assessor error, we feel that the payback of deferred taxes should be waived for these parcels. Any property which did not qualify before (and furthermore does not qualify now) should not receive the tax deferral.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 2, 2009

Joyce Larson
Washington County Assessors' Office
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Ms. Larson,

Thank you for your recent question to the property tax division. There is a property owner in your county who is interested in applying for the 2e commercial aggregate deposit classification. You have asked if there is an application for classification as 2e property.

There is no application for the 2e classification. However, to qualify for classification as 2e property, the property must be at least ten contiguous acres in size and the owner of the property must record with the county recorder of the county in which the property is located an affidavit containing the following information:

- a legal description of the property;
- a disclosure that the property contains a commercial aggregate deposit that is not actively being mined but is present on the entire parcel enrolled;
- documentation that the conditional use under the county or local zoning ordinance of this property is for mining; and
- documentation that a permit has been issued by the local unit of government or the mining activity is allowed under local ordinance. The disclosure must include a statement from a registered professional geologist, engineer, or soil scientist delineating the deposit and certifying that it is a commercial aggregate deposit.

Copies of the recorded affidavit must also be provided to the county assessor, the local zoning administrator, the Department of Natural Resources, and the Department of Land and Minerals.

You also referenced a May 1 application deadline. As there is no required application, there is no deadline for this classification. However, there is a newly-enacted property tax program, *Aggregate Resource Preservation Property Tax Law*, which is found in Minnesota Statutes, section 273.1115. The deadline for applying for that program is May 1 for taxes payable the following year. For 2009 only, the application deadline has been extended to September 1 for taxes payable in 2010. We hope to be providing information concerning this new property tax program in the very near future.

As an aside, Washington County may opt-out of the Aggregate Resource Preservation Property Tax Law. If the county chooses to do so, they will have also withdrawn from the 2e classification provisions. Again, we expect to get further information regarding these options to assessors in the near future.

In the meantime, if you have further questions or concerns please do not hesitate to contact us at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 25, 2009

Dave Sipila
St. Louis County Assessor

Dear Mr. Sipila:

Thank you for you question concerning class 2b rural vacant land. You have a property owner in your county that owns an island that is less than 20 acres in size and improved with a non-ancillary structure. In addition, about half of the property is encumbered by a conservation easement that restricts development. Because the property is less than 20 acres, you have not split classed the property and have classified it according to the use of the structure (seasonal residential recreational). The property owner has questioned the appropriateness of your classification. You have asked us if his concern is valid and if you should reconsider the classification.

Your classification based on the use of the structure is correct. The split class provision for class 2b rural vacant land is for property of 20 acres or more. There is no provision for split classification for class 2b property of less than 20 acres. Property of less than 20 acres that contains a non-ancillary structure is appropriately classified according to the use of the structure. Furthermore, although the conservation easement may restrict the potential to develop the property, it does not change the fact that the use of the property is for seasonal recreational purposes and the conservation easement does not restrict the property owner from using the land as such.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 25, 2009

Robert Moe
Otter Tail County Assessor
505 West Fir Street
Fergus Falls, Minnesota 56537

Dear Mr. Moe:

We recently had an inquiry from a taxpayer in Otter Tail County who believed his property should qualify as class 2a productive agricultural land because he produces "trees grown for sale as a crop." According to the information provided by the taxpayer, he grows trees on his property, removes them with a tree spade and sells them to others generally for landscaping purposes and not for the production of timber, lumber, wood, or wood products. He indicated that he sold approximately 1,000 trees last year. In a subsequent phone conversation with you, you asked us for a letter outlining some indications of when property owners are raising "trees grown for sale as a crop."

In response to this inquiry, we contacted the Minnesota Department of Agriculture (MDA) to establish if there are any guidelines or regulations that must be followed by those who sell trees in this manner. According to James Jacobs, a nursery inspector with MDA, and MDA's website (www.mda.state.mn.us), anyone who sells, offers for sale or distributes trees in the state of Minnesota must be certified as a grower, pay an annual fee based on the number of acres used for growing trees, and be inspected each growing season. All stock must be inspected and certified free of harmful plant pests within 12 months preceding sale. In addition, the Department of Agriculture's website indicates that all landscapers, brokers and tree spade operators are considered nursery stock dealers and must obtain a certificate before offering nursery stock for sale. Additional information regarding licensing may be found in Chapter 18H of Minnesota Statutes.

As you are aware, "trees, grown for sale as a crop, including short rotation woody crops" are considered to be an agricultural product for property tax purposes in Minnesota Statutes, section 273.13, subdivision 23, paragraph (i), clause (7). Christmas trees and hybrid poplars are often used as examples of those grown for sale as a crop. Our section has discussed this issue and we offer the following guidelines for assessors to help them differentiate when property owners are growing trees for sale as a crop versus growing trees for timber, lumber, wood, or wood products.

- Trees are planted in an orderly fashion in a way that would facilitate being harvested with a tree spade;
- Surrounding vegetation is necessarily controlled to allow easy access for removal;
- Trees are not logged and sold for timber, lumber, wood, or wood products; and
- Property owner is properly licensed with MDA and is able to provide proper proof of necessary inspections.

We hope this provides you with the necessary direction to discern whether the property in question qualifies as class 2a property. If the taxpayer disagrees with your classification, he may appeal to Minnesota Tax Court.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

C: Gale Pfeiffer
Senator Dan Skogen

July 1, 2009

Lyn Regenauer
Chisago County Assessor's Office
Chisago Co. Govt. Center
313 N. Main St. Room 246
Center City, Minnesota 55012-9663

Dear Ms. Regenauer,

Thank you for your recent question to the Property Tax Division. You have outlined the following scenario: In your county, there is a parcel of property that contains a mobile home and garage. The mobile home is assessed as personal property to its owner and is situated on land owned by a relative of the owner of the mobile home. The land (under the relative's ownership) is part of an agricultural homestead. You have asked how to assess the one acre of land on which the mobile home is situated, and how homestead is applied.

Since the ownership of the land and buildings are different, we concur with your decision to assess the mobile home as personal property to the owner. The land is assessed separately. In this scenario, the land is simply classified as an owner-occupied agricultural homestead. The same is true in reverse: because the land is not under the same ownership as the mobile home, it is not linked to the mobile home assessment. The mobile home is assessed as personal property and is eligible for full owner-occupied residential homestead. The garage must be assessed as real property to the owner of the land.

Neither the land nor structures should be classified as relative homestead. The land is eligible for full agricultural homestead (owner-occupied) and the mobile home is eligible for full residential homestead (owner-occupied).

Because this is difficult to describe, we have also created a pictorial representation. This picture is clearly hypothetical, but is based on the situation you have described. Everything shaded in gray is eligible for full owner-occupied agricultural homestead and is assessed as real property. The mobile home itself is eligible for full residential owner-occupied homestead, but is assessed as personal property (as it is not located on land owned by the owner of the mobile home). The land underneath the mobile home is not separated from the surrounding land, and is part of its owner's agricultural homestead.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009313

August 14, 2009

Robin Johnson
McLeod County Assessor's Office
Courthouse
830 11th Avenue E.
Glencoe, Minnesota 55336

Dear Ms. Johnson,

Thank you for your recent email to the Property Tax Division. At a recent Local Board of Appeal and Equalization meeting, a taxpayer questioned the residential/commercial split-classification of his property. The taxpayer operates a tractor repair business from his property, and his personal income is based solely off that business. The taxpayer has asked for further clarification on the classification of his property. We have addressed his questions below.

1. When does a residential property stop being "residential" and start being commercial?
Answer: As you are aware, all property in Minnesota is to be classified according to its use. For a property to be classified as "residential," it must be used residentially. According to your office, his property is split-classified residential homestead and commercial. For purposes of this classification, the portion of his property which is actually used as his residence is classified as such. The portion of his property which is used commercially is classified appropriately (according to its use) as commercial. A residential property stops "being 'residential'" when it is no longer used for residential purposes and has a clear, other use.

McLeod County utilizes criteria outlined by the Department of Revenue when determining that there is a commercial use on an otherwise residential property, including:

- Does the property owner file income tax based upon the commercial activity?
- Does the property owner sell a product or service?
- Does the property owner advertise a product or service?
- Does the property owner meet customers or clients on the property?
- Is a portion of the property dedicated to the commercial activity?

2. Does this property truly constitute a commercial use?
Answer: Based on information from the assessor's office, the portion of the property which is classified as commercial is a pole shed used exclusively for the tractor repair business. The property owner is employed here, his income is solely derived from this business, and customers are able to patronize the tractor repair shop. Based on the facts as we understand them, the use of this pole shed is a commercial use and is appropriately classified as such.

3. Who actually makes the determination as to commercial vs. residential classification?
Answer: For property tax purposes, the assessor is charged with classifying a property according to its use. The taxpayer may appeal this classification to boards of appeal and equalization and/or Minnesota Tax Court. Classifications are outlined in Minnesota law.

4. If a business is attached to a residence, is it still considered residential and not commercial?
Answer: Again, all property is classified according to its use. The portion used residentially is given that classification, and the portion used commercially is given a separate classification. If a duplex, for example, were used as a retail business on one level and a homestead on the other, it would also be split-classified (even though both uses are present in one structure).

5. Is there a clear definition of when commercial is too insignificant to class as commercial?
Answer: There are no clear guidelines. The "significance" of a use of property is not a concern so much as the actual identifiable use of the property. There are no income thresholds, for example, which would determine whether a property is used as something other than residential.

Based on the information which has been provided to us, the residential/commercial split-classification appears appropriate based on the actual, identifiable uses of this property. If the taxpayer disagrees with your classification, he may appeal to Minnesota Tax Court. If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009287

August 20, 2009

LuAnn Trobec, Application Specialist
Minnesota Counties Information Systems
413 SE 7th Avenue
Grand Rapids, MN 55744

Dear Ms. Trobec,

Thank you for your recent question to the Property Tax Division. You have asked if leased properties (assessed as personal property) could qualify for the 4c(10) "seasonal restaurant on a lake" classification.

Minnesota Statutes, section 273.13, subdivision 25 provides the following concerning the classification requirements:

> *"...**real property** up to a maximum of three acres and operated as a restaurant as defined under section 157.15, subdivision 12, provided it: (A) is located on a lake as defined under section 103G.005, subdivision 15, paragraph (a), clause (3); and (B) is either devoted to commercial purposes for not more than 250 consecutive days, or receives at least 60 percent of its annual gross receipts from business conducted during four consecutive months…[emphasis added]."*

Because of the specific reference to "real property" above, it is our opinion that a restaurant assessed as personal property would not qualify for the 4c(10) classification. If you have any other questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009002

October 1, 2009

Ms. Cindy Geis
Scott County Auditor
Courthouse
428 South Holmes
Shakopee, Minnesota 55379

Dear Ms. Geis:

Earlier this year, your former county assessor, Farley Grunig, submitted a question on the classification of a property in Scott County under Minnesota's Agricultural Property Tax law (Green Acres).

We sincerely apologize for the delay in answering Mr. Grunig's original question. However, we felt it important to wait until the recent legislative session was over to ensure that we could provide the most current information. Legislators made several changes to the Green Acres law in 2009 after last year's revisions surrounding the classification of what was formerly "agricultural" land raised some questions among taxpayers and assessors. With the added direction provided by the recently passed law (House File 392), we are now in a much better position to answer these types of questions.

In his original query, Mr. Grunig outlined the following situation: A property owner's base homestead parcel consists of 40 acres of unplatted land. The parcel includes the owner's dwelling, several outbuildings, 4 acres of building site, 30 tilled acres, and 5 wooded acres. Thirty-five acres are classified as class 2a agricultural land and 5 acres of woods are classified as class 2b rural vacant land. Since the parcel is owner-occupied and the 2b land is contiguous to the 2a land, the entire parcel receives an agricultural homestead. In addition, the owners have a second 40-acre parcel that is not contiguous to the base homestead parcel. This parcel is platted, and consists of 30 tilled acres, 1 acre of road, and 9 acres of woods. Thirty-one acres are classified as class 2a productive agricultural land and are linked to the base parcel's homestead.

Mr. Grunig asked how the remaining 9 acres of woods should be classified. Our analysis assumes that the 9 acres of woods are located on one portion of the parcel rather than being interspersed throughout the remaining agricultural (2a) acres. The statutory definition of class 2b rural vacant land precludes land that is platted from being classified as class 2b land. Since there is no other use for the 9 acres of woods, we must rely on Minnesota Statutes, section 273.13, subdivision 33, for guidance. Mr. Grunig expressed his belief that the highest and best use of the property would be as class 2a agricultural land because the property is zoned as agricultural and because local zoning requires at least 10 acres for construction of a residential structure.

However, the statute contains very specific production requirements that must be met for land to be classified as class 2a agricultural land. Therefore, we see no potential under the statute to classify land that is wooded with no agricultural production as class 2a property. While the property may be zoned as agricultural land, there is no agricultural production taking place on the wooded land, which is thus precluded from being classified as class 2a land. In addition, while local zoning requires 10 acres for residential structures, there would be nothing precluding the owners from including an acre that is classified as class 2a in any sale or as part of a split.

(Continued…)

For these reasons, it appears that the appropriate classification of the 9 acres of woods would be class 4b(4) residential vacant land or class 4c(1) seasonal residential recreational – non-commercial. I hope this answers the question originally posed by Mr. Grunig to your satisfaction. If you have any additional questions or concerns regarding this property, please contact us by email at proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section
Property Tax Division

October 22, 2009

Cindy Okstad
St. Louis County
Co Courthouse Room 212
100 N 5th Ave W
Duluth, MN 55802

Dear Ms. Okstad:

Thank you for your questions concerning the 4c(11) marina classification. You have asked the following questions:

1. **Is the intent of the statute to allow the reduced class rate on land only?**
   While we do not speculate on the legislative intent of laws, the language is clear that the reduced class rate is only applicable to land. Minnesota Statutes 273.13, subdivision 25 specifically states that:
   > "*Buildings used in conjunction with a marina for marina services, including but not limited to buildings used to provide food and beverage services, fuel, boat repairs, or the sale of bait or fishing tackle are classified as class 3a property.*"

2. **Does the benefit include all land associated with the marina including where the boat slips that are leased are located, or is the land to be pro-rated between commercial and public use?**
   The 4c(11) classification should only be granted to those portions of the marina that are made accessible to the public. It should not be applied to any land that is reserved for the exclusive use of private parties or is restricted from public use. This may require you to pro-rate the classification of the land between class 4c(11) and class 3a. Also, it should be noted that only land used for marina purposes should receive the 4c(11) classification. For example, 3 acres of woods with no discernable use, but are adjacent to the marina, should not receive the class 4c(11).

3. **How would this parcel be classified? A rectangular, 5 acre parcel with 300 feet of shoreline. 100 feet is used for public launching, 100 feet is used for leased boat slips, and 100 feet is natural shoreline. About half of the property is used for repair, concession, and storage buildings.**
   The buildings used for repair, concessions, and storage would be class 3a. For the remaining acres, it would be necessary to determine what land is restricted from public use. Any land made accessible to the public may receive class 4c(11). Any land reserved for use by private parties or restricted from public use should receive class 3a (or other classification depending on the actual use).

4. **Can the amount of the fee charged to use the public access disqualify a property from receiving the classification?**
   A reasonable fee amount may be different in various areas. For example, a $30 launch fee in Lake of the Woods County might be prohibitive to public access, while a $30 launch fee for Lake Minnetonka might be more appropriate for that market. We believe that assessors are in the best position to determine whether fees are excessive for their local markets.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 2, 2010

Marci Moreland
Carlton County Assessor
P.O. Box 440
Carlton MN 55718

marci.moreland@co.carlton.mn.us

Dear Ms. Moreland,

Thank you for your recent question to the Property Tax Division. You have asked for us to direct you to the section of Minnesota Statutes which outlines classification of properties greater than 20 acres in size for homestead purposes.

There are two sections of statute which we reference to help you with your question. Minnesota Statutes, section 273.13 outlines classifications for property tax purposes. All property is to be classified according to use. M.S. 273.13, subdivision 23, paragraph (c) requires:

> *"Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure [emphasis added]."*

In other words, if a parcel of 20 acres or more is improved with a residential structure, ten acres are assigned to the residential structure for classification purposes, and the remaining acres are class 2b rural vacant land. If there is more than one structure or use, additional classifications may be warranted.

For Property Tax Refund (PTR) purposes, Minnesota Statutes, section 290A.03, subdivision 6 defines a homestead as:

> *"... the dwelling occupied as the claimant's principal residence and so much of the land surrounding it, not exceeding ten acres, as is reasonably necessary for use of the dwelling as a home and any other property used for purposes of a homestead as defined in section 273.13, subdivision 22... [emphasis added]."*

Please do not hesitate to contact us if you have any further questions at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

August 11, 2010

William Effertz
Hennepin County Assessor's Office
A-2103 Government Center
Minneapolis MN 55487

william.effertz@co.hennepin.mn.us

Dear Mr. Effertz,

Thank you for your recent question regarding the appropriate classification of a manufactured home assessed as personal property. You have asked if it would be appropriate to classify a manufactured home assessed as personal property as class 4bb. You referenced a 1997 memo from John Hagen regarding the 4bb classification.

Since we issued the 1997 memo, we issued a clarifying memorandum in 1998 that has become our official administrative policy. Minnesota Statutes, section 273.125, subdivision 8, paragraph (c) provides the following:

> *"A manufactured home that meets each of the following criteria must be assessed at the rate provided by the appropriate real property classification but must be treated as personal property, and the valuation is subject to review and the taxes payable in the manner provided in this section:*
> *(1) the owner of the unit is a lessee of the land under the terms of a lease, or the unit is located in a manufactured home park but is not the homestead of the park owner;*
> *(2) the unit is affixed to the land by a permanent foundation or is installed at its location in accordance with the Manufactured Home Building Code contained in sections 327.31 to 327.34, and the rules adopted under those sections, or is affixed to the land like other real property in the taxing district; and*
> *(3) the unit is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district."*

We have determined that this means that manufactured homes may be eligible for the 4bb classification as long as the home is seated on the land for long-term use and is connected to utilities, and has not been classified as 4c(1) non-commercial seasonal residential recreational under the current owner.

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

October 12, 2010

Julie Hackman
Olmsted County Assessor's Office
hackman.julie@co.olmsted.mn.us

Dear Ms. Hackman,

Thank you for your recent classification question to the Property Tax Division. You have requested our opinion on the appropriate classification of a property in Olmsted County. This property is a residential facility that provides 5 living suites for rent to seniors and contains one additional living suite for the owner/license holder of the facility. The property has a large community kitchen and dining room. Each separate living suite contains a bedroom, a bathroom, and a living area. In 2009, under the ownership of Chateau Ste. Giverney, we had determined that the appropriate classification of this building was class 4a, residential non-homestead property containing four or more units. Since that time, the residence has come under new ownership (Ashwood Hills Senior Living) and has contested the classification of this property.

Based on the information provided, it appears that the use of the property has not changed. As you are aware, for property tax purposes, all classifications are based upon the use of the property. Minnesota Statutes, section 273.13, subdivision 25, describes class 4a property as, "residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more."

This would appear to be the appropriate classification of this property for tax purposes. This is because there are separate living areas available for rent, and there are more than four units available on this property.

If the property owners disagree with the classification of the property, they may appeal their 2010 classification until April 30, 2011 in Minnesota Tax Court.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

October 25, 2010

Dave Sipila
Saint Louis County Assessor
sipilad@co.st-louis.mn.us

Dear Mr. Sipila,

Thank you for your recent follow-up question regarding the 4c(11) marina classification and Timbuktu marina in Greenwood Township. You are seeking clarification on what portions of the property should be classified as 4c(11) marina property. You also provided an image for us. The image shows parcels 387-0035-03602 and 387-0035-03614, which are owned by Timbuktu Marina. The image also shows parcel 387-0035-03613, which is owned by the DNR for parking. The public access is available on the water, on Oak Narrows Road.

The Timbuktu Marina property appears to be appropriately split-classified as 4c(11) marina and class 3a commercial property. The land and buildings used for marina purposes on a marina property (e.g. boat repair, restaurant, etc.) are class 3a commercial; any such use of the Timbuktu property should also be classified as commercial.

In the picture below, the buildings (outlined in red) are likely class 3a commercial. They would be excluded from the 4c(11) classification. Up to 800 feet of lakeshore directly abutting the public access (blue line) would be included in the 4c(11) classification, excluding any portion of the lakeshore which is not accessible to the public or not used for marina purposes. Up to six acres of parcels 387-0035-03602 and 387-0035-03614 closest to the public access that are not excluded from public access, not vacant land, and are not class 3a commercial would be class 4c(11) marina.

If there are any other uses of the property that require separate classifications other than 3a commercial or 4c(11), the property may have multiple property tax classifications. The Timbuktu property does qualify for the 4c(11) classification at least in part, based on the fact that the property directly abuts public access property.

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

November 24, 2010

Patrick A. Poshek
Assistant Chisago County Assessor
313 N. Main St.
Center City MN 55012

paposhe@co.chisago.mn.us

Dear Mr. Poshek,

Thank you for your recent letter to the Property Tax Division, which has been assigned to me for response. There is a building in Chisago County that is used in part for a fitness center and apartments. In the spring of 2010, the owner began renting rooms on the second floor of this building for nightly or weekly rental. He is considering using one apartment as his homestead, and using the remaining units as a bed and breakfast. The building has no main kitchen or dining area. The owner claims that he can supply food to cook or to bring cooked food in, or supply vouchers for local restaurants to the units. You have asked for our assistance in determining the classification of this property.

First, it must be stated that the classification of a property is dependent upon its use, not its intended use. The property owner must actually use his property for the purposes of a bed and breakfast before he is eligible to receive that classification.

For property tax purposes, a bed and breakfast class 4c(9) establishment is defined in section 273.13, subdivision 25 as follows:

> *"residential real estate, a portion of which is used by the owner for homestead purposes, and that is also a place of lodging, if all of the following criteria are met:*
> *(i) rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;*
> *(ii) meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;*
> *(iii) meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of the assessment; and*
> *(iv) the owner is the operator of the property.*
> *The market value subject to the 4c classification under this clause is limited to five rental units. Any rental units on the property in excess of five, must be valued and assessed as class 3a. The portion of the property used for purposes of a homestead by the owner must be classified as class 1a property under subdivision 22"*

At question in the scenario you have outlined is whether the property owner would qualify as a bed and breakfast under this section if meals (required in clause ii) are not provided on-site. While

property tax law is silent on this subject, we refer to other regulations regarding bed and breakfast operations. The Minnesota Department of Health (MDH) has jurisdiction over bed and breakfast licensing requirements. To be a bed and breakfast under MDH statutes, a bed and breakfast must have a hotel/motel license and a restaurant license. This is granted after an MDH on-site review and zoning approval from the city/township where the property is located. Because bed and breakfast properties require a restaurant license, it has always been our inherent expectation that breakfast is prepared and served on site.

For tax equalization purposes, you may also compare the use of this property to other properties in your area. If all other class 4c(9) properties have a kitchen and provide meals on-site, this property might not be comparable to other class 4c(9) properties and may be more appropriately classified under another section.

You did ask for advice about the classification of the property if it is not a class 4c(9) bed and breakfast property. The appropriate classification may be class 3a commercial, class 4b residential non-homestead, or a split-classification depending upon the use of the property. The portion used as the owner's homestead would be class 1a, and if the fitness center continued operation as such it would remain class 3a.

Ultimately, it is the assessor's responsibility to classify the property based on its actual use. If the property owner disagrees with the classification of the property, he/she may appeal the classification via local and county boards of appeal and equalization and/or Minnesota Tax Court. If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 20, 2011

Pat Stotz
Mille Lacs County Assessor
635 2nd St SE
Milaca, MN 56353

Dear Ms. Stotz:

Thank you for your recent question regarding a homestead situation in your county. It has been assigned to me for research and response. You provided the following facts:

- A vacant lot was purchased by the current owner in 1998;
- The property was vacant but was classified as seasonal residential recreational for both the 1998 and 1999 assessments as is typical for vacant lakeshore sites in your area;
- For the 2000 assessment, the property was a partially-complete structure. The property owners occupied the property upon completion and received a mid-year homestead in 2000;
- The property owners continued to occupy the property until 2010 when they purchased a new home;
- The owners' daughter is making application for a residential relative homestead on the property for the 2011 assessment.

You have asked if you may grant a relative homestead to the daughter.

As you know, Minnesota Statutes, section 273.124, subdivision 1, paragraph (c) outlines the circumstances under which residential relative homesteads may be granted. A portion of that paragraph states that:

> *"...Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner will not be reclassified as a homestead unless it is occupied as a homestead by the owner; this prohibition also applies to property that, in the absence of this paragraph, would have been classified as seasonal residential recreational property at the time when the residence was constructed..."* [Emphasis added.]

Based on the portion of the statute underlined above, it appears this property does not qualify for a relative homestead since it was classified as a seasonal property when it was a vacant lot in 1998 and 1999. The owners of the property were notified of the classification at the time. We have not been given any information indicating that they appealed the classification of their property prior to building the home. You may wish to confirm the property's intended use by reviewing the Certificate of Real Estate Value which would have been filed following the 1998 sale of the property to determine if the owners indicated that the intended use of the property was residential or seasonal residential recreational.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6091
Fax: (651) 556-3128

MINNESOTA ▪ REVENUE

February 8, 2011

Russ Nygren
Morrison County Assessor's Office
Russn@co.morrison.mn.us

Dear Mr. Nygren:

Thank you for your question concerning the assessment of wetland property. You have provided us with the following question:

> How do you assess a 40-acre parcel which has 7 acres under water, and the water is determined to be public water. Should those 7 acres be exempt?

If the wetlands are considered "Public Waters Wetlands" as described in Minnesota Statutes, section 103G.005, subdivision 15a, the seven acres of wetland property may be considered exempt. "Public water wetlands" include wetland types 3, 4, and 5 as classified by the U.S. Fish and Wildlife Service. These types of wetlands are usually completely covered in water and are specifically stated in 272.02, subdivision 11 as being exempt. The MN DNR should have an inventory of wetlands that are classified as wetland types 3, 4, and 5 that you can reference to help determine how to assess the seven acres of wetland property. In order to be exempt the wetlands must be ten or more acres in size in unincorporated areas or 2-1/2 or more acres in size in incorporated areas.

If you determine that the wetland property does not qualify for exemption, the property would most likely be considered class 2b rural vacant land as "waste" and valued accordingly.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

February 14, 2011

Mike Wacker
Watonwan County Assessor
mike.wacker@co.watonwan.mn.us

Dear Mr. Wacker:

Your question to Sherri Kitchenmaster has been forwarded to our section for research and response. You outlined the following situation: a large storage facility was previously part of a grain elevator complex and was classified as class 3a industrial property. The storage shed was sold separately from the grain elevator to an individual buyer who indicated to you that he will use the storage shed for both commercial and personal storage purposes. You have asked if a portion of the property may be classified as residential and linked to his homestead while the rest of the property, which will be rented for storage, will be classified as commercial property. The property is located within a block of his home.

In our opinion, as long as the storage facility is titled in the exact same way as the residential property, and the ownership is not an entity (corporation, partnership, LLC, etc.), the portion of the storage facility which is exclusively used by the owner for his/her personal storage purposes may be classified as residential and linked to his/her base residential homestead property so long as it can be clearly determined by the assessor that the owner's personal storage area is distinctly separate from the storage area which is available for rent. The remainder of the property and any parking would be classified as class 3a commercial property. Since this situation remains fluid, we recommend you monitor the use of the property annually to note any changes in the amount of residential use of the property.

Please understand this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6091
Fax: (651) 556-3128

May 17, 2011

Mike Dangers
Aitkin County Assessor

mike.dangers@co.aitkin.mn.us

Dear Mr. Dangers:

Thank you for your question concerning the classification of property enrolled in the Wetland Bank program. You have asked for our opinion concerning the appropriate classification of wetland bank property.

The Wetland Bank Program does not, in and of itself, affect the classification of property. However, due to the requirements that must be met to qualify as wetland bank property, the most probable classification of this type of property is as class 2b rural vacant land. However, there may be instances in which the assessor is able to determine that the property is used for seasonal recreational uses, in which case it may be appropriate to classify the property as class 4c property.

If you have any other questions or concerns, please contact us at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

MINNESOTA · REVENUE

October 4, 2011

Michaelle Cronquist
Crow Wing County Assessor's Office
Michaelle.Cronquist@co.crow-wing.mn.us

Dear Ms. Cronquist:

Thank you for your question concerning the classification of a property in your county. You have provided us with the following scenario and question:

> A couple own 25 acres that is currently split-classified as residential homestead/rural vacant land. They have recently acquired an adjoining 10 acres that is classified as seasonal recreational residential and would like to extend their homestead/rural vacant land classifications to the new parcel. You have asked if you can extend the rural vacant land classification at this point in the assessment year, as long as it is used in conjunction with the homestead.

In the scenario you have outlined, it is inappropriate to change the classification of property after January 2nd of an assessment year. The only exception to this rule is for mid-year homesteads and classifications that require a special application, such as class 2c managed forest land property. In our opinion, the scenario you have outlined does not fit either of these exceptions. The homesteaded property is split-classified as residential and class 2b rural vacant land with ten acres receiving homestead. If the classification were to change, the newly acquired property would become part of the class 2b rural vacant land, not the 10 acres of residential homestead. Since this would not actually be a case of extending homestead, it cannot be done mid-year and must wait until the next assessment year.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

November 9, 2011

James Haley
Polk County Assessor's Office
james.haley@co.polk.mn.us

Dear Mr. Haley:

Thank you for your question concerning the classification of a property in your county. The property is called "Inn at Maple Crossing." You would like some assistance properly classifying this property and have asked if a portion of this property may qualify for the 4c(9) bed and breakfast classification. You have supplied the following information concerning the property:

- The property has 16 guest rooms that are available 365 days per year with breakfast included in the rental.
- The property contains a public restaurant with lunch served daily and dinner served by reservation only.
- It is located on 4.5 acres of lakeshore property.
- 20 percent of the property is designated as the innkeepers' quarters (residential).
- There is a gift shop occupying approximately 15 percent of the property, open Monday through Saturday.

This property would appropriately be split-classified as residential and commercial. There is no potential for the 4c(9) bed and breakfast classification because the restaurant is open to the general public year round. To qualify for class 4c(9), the property must meet **all** of the following requirements [M.S. 273.13, subd. 25, paragraph (d), clause (9)]:

> *(i) rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;*
> *(ii) meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;*
> *(iii) meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of the assessment; and*
> *(iv) the owner is the operator of the property.*

Because the Inn at Maple Crossing provides meals to the general public for more than seven days in the calendar year, the entire property may not receive class 4c(9).

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

November 1, 2011

Larry Austin
MN Department of Revenue
Property Tax Compliance Officer
Larry.austin@state.mn.us

Dear Mr. Austin:

Thank you for your question concerning the 4a classification for apartment properties. You have asked how to classify a four-unit apartment building in which the owner claims to occupy two of the units as homestead property.

In our opinion, it is appropriate to classify the two units being occupied as a homestead by the owner as class 1a homestead property. The assessor may request information from the property owner to verify that each unit is in fact being used for homestead purposes. The remaining units would receive the 4a classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

December 20, 2011

Kevin Scheidecker
Otter Tail County Assessor's Office
Government Services Center
118 North Main Street
New York Mills, MN 56567
kscheide@co.ottertail.mn.us

Dear Mr. Scheidecker,

Thank you for your recent question to the Property Tax Division. You have asked for assistance in classifying a property in your county. Based on the facts you have provided, the question pertains to two adjacent parcels of property that are owned by the same individual. Each parcel has a residence on it. One of the residences is used by the owner as the owner's primary residence; while the other home on the second parcel is used as a guest house (visiting individuals spend short periods of time there). You have asked if the guest house property should be classified as seasonal, or if it is linked to the homestead parcel and classified as 1a residential homestead.

The Property Tax Division's policy on homestead accretion, as stated in the Property Tax Administrator's Manual, *Module 4 – Homesteads*, is that "A second residential structure, located on a separate parcel, cannot be used in conjunction with a homestead." Because the second residential structure is located on a separate parcel, it does not qualify for treatment as the owner's homestead property. Based on the information you have provided, a non-commercial seasonal residential recreational classification [4c(12)] would appear appropriate.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

February 21, 2012

Bob Hansen
Hubbard County
bhansen@co.hubbard.mn.us

Dear Mr. Hansen,

Thank you for your recent question to the Property Tax Division regarding the classification of storage unit "condominiums" that was in response to a February 8, 2012 memo sent by the division.

In Hubbard County, there is a storage unit property that is currently owned 75% by the developer, and 25% of the units are individually-owned. Of those units, 21% have been sold to individuals that own seasonal residential recreational (SRR) properties in the area. These units have appropriately been classified as SRR. Also, 4% of the units are owned by a bank and used for commercial storage; and you have appropriately classified these units as 3a commercial. One unit was previously classified as SRR, but the owner recently applied for mid-year homestead on the seasonal residential property that he owns in the county. The residence is located approximately 8-10 miles away from the storage unit. While the owner has applied for homestead on the residence, no application for homestead has been made on the storage unit. You have asked for our opinion on the proper classification of the storage unit.

Based on the information that you have provided, it would appear that a residential non-homestead classification may be the most appropriate. The storage unit is not in the "immediate proximity" of the homestead residence, but the use of the unit may very likely change to more of a residential non-homestead use than a seasonal use. Please note that this opinion is based solely on the facts as provided. If any of the facts were to change, our opinion would be subject to change as well.

If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 28, 2012

Janene Hebert
City of Plymouth
jhebert@plymouthmn.gov

Dear Ms. Hebert:

Thank you for your question concerning the classification of property. You have asked: if a property that was classified as seasonal residential recreational was completely destroyed by a fire, can it, upon on rebuilding, be classified as class 4bb?

According to the information you provided the following factors were changed when the property was rebuilt:

- The physical property changed from a 750 square foot cabin that was considered a detriment to the land to a new structure that is is well over 2,000 square feet.
- The new structure had to be moved back 60 feet to comply with residential zoning ordinances.
- The heating and plumbing went from seasonal to year-round.
- The property owner is complying with the Electric Company's requirement to go from "Seasonal" to "Residential" by providing a backup heat source.

Although the characteristics of the structure changed due to the destruction of the original structure, it is our opinion that this does not equate to a change in the actual use of the property. Furthermore, it does not negate the statutory language that prohibits the classification of a property [i.e., not just a structure] from being changed from class 4c(12) seasonal residential recreational to class 4bb residential nonhomestead while under the same ownership.

If the use of the property has changed to another use other than class 4c(12), the classification of the property may be subject to change. For example, if the owners have occupied the property as their principle place of residence, it may qualify as class 1a residential homestead property if all other homestead requirements are met. Or, the property may be classified as 4b residential non-homestead property (with a class rate of 1.25 percent) if it is used for non-seasonal/year-round occupancy but does not qualify for homestead treatment.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

March 29, 2012

Dave Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for your recent questions regarding classification of storage buildings. Your email to Larry Austin, Property Tax Compliance Officer, was forwarded to the Information and Education Section for research and response. You have asked two questions related to scenarios that exist in St. Louis County, and have asked our opinion on the appropriate classification in these cases. Each of your questions are addressed below.

1. An individual who has a homestead property in St. Louis County owns a second residential structure located on a separate tax parcel. The second residence is not used for occupancy, but is used for the storage of the individual's personal items. Can this be linked to the homestead?

From the Property Tax Administrator's Manual, *Module 4 – Homesteads*, which is available on the Department of Revenue website:

> *"Sometimes property owners will own additional parcels of non-contiguous property that may or may not qualify to be linked to their base parcel, which is occupied, for homestead purposes. Some examples may include a vacant lot with a garden that is located down the street from a taxpayer's home, a garage located on a site within close proximity to the taxpayer's home, or a storage shed that is located down the block from a taxpayer's home. If such uses are in close proximity to the taxpayer's home, are used in conjunction with the homestead, and the taxpayer makes proper application to the assessor, homestead may be extended in such cases [emphasis added]."*

Additionally, the recent memo that we sent regarding the proper classification of storage units provides the following guidance:

> ***"For units that are owned by individuals and used for personal storage, we recommended a residential classification. For units that are owned by businesses and used for commercial purposes, the proper classification would be commercial.*** *In some instances, the unit may be used in conjunction with the owner's homestead property and located in the immediate proximity of the homestead. In those cases, if the owner makes application, the homestead may be extended to the unit [emphasis from original document]."*

Minnesota Statutes, section 273.124, subdivision 1, paragraph (b) provides:

> *"For purposes of this section, homestead property shall include property which is used for purposes of the homestead but is separated from the homestead by a road, street, lot, waterway, or other similar intervening property. The term 'used for purposes of the*

Continued on page 2

Continued from page 1

> *homestead' shall include but not be limited to uses for gardens, garages, or other outbuildings commonly associated with a homestead, but shall not include vacant land held primarily for future development. In order to receive homestead treatment for the noncontiguous property, the owner must use the property for the purposes of the homestead, and must apply to the assessor…"*

In other words, if the unit is owned by an individual and is used for personal storage purposes, a residential classification would be appropriate. Whether or not it is considered part of the homestead would be a matter of proximity to the actual homestead residence, and whether the property owner has applied for homestead on this unit.

2. An individual with a homestead residence in St. Louis County owns a second residential structure located on a separate tax parcel. The residence on the second parcel is rented. However, the property owner uses the garage on that parcel for storage of personal items. Can the garage portion of the second parcel be linked to the main homestead? Is it appropriate to split-class in this situation?

As with the situation above, the classification of this garage is likely residential. Whether it is considered a part of the owner's homestead is a matter of proximity to the actual homestead residence and whether the property owner has applied for homestead on this unit. Additionally, Minnesota Statutes, section 290A.03 (definitions for Property Tax Refund) describes a homestead as including:

> *"the dwelling occupied as the claimant's principal residence and so much of the land surrounding it, not exceeding ten acres, as is reasonably necessary for use of the dwelling as a home and any other property used for purposes of a homestead as defined in section 273.13, subdivision 22 [emphasis added]."*

Homestead is a fact situation, and if the facts do not clearly warrant a homestead classification on this non-contiguous property, then the appropriate classification would be residential non-homestead. It may be difficult to verify that the garage portion of this parcel is used exclusively for homestead purposes and not part of a rental agreement or non-homestead use, but if the facts of the situation verify homestead applicability, than it may be warranted.

The Property Tax Administrator's Manual is available on line via the following link: http://taxes.state.mn.us/property_tax_administrators/pages/other_supporting_content_propertytaxadministratorsmanual.aspx. If you have any additional questions, you may contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 29, 2012

Chase Philippi
Wright County Assessor's Office
chase.philippi@co.wright.mn.us

Dear Mr. Philippi,

Thank you for your recent email regarding classification of platted land. You are looking for some guidance on how to classify a property that has approximately 24 acres with a home and that is platted. You are also wondering about homestead for this property.

Minnesota Statute 273.13, subdivision 23, paragraph (c) states:

> *"…Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure [emphasis added]."*

In order to be consistent with the statutes regarding the property tax refund (PTR) which is limited to 10 acres, and other classification practices concerning parcels of 20 acres or more, we recommend that the part of the property with the house and ten acres be split off from the rest of the property and classified as residential homestead (class 1a). Since the remaining property is platted, it does not qualify for the 2b classification and therefore we look at classifying the property at the highest and best use, which in this case is likely as residential. However, the remaining 14 acres would not be classified as 1a homestead but as class 4b residential non-homestead. In other words, the house plus ten acres would qualify for class 1a residential homestead and the remaining 14 acres would qualify for class 4b residential non-homestead.

If you have any further questions or concerns please feel free to contact us at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 7, 2012

Ann Miller
Washington County Assessor's Office
Ann.Miller@co.washington.mn.us

Dear Ms. Miller:

Thank you for your question concerning the 4c(11) classification for public use marinas. You have provided us with the following scenario:

> A property is homesteaded and during summer months the owners place docks/slips on the river for leased boat slip customers. The property is a small residential lot located in a residential neighborhood with a narrow public street and a lack of parking. The lot to the south is owned by the city and the lot to the north is in a relative's name. The boat slips extend beyond the homesteaded property to the relative's property as shown in the aerial below.

You have asked two questions concerning the application of class 4c(11) for this property.

1.) The 4c(11) application states that the property must be devoted to recreational use for marina services. You have asked our opinion concerning whether or not this property is devoted to recreational use for marina services.
Having the homestead of the property owner located on a property does not disqualify the portion of the property being used for marina purposes from receiving the 4c(11) classification. However, according to

the definition provided by statute, "marina" means a mooring facility providing additional services to boats, such as repairs, haul-out, winter storage, food and beverage service, and services and facilities of a related nature. If the property is not used for these purposes and does not provide these services, it will most likely not qualify as a marina for class 4c(11) purposes.

Furthermore, the 4c(11) classification is not provided to marinas that only provide leased boat slips. Boat slips that are leased to individuals for their own personal use do not constitute public access. When a person leases a boat slip, that person becomes a member of the marina and is granted access to the lake/river which is not made available to someone who does not or cannot lease a boat slip. According to law, the marina must provide public access (i.e. boat launch services) to a lake or river via a ramp or crane, to any person who wishes to launch a boat. With the information you provided, we are unable to determine if the public is able to use the property to launch boats into the river, or if it is only for the use of people who have a leased boat slip.

(Please note: There is also a provision that allows a property to qualify if it directly abuts a publicly-owned access site to a lake or river. However, in the scenario you have presented, the property does not qualify under this provision.)

2.) Does the deeded owner have to be in the name of the marina? Or can the deeded owner be in the name of an individual person?
There is no provision in statute that requires the marina property to be deeded in the name of marina (i.e. a business name). However, the property must be used for marina purposes and most allow launch services to any person who wishes to launch a boat. A nominal fee may be charged for this service.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

August 9, 2012

Douglas Walvatne
Ottertail County Assessor
dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for your question submitted to the Property Tax Division regarding agricultural classification. You have provided the following property scenario:

A parcel has 89.35 acres consisting of:

- 6.63 acres of trees grown for resale
- 4.89 acres used for foraging of deer and wild turkeys
- A homesteaded house and some outbuildings
- 1300 feet of lakeshore
- 70 acres woods

The 6.63 acres of trees and the 4.89 acres of forage land are adjoining for a total of 11.52 contiguous acres.

You state that an agricultural product as defined by the *Minnesota Property Tax Administrator's Manual* includes forage and trees grown for sale as a crop and also nursery stock. You are asking whether or not the property described qualifies for agricultural classification.

Minnesota Statutes, section 273.13, subdivision 23, provides a number of requirements that must be met in order to be classified as class 2a land:

> *"1. At least 10 contiguous acres must be used to produce agricultural products in the preceding year (or be qualifying land enrolled in an eligible conservation program);*
> *2. The agricultural products are defined by statute; and*
> *3. The agricultural product must be produced for sale."*

Based on the information provided, the property in question utilizes 6.63 acres for growing trees for sale, adjoining with 4.89 acres used for foraging of wild deer and turkeys. While trees grown for sale and foraging are considered agricultural products, there is no evidence to suggest that the foraging land is producing anything that is intended for sale. Additionally, the property owners filed a Schedule C for the acres used for growing trees. Typically, farm income is reported on a Schedule F. It is not verified that the trees are sold as an agricultural product. Therefore, these 11.52 acres do not qualify for 2a classification.

Since the home on this property qualifies for 1a residential homestead and the property is greater than 20 acres, the home and the immediately surrounding 10 acres are classified as class 1a residential homestead. The remaining acres would be split-classified as 2b rural vacant land.

You stated that the property included 70 acres of woods. If the property owner chose to, he or she could apply for 2c managed forest land classification for these acres. To qualify for class 2c the following qualifications must be met:

- Land must be greater than 20 acres.
- Land may not be improved with a structure other than a minor, ancillary, non-residential structure.

- Land that is improved with a structure that is not a minor, ancillary, non-residential structure must be split-classified with at least 10 acres being assigned to and centered on the structure, and the assessor must remove the 10 acres for any structure that does not qualify as a minor, ancillary, non-residential structure.
- Land enrolled in the Sustainable Forest Incentive Act Program (SFIA) is not eligible for 2c classification.

If you have any further questions, please feel free to contact our division by email at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 8, 2012

Luann Hagen
Administrative Manager
Hennepin County Assessor's Office
luann.hagen@co.hennepin.mn.us

Dear Ms. Hagen:

Thank you for your question submitted to the Property Tax Division regarding non-operating railroad property. You have provided the following question: State-assessed (operating) railroad property gets just one preferred rate per entity per county. For the non-operating railroad property assessed by the county, does the preferred rate apply? Or, if the company's operating property has already used up the $150,000 market value for the first-tier rate on its operating property, is all the non-operating railroad property taxed at 2 percent?

All railroad property in a county owned by the same company is looked at as a whole. For classification purposes, railroad property that is operational and assessed by the state is not classified separately from non-operational railroad property assessed by the county. If a company's railroad property has already met the $150,000 market value tier preferred rate, all other railroad property, regardless of it being operating or non-operating is taxed at 2 percent.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

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MINNESOTA · REVENUE

November 15, 2012

Beth Sokoloski
St. Louis County Assessor's Office
sokoloskib@stlouiscountymn.gov

Dear Ms. Sokoloski:

Thank you for your question concerning the Auxiliary Forest Program. You have asked how Auxiliary Forest property should be classified after the Auxiliary Forest contract expires.

When property is removed from the Auxiliary Forest Program it is to be classified according to the actual use of the property. For example, if it is being used for personal recreational use, it may be classified as class 4c(12) seasonal residential recreational land. If it is rural vacant land with no discernible use, it may be class 2b rural vacant land.

You have also asked how the property should be classified if the owners begin to use the property in a manner contrary to the original intent of the contract before the contract expires.

Until which time a contract is actually cancelled by the Commissioner of Natural Resources under Minnesota Statute 88.49, the property will continue to be assessed and taxed as auxiliary forest property. If you are aware of property that is failing to meet the terms of the auxiliary forest contract, the Department of Natural Resources (DNR) should be notified. As shown in the statutory language below, the DNR, along with the assessor and other county officials have the duty of enforcing Auxiliary Forest contracts.

Minnesota Statues, Section 88.53 states that:

> *"The director* [DNR] *shall make rules and adopt and prescribe such forms and procedure as shall be necessary in carrying out the provisions of sections 88.47 to 88.53* [auxiliary forest contracts]*; and the director* [DNR] *and every county board, county recorder, registrar of titles, assessor, tax collector, and every other person in official authority having any duties to perform under or growing out of sections 88.47 to 88.53 are hereby severally vested with full power and authority to enforce such rules…"* [Emphasis added.]

If it is determined that the Auxiliary Forest contract is to be cancelled, the following provisions come into effect:

Minnesota Statute 88.49, subdivision 6*; **Assessment after cancellation.***

> *"…immediately upon receipt of notice of the cancellation of any contract creating an auxiliary forest, direct the local assessor to assess the lands within the forest, excluding the value of merchantable timber and minerals and other things of value taxed under the provisions of section 88.51, subdivision 2, as of each of the years during which the lands have been included within the auxiliary forest. The local assessor shall forthwith make the assessment and certify the same to the county auditor. The county auditor shall thereupon levy a tax on the assessable value of the land as fixed by section 273.13, for each of the years during which the land has been within an auxiliary forest, at the rate at which other real estate within the taxing district was taxed in those years. The tax so assessed and levied against any land shall be a first and prior lien upon the land and upon all timber and forest products growing, grown, or cut thereon and removed therefrom. These taxes shall be enforced in the same manner as other taxes on real estate are enforced and, in addition thereto, the lien of the tax on forest products cut or removed from this land shall be enforced*

by the seizure and sale of the forest products.

No person shall, after the mailing by the commissioner, as provided in subdivision 5, of notice of hearing on the cancellation of a contract making any lands an auxiliary forest, cut or remove from these lands any timber or forest products growing, grown, or cut thereon until all taxes levied under this subdivision shall have been paid, or, in the event such levy shall not have been completed, until the owner shall have given a bond payable to the county, with sureties approved by the county auditor, in such amount as the county auditor shall deem ample for the payment of all taxes that may be levied thereon under this subdivision, conditioned for the payment of such taxes.

Any person who shall violate any of the provisions of this subdivision shall be guilty of a felony."

In sum, property may be removed from the Auxiliary Forest Program if it is determined that the contract is being violated. If the property is removed from the Auxiliary Forest Program, the land should be classified according to its use in accordance with Minnesota Statute 273.13.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

December 14, 2012

Colleen Pederson
Swift County Assessor's Office
colleen.pederson@co.swift.mn.us

Dear Ms. Pederson:

Thank you for your question concerning the 2b rural vacant land classification. You have asked if class 2b rural vacant land can be homestead if it is contiguous with an owner's other parcels.

Yes, class 2b rural vacant land can be homestead if it is part of or contiguous to an agricultural homestead property. In fact, many agricultural homesteads will have property that is rural vacant land that is considered part of the agricultural homestead and receives the reduced 0.5 class rate. Minnesota Statute 273.13, subdivision 23, paragraph (a) states the following:

> *"An agricultural homestead consists of class 2a agricultural land that is homesteaded, along with any class 2b rural vacant land that is contiguous to the class 2a land under the same ownership."*

Class 2b rural vacant land is not considered homestead if it is contiguous to a class 1a residential homestead, however.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

November 6, 2013

Lorna Sandvik
Marshall City Assessor
lorna.sandvik@marshallmn.com

Dear Ms. Sandvik:

Thank you for submitting your questions to the Property Tax Division regarding residential and residential relative homestead.

Scenario: An individual owns a four-plex (class 4a). The owner lives in one unit, his daughter lives in one unit, and he rents out the remaining two units.

Question 1: Can the property receive a residential homestead on the value of one unit and a relative homestead on the value of the second?
Answer 1: If the property has one PID, the property would only be eligible for one homestead. Therefore, the owner would only be eligible for a residential homestead on the unit he occupies. If the 4-unit apartment building has multiple PIDs, then the portion used as the owner's homestead may be eligible for a residential homestead, and the PID of the portion occupied by the owner's daughter a residential relative homestead.

Question 2: If yes, is the homestead market value exclusion calculated separately for the value of each unit, or is the total value of the two homesteaded units combined for the exclusion calculation?
Answer 2: If the 4-unit apartment building has multiple PIDs, then the homestead market value exclusion would be calculated separately for each homesteaded unit. In other words, both homestead unit PIDs would be eligible for their own homestead market value exclusion based on the value of the eligible unit.

Question 3: Would the answer be different if the father and daughter owned the building together?
Answer 3: The property essentially would only be eligible for one homestead market value exclusion. The combined value of the unit occupied by both owners would be utilized when calculating the market value exclusion.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

February 3, 2014

Michael Frankenberg
Goodhue County Assessors Office
michael.frankenberg@co.goodhue.mn.us

Dear Mr. Frankenberg:

Thank you for submitting your question to the Property Tax Division regarding the classification of property.

Scenario: An agricultural property owner is leasing an estimated 4.5 acres of his 20.43-acre parcel to an adjoining agricultural implement dealer for the storage of additional inventory of plows, discs, etc.

Question: How should this property be classified?

Answer: As you know, property is classified according to use. In order to be classified as agricultural property, the land must be used for an agricultural purpose. The storage of agricultural equipment for retail sale is not an agricultural use. Storage of agricultural equipment to support agricultural activities on other parcels of property operated by the same farming entity may be considered an agricultural use, but that is not occurring in this scenario.

Therefore, it is our opinion that the 4.5 acres being used to store agricultural equipment for retail sale does not qualify as class 2a agricultural land. The most likely classification of the 4.5 acres is class 3a commercial property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

February 18, 2014

Lloyd McCormick
Property Tax Compliance Supervisor
Lloyd.mccormick@state.mn.us

Dear Mr. McCormick:

Thank you for your question to the Property Tax Division regarding valuation methods. You have provided the following scenario and question.

Scenario: In Le Sueur County there are several plats where the developer did not build the roads in the plat according to township or county specifications. Normally, the roads are transferred to the township when completed, but in these instances the townships will not accept the roads. The roads service residential and or seasonal subdivisions and have no restrictions as to who can use them, and in some cases they are described as "dedicated to the public" in the plats.

Question: Le Sueur County would like to know if the roads are taxable and if so, what the appropriate classification is.

Answer: It is our opinion that the roads would be taxable to the developer, since the exempt entity (township) will not accept the transfer of the roads because they do not meet township or county specifications. Our recommendation for classification of the roads would be 4b(4) non-homestead unimproved residential property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 5, 2014

Allison Plummer
Cook County Assessor's Office
allison.plummer@co.cook.mn.us

Dear Ms. Plummer,

Thank you for submitting your question to the Property Tax Division regarding a classification of two non-contiguous parcels located in your county.

Scenario:

- Two non-contiguous parcels are used in conjunction with one another to run an outfitting business.
- One of the parcels houses the store/retail/check-in office and the various equipment storage buildings.
- The other parcel houses the 6 outfitting cabins.
- The two parcels are 4.15 miles (straight line measurement) and 5.67 miles (driving path) apart.
- The 6 cabins do meet the requirements for seasonal residential recreational commercial (SRRC) classification; however you are not sure how to classify the store/retail/check-in office parcel.

Question:

- Would the office parcel be eligible for the SRRC class as well, since it used in conjunction with the cabin parcel?

Answer:
According to the information that you provided, it appears the parcel that houses the store/retail/check-in office should be classified as commercial since it is being used commercially. Each non-contiguous parcel is classified according to its use. The parcel used for the check- in and retail does not meet seasonal classification requirements (it does not have 3 or more rental units, etc.), so it could not be classified as seasonal residential recreational commercial.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 27, 2014

Allison Plummer
Cook County Assessor's Office
allison.plummer@co.cook.mn.us

Dear Ms. Plummer:

Thank you for submitting your question to the Property Tax Division regarding the classification of a property in your county.

Scenario: A parcel of property consists of a commercial greenhouse/retail building, 5 long-term rental cabins, and the property owner's residence.

Question: Can the property owner homestead the unit they occupy and an additional two rental units, like a triplex? If not, how should the property be classified?

Answer: Only the residence occupied and used by the owners of the property can qualify for homestead in this situation. A duplex/triplex is generally defined as a single structure containing two or three living units. In this case, the separate cabins on the property do not constitute a duplex/triplex and therefore the homestead cannot be carried over to them. The five rental cabins must be classified according their use. The most likely classifications, based on the information provided, are either as 4b nonhomestead or class 4c(12) seasonal residential recreational (cabin) if the use of the cabins is on a seasonal basis.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

April 1, 2014

Wendy Iverson
Dodge County Assessor's Office
22 6th St E, Dept 44
Mantorville, MN 55955
wendy.iverson@co.dodge.mn.us

Dear Ms. Iverson:

Thank you for submitting your question to the Property Tax Division regarding the classification of two parcels in your county. You have provided the following scenario and question.

Scenario:
There are two contiguous rural residential parcels; one parcel has a house and the second parcel is bare land. Currently the parcels are tied together for homestead and you are changing the classification because the owners lost both parcels in a foreclosure. The parcel with the house will be classified as 4bb, residential non-homestead.

Question:
Should the bare land parcel be classified as 4bb or 4b(1)?

Answer:
You are correct in classifying the parcel with the house as 4bb property, however the second parcel would not be classified as 4bb because it does not contain a unit on the property and instead it is bare land.

To determine the classification for the second bare land parcel, we refer to Minnesota Statutes 273.13 subdivision 25, which states Class 4b includes:

> *"(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational property;*
> *(2) manufactured homes not classified under any other provision;*
> *(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units; and*
> *(4) unimproved property that is classified residential as determined under subdivision 33 [emphasis added]."*

The second parcel appears to be bare unimproved land, therefore the most probable and/or likely classification would be 4b(4) unimproved residential land .

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

April 11, 2014

Dana Beasley
City of Minneapolis Assessors Office
Dana.beasley@minneapolismn.gov

Dear Mr. Beasley:

Thank you for submitting your question to the Property Tax Division regarding valuation methods. You have provided the following scenario and question.

Scenario: In Minneapolis, an owner has two apartment buildings that have been converted into condominiums. One building sold more than 60% of the residential units and went from 4a apartment classification to all the units becoming classified as residential (1a and 4bb). The other building was also marketed as condos but none were sold and the property remained classified as 4a. The owner is no longer marketing them for sale and has not done so for years. The owner is questioning the 4a classification.

Question: What is the correct classification of the buildings, and how should the property be valued?

Answer: If a declaration has been filed for the property and the building has been given multiple PIDs (separate PID for each unit), then it may be appropriate to classify the property on a unit-by-unit basis as either residential homestead or residential non- homestead, depending on the use of each unit. In the unlikely event that the building still has only one PID, the 4a classification would appear to be more appropriate, based on the use of the property.

If 60% or more of the individual units have been sold as condominiums (residential homestead and/or residential non-homestead) or retained by the converters for their own investment, then the entire property may be valued as condominium property. However, if that is not the case, the property would be valued as its highest and best use (most likely as apartments).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 4, 2014

Doreen Pehrson
Nicollet County Assessor's Office
dpehrson@co.nicollet.mn.us

Dear Ms. Pehrson,

Thank you for contacting the Property Tax Division regarding classification of a property located within your county. You provided us with the following information.

Scenario:

- A six-acre parcel located in a township in Nicollet County has been classified as 4c(12) – Non-Commercial Seasonal Residential Recreational - since 1998.
- The current owner's parents may become residents of the property.

Question: Is there any scenario where the classification can be changed from SRR to residential and the property be eligible for a relative homestead, if the property remains in the same ownership?

Answer: Property that has been classified as seasonal residential recreational property at any time while it has been owned by the current owner cannot be reclassified as a homestead unless it is occupied as a **homestead by the owner**. Therefore, since the owner of the property will not be living in the cabin, the property's classification cannot be changed to residential and therefore cannot qualify for a relative homestead. The property also cannot be reclassified as class 4bb residential non-homestead. Minnesota Statutes, section 273.13, subdivision 25(c) is the statute that supports this.

If the owner's parents were to move into the property and use it as their principal place of residence the property may qualify for the 4b(1) Residential non-homestead classification with the 1.25% class rate.

You can find additional information regarding this topic in the Property Tax Administrator's Manual, Module 3 - *Classification* and Module 4 - *Homestead*. If you have any additional questions or concerns please feel free to contact our section at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator Senior
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 18, 2014

Joy Lindquist
Lake of the Woods County Assessor's Office
joy_l@co.lake-of-the-woods.mn.us

Dear Ms. Lindquist:

Thank you for submitting your question to the Property Tax Division regarding homestead. You have provided the following scenario and question.

Scenario:
A property classed as Seasonal Residential Recreational (SRR) had a manufactured home on it without a sewer or water prior to being purchased in July. In August, the new owner removed the manufactured home and is planning to install a septic tank, well, and a different manufactured home that his son will live in.

Question:
Will the son qualify for a relative homestead under the new ownership and not using the property seasonally?

Answer:
Yes, if the use of the property has changed to another use other than class 4c(12) SRR, the classification of the property may be subject to change under the new ownership. For the property to qualify for relative homestead the son must occupy the property as his primary residence by no later than December 1 and the application must be made by December 15, 2014 to be eligible for relative homestead for taxes payable in 2015.

Keep in mind that Minnesota Statutes, section 273.124, subdivision 1, paragraph (c), which outlines residential relative homesteads, states:

*"…Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the **current owner or spouse of the current owner** will not be reclassified as a homestead unless it is occupied as a homestead by the owner; emphasis added] …"*

Therefore, if homestead is not established on the property prior to December 1, 2014 and the property stays classified as SRR under the new ownership for taxes payable in 2015, then the property would be prohibited from being classified as a relative homestead going forward under the current ownership.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 4, 2014

Keith Triplett
Wright County Assessor's Office
Keith.Triplett@co.wright.mn.us

Dear Mr. Triplett:

Thank you for submitting your question to the Property Tax Division regarding the taxation of land with solar energy generating systems. You have provided the following scenario and question.

Scenario:
A property owner has a system on her land that will generate 10 megawatts per hour.

Question:
How would the property be assessed, and who will be responsible for the production tax - the land owner, or the company that is leasing the property?

Answer:
Solar panels are considered personal property and are exempt from property taxes under Minnesota Statute 272.02, subdivision 24. An application for this exemption must be filed with the County Assessor of the county in which the photovoltaic device is located to initiate the property tax exemption. If the application for exemption is accepted, the value of the photovoltaic device will remain exempt as long as it is used to produce or store electric power.

However, the land of any property improved with a solar energy generating system remains taxable. Minnesota Statute states that if the land on which a solar energy generating system is located is used primarily for solar energy production and is subject to the solar energy production tax, the land is classified as class 3a. If the land which a solar energy generating system is located is not used primarily for solar energy production and is not subject to the production tax, then the land is classified based on the most probably use of the property if it were not improved with a solar energy generating system.

Small scale solar energy producing systems (producing one megawatt or less), such as those typically used for residential purposes, are exempt from production taxes. However in the scenario you provided the system has a capacity over one megawatt and will be taxed at the rate of $1.20 per megawatt-hour produced. The responsibility of the production tax and will be dependent of the terms and conditions in the lease agreement between the company and property owner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us. If you have any questions about the Solar Energy Production Tax, please contact our State Assessed Properties Section at sa.property@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 26, 2014

Brenda Shoemaker
Otter Tail County Assessor's Office
BShoemak@co.ottertail.mn.us

Dear Ms. Shoemaker:

Thank you for submitting your question to the Property Tax Division regarding the classification of a parcel in your county. You have provided the following scenario and question.

Scenario:
In your county, a resort and a bed and breakfast is located on one parcel. Both the resort and bed and breakfast are owned by the same LLC. Currently the owners do not live on the property therefore the resort is classified as 4c(1) and the bed and breakfast is classified as 3a.

Questions:
If the owners occupy one of the units in the bed and breakfast property, how should this property be classified?

Answer:
For classification purposes this property should be classified as one resort since ownership of the two properties is the same. The units of the bed and breakfast are treated as individual rental units like the cabins and you can combine the units/cabins and classify the entire property as 1c Ma and Pa resort property as long as all of the requirements for that classification are met. However, for any units used more than 250 days in the assessment year will be classed as 3a commercial property.

Also, in the situation you have outlined, the portion of the property used for homestead purposes by a member of the LLC would appropriately be class 1a residential homestead property.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 22, 2014

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@StLouisCountyMN.gov

Dear Ms. Dunsmore:

Thank you for submitting your question to the Property Tax Division regarding classification of agricultural property. You have provided the following question.

Question:
Can land enrolled in a conservation easement be classified as 2b rural vacant land?

Answer:
Land may be classified as 2b rural vacant land even if it is enrolled in a conservation easement. Property in federal and state easement programs could be classified as class 2a agricultural property; however, if the property does not meet either of the requirements in Minnesota Statutes 273.13, subdivision 23 paragraph (e) the most likely classification would be class 2b rural vacant land. This statute can be found on The Office of the Revisor of Statutes website here: www.revisor.mn.gov/statutes/?id=273.13. You may also refer the Property Tax Administrator's Manual, Module 3 – Classification of Property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 23, 2015

Amy Rausch
Revenue Tax Compliance Officer
amy.rausch@state.mn.us

Dear Ms. Rausch:

Thank you for submitting your questions to the Property Tax Division regarding contiguous agricultural parcels and manufactured home parks. You have provided the following scenarios and questions.

Scenario 1:

- A parcel of land is separated by a railroad.
- One side of the railroad track is 8.72 acres and the other is 4.79 acres.

Question 1:
Does the railroad-owned parcel break up the contiguity of the agricultural parcels?

Answer 1:
Acreage should generally be considered contiguous if it is separated by a road, waterway, or railroad track. The agricultural parcel would qualify for the agricultural classification as it has at least 10 contiguous acres of land used for agricultural purposes.

Question 2:
If a parcel has two mobile homes on it, should it be classed as a manufactured home park?

Answer 2:
A parcel containing two mobile homes should not necessarily be classed as a manufactured home park by using only this single factor. Minnesota Statute 327.15 states that in order to be a manufactured home park, the person or corporation must have a license from the Minnesota Department of Health. If a license is obtained by the owner of the parcel and two mobile homes are located on the parcel, then classifying it as a manufactured home park would be appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 25, 2015

Joanne Corrow
Le Sueur County Assessor's Office
jcorrow@co.le-sueur.mn.us

Dear Ms. Corrow:

Thank you for submitting your question to the Property Tax Division regarding homestead and the 1b classification. You have provided the following scenario and question.

Scenario:

- A property owner receives a full homestead on her primary residence that you have classified as 1b.
- There is a second home on the parcel which is rented out.

Question:
How should the second home, which is rented, be classified?

Answer:
In our opinion, the property is eligible to receive one full homestead classification. Two separate residences are not considered a duplex for purposes of classification.

In the scenario you outlined, the home occupied by the owner as her primary residence would qualify for the full homestead and the 1b classification, given all requirements are met.

Assuming the occupant of the second home is not a relative of the owner, the rented property would not qualify for the homestead benefit and would be classed as residential non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

March 12, 2015 *Edited 2/24/2021*

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question.

Scenario:

- The property is a house on 30 wooded acres.
- The property owners do not occupy the home.
- The owners were granted a Condition Use Permit from the township to operate a scrapbook retreat center with overnight lodging.
- The property is a 3 bedroom, split-level house.
- The property is rented as one unit, but is set up for 10 guests to share the costs.
- Friday and Saturday nights must be booked together, but all other nights may be booked one at a time. It is generally booked for four nights at a time.
- The property owners supply some scrapbooking materials to lessees, but they do not supply typical recreational activities (e.g., hiking, skiing, snowmobiling).
- The property is available for rent all year, but the property appears to be rented less than 250 days per year. On average it rents out between 125-150 days per year.
- The property is currently classified as commercial, but the owner feels it should be seasonal residential recreational (SRR).

Question: You would like to know if the classification is correct and, if not, how the property should be classified.

Answer: Based on the information provided it appears these properties could qualify for 4b(1) as short-term residential rental properties assuming:

To Qualify for 4b(1) each property meets the following requirements:

- Rented for periods of less than 30 consecutive days
- Containing fewer than four units
- Rented for more than 14 days in the preceding year
- Non-homesteaded

It does not qualify for the commercial Seasonal Residential Recreational (resort) classification because it does not have three or more rental units, and there are no recreational activities provided.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

April 14, 2015

Lana Anderson
St. Louis County Assessor's Office
andersonl3@StLouisCountyMN.gov

Dear Ms. Anderson,

Thank you for contacting the Property Tax Division regarding class 4bb property. You provided us with the following information.

Scenario:

- A property located in your county is currently classified as 1a, residential homestead
- At one point, the property was classified as 4c(12), seasonal residential recreational (SRR)
- The homestead status might be removed

Question: If the property no longer qualifies for homestead, but the ownership stays the same, how should this property be classified? Should it go to non-homestead residential, or should it be SRR?

Answer: The property is likely classified as 4b(1) residential non-homestead, or 4c(12) SRR. Property that has been classified as seasonal residential recreational property at **any time during which it has been owned by the current owner** or spouse of the current owner cannot qualify for class 4bb, non-homestead per Minnesota Statutes, section 273.13, subdivision 25(c). In addition, the property cannot be reclassified as a homestead unless it is occupied by the owner.

Therefore, to determine the classification of this property you must look at who owns and who occupies the property. If the owner no longer occupies this property, there are a few scenarios that the county would have to consider when classifying the property. Please see the table below.

Owner no longer occupies, property is vacant	Owner no longer occupies, a relative occupies	Owner no longer occupies, friend/renter occupies
4b(1) or SRR	4b(1)	4b(1)

You can find additional information regarding classification and homestead in the Property Tax Administrator's Manual, modules 3 and 4.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

April 27, 2015

Elizabeth Vatsaas
Commercial Appraiser
Scott County Assessor's Office
evatsaas@co.scott.mn.us

Dear Ms. Vatsaas:

Thank you for submitting your question to the Property Tax Division regarding classification of a property in Scott County.

Scenario:

- Two single-family homes are owned by the same person.
- The homes are located on separate parcels.
- Each property operates as a licensed family daycare (daycare *centers* are not allowed per zoning).
- Each of the family daycares is licensed to a different individual.
- Neither licensed daycare provider is an owner of either home.
- The homes are non-homestead.
- You have classified the properties as 3a commercial.

Question: Is 3a commercial the appropriate classification of these properties?

Answer: Yes, the 3a commercial classification is appropriate for these properties based on their use as businesses.

Daycares are typically classified as 3a commercial, except when the daycare is provided in a homestead residence.

Minnesota Statutes, section 273.124, subdivision 1, paragraph (i) specifically says;

> *"If a single-family home, duplex, or triplex* ***classified as either residential homestead or agricultural homestead*** *is also used to provide licensed child care, the portion of the property used for licensed child care must be classified as a part of the homestead property [emphasis added]."*

Because the properties are non-homestead, and because they are used for business purposes, the 3a commercial classification is appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

June 18, 2015

Randy Lahr
Stearns County Assessor's Office
randy.lahr@co.stearns.mn.us

Dear Mr. Lahr:

Thank you for submitting your question to the Property Tax Division regarding classification.

Scenario:

- 11.2 acres are owned by a 501(c)(7) organization that operates as a radio controllers club
  - 4 acres are tilled and farmed by a local farmer
  - 4 acres are mowed grass with a metal shed used by the club
  - 3.2 acres are low, unused ground
- The metal shed is used by the club to fly radio controlled airplanes and provide shelter
- The property is not open to the general public; it is open to dues-paying members
- The property is used from May through September each year, twice per week. They hold monthly meetings and have one annual picnic each year.

Question: What is the appropriate classification of this property?

Answer: Based on the use of the property, one of two options would be appropriate: class 3a commercial, or class 5(2) – all other property.

Because the use is limited to members who pay a fee, the commercial classification is likely, even if it is owned by a not-for-profit organization.

The shelter is not a minor, ancillary structure; therefore the property cannot be classified as 2b rural vacant land. Additionally, a 501(c)(7) organization does not qualify for the 4c(3)(i) classification. Finally, it does not meet the requirements for a seasonal residential recreational classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

September 02, 2015

Keith Triplett
Wright County Assessor's Office
Keith.Triplett@co.wright.mn.us

Dear Mr. Triplett:

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- There is a 31.66-acre parcel that has 12 acres of 2a agricultural land that receives Green Acres.
- The owner plans to convert 4 of those 12 acres to a solar farm.
- The solar farm will produce less than 1 megawatt of electricity.

Question 1: Will the 12 acres retain its 2a agricultural classification?

Answer 1: Yes, the land would likely continue to be classified as 2a.

Minnesota Statute 272.02, subd. 24 states that land is classified as class 3a when the following conditions are met:

- The land has a solar energy generation system on it
- The land is primarily used for solar energy production
- It is subject to the solar energy production tax (greater than 1 megawatt of production)

In this situation, because the system will produce less than 1 megawatt of energy, it is not subject to the solar energy production tax, solar energy production would not be considered the primary use of the 4 acre land, and it would *not* be classified as 3a land.

Instead, statute says that the land would be "classified without regard to the system" and therefore based upon what it most likely would be used as if the solar energy generation system was not there. From upon your description of the situation, that means the 4 acres in question would be classified together with the other 8 acres and the 12 acres overall would remain classified as 2a agricultural land.

Question 2: Would there be a Green Acres payback?

Answer 2: There would likely be a Green Acres payback, based upon the information provided., Because only 12 acres are classified as 2a (and only 8 overall are farmed) on 31.66 acres, the property does not appear to be "primarily devoted to agricultural purposes" as required under Minnesota Statute 273.111, subd. 3. In this situation, a majority of the land has not been devoted to agricultural purposes and Green Acres eligibility therefore had not been met. Payback of deferred taxes is necessary based upon this information.

If you have any further questions, please be sure to review the Property Tax Administrator's Manual on our website or send your questions to proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
State Program Administrator
Property Tax
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

September 8, 2015

Michael Thompson
Scott County Assessor's Office
MThompson@co.scott.mn.us

Dear Mr. Thompson,

Thank you for contacting the Property Tax Division regarding solar energy generating systems. You have asked for our opinion on the questions below.

Question 1: Referring to Minnesota Statute 272.02 subd. 24, pertaining to solar energy generating systems: does the language "used primarily for" have similar meaning as "primarily devoted to" does in the Green Acres language?

Answer 1: There are discussions of primary use for both solar energy and for Green Acres, but they mean different things. For solar farms, the description in 272.02 cross-references a production tax that applies to systems that applies to solar energy systems with a capacity of greater than 1 megawatt (MW). The 1 MW capacity will drive a solar farm's definition of "primary use" and classification.

For Green Acres, it is different logic that is used, such as size, income, etc. Both solar energy and Green Acres administration have different overall tests for primary use. For example, acreage amounts might impact primary use for Green Acres purposes but not for solar purposes. For solar, the megawatt capacity will drive the classification.

Potential example 1: A parcel is 80 acres: 20 leased for solar, 60 in agricultural production. The zoning and highest and best use are agricultural.

Question 2: How would this property be classified?

Answer 2: The acreage is primarily agricultural but the 20 acres of solar probably has a capacity greater than 1 megawatt. If the solar panels have a capacity of more than 1 megawatt, the value of the property is most likely being driven by those solar panels. If the value was highest for the solar farm, then the primary overall use would be a solar farm. Therefore, this property could be split classed with 20 acres with the solar system classified as 3a and the remaining 60 acres classified as agricultural.

If the acreage and value are primarily agricultural, than the property may be eligible for Green Acres. However, if the value attributed to the solar system is greater than the agricultural value, the primary use would not be for agricultural purposes and it would not qualify for Green Acres.

Potential example 2: A parcel is 80 acres: 60 leased for solar, 20 in agricultural production. The zoning and highest and best use is agricultural.

Question 3: How would this property be classified?

Answer 3: Similar to the answer to example 1, this property would have a capacity more than 1 megawatt and therefore the value is most likely being driven by the solar panels. The property would be split classified with 60 acres as 3a and 20 acres as agricultural. It is clear that the property is not primarily devoted to agricultural so we feel that it would not qualify for Green Acres.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

October 15, 2015

Becky Kotek
Rice County Assessor's Office
bkotek@co.rice.mn.us

Dear Ms. Kotek:

Thank you for submitting your question to the Property Tax Division regarding classification and homestead. You have provided the following scenario and question:

Scenario:

- A potential buyer is looking at buying a 6-unit apartment complex in Faribault, MN.
- They want to know the implications if they live in one of the units and file for homestead.
- You explained you would have a split class on the property and the owner would receive homestead treatment on the unit he lives in, and not the whole complex.

Question:
Where in the law is it stated that homestead for an apartment is only allowed on the unit the owner lives in?

Answer:
While not explicitly stated in statute, you are correct in split classing the property based on the use of the units of the apartment building. Minnesota Statutes defines a building with four or more units as an apartment, which is does not generally qualify for homestead treatment. In this case, the homestead classification would apply only to the value of the unit occupied by the owner.

Minnesota Statute 273.13, subdivision 22 states that duplex and triplex buildings may receive homestead treatment on the entire building if one of the units is used for homestead purposes.

In assessment practices, classifying a property comes before granting homestead. A building with four or more units is classified as an apartment (4a) and does not fall under the statute granting homestead for the entire property. Homestead is limited to that portion of the apartment complex actually occupied by the owner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

November 19, 2015

Jason Jorgensen
Morrison County Assessor's Office
JasonJ@co.morrison.mn.us

Dear Mr. Jorgensen,

Thank you for contacting the Property Tax Division regarding contiguous property. You provided us with the following information.

Scenario:

- A property owner owns four parcels
- Parcel A is homestead
- Parcel B is rural vacant land – non homestead
- Parcel C is seasonal recreational
- Parcel D is Ag non-homestead
- Parcels A – C are contiguous, Parcel D is separated from the other parcels by a lake

Question: Would Parcel D be considered contiguous to the other parcels since it is separated by a waterway?

Answer: No, Parcel D is not considered contiguous. Minnesota Statute explains that homestead property should include property separated by a road, street, lot, or waterway. In our opinion, the term "waterway" does not include a lake. Therefore, Parcel D should not be considered contiguous to the other parcels.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

November 25, 2015

Steven Hacken
Winona County Assessor
SHacken@Co.Winona.MN.US

Dear Mr. Hacken:

Thank you for submitting your question to the Property Tax Division regarding the classification of land under solar energy production systems. You have provided the following scenario and question.

Scenario:

- A solar farm developer is telling Winona County Commissioners that they have a choice on how land is classified in regard to a solar farm.
- The developer states that the land classification should be agricultural.

Question: Would the classification of a solar farm be commercial?

Answer: Yes; if the property is used primarily for solar electric generation and has a capacity greater than one megawatt, the classification would be commercial. For systems with a capacity of one megawatt or less, the land is classified without regard to the solar system.

As you know, the classification of a property is based on the use of the property, and if the "use" of the property is as described above then the classification would be commercial.

The solar panels are exempt from property taxes under Minnesota Statute 272.02, Subdivision 24.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

December 7, 2015

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the following information.

Scenario:

- Property A and Property B are owned by the same owner
- The two properties are separated by a road
- Property B has a house and a garage located on the parcel
- Property B is classified as 4bb, residential non-homestead
- Property A has only a garage located on the parcel

Question: How should Property A be classified? If a parcel is contiguous to a 4bb parcel under the same ownership, should the 4bb class be extended to the contiguous parcel?

Answer: Property A should be classified as 4b. Property B is classified as 4bb due to the dwelling located on the parcel and the use of the property. Since Property A does not have a dwelling and could potentially be sold as a separate lot from Property B, it does not qualify for the 4bb class.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

December 28, 2015

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@StLouisCountyMN.gov

Dear Ms. Dunsmore:

Thank you for submitting your question to the Property Tax Division regarding managed forest land. You have provided the following scenario and question.

Scenario:

- A parcel is applying to be enrolled in managed forest land classification.
- There is one acre of hay field on the parcel being cut.
- The one acre is adjacent to an agricultural parcel.
- The applicant's forest management plan describes the acre as "wildlife opening which should be periodically mowed."

Question:
Should this acre be considered "wildlife opening" and be allowed in the managed forest land classification?

Answer:
Yes, the one acre described as "wildlife opening" in the forest management plan may be included in the managed forest and classified as 2c. The "wildlife opening" is one acre and does not meet the minimum 10 acre rule to be classified as agricultural and the one acre is included in the forest management plan, so it may be 2c.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

January 13, 2016

Joanne Corrow
Le Sueur County Assessor's Office
jcorrow@co.le-sueur.mn.us

Dear Ms. Corrow:

Thank you for submitting your question to the Property Tax Division regarding homestead. You have provided the following scenario and question.

Scenario:

- Campground on a lake is currently classed 4c(1) – Commercial Seasonal Residential Recreational
- It is owned by an LLC with 2 shareholders (50% ownership each)
- One shareholder is going to build a house on the property and wants to homestead it
- Classification will change to split class, Ma & Pa Resort (1c) and residential (1a)

Question:
Will the residential portion get 100% homestead, or is the homestead based on his 50% ownership share?

Answer:
The property would qualify for 100% homestead. Since the property is owned by the LLC, one of the shareholders must reside in the home for the resort property to be eligible to receive a homestead. When granting homesteads to entity-owned resort properties, there is no need to base it on the percentage of ownership in the entity. The law only requires that the person be a "qualified person" (a shareholder, member, or partner) in an authorized entity. In the scenario you have outlined, a member/shareholder of the entity will use a portion of the resort as the homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
State Program Administrator
Information and Education Section
Property Tax Division
Phone: 651-556-6099
Email: proptax.questions@state.mn.us

July 18, 2016

Amy McDonnell
Clay County Assessor's Office
amy.mcdonnell@co.clay.mn.us

Dear Ms. McDonnell,

This is a follow up letter regarding our response on April 6, 2016. We revisited our answer and reviewed the situation again and regretfully we have changed our response. We apologize for the confusion, please see our updated response below.

Scenario:

- There is a property that is 40 acres in size.
- The county has classified it as residential/rural vacant land.
- The homeowner contacted the county regarding the classification.
- The homeowner stated that 30 acres is being rented for pasturing 25 head of beef cows with their calves, so 50 head total.
- The county requested a copy of a Schedule F.
- The homeowner stated they did not file a Schedule F, but provided the county with a copy of a Schedule E showing $400.00 of income.

Question: Is this enough to change the classification to agricultural?

Answer: According to the information you provided, it appears that this property may qualify for the agricultural classification. Minnesota Statute 273.13, subdivision 23 explains that agricultural property must be at least 10 acres and used for agricultural purposes. Assuming the beef cows are being sold by the farmer for a profit, then the leased land would qualify for the agricultural classification. We would recommend that the county request a copy of the farmer's Schedule F to verify whether the agricultural product is indeed being sold.

Please be aware that our opinion is only a recommendation. You must make the final determination of the proper classification of the property. If the property owners disagree with your determination, they may follow the appropriate avenues of appeal. We have formed this opinion based solely on the facts provided. If any of the facts differ, our opinion would be subject to change.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

November 4, 2016

Michael Wacker
Pope County Assessor
michael.wacker@co.pope.mn.us

Dear Mr. Wacker:

Thank you for submitting your question to the Property Tax Division regarding the proper taxation of commercial property. You have provided the following:

Scenario 1:

- A farmer owns a 160 acre parcel of land and Verizon leases 5 acres of the parcel for a cell tower.
- The original 160 acres remain intact since a separate parcel was not created for the cell tower.
- The tax bill is sent to the owner of the parcel instead of Verizon since the company did not purchase the 5 acres.

Question: Is Pope County correct in their current application of property taxes concerning this parcel?

Answer: Yes. As long as the property in the scenario remains fully owned by the farmer then the farmer is responsible for any and all taxes. The only way taxes would become the responsibility of Verizon is if an easement is recorded for the 5 acres and a separate PID created that includes the easement's legal description.

Scenario 2:

- A farmer sells a parcel of land that includes bins.
- The farmer maintains ownership of the bins by way of a lease.
- The county assesses value of the bins to the parcel, and then values the bins on a second record so the owner knows what taxes are generated by the added value of the bins.

Question: Is Pope County correct in their current application of property taxes concerning this parcel?

Answer: Yes. Although the farmer holds a lease to the bins, the lease does not grant ownership of the bins to the farmer. Similar to the scenario above, the landowner could pass the taxes onto the farmer if covered by the lease, but the owner of the real estate is technically responsible for the taxes.

In sum, there is no reason to separate the real estate (land from cell tower/bins) in the scenarios you have provided. Minnesota law describes real property as the land and any buildings or improvements on it. Even if the building is owned by someone other than the land, it is treated as part of the real estate unless it is one of the specific exceptions identified in law (e.g. certain leasehold cooperatives, common-interest elements, privately-owned improvements on federal property, etc.).

I have included a memo that was sent to all assessors in 2013 concerning the taxation of billboards and antenna/tower sites for reference.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator, Information & Education Section
Property Tax Division
Phone: 651-556-6773
Email: proptax.questions@state.mn.us

June 1, 2017

Andrea Fish
Department of Revenue
andrea.fish@state.mn.us

Dear Ms. Fish,

Thank you for submitting your question to the Property Tax Division regarding the classification of property. You have provided the following question:

Question:

How is the land beneath a class 1d housing structure classified?

Answer:

The land under a structure classified as 1d should be class 2a, agricultural land. Statute [Minnesota Statutes 273.13, subdivision 22, paragraph (d)], states the structure is classified as 1d when it is located on property that is classified as agricultural property under M.S. 273.13, subdivision 23. In M.S. 273.13, subdivision 23, paragraph (b) class 2a is defined as agricultural land, therefore; assessors should be applying class 2a to the land a class 1d structure is located on. If the structure is not located on land classified as agricultural, the structure should not be classified as 1d.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor
Property Tax Division
Information & Education
Phone: 651-556-6091

July 25, 2017

Carrie Borgheiinck
Hennepin County Appraiser's Office
Carrie.Borgheiinck@hennepin.us

Dear Ms. Borgheiinck,

Thank you for submitting your question to the Property Tax Division regarding classification and agricultural preserves. You have provided the following scenario and question:

Scenario:

- Several parcels of contiguous agricultural land were enrolled in the Metropolitan Agricultural Preserve Program.
- A covenant covering the parcels is in effect until May 1, 2024.
- One parcel, approximately 10 acres in size, was sold in February of 2016.
- The parcel does not meet the agricultural classification due to the size and contiguous use requirements.

Question: Can a parcel enrolled in the Metropolitan Agricultural Preserve Program have its classification changed from agriculture to another classification if the parcel no longer qualifies for the program?

Answer: Yes, if a parcel is no longer used for agricultural purposes, then the assessor should change the classification to reflect the parcel's current use. The fact that the parcel is enrolled in the Metropolitan Agricultural Preserve Program and subject to the terms of a covenant, would not dictate the classification of the parcel if the use has changed. Any covenant violations based on use or size requirements should be addressed by the local governmental body, since the program is administrated locally.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

August 4, 2017

Tina VonEschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. VonEschen,

Thank you for submitting your question to the Property Tax Division regarding classification when there are multiple residences on an individual parcel. You have provided the following scenario and question:

Scenario:

- In your county there are multiple unplatted parcels, over 20 acres in size, that have multiple structures located on them.
- The uses of the structures vary between:
    - Residential use – including occupancy by the owner, a relative of the owner and non-relatives of the owner.
    - Seasonal use.
- The parcels have rural vacant land located on them.
- Since the parcels are over 20 acres, the county must split classify the parcels according to the use.

Question: How should the county split classify a parcel, over 20 acres, when there are multiple structures with multiple uses located on a parcel?

Answer: When a parcel is 20 or more acres in size and is improved with a structure (other than a minor or ancillary structure) the structure and the immediately surrounding 10 acres are classified according to the use of the structure. In the case where there are two or more structures that are being used residentially, 10 total acres would be split out between the two structures and the rest of the property would be classified according to its use.

For example, if there is a 40 acre parcel with two structures, one structure is occupied by the owner and the other structure is occupied by a relative or non-relative, the county should take 9 acres with the structure occupied by the owner and one acre with the other structure being used residentially, totaling 10 acres. The rest of the property would be classified according to use. The owner could apply for homestead on the structure and the 9 acres and the relative could apply for a relative homestead on the structure and one acre.

If one of the two structures is being used seasonally the county should use the same methodology and take 9 acres with the structure that is being used as a residence, then take one acre for the seasonal property and then classify the rest of the land according to use. In the case where both structures are being used seasonally, the two structures would be classified in the same way, 9 acres to one of the

seasonal structures and 1 acre to the other seasonal structure. Again, the rest of the land would be classified according to use.

Finally, please keep in mind if there is a situation where more than 10 acres is being used residentially/seasonally, then you must classify that portion of the property according to its use. Therefore, there could be a chance that you have more than 10 acres attached to a structure/structures depending on the use of the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey
State Program Administrator Coordinator
Property Tax Division
Information & Education
Phone: 651-556-6091

September 5, 2017

Bryan Eder
Olmsted County Assessor's Office
eder.bryan@co.olmsted.mn.us

Dear Mr. Eder,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following question:

Question:

When is it appropriate to use the 4b(2) Unclassified Manufactured Home classification?

Answer:

There are limited instances where 4b(2) may be the appropriate classification. Class 4b property is non-homestead residential real estate, typically either the primary residence of someone or a vacant dwelling not used for any purpose. Minnesota Statute 273.13, subdivision 25, paragraph (b) states:

> *Class 4b includes:*
> *(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential recreational property;*
> ***(2) manufactured homes not classified under any other provision;***
> *(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units; and*
> *(4) unimproved property that is classified residential as determined under subdivision 33.*

As you are aware, property is classified according to its use. An example may be when a manufactured home's use is not for a commercial purpose, does not qualify as a 4c(12) seasonal residential recreational (cabin), and is not a unit within a 4c(5)i manufactured home park. Therefore, when there is no other use for the manufactured home it could be appropriately classified as 4b(2). Since this classification is rarely used by assessors throughout the state, it is important to follow your county guidelines/procedures on how to classify manufactured homes that don't have a current use and that are not part of a dealer inventory.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin, State Program Administrator
Property Tax Division
Information & Education

Phone: 651-556-6091

September 5, 2017

Deb Lowe
Morrison County Auditor-Treasurer Office
debl@co.morrison.mn.us

Dear Ms. Lowe,

Thank you for submitting your question to the Property Tax Division concerning Class I Manufactured Home Park education requirements. You have provided the following question:

Question: Are the 12 educational hours for 4c(5)(iii) classification specific courses, or can the county utilize some of the hours to educate park owners on the needs of the county to ensure their manufactured home parks run smoothly?

Answer: Qualifying educational courses must be approved by the Department of Labor and Industry or the Department of Commerce. Please see Minnesota Statute 327.01 subdivision 13 for the stated requirements and corresponding number of hours per course type.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

October 10, 2017

Mike Harvey
Dakota County Assessor's Office
Michael.harvey@co.dakota.mn.us

Dear Mr. Harvey,

Thank you for submitting your question to the Property Tax Division regarding condominium-type storage units. You have provided the following scenario and question:

Scenario:

- In your county, condominium-type storage units used for residential storage are owned by both individuals and LLCs.

Question:

For the newly enacted 4bb(3) class, can a parcel owned by an LLC still qualify?

Answer:

Yes. A condominium-type storage unit owned by an LLC would qualify for 4bb(3) provided the unit has a separate parcel identification number and is not used for commercial purposes. Minnesota law allows entities to own property, therefore an entity such as an LLC would be considered a valid owner and may qualify for the 4bb(3)- Condominium Storage Unit classification for the 2018 assessment year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 27, 2017

Kathy Hillmer
Redwood County Assessor's Office
Kathy_H@co.redwood.mn.us

Dear Ms. Hillmer,

Thank you for submitting your question to the Property Tax Division regarding split classification. You have provided the following scenario and question:

Scenario:

- There is a 5.49 acre parcel currently split classified residential homestead and commercial.
- The property is occupied by the owners and has been improved with a house, attached garage, and a 1,600 ft^2 shop building.
- Owners operate a trucking business registered to this address.
- Office and truck storage associated with the business are located on this parcel.

Question: Is this parcel correctly split classified between residential and commercial?

Answer: Yes, according to the information you have provided it appears the county is correctly classifying this property. As you are aware, Minnesota law requires that assessors classify properties according to their use for property tax purposes. If there are two or more identifiable uses the assessor may split classify the property.

In the scenario you have outlined, it appears that a portion of the parcel is being used commercially and is appropriately split classified residential/commercial. It is important to note that in a split class situation involving a homestead, it is never appropriate to extend the homestead benefits to any portion(s) of the property which are not used for residential homestead purposes. Please see the Homestead Module (Module 4) of the Property Tax Administrators Manual for further information.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

February 1, 2018

Bryan Eder
Olmsted County Assessor's Office
eder.bryan@co.olmsted.mn.us

Dear Mr. Eder,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Six parcels (A, B, C, D, E, and F) are part of an Agricultural Value Tier Linking chain.
- The first parcel (A) contains the HGA.
- Three of the linked parcels (B, C, and D) have single family residential non-homestead dwellings.
- Parcel D is classified 2b rural vacant land.
- Parcels E and F are classified as agricultural land and do not have any dwellings.

Question:

In Agricultural Value Tier Linking situations where multiple parcels in the chain also have residential non-homestead dwellings, should they be classified 4b(3) or 4bb?

Answer:

In the situation you have outlined, the fact that the parcels are part of a value linking chain would not impact the classification of the non-homestead residential units located on the individual parcels. Since each of the parcels have a unique PID, it would appear that 4bb is the correct classification for the non-homestead residential units located on parcels B, C, and D. If a second dwelling was located on the same parcel, then both structures would be classified as 4b(3).

If parcel D is over 20 acres, and classified as 2b rural vacant land, the dwelling unit and surrounding 10 acres would be classified according to the use of the structure. If the parcel is **less than** 20 acres then the entire parcel would be classified according to the use of the structure.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division

Phone: 651-556-6091

February 23, 2018

Lisa Janssen
St. Cloud City Assessor's Office
Lisa.Janssen@ci.stcloud.mn.us

Dear Ms. Jannsen,

Thank you for submitting your question to the Property Tax Division regarding residential properties. You have provided the following scenario and question:

Scenario:

- There is a residential property, located in the city, with two houses on one parcel.
- The property owner lives in house A.
- House B is occupied by a non-relative.

Question: Under what classification would house B fall under?

Answer: The homestead unit, house A, should be classified as residential homestead, while the non-homestead unit, house B, should be classified as 4b(1), Residential Non-Homestead. This results in a split classification of the parcel. Property must be classified according to use, therefore if the use of house A and/or house B changes to something other than residential, the assessor must change the classification of the parcel.

We've attached our 2016 Non-Homestead Classification memo for your reference. This should assist you with how to handle parcels that have more than one unit located on them. .

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

April 11, 2018

Mark Landsverk
Polk County Assessor's Office
mark.landsverk@co.polk.mn.us

Dear Mr. Landsverk,

Thank you for submitting your question to the Property Tax Division regarding a class 4d Low Income Housing property that was recently sold. You have provided the following scenario and question:

Scenario:

- A group home qualified in the 2017 assessment year for the 4d Low Income Housing classification.
- The property was sold January, 2018.
- It is unknown what the use of the property will be under the new ownership.

Question: Should the 4d classification be changed immediately pending the new owner applying to the Minnesota Housing Finance Agency (MHFA)? If removed, should it be for taxes payable in 2018 or 2019?

Answer: Due to the timing of the sale it appears any changes in classification would be for the 2018 assessment year, taxes payable 2019. The deadline for property owners to apply to MHFA was March 31, 2018. MHFA has a deadline of June 1 to certify properties and the number of eligible units to the counties for assessment year 2018, taxes payable year 2019. To remain eligible for the program, property owners must reapply every year. If a property is sold and continues to be used as low income housing, it is our understanding that the new owner would still need to make a new initial application to MHFA.

It would be up to the assessor to decide if it is appropriate to change the classification of the property immediately due to the sale, or to wait until the MHFA report is provided in June and the use of the property has been established.

You can find additional information regarding 4d low income housing classification in the Property Tax Administrators Manual, Module 3 Classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

August 9, 2018

Tina Diedrich-Von Eschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. Diedrich-Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property that had been classified as a 1c homestead resort was re-classified by your county due to it not being located on a body of water and lack of demonstrable income from recreational activities.
- The owner appealed to the County Board of Appeal and Equalization (CBAE) but was denied.
- The CBAE did raise the question of whether or not the Mille Lacs Driftskippers Trail that abuts the property qualifies as a Department of Natural Resources (DNR) trail since the trail receives state aid for maintenance.
- The DNR website does not indicate any state trails in Kanabec County.

Question: Would DNR funding to maintain a snowmobile trail qualify as a state trail administered by the DNR, thus meeting the statute requirement of Minnesota Statutes, section 273.13, subdivision 22?

Answer: Statute states that if a commercial property does not abut public water then it must abut a DNR trail to qualify for the 1c classification. If it has been determined that there are no DNR administered trails in Kanabec County, and the property does not abut public water, then the property would not qualify for 1c classification. The county could contact the DNR to find information on how a DNR trail is established and to verify whether the trail is administered by the DNR or not.

Our opinion is based on the facts provided. If the facts were to change then our opinion could change as well. Ultimately, classification of a property must be determined by the assessor based on the use of the property and the requirements listed in Minnesota Statutes.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 20, 2018

Tina VonEschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. VonEschen,

Thank you for submitting your question to the Property Tax Division regarding classification of a structure that is less than 300 square feet in size. You have provided the following scenario and question:

Scenario:

- An 80 acre parcel located in Kanabec County has a residential structure
- There is also a small structure which is located towards the back of the parcel.
- Approximately 32.5 acres are classified as 2a agricultural homestead, which includes the HGA.
- The remaining 46 acres are classified 2b rural vacant land.
- The small structure is less than 300 square feet, has LP tanks and a nearby outhouse.
- The owners cut grass/hay around the structure.
- The structure is not near the agricultural site and the land around the structure is not classified as agricultural.
- In the past the structure was used for recreation (hunting), the owners now refer to the structure as an "agricultural shed". The shed is not being used for agricultural purposes.
- In assessment year 2018 the county split-classified the structure as 4c(12) seasonal residential recreational.

Question: What excludes a small structure that is less than 300 square feet in size from being considered a 'minor ancillary' structure?

Answer: Minor ancillary structures are ones that are 300 square feet in size or less, used only occasionally, do not include water, sewer, or electrical hook-ups, do not have kitchens, separate bedrooms, gas service, or otherwise add only minimal value to the property. These criteria and the use of the structure should be used in determining if a structure is minor and/or ancillary. In other words, the size of the structure is not the only requirement for a structure to be considered minor and/or ancillary. It is recommended to conduct a full site visit to determine the use, what utilities are present, and overall value of the structure. Ultimately, the assessor must make a determination of the use of the structure and classify it accordingly.

Question: How should the small structure be classified if the assessor determines it does not meet the definition of a minor ancillary structure? Will the classification of the structure change the classification of the parcel?

Answer: If the assessor determines that the structure is not a minor ancillary structure, then the assessor will need to classify the structure according to its use. It appears that the parcel also consists of 2b rural vacant land; therefore if the structure is not minor and/or ancillary, the assessor must carve out 10 acres with the structure.

The land and structure then should be classified according to the use of the structure. The remaining acres should be classified according to use, which appears to be 2b rural vacant land. It is important to remember that when there is a parcel that is over 20 acres in size and has a non-minor/ancillary structure on the parcel, the assessor must take 10 acres with each structure before the assessor can classify any remaining land as 2b. The only exception to this requirement is when the structures are located close to each other and the assessor can carve out a total of 10 acres encompassing both structures. It appears that the residential improvement and the small structure are located on different ends of the parcel, therefore you must carve out at least 10 acres with each structure.

Question: Would agricultural production around the structure change the classification of the land or structure?

Answer: The use of the land and the use of the structure must be classified separately. For a structure to be classified as agricultural, it must be used for agricultural purposes. If the land around the structure meets the requirements to be classified as agricultural, then the assessor would classify the land as agricultural. However, if the use of the structure is not being used for agricultural purposes, then the assessor cannot classify the structure as agricultural. Again, the assessor must classify the structure and the land separately, according to its use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 8, 2018

Patrick Todd
City of Minneapolis Assessor's Office
patrick.todd@minneapolismn.gov

Dear Mr. Todd,

Thank you for submitting your question to the Property Tax Division regarding 4d, qualifying low income rental property classification. You have provided the following questions:

Question: Can an owner-occupied duplex or triplex with a qualifying homestead or relative-homestead enroll in the 4d classification?

Answer: It is important to remember that classification comes before homestead, so the property must be classified according to its use prior to reviewing the property for homestead status. If the use of the duplex or triplex meets the requirements for the 4d classification, then the assessor must classify the structure/unit accordingly.

Minnesota statue 273.13, subdivision 22 explains that if one of the units of a duplex or triplex is used for a homestead, then the entire property is deemed to be used for homestead purposes. However, this only applies to 1(a) residential properties. If the assessor determines the property should be classified as 4d, low income rental housing, then the entire structure would not qualify for homestead. The unit that is occupied by the owner or a relative of the owner as their primary place of residency would qualify for homestead and would need to be classified as 1a, residential.

Question: How would the taxes be calculated in this scenario?

Answer: The taxes would be calculated similar to other split classified properties. The homestead exclusion would only apply to the unit that is classified as residential homestead. In the example you provided, if the duplex has a value of $550,000 where each unit is valued at $275,000 the assessor would calculate the tax capacity for the $275,000 homesteaded unit separately. The homestead exclusion would only be calculated on that $275,000 unit as well, not the structure's value of $550,000. Once the taxes are calculated on the 1a unit, then the taxes for the other unit classified as 4d would be calculated.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 30, 2018

Tina Diedrich-Von Eschen
Kanabec County Assessor's Office
tina.voneschen@co.kanabec.mn.us

Dear Ms. Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner is developing individual contiguous parcels for rental housing use
- Parcel A has a twin home (2 units, sharing a wall)
- Parcel B has a twin home
- Parcel C has a twin home
- Parcel D has a single unit home
- Parcel E has a twin home.

Question: Should these parcels be combined and classified as 4a, residential non-homestead 4+ units, due to the parcels being contiguous and under common ownership? If not, should the twin homes be classified 4(b)1, residential non-homestead 1 – 3 units and the single unit home 4bb(1) residential non-homestead single unit?

Answer: Since the residential units are located on separate parcels, they would be classified according to use and the number of units located on each independent parcel. If any of these parcels were developed with four or more units (in the same structure or in multiple structures) than the 4a classification would be appropriate. See the Property Tax Administrator's Manual, Module 3 Classification for examples of classification for parcels containing multiple units.

In this case each independent parcel appears to contain less than four units therefore we would not advise combining the parcels and units to reach the threshold for the 4a classification. Each unit on parcels A, B, C, and E would be classified 4b(1) and parcel D would be classified 4bb(1).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 7, 2018

Carrie Borgheiinck
Hennepin County Assessor's Office
carrie.borgheiinck@hennepin.us

Dear Ms. Borgheiinck,

Thank you for submitting your question to the Property Tax Division regarding classification. You have asked for guidance on how to classify contiguous parcels under the same ownership.

Question: How should parcels be classified when there are multiple parcels that are contiguous, unplatted, and under the same owner? How should the homestead be applied?

Answer: It is important to remember that classification is based on the use of the parcel. Each parcel must be viewed independently and must be classified according to use. You can find specific laws for the classification of property in Minnesota Statute 273.13.

Homestead is based on occupancy and ownership. Determining whether a property qualifies for homestead should come **after the use has been identified**. You can find laws for homestead determination in Minnesota Statute 273.124. Residential homestead benefits can be extended to multiple parcels under the same ownership as long as the use (classification) of the parcel is residential. Residential homestead benefits cannot be extended to parcels that are not used residentially.

When there are multiple uses on a single parcel, the county must split classify the parcel according to the appropriate use (or uses) of the parcel. If there is rural vacant land located on a parcel the assessor must consider the requirements in statute for split classifying a parcel that has 2b, rural vacant land. The statutory requirements for 2b, rural vacant land include:

- The land cannot be improved with a structure, unless the structure is minor, ancillary and non-residential.
- If any structure or group of structures totals 300 or more square feet, or if any structure is used residentially on more than an occasional basis, or if there is an improved building site that provides water, sewer or electrical hook ups for residential purposes, the property must be split-classed according to the appropriate use or uses of the property.
- If the parcel is **20 acres or more in size and improved with a structure** that is not a minor, ancillary non-residential structure, it must be split-classed. The assessor must assign the improved part of the parcel, plus 10 acres to an appropriate classification, the remainder will be class 2b.

Lastly, when split classifying property the 20 acre rule only applies to 2b, rural vacant land. If a parcel has a residential use and a commercial use, the assessor must classify that parcel according to the two uses, no matter the size of the parcel. Primary use is another factor when determining classification and there are multiple uses on a parcel.

Scenario 1:

- Parcel A: 5.75 acres, contains the majority of the house
- Parcel B: 24.44 acres
  - 11.19 acres are types 3,4, and 5 wetland
  - Contains a small part of the house and the garage as well as two sheds that are used residentially.
- The parcels are:
  - unplatted,
  - owned by the same owner
  - occupied by the owner
  - do not qualify for the agricultural classification

Answer:

- Parcel A: Since the parcel is less than 20 acres, the county must classify the parcel according to the use of the structure. It appears the parcel could be classified as residential. If all homestead requirements are met the parcel could also qualify for a homestead and could be classified as a 1a, residential homestead. If homestead requirements are not met, the parcel would be classified as 4bb(1) residential non-homestead.

- Parcel B: There are a few options for classifying this parcel. This parcel could be split classified since it is over 20 acres, consists of rural vacant land, and has structures located on it but there are some factors to consider first. The assessor must first identify the size of the structures.
  - If the two sheds meet the definition of a minor, ancillary structure then the entire parcel could be classified as 2b, rural vacant land.
  - If the sheds are not minor or ancillary, then the assessor must split classify the parcel. Since the sheds are near eachother, 10 acres around the two sheds (that are not minor or anicillary) should be classified according to the use of the sheds. The rest of the parcel would be classified as 2b, rural vacant land.

Scenario 2:

- Parcel A: 10.55 total acres
  - 3.41 acres are types 3,4, and 5 wetlands
    - Contains small portion of main driveway and secondary driveway.
    - Used for yard, personal storage of trailers, pasture of owner's horses, and a pond with 2 docks.
- Parcel B: 10.36 total acres
  - 2.80 acres are types 3,4, and 5 wetlands
    - Contains the house, a shed, majority of the driveway, fenced in area for owner's horses, and small hay field.
- The parcels are:
  - unplatted
  - Owned by the same owner,
  - Occupied by the owner
  - do not qualify for the agricultural classification

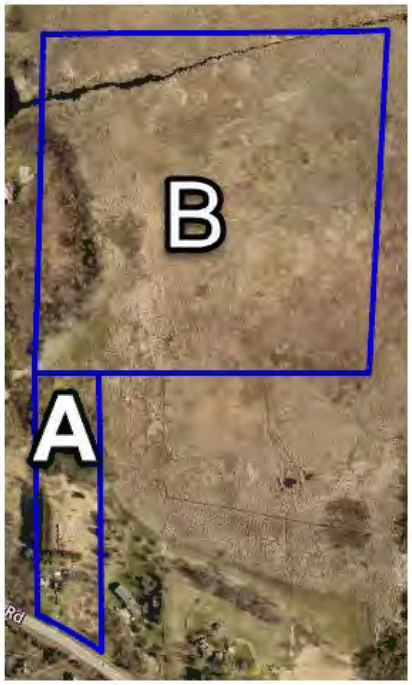
Answer:

We will start with parcel B since that parcel contains the house.

- Parcel B: Since this parcel is not 20 acres or more and improved with a structure, the parcel cannot be classified as 2b rural vacant land. The entire 10.36 acres must be classified according to the use of the structure. Therefore, it appears that this parcel would qualify for a residential classification. If homestead requirements are met, the property would be a 1a, residential homestead. If homestead requirements are not met, the property would be classified as 4bb(1) residential, non-homestead.

- Parcel A: There are a couple of classification options for this parcel. It appears that the primary use of this parcel could be residential or rural vacant land. If the county determines that the primary use is residential, then the parcel could be classified as residential and the homestead benefits from parcel B could be extended to parcel A. If the homestead benefits are extended, then the classification would be a 1a, residential homestead. If the county determines that the primary use of the parcel is rural vacant land, then the county must verify that the structure is a minor, ancilliary structure before classifying the parcel as 2b, rural vacant land. If the structure **is not** a minor, ancillary structure then the county cannot classify the parcel as 2b rural vacant land and should classify according to the use of the structure.

Scenario 3:



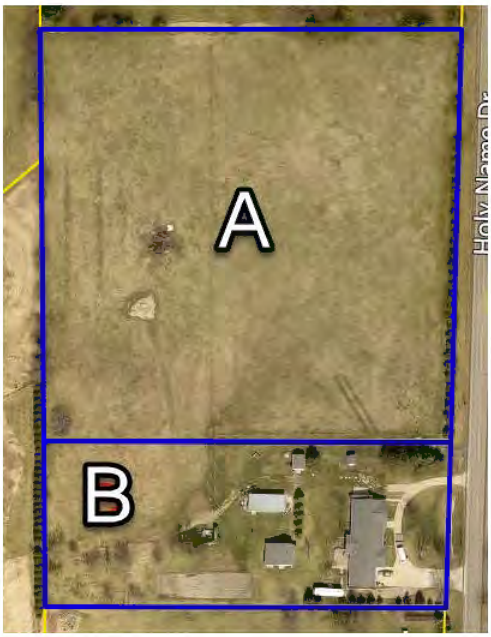
- Parcel A: 5.71 total acres
  - Contains the house and sheds.
- Parcel B: 40.26 total acres,
  - 33.79 acres of types 3,4, and 5 wetlands
  - Basically idle, perhaps occasionally used for recreation.
- These parcels are:
  - Unplatted
  - owned by the same owner
  - occupied by the owner
  - do not qualify for the agricultural classification

Answer:

- Parcel A: It appears the use of this parcel is residential. If all homestead requirements are met, the property would be classified as 1a residential homestead. If homestead requirements are not met, the property would be classified as 4bb(1) residential non-homestead.

- Parcel B: There are a couple classification options for this parcel. It appears this parcel most likely would be classified as 2b, rural vacant land. A structure is not located on this parcel and the primary use of the parcel is wetlands. Homestead benefits would not be extended to this parcel because the primary use is not residential. However, if the county determines that the **primary use** of parcel B is residential, then the county could classify the parcel as residential and extend the homestead benefits from parcel A. In that case, parcel B would be classified as a 1a, residential homestead.

Scenario 4:



- Parcel A: 5.19 total acres
  - Used as pasture for a qualifying ag product and is produced for sale
- Parcel B: 2.04 total acres
  - 0.69 acres pasture for a qualifying agricultural product and is produced for sale.
  - Occupied by the owner.
  - The sheds appear to be being used for personal storage, or some supporting of the pasture.
- The parcels are unplatted and under the exact same ownership

Questions:

- How should the acreage on these parcels be broken down for classification and homestead?
- Does the ownership of the two parcels affect Parcel A's ability to qualify for agricultural classification as exclusive use?

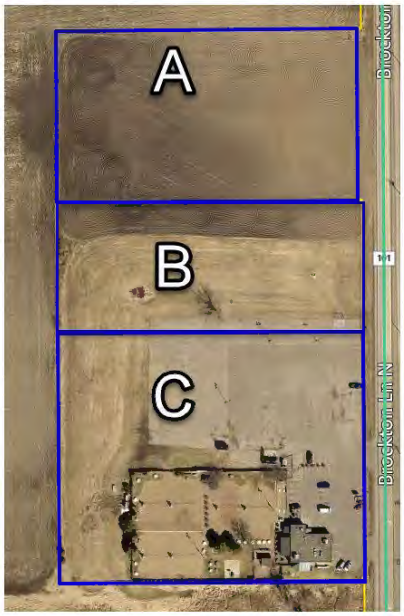
Answer:

- Parcel A: It appears that this parcel would qualify for the 2a, agricultural classification because it is being used exclusively for an agricultural product. It would not qualify for homestead because it is being used exclusively for agricultural purposes and homestead benefits cannot be extended in that situation. Therefore, the parcel would be classified as 2a agricultural non-homestead.

- Parcel B: This parcel does not qualify for the agricultural classification because it is less than 10 acres and it is not being used intensively. Therefore, the county would classify this parcel according to the use of the structure. It appears that the structure is being used residentially as well as the sheds that are located on the parcel. The entire parcel could qualify for a residential classification and if homestead requirements are met, it could qualify for a 1a residential homestead. Again, the homestead benefits **cannot extend** to parcel A since the parcel is being **used exclusively for agricultural**. If parcel A was not being used for agricultural purposes, it would be possible to classify parcel A as residential and extend the homestead benefits. It is ultimately up to the county to determine the primary use of each parcel and classify accordingly.

- Lastly, the two contiguous parcels being owned by the same owner does not affect the classification of the parcels. The county must independently classify the parcels according to their use, then determine homestead eligibility.

Scenario 5



- Parcel A: 2.76 total acres, 100% is tilled.
- Parcel B: 2.14 total acres
  - 0.60 acres is tilled.
  - 1.05 acres cut for hay
  - 0.15 acres parking lot for restaurant on parcel C
  - the remaining 0.34 acres is idle or mowed
- Parcel C: 4.04 total acres
  - 3.30 acres dedicated to restaurant, parking lot, and volleyball courts
  - 0.74 acres cut for hay
- Currently parcel A and B are classified as 2a, agricultural and parcel C is 3a, commercial.

Question:

How should the acreage on these parcels be broken down for classification? Does the ownership of the three parcels affect Parcel A's ability to qualify for agricultural as exclusive use?

Answer: The contiguous parcels being owned by the same owner does not affect the classification of the parcels. The county must independently classify the parcels according to their use, then determine homestead eligibility.

- Parcel A: It appears that this parcel would qualify for the 2a, agricultural classification because it is being used exclusively for an agricultural product. It would not qualify for homestead because it is being used exclusively for agricultural purposes. Therefore, the parcel would be classified as 2a agricultural non-homestead.

- Parcel B: It appears that this parcel would not qualify for the 2a agricultural classification because there are multiple uses and it is not being used exclusively for agricultural purposes. It appears that the primary use of the parcel is used for hay, however it is not being tilled/hayed border to border. According to the information, it appears the parcel could be classified as 3a due to the existence and the commercial use of the parking lot. However, the county does have the authority to classify the parcel according to its use.

- Parcel C: We would agree that the primary use of this parcel is dedicated to the commercial business, therefore the parcel would be classified as 3a, commercial.

December 18, 2018

Jason McCaslin
Jackson County Assessor's Office
jason.mccaslin@co.jackson.mn.us

Dear Mr. McCaslin,

Thank you for submitting your question to the Property Tax Division regarding classification and homestead. You have provided the following scenario and questions:

Scenario:

- Property owners own two contiguous parcels.
- Parcel A is 6 acres, contains the house that the owners live in.
- Parcel A is currently classified as residential homestead.
- Parcel B is 3 acres and contains a greenhouse, a small retail store, and the remaining land is a field with some woods.
- Parcel B is currently split classified as agricultural and commercial.

Question 1: Is the classification of parcel B correct?

Answer: Minnesota Statute 273.13, subdivision 23(j) explains that a greenhouse can qualify for the agricultural classification if the greenhouse is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally used as a showroom for the retail sale of those products. This provision in statute does exclude the greenhouse from the 10 acre minimum requirement, however it does not exclude the greenhouse from the "agricultural products" requirement. Therefore, the products in the greenhouse must be an agricultural product that is defined in M.S. 273.13, subd. 23(i).

If the assessor determines that the greenhouse meets the requirements outlined in M.S.273.13, then the greenhouse would qualify for the agricultural classification. However, the greenhouse does not qualify the entire parcel for the agricultural classification. There may be three classifications on this parcel, since there are three different uses. The greenhouse should be classified as agricultural, if all requirements are met, the retail store classified as commercial and the remaining land classified according to its use. It seems that the most probable use would be residential, however the assessor must make that determination.

Question 2: Since parcel A is receiving a homestead, could those homestead benefits be extended to parcel B?

Answer: If the assessor determines that the remaining land on parcel B is being used for residential purposes, then the residential homestead benefits from parcel A could be extended to *that portion* of parcel B. Since the base parcel (parcel A) is residential the only homestead benefits that could be

extended would be to the residential portion of parcel B. The residential homestead benefits cannot be extended to the portion of the parcel that is classified as agricultural or commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 27, 2018

Lisa Janssen
St. Cloud City Assessor's Office
lisa.janssen@ci.stcould.mn.us

Dear Ms. Janssen,

Thank you for submitting your question to the Property Tax Division regarding a second dwelling unit on a parcel. You have provided the following scenario and question:

Scenario:

- A second house was moved onto a parcel with an existing homesteaded farmhouse.
- The owner has moved into the new house.
- The original farmhouse is now being rented out.
- Local zoning does not allow two dwelling units on the parcel.
- The local unit of government has given the property owner until the end of 2019 to bring the parcel into compliance by removing one of the homes or to combine the new home and the farmhouse to form one compliant structure.

Question: Should this second home value be put on the tax roll? If so, would the homestead move to the new house?

Answer: Based on the information provided it would be necessary to assess both homes without regard to the local zoning. Property improved with a structure is assessed based on current use, unlike bare land which would look to the highest and best use and take into consideration local zoning. The underlying issue with the local zoning prohibiting two dwelling units on a parcel would require a reassessment when the required corrective actions are taken.

If the farmhouse is currently classified as 1a residential homestead, and the owner completes a new homestead application, this parcel should be split classified 1a on the new house, and 4b(1) for the farmhouse that is being rented out. Since there is more than one unit on the parcel it would not be eligible for 4bb(1). If a homestead application is not completed based on the owner's move into the new house, then the homestead would be removed and the entire parcel, including both structures, would be classified 4b(1).

If the existing farmhouse is part of an agricultural homestead, the same scenario would apply. If the homestead application is received and approved then the new house should be classified as 2a and the old farmhouse should be classified as 4b(3). If the homestead is removed the structures would be classified as 4b(3) and the remainder of the agricultural land would be classified 2a non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

February 6, 2019

Lorna Sandvik
Nicollet County Assessor's Office
Lorna.Sandvik@co.nicollet.mn.us

Dear Ms. Sandvik,

Thank you for submitting your question to the Property Tax Division regarding Class 1 Manufactured Home Park – class 4c(5)(iii) educational requirements. You have provided the following scenario and question:

Scenario:

- A family owned trust and an individual co-purchased two manufactured home parks in North Mankato in August of 2018.
- The two manufactured home park owners own other parks throughout Minnesota as well, but operate the other locations under an entity (Company B).
- The on-site attendant from Company B that operates the Maplewood location filled in as the on-site manager at the North Mankato locations after the purchase until a new manager could be hired.
- The on-site attendant for Company B completed the required educational classes for the Class 1 Manufactured Home Park – class 4c(5)(iii) for the North Mankato locations.
- Nicollet County determined that the Maplewood employee did not meet the training requirements for the North Mankato location, and since there were no other eligible employees, the application for Class 1 Manufactured Home Park – class 4c(5)(iii) was denied for 2018 pay 2019.
- The owners of the businesses have requested the county to reconsider the decision.

Question: Can the on-site manager from the Maplewood location qualify the North Mankato locations for Class 1 Manufactured Home Park – class 4c(5)(iii) by fulfilling the educational requirements per statute?

Answer: Minnesota Statute 327c.16 states that "a park owner, or on-site attendant as an employee of the manufactured home park, must satisfy 12 hours of qualifying education courses every three years, as prescribed in this subdivision." Furthermore, Rules under 327.20 state that a "responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times," and "any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency" for licensed manufactured home parks. Such language indicates the legislature intended the on-site attendant to be the one person readily available at all times for the care of a manufactured home park to qualify for the Class 1 Manufactured Home Park – class 4c(5)(iii) classification.

From the information provided it would appear the person completing the application was not an employee of the manufactured home park as required by statute. It is also stated that the employee of Company B travelled to the property and oversaw management "more than any other employee." This does not appear to rise to the required level of oversight "at all times" and meet the definition of "on-site." Due to the fact that the current on-site attendant has yet to complete the required training, we are of the opinion that the North Mankato

properties did not meet the statutory requirements to qualify for the Class 1 Manufactured Home Park – class 4c(5)(iii) classification at the time of application.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

February 25, 2019 *Edited for 2023 Law Change*

Stephanie Nyhus
snyhus@dmainc.com

Dear Ms. Nyhus,

Thank you for submitting your question to the Property Tax Division regarding tax capacity and referendum market value for the 4d low income rental property classification. You have provided the following scenario and questions:

Scenario:

- There is a building that meets 20% of the total building requirements and therefore there are units in the building that qualify for the 4d classification.
- There are 50 units that are classified as 4d.
- Each unit has a taxable market value of $190,000.

Question: How should the tax capacity be calculated for these units?

Answer: The classification rate for 4d Low Income Rental Housing apply only to those units which qualify for the 4d classification. The remaining portion of the building should be classified by the assessor based on use, typically class 4a, residential non-homestead 4+ units.

To determine the taxable market value the 4d rate would be applied **per qualifying unit.** The 4d rate includes the same proportion of land as the qualifying low income rental housing units are to the total units of the building.

Question: Are class 4d properties subject to the referendum market value?

Answer: Yes, class 4d properties are included in the definition of referendum market value.

Note, because 4d has a classification rate of .25%, (less than one percent), the property will have a referendum market value equal to its taxable market value times its class rate, multiplied by 100.

If you have any further questions on the calculation of referendum market value, please contact our Auditor/Treasurer section at proptax.admin@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

April 23, 2019

Steve Hurni
Property Tax Compliance Officer 2
steve.hurni@state.mn.us

Dear Mr. Hurni,

Thank you for submitting your questions to the Property Tax Division regarding the classification of tax-forfeited property. You have provided the following scenario and questions:

Scenario:

- There is a tax-forfeited property currently owned by the State.
- Currently there are people renting and residing on the property.
- The county assessor's office has classified the property as residential.
- The county auditor's office believes the property should be exempt from taxation.

Question 1: Should the tax-forfeited property be taxable or exempt? How should the property be classified?

Answer 1: In the scenario provided the tax-forfeited property is likely taxable as personal property if it meets the requirements of Minnesota Statute 273.19, Subdivision 1. The Delinquent Tax and Tax Forfeiture Manual, in accordance with Minnesota Statute 282.04, states that a tax-forfeited property may be leased for a designated purpose before the land is sold or conveyed. Regardless of who the land is leased to, all revenues collected from the leasing of tax-forfeited properties must be deposited into the forfeited tax sale fund (Minnesota Statute 282.09).

According to Minnesota Statute 273.061, Subdivision 8, (2) & (14), and Minnesota Statute 273.17, Subdivision 1, classification and exemption are two distinct property tax administrative roles that assessors are primarily responsible for completing. To fulfill their duties assessors must first classify the property according to use, then assessors should review the property for tax exemption status. Please keep in mind that all property must be classified according to Minnesota Statute 273.13; therefore, a property cannot have a classification of exemption because exemption is not an option listed in M.S. 273.13. As a result of the use of the property, the assessor would likely classify it as 4bb(1) residential non-homestead single unit.

Question 2: Can the renter residing on the tax-forfeited property be someone other than the original owner?

Answer 2: Yes. The Delinquent Tax and Tax Forfeiture Manual, in accordance with M.S. 282.04, states that tax-forfeited property with a building may be leased. Although there is no stipulation on prior ownership, personal property tax for the right to lease the property must be assessed and collected.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 4, 2019

Jo Corrow
Le Sueur County Assessor's Office
jcorrow@co.le-sueur.mn.us

Dear Ms. Corrow,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner had 4 contiguous agricultural parcels totaling 162 acres that were linked for homestead
- The base parcel had been split classified; five acres agricultural homestead, one acre HGA, and 24 acres rural vacant land which was included in the agricultural homestead
- The 24 acres of rural vacant land was enrolled in Reinvest in Minnesota (RIM) in 2015. The 24 acres were non-productive land prior to enrollment in RIM
- There is no tillable land or exclusive agricultural use on the base parcel
- The property owner sold the 30 acre base parcel with the HGA
- The new owner does not have any other agricultural property within 4 cities or townships

Question: How should the 30 acre parcel be classified under the new ownership?

Answer: Assuming that the 24 acres enrolled in RIM were not classified as agricultural in the year prior to enrollment, the enrollment in RIM would not impact the classification. Minnesota Statutes, section 273.13(e) clarifies that in order to qualify as being used for agricultural purposes, land enrolled in RIM must have been classified as agricultural either under that section in 2003 and remained enrolled, or "*in the year prior to its enrollment.*"

Since this is not a qualifying agricultural parcel, and it is over 20 acres, the house and surrounding 10 acres would be classified according to the use of the structure (house). The remaining 20 acres would be classified as rural vacant land. Minnesota Statutes, section 271.13(c) states *"Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure.*"

More information on the classification of rural vacant land and the treatment of residential structures can be found in the Property Tax Administrator's Manual, Module 3 – Classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 21, 2019

Mark Vagts
Minnesota Department of Revenue
mark.vagts@state.mn.us

Dear Mr. Vagts,

Thank you for forwarding the question you received regarding classification. You were provided the following scenario and question:

Scenario:

- All units in a townhouse/condominium development are owned by the same owner
- Each townhouse/condominium unit has an individual parcel identification number (PID) and legal description
- The property is located in a single family zoning district
- Each unit may be sold individually
- The units are rented and operated collectively similar to an apartment property

Question: Is 4bb(1)-(residential non-homestead single unit) or 4a (4 or more units) the correct classification given that all the units are under common ownership and operated as an apartment?

Answer: 4bb(1) is the correct classification assuming no unit was ever classified as seasonal residential recreational property.

M.S. 273.13 uses the term "residential real estate" when defining both 4a and 4bb(1) classifications. The distinction between the two classifications is with regard to the number of units contained within the real estate. 4a classification is applied when the residential real estate contains four or more units and 4bb(1) classification is applied when the residential real estate contains one unit.

The department has recently provided guidance related to classification of residential parcels and specifically the definition of a unit. A 2016 memo on non-homestead residential classifications defined a unit as: *"A dwelling or unit means a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation."* In this case, each townhome/condominium appears to meet the definition of a unit.

The Dictionary of Real Estate Appraisal, 6th edition defines real estate as: *"An identified parcel or tract of land, including improvements, if any."* Within this scenario, each parcel also contains its own bundle of property rights. Although, as you have outlined in this case, the single owner of all the units operates the property similar to an apartment complex, the owner still may sell or lease any portion of the bundle of rights of any individual unit without disrupting the bundle of rights of any or all other units in the complex because each unit has a unique PID and legal description.

Therefore, each unit should be classified independently and valued in accordance with a highest and best use conclusion. Because each PID contains a single unit and can be defined in and of itself within the definition of the term “real estate”, it qualifies under the statutory provisions for 4bb(1) classification as residential real estate consisting of a single unit.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

June 11, 2020

Jason McCaslin
Fillmore County Assessor
JMcCaslin@co.fillmore.mn.us

Dear Mr. McCaslin,

Thank you for submitting your question to the Property Tax Division regarding split-classification. You have provided the following scenario and question:

Scenario:

- A property owner has multiple buildings located on their agricultural homestead
- These buildings are used for storage of agricultural equipment as well as storage of equipment for a separate commercial business
- There is no wall or other delineation within the buildings that clearly separates the agricultural and commercial storage use

Question: Is it appropriate to split-classify this property?

Answer: Yes. Property should be classified according to its use. When a property has multiple uses, the assessor should split-classify the property. Minnesota Statute 273.13, subdivision 23(j) specifically states that parcels used for agricultural purposes that are also used for commercial or industrial purposes should be split-classified, with the "*part of the parcel used for agricultural purposes classified as 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use*."

While the lack of a clear delineation between the types of storage makes split-classifying the individual buildings more difficult, the assessor still must classify according to use. If the buildings are used for commercial and agricultural storage equally, the assessor may simply split-classify the buildings as 50% 3a commercial and 50% 2a agricultural.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

November 16, 2020

Jason McCaslin
Fillmore County Assessor's Office
jmccaslin@co.fillmore.mn.us

Dear Mr. McCaslin,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There is a rental complex covering multiple parcels in your county
- All the parcels are contiguous and under common ownership
- Some parcels consist of bare land and some parcels consist of parking lots used by the residents
- The Minnesota Housing Finance Agency included all the parcels in the certification document to the county and certified that 91% of the units qualify as low-income rental housing

Question: Do the parcels that consist of bare land and/or parking lots qualify for the 4d classification?

Answer: Yes, the Minnesota Housing Finance Agency has included all parcels in the required qualification report so assuming all parcels have a use associated with and supporting the qualifying 4d units a portion of them may qualify for the 4d classification. Minnesota Statutes 273.13, Subdivision 25 states: "class 4d also includes the **same proportion of land** as the **qualifying low-income rental housing units** are to the total units in the building". Therefore, the assessor is only allowed to classify a portion of the land as 4d based on the number of units that qualify for the 4d classification. In the scenario above, 91% of the units qualify for 4d, therefore 91% of the land (bare land and parking lots) would qualify for 4d. The remaining portion of the land would need to be classified according to use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 17, 2020

Sue Schulz
McLeod County Assessor's Office
sue.schulz@co.mcleod.mn.us

Dear Ms. Schulz,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Four residential properties are primarily used for scrapbooking retreats
- None are owner occupied
- All are available for short-term rental (less than 30 days) throughout the year
- Currently they are classified as commercial

Question: Would these properties qualify for 4b(1) as short-term residential rental properties defined by the new statutory language?

Answer: Yes, assuming each property meets the following requirements:

- Rented for periods of less than 30 consecutive days
- Containing fewer than four units
- Rented for more than 14 days in the preceding year
- Non-homesteaded

The 4b(1) residential non-homestead language outlines what properties are eligible and is silent on how the short-term residential properties are used by the renters. Therefore, if the properties meet the requirements listed above, the use of the residential property for crafting/scrapbooking would not prevent them from qualifying for the 4b(1) classification. Please note that classifications made based on the new statutory language would be effective for the 2021 assessment year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

February 16, 2021

Patrick Orent
St. Louis County Assessor's Office
orentp@stlouiscountymn.gov

Dear Mr. Orent,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario 1:

- A former hotel has been converted into a CIC with 67 residential units and 33 commercial units
- All the units have been sold to private parties with some owning multiple units
- No one tax parcel contains more than one distinct unit
- The property continues to function as a hotel with a front desk, restaurant, pool and parking lot
- Most of the units in the building are included in the rental pool for the hotel
- No units are homesteaded
- The plat declarations only prohibit commercial use of the units other than incidental "home office" usage
- Currently no units are known to be advertised as short-term rental independent of marketing conducted by the management company for the hotel
- For the 2020 assessment, the individual units were classified as 3a commercial

Questions: How should the individual units be classified, and how should owners with multiple units be treated?

Answer: Individual tax parcels under separate ownership should be classified and assessed individually. Because the units in the former hotel are stand-alone residential parcels and are determined to be used for short-term rental (not rented for 30+ consecutive days at a time), they should be classified as 4b(1) if they were rented for more than 14 days in the preceding year.

For individual units with unique PIDs, the issues related to the number of units held by any one owner would not impact the classification. Statutory language regarding residential classifications that references number of units relates to separate units located within a single tax parcel. Therefore, the number of individual units under common ownership would not preclude classification as 4b(1).

Scenario 2:

- A CIC property is made up of five apartment-style buildings containing 30 chalet-style units
- All units are individually owned and are separate tax parcels
- The property is advertised and functions as one business
- There is an independent building conducting check-in/check-out reservation services, central lobby area, and access to pool and tennis court facilities
- Most of the units are included in the rental pool for the property

- Unit owners are under no obligations to enroll their units within the community-wide rental pool and are advertised independently as short-term rentals
- Units owners are not prohibited from homesteading individual units
- For the 2020 assessment, tax parcels have been classified based upon the individual unit's use and classified as 1a, 4c(12), and 3a

Questions: How should the individual units be classified, and how should owners with multiple units be treated?

Answer: As in the first scenario, individual tax parcels under separate ownership should be classified and assessed individually. For non-homestead parcels, if they are offered as a short-term rental (not rented for 30 consecutive days at a time) and were rented for more than 14 days in the preceding year, they should be classified as 4b(1).

As stated in the prior scenario, for individual parcels with PIDs, the number of units held by any one owner would not impact the classification.

Scenario 3:

- A resort has been re-platted into a CIC consisting of 24 tax parcels
- One LLC owns 12 tax parcels that are both improved and vacant
- One of those 12 tax parcels consist of the lodge, bait store, and elements normally associated with a functioning resort
- The remaining improved and vacant parcels are owned by other entities
- No other entity owns more than 2 tax parcels
- The managing LLC handles all bookings, reservations, and equipment rentals for the resort
- Individual cabins owned by other entities are available for rent through the resort website
- It is uncertain if individual owners are required to allow their cabin to be rented but the belief is that most are available for rent
- Excluding the ownership structure, this property functions and advertises itself just like any other resort
- The current classifications of all 24 parcels is 4c(1)

Questions: In a CIC ownership structure, how would the 4c(1) classification be applied?

Answer: Assuming the LLC that owns 12 tax parcels including the lodge and other qualifying resort elements meets the requirements outlined in statute, the 4c(1) classification appears to be correct for those 12 parcels.

In the scenario you have outlined, it is our opinion the units under common ownership located in the same overall complex could be considered contiguous if it is shown they support the same business activity, and any intervening type of property, even if under separate ownership, can be shown to be part of the same overall business activity.

However, the 12 parcels under separate ownership than the LLC would not qualify for 4c(1) as they are not meeting the required minimum units or the other statutory requirements for that classification. Partial ownership interest in any common areas does not equal the necessary common ownership for classification

purposes. Based on the information provided, it appears these units would be classified as 4b(1) based on their use as short-term rentals.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

January 21, 2021

Michael Wacker
Pope County Assessor's Office
michael.wacker@co.pope.mn.us

Dear Mr. Wacker,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property has multiple uses that include short-term rental
- January to May it is rented for periods of 30+ consecutive days
- In June it is used by the owner
- From July to mid-September it is offered as a short-term rental (not rented for 30 consecutive days at a time), and was rented for more than 14 days in 2019 and 2020
- Mid-September to December it is rented for periods of 30+ consecutive days

Question: How should this property be classified?

Answer: The recent law changes regarding the classification of properties used as short-term rentals defined that use as "property rented as a short-term rental property for more than 14 days in the preceding year." Therefore, properties that meet this definition at any point in the preceding year should be classified as 4b(1) even in cases where there are other nonhomestead residential uses throughout the year. This legislative change clarifies the tax treatment of properties used as short-term rentals and defines that use in order to provide uniform tax treatment across the state.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

February 18, 2021

Lorri Houtsma
Pine County Assessor's Office
Lorri.Houtsma@co.pine.mn.us

Dear Ms. Houtsma,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Two non-contiguous parcels are owned by an individual
- Each parcel has a house on it which is available for rent for a variety of reasons including scrapbooking retreats, corporate retreats, family reunions, wellness retreats, etc.
- Each house has multiple bedrooms and bathrooms as well as common spaces such as a kitchen, dining room, and living room
- Each property is operated less than 250 days a year
- The properties are not available to use May - September and all of December
- Most customers book the property for 3 days, 2 nights typically over a weekend
- Recently the owner has started to offer their customers the option to rent cross country skis as part of their stay at the property
- There are no other recreational activities being offered at this time
- The Willard Munger Trail, which is a state trail, runs through Pine County and is a few miles from both properties.
- The county currently has the property classified as 3a, Commercial

Question: How should this property be classified? Is it eligible for 4c(1)?

Answer: Based on the information provided, these properties would not qualify for 4c(1). Although it is noted that each home has multiple bedrooms, the homes are rented as one rental unit and therefore do not meet the three rental-unit threshold. Statutory language specific to 4c(1) does consider a sleeping room as a rental unit, however that room would need to be individually available for rent within the overall structure and not tied to the rental of other sleeping rooms or the entire property. It is also unclear from the information provided that these properties would meet the other requirements for 4c(1) outlined in statute.

It appears these properties could qualify for 4b(1) as short-term residential rental properties defined by the new statutory language, assuming each property meets the following requirements:

- Rented for periods of less than 30 consecutive days
- Containing fewer than four units
- Rented for more than 14 days in the preceding year
- Non-homesteaded

The 4b(1) residential non-homestead language outlines what properties are eligible and is silent on how the short-term residential properties are used by the renters. Therefore, if the properties meet the requirements listed above, the use of the residential property for crafting/scrapbooking, retreats, or reunions would not prevent them from qualifying for the 4b(1) classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

March 25, 2021

Penny Vikre
Cass County Assessor's Office
penny.vikre@co.cass.mn.us

Dear Ms. Vikre,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There are multiple parcels owned by an LLC that are contiguous.
- These parcels are currently being advertised as storage buildings and sites.
- Two parcels contain a large structure divided into 5 separate storage units. One other parcel is currently under construction and will have a similar structure located on it.
- These storage units in the large structure are being advertised and "sold" as separate storage units.
- There is also a covenant associated with "buying" one of the storage units giving the buyer membership in the LLC and a non-exclusive easement over the common area.
- The property taxes levied against the common areas are divided and passed on to the buyers.

Question: What classification should be applied to these parcels?

Answer: Classification is based on use. If the storage units are being used residentially, by the owner, and not commercially, then the appropriate classification would likely be 4b(1) residential non-homestead. If the units are being used commercially, then the commercial classification would be appropriate. While the legislature did create the 4bb(3) classification in 2017 for condominium storage units, these parcels contain multiple storage units that are "sold" to multiple individuals and therefore do not meet the requirements for the 4bb(3) classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 24, 2021

Ann Miller
Washington County Assessor's Office
Ann.miller@co.washington.mn.us

Dear Ms. Miller,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A Common Interest Community (CIC) owns a marina
- The marina offers slips ("units") as part of the CIC
- The marina has a boat launch and sells a limited number of seasonal launch passes which allow use of the boat launch
- The marina has a "ship's store" selling food, beverages, and other items that is open to the public

Question: What is the correct classification of the property, 4c(11) Marina or 3a Commercial?

Answer: Based on the information provided it appears that the 3a Commercial classification is the correct classification. Although the marina operates a boat launch, that launch use is restricted to holders of a limited number of seasonal passes. This does not meet the requirement that it be open and used for public access. The 4c(11) Marina classification should only be granted to those portions of a marina that are made accessible to the public. It should not be applied to any land that is reserved for the exclusive use of private parties or is restricted from public use. Boat slips that are owned by or leased to individuals for their own personal use do not constitute public access.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

September 30, 2021

Joe,

Thank you for contacting the Property Tax Division regarding property classification. You provided us with the following scenario and question.

Scenario:

- A property owner is planning on operating a daycare in a pole shed that is located on the owner's homesteaded property.
- Part of the property will be used as the daycare and the other used as an event center.
- The entire property, including the pole shed, is currently classified as an owner-occupied 1a residential homestead.
- The pole shed is insulated, heated, has laundry facilities, bathroom, and three working sinks.
- The property owner has a conditional use permit for the pole shed.

Question: How should the pole shed be classified once it is used for a daycare?

Answer: Though Minnesota Statute 273.124 subdivision 1(i), allows for childcare to be provided in the owner's homestead and still qualify for homestead, this provision is when the uses of the property is both a daycare and serving as the owner's homestead. In the scenario provided, a separate and distinguishable use of the pole shed will be established as the daycare and event center. A daycare that is operated and is primarily used in a separate structure from the home does not meet the exception in 273.124, sub. 1(i), allowing the daycare to be included in the residence receiving homestead. The pole shed should be classified separate according to its use. The daycare will be operating for a profit so once the use has been established, the pole shed should be classified as commercial. Any change in the use of the pole shed should be taken into consideration when making classification determinations in the future.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

October 1, 2021

Dear Mark,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the follow scenario and question:

Scenario:

- A 61.92-acre property has received a conditional use permit (CUP) to mine peat soils.
- The CUP allows for peat mining in up to 30 acres until 2030.
- The property owner has a formal agreement with a nearby business to use the peat soil.
- No reclamation will be done. The mined areas are expected to fill with water and will be planted by the landowner in cooperation with the county soil and water agency with wild rice and other native plants.

Question: What is the proper classification for the land used for peat mining?

Answer: Based on the information provided it does not appear that the peat would be considered an agricultural product, which means that the property would not qualify for the agricultural classification. Given that there are no other references to peat in classification statute, it is our opinion that once the mining of peat has begun the property would be treated similar to other lands being actively mined and the acres being mined would be classified as commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 8, 2021

Dear Sandra,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property consisting of two parcels totals 10.88 acres
- The property contains a residence and a greenhouse
- The residence is an owner-occupied homestead
- The greenhouse is used to produce medical cannabis
- The owners hold a license from the State of Minnesota to produce medical cannabis

Question: How should the greenhouse be classified?

Answer: Based on the information provided the greenhouse would be classified 3a – Commercial.

Minnesota Statutes Chapter 152 provides that the manufacturer of medical cannabis must conduct its cultivation, harvesting, manufacturing, packaging, and processing at one site, therefore a significant use of the building would be a commercial use.

The requirements for parcels under 11 acres with a residence to be classified as agricultural, found in Minnesota Statute 273.13, requires intensive agricultural use. That intensive agricultural use requirement would not be met when commercial activities are also taking place in the area where a product is grown. Further, statute lists the products and activities required to meet that intensive use. As cannabis has strict distribution rules detailed in state statute it cannot be viewed as being produced in a market farming capacity, nor does it fit the definition of nursery stock. Therefore, this use would not fall under any of those special exceptions to the 10-acre agricultural minimum.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

January 19, 2023

Dear Ryan,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A parcel is 36 acres, consisting of six outbuildings, a mobile home, and two apple orchards.
- The two orchards, in addition to the outbuildings, are over 10 acres and are classified as agricultural.
- One outbuilding is used for both the retail sales of apples, ciders, and rums using the apples grown on the property, as well as space for distilling, fermenting, washing, sorting, mechanical, and cooling of the apples.

Question: How should this outbuilding be classified?

Answer: From the information provided, it appears that this outbuilding would be classified as commercial. Minnesota Statutes 273.13, subdivision 23 (j) specifically includes “wholesale and retail sales”, “processing of raw agricultural products or other goods”, and “warehousing or storage of processed goods” as commercial or industrial purposes. Statute mandates that these activities be classified according to their use independently of the portion of the parcel that is used for agricultural purposes.

If the assessor determines that any portion of the building is used **exclusively** for the “grading, sorting, and packaging of raw agricultural products for **first sale**,” then it may be appropriate to classify that portion of the building as agricultural, as statute states that that is an agricultural purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 3, 2023

Joshua,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the follow scenario and question.

Scenario:

- An apple orchard is split classified as agricultural and commercial.
- It has more than 10 acres of apple trees in production.
- The area around the orchard is tilled and planted with corn/soybeans.
- A building is located on the property used to sell apples.
- Part of the building is used as a store and the other for storage.
- The storefront is only open a few months during the year.

Question: Should the building being used for selling and storage be classified as commercial?

Answer: From the information provided, it appears that this building would be classified as commercial. Minnesota Statutes 273.13, subdivision 23(j) specifically includes “wholesale and retail sales” and “warehousing or storage of processed goods” as commercial or industrial purposes. Statute mandates that these activities be classified according to their use independently of the portion of the parcel that is used for agricultural purposes.

If the assessor determines that any portion of the building is used **exclusively** for the “grading, sorting, and packaging of raw agricultural products for **first sale**,” then it may be appropriate to classify that portion of the building as agricultural, as statute states that that is an agricultural purpose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

May 26, 2023

Dear Lee,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the following scenario and question.

Scenario:

- A 72-acre property contains the owner's home on the southwest part of the parcel.
- A second residential structure is located approximately 2,472 feet northeast of the home.
- The property is currently enrolled in a conservation easement which outlines the two areas where the structures are located.
- The first structure is currently classified as 1a residential homestead, while the second is currently classified as 4c(12) seasonal residential recreational (SRR).

Question One: Can the 10 acres required to be split off with the homestead be divided with 5 acres around each structure and thereby having the second structure included in the homestead?

Answer: No. For parcels of 20 acres or more in size, improved with a structure that is not minor and ancillary, the assessor must split-classify the property. The structure and 10 acres should be classified according to the use of the structure (residential, seasonal residential recreational, etc.) or in this case each structure. It would not be appropriate to divide and separate the statutorily mandated 10 acres that is classified according to the use of the principal structure. Because this parcel has more than one structure (and the structures are not located near each other), 10 separate acres would also need to be split classified dependent on the use of the second structure.

Question Two: How should the second structure be classified?

Answer: The structure should be classified based on the use. If you have determined that the primary use is as noncommercial temporary and seasonal occupancy for recreation purposes, then it would appropriate to classify it as SRR. If it is occupied as the primary residence of someone, it may be appropriate to classify it as residential non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 28, 2023

Dear Brady,

Thank you for submitting your question to the Property Tax Division regarding agricultural classification. You have provided the following scenario and question:

Scenario:

- A property owner currently lives on a 5.52-acre parcel that is classified as residential homestead.
- The land around the building site is 31.48 acres of grassy/slough land which has been tax forfeited for the last couple decades.
- The county split off 4.64 acres of this forfeited land and sold it to the property owner on May 31st, 2023.
- The property owner now owns two separate but contiguous parcels for a total of 10.16 acres.
- The owner is planning to have their own personal horses on the pastureland surrounding the house.
- The original parcel that the 4.64 acres was subdivided from was classed as 2a Agriculture before it went forfeit.
- A portion of the original parcel was enrolled in RIM.
- The 4.64 acres were not part of the acreage enrolled in RIM.
- The 4.64 acres was fallow in 2022 – not actively pastured, but with hay/grass growing that wasn't cut.
- The owner plans to combine the two parcels.

Question 1: Does the 4.64-acre parcel qualify for 2a – Agriculture classification for the 2023 assessment because of the purchase prior to July 1 and MN Statute 272.02 subd 38(c)? If the 4.64-acre parcel is classed as agriculture for the 2023 assessment, can you extend the homestead from their residential parcel? If the parcels are combined, do they qualify for 2a Agriculture classification?

Answer: In this case, the July 1 date for a property going from exempt to taxable would not apply. The specific provisions of M.S. 272.02, subd. 38(c) would apply as the land had been tax forfeited and has now been sold. Under that provision, a sale or transfer of previously forfeited land before December 31 would result in the land being put on the current year's assessment roll. As with other previously exempt property losing its exemption, the assessor should determine the appropriate classification of the parcel after the transfer.

Classification is based on use, and given the information provided the parcel would not meet the requirements to be classified as agricultural on its own, or after being combined with the existing residential parcel. In addition to not having 10 contiguous acres used for an agricultural purpose, the acres described here are for use by the owner's personal horses. Even if the property had ten or more acres of pasture, this does not meet the requirement that the acres are used to produce an agricultural product for sale. Therefore, there is no ability to extend the homestead and have the existing residential parcel qualify as an agricultural homestead.

Question 2: Should we look at the two parcels together to determine classification?

Answer: Yes, contiguous parcels under common ownership can be looked at together when determining if a property qualifies for the agricultural classification. However, in this case the parcels would still not qualify as agricultural.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

September 8, 2023

Dear Diane,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- An individual owns two contiguous parcels improved with residential structures.
- The owner occupies and homesteads parcel one which is 2.5 acres in size.
- The second parcel is 4.0 acres and is currently classified residential non-homestead.
- The second parcel contains a pole building where the owner stores some farm equipment used in her farming operation.
- Her son may move to the second parcel however, the house is currently vacant.

Question: Can parcel two be granted a relative agricultural homestead based on an intensive use?

Answer: To qualify for the agricultural classification on a parcel under 11 acres improved with a residential structure, machinery or equipment storage activities must be to support agricultural activities on other parcels operated by the same owner. For the purpose of this answer, we will assume that the farming operation meets this requirement, and that the owner is not receiving an agricultural homestead elsewhere. There is no minimum acreage or income requirement in statute related to intensive use. The assessor should, however, use their professional expertise and judgment to determine if the property is being used intensively for agricultural purposes rather than just a token or nominal use.

Contiguous parcels under common ownership can be looked at together when determining if a property qualifies for the agricultural classification. In this case the potential for the son to qualify for a relative homestead would not be a factor for determining if the parcel qualifies as agricultural. If it is determined that there is intensive machinery or equipment storage, the parcels could be classified as 2a – agricultural land. Once that classification is determined, the homestead would be processed. If it is determined the parcels qualify as agricultural and the son moves into the vacant house, it would be appropriate to grant a relative residential homestead on the HGA of the second contiguous parcel.

This opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division Phone: 651-556-6922

September 8, 2023

Dear Bonnie,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the follow scenario and question.

Scenario 1:

- A single-story homestead property with an attached garage is using the basement as a short-term rental.
- The main floor and garage are used as the owner‘s homestead.

Question: How should this property be classified?

Answer: If the basement is not being used as part of the homestead and meets the requirements for short-term rental, then the basement area that is rented out should be classified as 4b(1), with the rest of the house remaining homestead. This is similar to split classifying a residential parcel that also has commercial use such as a mechanic shop or hair salon.

Scenario 2:

- A homestead property includes a detached garage with living quarters that has been used by the owner’s children when visiting.
- Recently, the owners have started to use the living quarters in the detached garage as a short-term rental.

Question: How should this property be classified?

Answer: If the living quarters is occasionally used as a short-term rental but is primarily used as the occupant’s homestead, it would be appropriate to leave the property as entirely classified as an owner-occupied homestead. However, if it appears short-term rental may be the primary use of the second living area, the property should be split classed with the second living quarters classified as 4b(1).

In cases where part of a homestead property is also doing short-term rental, we have advised the county to request a new homestead application to confirm all areas of the property continue to be available to, and primarily used by, the owner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.
Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

February 13, 2024

Dear Bryan,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A homestead qualifying as a Community Land Trust property is owned by a married couple.
- Only one of the spouses occupies the property.
- The property otherwise qualifies for 4d(2) Homestead Community Land Trust unit.
- The property is receiving a 50% homestead due to the spouses living apart.

Question: What is the appropriate classification for the non-homestead portion of the unit?

Answer: Given the 4d(2) classification requires the property to be homesteaded, it would be appropriate to review the classification in the same manner as would have been done when the unit was 1a Residential homestead. Given the information provided, it would appear that the property should be split classified as 4d(2) and 4bb(1) Residential Non-Homestead Single Unit for the non-homestead portion of the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 7, 2024

Dear Kyle,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner has a parcel that is currently classified as agricultural and is homestead.
- The parcel previously had been split classed as it had been also used as a feed mill.
- It is currently used to raise various livestock and other row crops.
- Recently the owner built a high drying and processing facility, that contains threshers, dryers, and packaging equipment for oats, rye, and barley.
- All of the products that are processed are farmed by the owner.
- The products are dried, packaged, palletized, and then wholesaled from this facility.

Question: In situations where agricultural products are produced and processed by the same entity, how should the parcel be classified?

Answer: From the information provided it appears this property should be split classified 2a Agricultural and 3a – Commercial/Industrial. Minnesota Statutes, section 273.13, subdivision 23, paragraph (j) provides the following:

> *"If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:*
>
> *(1) wholesale and retail sales;*
>
> *(2) processing of raw agricultural products or other goods;*
>
> *(3) warehousing or storage of processed goods; and*
>
> *(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3), the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose."*

Any areas used for wholesale and retail sales should be classified as 3a commercial/industrial. The "grading, sorting, and packaging of raw agricultural products for first sale" [emphasis added] may be considered an agricultural purpose. Any *processing* of the raw agricultural product would indicate a non-agricultural use, this includes the mixing of the differing grains as this would create a different product. Based on the information

provided, it is not clear if that is the case here. If it is determined that the facility will be processing raw agricultural products, then that portion of the property would also be classified as 3a commercial/industrial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 13, 2024

Dear Gregg,

Thank you for submitting your question to the Property Tax Division regarding 4b(1) short-term residential rentals. You have provided the following scenario and question:

Scenario:

- A timeshare property has eight owners with equal shares.
- One owner is a member of a timeshare exchange group.
- Members of the exchange group use the unit throughout the year.
- This owner uses other timeshare properties in exchange for the week(s) used at this property.

Question: Does the use by another person as part of a timeshare exchange count as a rental day for classification as 4b(1)?

Answer: From the information provided it appears the exchange on a unit is a form of consideration and therefore the days used by another person would be considered rental days for the purposes of the 4b(1) classification. Although the 4b(1) statute does not define a rental day, other areas of statute related to conveyance describe how to evaluate a consideration when something other than money is exchanged. This language suggests that the exchange of weeks, where any other user would be required to pay a rental fee, should be evaluated similarly to the timeshare owner renting it out at market value. Therefore, any day the property is used by another person as part of the timeshare exchange would constitute a rental day.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Class 1b - Blind/Disabled Homestead

April 15, 2008

Julie Shelstad
Records Specialist
Morrison County Assessor's Office
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Ms. Shelstad:

Thank you for your question concerning the special homestead classification for the blind/disabled. You have described the following situation:

> A blind/disabled man passed away in October of 2007. The man had applied and qualified for class 1b (blind/disabled special homestead) for the 2007 assessment year, for taxes payable in 2008. Upon his death, the county removed the special homestead for the 2007 assessment year. The man's surviving spouse has questioned the removal of the special homestead for the 2007 assessment year because her husband had lived their on January 2 of that year and had qualified for the special homestead.

You have asked if there are any provisions in the law that specifically state that the special homestead must be removed for the assessment year in which a person passes away.

There is no provision that states that the special homestead of a blind/disabled person must be removed the year they pass away. The Department has stated in the past that upon the death of a blind/disabled person, that the special homestead should be removed for the *following* assessment year.

Therefore, in our opinion the surviving spouse should receive the benefit of the special homestead for the 2007 assessment year. The special homestead should be removed for the 2008 assessment year, with taxes payable in 2009.

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

MEMO

Date: November 9, 2004

To: Elsie Hendrickson

From: JOHN HAGEN, Manager
Information and Education Section

Subject: 1b Blind / Disabled Classification

Yesterday, you asked our opinion on the following question:

An elderly blind property owner has been receiving the 1b blind/disabled classification on their property. Recently, because of failing health, the property owner has been forced to move into the nursing home. The property is currently occupied by a relative and the assessor questions if the property should continue to receive the 1b blind and disabled classification.

This question could properly be answered three different ways depending on the circumstances.

1. If the relative currently occupying the house had resided with the elderly blind property owner prior to moving to the nursing home, the homestead of the elderly property owner would continue when she moved into the nursing home and as such the homestead would continue to be a disabled homestead.

2. If the relative moved into the house after the property owner moved to the nursing home, the 1b homestead would properly be removed and if eligible, the relatives would qualify for a relative homestead.

3. The final scenario would occur if the local county social service agency required the home to be rented to help offset the cost of nursing home care. In this scenario, the house would retain the 1b disabled classification. However, the assessor should require a letter from the county social service agency attesting to the requirement that the house must be rented.

December 12, 2005

Tim Falkum
Kandiyohi County Assessor's Office
Courthouse
400 Benson Ave SW
Willmar, Minnesota 56201-3236

Dear Mr. Falkum:

Thank you for your email regarding class 1b blind/disabled homesteads. You have asked for clarification on eligibility in homestead situations where a blind/disabled, married individual dies. We will restate each question and provide the answer.

Question: If a blind individual receiving the special homestead disability classification dies, would the homestead benefits extend to the surviving spouse? If not, when does the classification change?

Answer: No. The 1b blind classification expires with the death of the blind property owner. The classification should be removed for the following assessment. For example, if the qualifying blind individual dies after the January 2, 2005, assessment date, the property would lose the 1b blind classification for the 2006 assessment for taxes payable in 2007.

Question: If a disabled individual receiving the disabled homestead classification dies, would the homestead benefits extend to the surviving spouse? If not, when does the classification change?

Answer: No. The 1b disabled classification expires with the death of the disabled property owner. The classification should be removed for the following assessment. As stated in the above example, if the qualifying individual dies after the January 2, 2005, assessment date, the property would lose the 1b disabled classification for the 2006 assessment for taxes payable in 2007.

Question: If an individual receiving the disabled homestead for paraplegic veterans dies, would the homestead benefits extend to the surviving spouse? If not, when does the classification change?

Answer: Yes. Unlike the two other blind/disabled situations, the law allows the surviving spouse of a disabled paraplegic veteran to retain the disabled classification even after the death of the disabled paraplegic veteran, so long as the surviving spouse maintains the special housing unit as a homestead. In our opinion, this requires most or all of the special fixture modifications to remain intact in the house. However, if the surviving spouse remarries, we are of the opinion that the disabled homestead should be removed for the next assessment.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

April 3, 2006

Jackie Wegwerth
Department of Property Records & Revenue
Valuation Division – Administration
50 W. Kellogg Blvd., Suite 840
Saint Paul, Minnesota 55102-1695

Dear Jackie:

Thank you for your question regarding blind and disabled homesteads. You outlined the following situation. Two parents own and occupy a property. They are currently receiving an owner occupied homestead on this property. They have an adult son who is certified as blind who also lives at this same property. You have asked if the fact that the owners' blind son occupies the property qualifies the property to receive a blind homestead.

To receive a blind/disabled homestead classification, the blind/disabled person must first qualify for homestead either as an owner/occupant or as a qualified relative. Since the owners are currently receiving an owner occupied homestead on the property, it is our opinion that the son would not qualify for the blind/disabled homestead classification on this property.

Additionally, since this is the second time this question has come this past week, we will be reviewing our procedures in granting the blind/disabled classification to relative homestead properties.

We have formed this opinion based solely on the facts provided. If any of the facts differ, our opinion would be subject to change.

If you have any further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114
Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

cc Elsie Hendrickson

May 20, 2008

Joy Lindquist, Assessment Specialist
Lake of the Woods County Assessor's Office
Courthouse
206 8th Avenue SE
P.O. Box 808
Baudette, Minnesota 56623

Dear Ms. Lindquist:

Thank you for your recent question concerning the market value exclusion on homesteads of disabled veterans. You asked the following question: How does this exemption affect the remaining taxable market value if the spouse also has a disability rating [100 percent permanent and total] but it is not service-connected? In other words, you are wondering how this would affect class 1b disabled homestead on the remaining value of the home.

Please note that the veterans benefit is a market value exclusion, not an exemption. Any remaining taxable market value on the property after exclusion is considered "dollar one" for additional taxation purposes. However, if a property qualifies for market value exclusion under Minnesota Statutes, section 273.13, subdivision 34, the property is not additionally eligible for class 1b blind/disabled homestead under Minnesota Statutes, section 273.13, subdivision 22.

I hope that this answers your question. If you need further information or assistance, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

June 25, 2008

Stephen C. Behrenbrinker
St. Cloud City Assessor
400 2nd Street South
St. Cloud, MN 56301

Dear Mr. Behrenbrinker:

We apologize for the length of time it has taken to respond to your questions concerning Class 1b disabled homesteads (Special Homestead Classification). As you know, this is a busy time of year for us here at the department.

You presented us with two scenarios. The first goes as follows:

> A husband and wife jointly own a home and occupy the home with their two adult disabled children. You have asked if the property is eligible for a class 1b disabled homestead.

Unfortunately, the property is not eligible for the special class 1b homestead classification (disabled homestead) because neither of the adult-children are listed as owners of the property. You also inquired as to whether they could receive a relative homestead, even though the parents would continue to occupy the property. Again, because the parents own the property, and would be using the property as their homestead, the property would not be able to receive the special homestead classification. The parents continued occupancy of the property supersedes any chance of the property being a relative homestead.

The second scenario goes as follows:

> A property owner (who operates several adult foster care group homes) has inquired as to whether a property they own can receive a relative homestead and consequently the special homestead classification. The owner does not occupy the property. The property is occupied by an adult disabled person who is listed as "son", but the person has a different last name. You are uncertain as to what the relationship really is between the owner and the disabled person.

If the person is legally considered as a child of the property owner, such as through adoption, the property would be eligible for a relative homestead. If the person is not legally considered a child (or relative) of the property owner, the property is ineligible for a relative homestead, and therefore cannot receive the special homestead classification. You have suggested that the person might be a foster child of the property owner. We cannot find any documentation that unrelated "foster children" are considered legal relatives of those people who take care of them.

(Continued…)

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

July 28, 2008

Allison Lowe
Cook County Assessor's Office
411 2nd Street
Grand Marais, Minnesota 55604-1150

Dear Ms. Lowe,

Thank you for your recent question concerning the 1b classification (blind/disabled homestead). You have outlined the following scenario: A parcel is jointly owned by three individuals, a married couple and their son. One of the spouses is disabled. You are wondering to what extent the class 1b blind/disabled homestead is applicable in this situation.

According to Minnesota law, married couples are considered one entity for homesteading purposes. This is also true in terms of the 1b classification. The husband and wife have 50 percent homestead interest in the property, and their son has 50 percent homestead. The husband/father is eligible for the 1b classification to its maximum regardless of whether or not he is married. That said, the property in question is eligible for a reduced class rate on the first $25,000 of the property's value (50 percent of $50,000). This reflects the husband/father's 50 percent homestead interest in the property.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

August 12, 2008

Brad Averbeck
Regional Representative
P.O. Box 84
Detroit Lakes, MN 56502

Dear Mr. Averbeck,

Thank you for your recent question concerning the 1b blind/disabled homestead. You have outlined the following scenario: A disabled property owner owns a home jointly with his wife. His wife does not occupy the property, and he is currently receiving 50 percent homestead. You have asked what his 1b eligibility benefit would be.

In this scenario, the disabled property owner is eligible for the reduced class rate on the first $25,000 of his homestead's market value. This is a reflection of the fractional homestead in the scenario you have outlined.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

C: Joy Lindquist, Lake of the Woods County

September 3, 2008

Joyce A Eisenmenger, CMA
Account Technician
Martin County Assessor's Office
201Lake Avenue, Room 326
Fairmont, MN 56031

Dear Ms. Eisenmenger:

Thank you for your question concerning the 1b blind/disabled classification. You have asked if a disabled/blind gentleman that lives by himself in a home owned by his parents can qualify for the 1b classification.

Yes. The blind/disabled gentleman could receive a class 1b blind/disabled relative homestead, so long as he meets all other requirements for homestead.

To clarify, if the blind/disabled gentleman lived with his parents in the parents' house, the property would not qualify for the 1b blind/disabled classification. In that case, the owner occupied homestead of the parents would take precedence.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 16, 2008

Ron Foster
Anoka County
Government Center
2100 3rd Avenue
Anoka, Minnesota 55303

Dear Mr. Foster,

Thank you for your recent questions regarding the class 1b blind/disabled homestead. Elsie Hendrickson has forwarded your questions to me for response. As you are aware, property owners will be applying to their county assessors for this classification as of October 1, 2008. You have asked two questions, which are answered in turn below.

1. What sort of proof is necessary for the blind/disabled homestead classification?
For disabled persons, proof may be given in the form of disability award letters from a government agency, such as Social Security or the Veteran's Administration. Copies of check stubs or physician's letters are not acceptable forms of verification. The disability award letter must state that the person is "permanently and totally disabled."

For blind persons, a letter or current eye report from an eye doctor is required as proof of blindness. The letter or report must include diagnosis, acuity, and onset date of the legal blindness.

The bulletin concerning the 1b blind/disabled homestead administration will be released very shortly, and it will outline further examples of proof of blindness or disability status.

2. Do property owners have to re-apply annually, or provide proof of disability or blindness annually?
No. Once a property is approved for the 1b classification, it continues to qualify annually provided there is no change in ownership or use of the property. If a property is no longer eligible for the classification due to changes in ownership, use of the property, or the disabling condition of the property owner, the property owner must notify the assessor within 30 days of such a change.

Again, the Department of Revenue expects to release a bulletin concerning the class 1b blind/disabled homestead in the coming weeks. If you have any further questions or concerns, you may contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

October 1, 2008

Joyce Larson
Washington County Assessor's Office
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Ms. Larson,

Thank you for your recent questions concerning the class 1b blind/disabled homestead. You have asked how the benefit should be applied in cases where the blind/disabled property owner co-owns the home with someone else who is not his/her spouse.

As you are aware, spouses are considered one unit for property tax purposes. This means that the full benefit of a reduced class rate of .45 percent on the first $50,000 of a property's value would apply whether the property is owned solely by a disabled person or by the disabled person along with his/her spouse.

For any other ownership scenario, the benefit would be fractionalized to represent the qualifying blind/disabled person's percentage of ownership. For example, if a disabled person owned the home with another non-related person who is not the disabled person's spouse, the benefit would be a reduced class rate of .45 percent on the first $25,000 of the property's value. This would be the same scenario if the property owner were blind, rather than disabled. If a blind person owned a property with his/her spouse and another relative, the benefit would be the reduced class rate on the first $25,000 (the blind person and his/her spouse represent 50 percent of the ownership interest).

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

October 8, 2008

Farley Grunig
Jackson County Assessor
Courthouse
413 Fourth Street
Jackson, Minnesota 56143

Dear Mr. Grunig:

Thank you for your question concerning the 1b classification and the Property Tax Refund (PTR). You have presented us with the following scenario and related questions:

> An agricultural parcel contains an HGA with a market value of less than $50,000. The owner qualifies for the 1b blind/disabled homestead classification.

Question 1: What value should be used to determine the class 1b homestead benefit?
The class 1b homestead benefit (.45%) extends to the first $50,000 of market value. In this situation, you would use the value of the HGA and any additional land that is needed to raise the value to $50,000.

Question 2: What value is used to determine the Property Tax Refund? (What is the Qualifying Tax Amount?)
For agricultural property, the PTR is calculated on the total market value of the HGA only. In this situation, the qualifying tax amount will be less than $50,000.

Therefore, in this scenario, the PTR qualifying amount will be different (less) than the amount qualifying for the class 1b homestead.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

October 15, 2008

Kristie Olson
Anoka County Government Center
2100 3rd Avenue, Room 160
Anoka, MN 55303

Dear Ms. Olson:

Thank you for your question concerning the class 1b homestead for the blind/disabled. You have presented us with the following scenario:

> A person receiving the class 1b homestead sells his/her home and moves into an apartment in June of 2008. The new owners do not occupy the home, but rent it out.

You have asked which assessment year the classification should be changed from 1b to 4bb.

The class 1b homestead should be removed at the time the property is purchased by a new owner. In this instance, that would be June of 2008.

Basically, anytime that a property qualifying for the 1b classification is sold or transferred to new owners who do not qualify as blind/disabled, the 1b classification should be removed as soon as the sale or transfer takes place.

In the case of death, the classification can remain on the property until the next assessment year, assuming it is not sold or transferred in the meantime.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Terri Corn
Cass County Assessor's Office
303 Minnesota Ave W
PO Box 3000
Walker, MN 56484-3000

Dear Ms. Corn,

Thank you for your recent question concerning the class 1b blind/disabled homestead. You have outlined the following scenario: A property is homesteaded by a sister of the property owner (who receives a relative homestead). The sister's spouse is permanently and totally disabled. You have asked if this property would be eligible for the class 1b blind/disabled homestead.

Minnesota Statutes, section 273.124, paragraph (g) outlines which relatives are eligible for relative homestead provisions as we understand them to pertain to the class 1b blind/disabled homestead. The relationship may be by blood or by marriage. In the scenario you have outlined, the brother-in-law of the property owner is eligible for relative homestead, and is therefore eligible for the class 1b blind/disabled homestead at the full amount.

Please note that out advice is based solely on the facts provided. If any of the facts were to change, our opinion is subject to change as well. If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Lori Schwendemann
Lac Qui Parle County Assessor
Courthouse
600 6th Street
Madison, Minnesota 56256

Dear Ms. Schwendemann:

Thank you for your questions concerning the class 1b homestead for the blind/disabled. You have asked if property put into a trust can qualify or continue to qualify for the class 1b homestead.

Property held under a trust can only be homesteaded by a grantor of that trust. If the person occupying the trusted property is a grantor of the trust and is blind/disabled, the property is eligible to receive a blind/disabled homestead.

You have also asked if the department would be sending examples of the documentation that applicant's must supply with their application in order to prove their disability/blindness. The department will be supplying the counties with some examples of disability/blind award letters in the near future.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

October 27, 2008

Angela Baker
Wabasha County Assessor's Office
Courthouse
625 Jefferson Avenue
Wabasha, Minnesota 55981

Dear Ms. Baker:

Thank you for your question concerning the 1b homestead classification for the blind/disabled. You have presented us with the following situation:

> A person cannot receive disability payments because they did work long enough at their place of employment. Because they are short in Social Security work credits, they cannot get a letter from the Social Security Administration stating that they are disabled and entitled to disability payments.

You have asked if this person can receive a disabled homestead even though they don't have a letter/documentation stating that they are totally and permanently disabled and do not receive disability payments.

No. Applicant's for class 1b homestead for the blind/disabled must be able to provide documentation of their disability in the form of a letter from a qualifying agency attesting to that person's total and permanent disability and stating that the person is eligible to receive disability payments. If the proper documentation is not provided, class 1b should not be granted.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

November 12, 2008

Beverly Johnson
Polk County Assessor's Office
Courthouse
612 N. Broadway
Suite 201
Crookston, Minnesota 56716-1452

Dear Ms. Johnson:

Thank you for your question concerning the 1b classification for the blind/disabled. You have a situation in which a person has submitted a letter from a doctor stating that she has end stage pulmonary disease and is homebound. The documentation you have from the Social Security Administration does not state that she is disabled. You have inquired as to whether this person should receive the 1b classification.

No. Without an award letter from the Social Security Administration stating that the person is disabled and eligible to receive payments, the 1b classification cannot be granted. A letter from a doctor is not sufficient. If the person is able to supply you with a copy of her original award letter stating that she is disabled (and all other qualifications are met), the 1b classification may be granted. The person may need to contact the Social Security Administration to receive a copy of her original disability award letter (or its equivalent) if such a letter was ever granted.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

November 12, 2008

Joyce Larson
Washington County Assessor's Office
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Ms. Larson:

Thank you for your questions concerning the 1b classification for the blind/disabled. You have asked how the reduced class rate of .45% should apply to an HGA with a value of less than $50,000.

The class 1b homestead benefit (.45%) extends to the first $50,000 of market value. In a situation where the HGA has a value of less than $50,000, you would use the value of the HGA and any additional land that is needed to reach the value of $50,000. The HGA and the additional land may both receive the reduced class rate.

If you have any other questions or concerns please direct them to property.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

November 13, 2008

Melissa Janzen
Wright County Assessor's Office
10 2nd Street NW – Room 240
Buffalo, MN 55313

Dear Ms. Janzen:

Thank you for your question concerning the 1b classification and manufactured homes. It has been forwarded to me for reply. You have asked if the class 1b effective date of assessment year 2008 applies to manufactured homes.

Yes. The 1b classification is effective for manufactured homes in assessment year 2008. Because manufactured homes (assessed as personal property) are assessed with taxes payable the same year, and many manufactured home owners have already paid their property taxes, it would be appropriate to do abatements for any mobile home owners that qualified for the 1b classification in assessment year 2008.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

January 15, 2009

Marcia Hetletvedt
Rice County Assessor's Office
Government Services Building
320 Third Street NW, Suite 4
Faribault, Minnesota 55021-6100

Dear Ms. Hetletvedt:

Thank you for your question concerning the 1b blind/disabled homestead classification. You have presented us with the following situation:

> A husband and wife are both disabled and live separately. The husband is the sole owner of his property; the wife owns her property with a third party.

You would like to know if it would be appropriate to grant the husband 50% disabled homestead on his property and the wife 25 percent disabled homestead on her property.

Yes. In our opinion, spouses living separately (and not qualifying under M.S. 273.124 subdivision 1[e]), may receive up to 50 percent homestead on each of their properties. However, in this case, the wife owns her property with another person. Therefore, she is eligible to receive 25 percent disabled homestead (half of the 50 percent she would receive if she was the sole owner). The husband is eligible for 50 percent disabled homestead on his property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009001

January 15, 2009

Pam Moe
Becker County Assessor's Office
Courthouse 915 Lake Avenue
P.O.Box 787
Detroit Lakes, Minnesota 56502

Dear Ms. Moe:

Thank you for your question concerning the class 1b blind/disabled homestead. You have asked if documentation from the US Railroad Retirement Board stating that an applicant is "entitled to receive a disability annuity under the Railroad Retirement Act" is sufficient documentation to grant the class 1b homestead.

Yes. According to the US Railroad Retirement Board's website, persons receiving a disability annuity under the Railroad Retirement Act must be totally and permanently disabled and the disability must prevent the performance of any regular or gainful work. In our opinion, this is sufficient documentation of the applicant's permanent and total disability and therefore the applicant may be eligible for the class 1b blind/disabled homestead.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

2009024

January 14, 2009

Lana Anderson
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Ms. Anderson:

Thank you for your question concerning the 1b blind/disabled homestead classification. You have presented us with the following situation:

> You rejected an application for a disabled homestead because the documentation provided did not specifically state that the applicant was disabled or eligible to receive disability payments. You would like to know if rejecting the application was the correct thing to do.

Yes, you did the correct thing. Applicants for a disabled homestead classification must provide documentation specifically stating that they are permanently and totally disabled and eligible to receive disability payments. Payments from a qualifying agency are used as evidence of a disability when determining whether or not a person is eligible for a disabled homestead. However, only providing evidence of a payment is not sufficient. A letter from a qualifying agency stating that an individual is permanently and totally disabled and is eligible to receive disability payments is required. Applicants may need to request a letter from the agency from which they receive their disability payments stating that they are, in fact, disabled and receiving disability payments.

Please see the attached examples of acceptable documentation for further assistance in this matter. Also, please review the *Class 1b Blind/Disabled Homesteads* bulletin (and other materials) the department issued on September 29, 2008 for additional information.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

Public Employees Retirement Association of Minnesota
Department of Revenue Correspondence: Classification Issues
60 Empire Drive, Suite 200
Saint Paul, Minnesota 55103-2088
Member Information Services: 651-296-7460 or 1-800-652-9026
Employer Response Lines: 651-296-3636 or 1-888-892-7372
PERA Fax Number: 651-297-2547
PERA Website: www.mnpera.org

This letter is to inform you that your application for disability benefits has been approved with an effective date of December 15, 2003. The rating used on this decision was total and permanent disability for at least one year and as defined by State Statute Chapter 353.01.

Subd. 19. **Total and permanent disability.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to be of long-continued and indefinite duration. Long-continued and indefinite duration means that the disability has been or is expected to be for a period of at least one year.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Tom Dannecker

Tom Dannecker
Benefit Claims Processor

FILE COPY

BROADSPIRE

a Crawford Company

June 13, 2007

To Whom it May Concern:

This letter is to confirm that [redacted] has been declared permanently and totally disabled and is receiving workers' compensation benefits related to such. He will receive these benefits for his lifetime with annual increases as determined by the State of Minnesota.

If you have any questions please let me know. I can be reached at 651-582-0333.

Sincerely,

Kristen Goligowski
Workers' Compensation Adjuster

PO Box 8008 St. Paul, MN 55108 phone: 651.631.0055 fax: 651.631.9414

FILE COPY COPY

Teachers Retirement Association

Suite 500, Gallery Building
17 West Exchange Street
Saint Paul, MN 55102
(612) 296-2409
1-800-657-3669
Fax (612) 297-5999

This is to advise that your application for a total and permanent disability benefit was approved by the Executive Director. The date the disability begins to accrue has been established as June 11, 1997 and the monthly benefit is $1,681.48.

The 1997 Legislature passed comprehensive retirement uniformity legislation. As a result, effective July 1, 1997 your monthly benefit will be $1,821.88.

You may expect to receive your first disability payment during the first week of January, 1998 for the period June 11, 1997 through January 31, 1998 in the gross amount of $13,874.15; thereafter, payments will be made in the monthly gross amount of $1,821.88 during the first week of each month for that particular month.

Under the provisions of MSA Section 354.48, Subdivision 6, annual medical examinations are required during the first five years following the allowance of a disability benefit to any member. Thereafter, such examinations will be required at least once every three years. If the required medical examinations and reports establish that the member continues to be totally and permanently disabled as defined by TRA law, the disability benefit will continue to age 65 or the five year anniversary of the effective date of the disability benefit, whichever is later. At this time the member is deemed to be on retirement status and the election of a retirement annuity plan becomes effective under the provisions of MSA Section 354.48, Subdivision 10.

Independent School District #11 reported that your last day of service or sick leave for which salary was paid was June 10, 1997. Please notify this Association immediately if you receive salary for service or sick leave after the above referenced date because it may affect your disability benefit.

Also enclosed is our fund's Bank Agreement Form. Your Teachers Retirement payment can be electronically transferred to a bank, a savings and loan association, or a credit union. Your Teachers Retirement payment can not be transferred to a brokerage firm. Upon completion of this form, please allow at least 60 days after the agreement is received in our office for your benefit payment to be electronically transferred. You will receive notice

3099

MSRS | Minnesota State Retirement System
MNDCP | Minnesota State Deferred Compensation Plan
HCSP | Health Care Savings Plan

Our medical advisor agrees that you are totally and permanently disabled and an authorized agent of the Executive Director has just approved your claim.

The disability benefit will accrue the day after salary ends or 180 days before the receipt of your application. If you have vacation and sick leave on the books, these payments may increase your benefit. It may be to your advantage to have this paid out on payroll. Your first disability payment will be calculated 3 to 5 weeks after the end of the last pay period in which you receive compensation or from the date of this letter; whichever is later.

If you have questions, please contact us.

Very truly yours,

Social Security Administration

Date: May 7, 2007
Claim Number: 9A
DI

T00000020

5

You asked us for information from your record. The information that you requested is shown below. If you want anyone else to have this information, you may send them this letter.

Information About Current Social Security Benefits

Beginning December 2006, the full monthly Social Security benefit before any deductions is $ 1238.90.

We deduct $93.50 for medical insurance premiums each month.

The regular monthly Social Security payment is $ 1145.00.
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid the following month. (For example, Social Security benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

Date of Birth Information

The date of birth shown on our records is November 30, 1939.

Other Important Information

YOUR ENTITLEMENT TO SOCIAL SECURITY DISABILITY BENEFITS BEGAN IN MAY 2000.

Medicare Information

You are entitled to hospital insurance under Medicare beginning May 2002.

You are entitled to medical insurance under Medicare beginning July 2003.

Type of Social Security Benefit Information

You are entitled to monthly retirement benefits.

See Next Page

SOCIAL SECURITY ADMINISTRATION

FILE COPY

You asked us for information from your record. The information that you requested is shown below. If you want anyone else to have this information, you may send them this letter.

Type of Social Security Benefit Information

You are entitled to monthly disability benefits.

If You Have Any Questions

If you have any questions, you may call us at 1-800-772-1213, or call your local Social Security office at 218-263-4668. We can answer most questions over the phone. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
1122 E 25TH STREET
HIBBING, MN 55746

If you do call or visit an office, please have this letter with you. It will help us answer your questions.

Bob Wolff 10/29

OFFICE MANAGER

2009032

January 26, 2009

Lisa Braun
Mille Lacs County
Courthouse
635 2nd Street SE
Milaca, Minnesota 56353

Dear Ms. Braun:

Thank you for your questions concerning the 1b Blind/Disabled Homestead classification. You have asked the following questions:

1. An applicant for class 1b provided a "Notice of Award" letter but it does not state if they are totally or permanently disabled. Is this acceptable documentation?
Applicants for class 1b must be able to prove to you that they are permanently and totally disabled. Acceptable documentation (see attached examples) must state that the applicant is permanently and totally disabled. A few exceptions we have found are award letters from the Social Security Administration and the US Railroad Retirement Board. Award letters from these organizations generally will not specifically state that a person is permanently and totally disabled. However, in order to receive any disability payments from the Social Security Administration or the US Railroad Retirement Board a person must be permanently and totally disabled. If you have a question as to whether an application is permanently and totally disabled, you can request that they provide you with documentation that proves that they are permanently and totally disabled. This may require the applicant to request a letter from the agency from which they receive disability payments stating that they are, in fact, permanently and totally disabled.

2. A disabled property owner is applying for the disabled homestead on a property he occupies. He owns another property on which his disabled mother is receiving a residential relative homestead. Can the property the mother occupies receive class 1b as well?
Yes. If the mother qualifies for a residential relative homestead and is permanently and totally disabled, it would be eligible for receive the 1b classification.

As requested, please find attached to this letter some copies of sample letters that qualify as acceptable documentation of a person's permanent and total disability.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

April 7, 2009

Edna Coolidge, Interdepartmental Specialist
Anoka County
2100 3rd Ave.
Anoka, MN 55303

Dear Ms. Coolidge:

Thank you for your questions concerning the 1b Blind/Disabled Homestead classification. You have asked the following questions:

1. Should "notice of award" letters from the Social Security Administration (SSA) be dated the year of the application or would a letter from 2005 be sufficient documentation of a person's disability?
The SSA only pays disability payments to persons with total disabilities that have lasted at least one year or are expected to result in death. This definition of disability satisfies the "total and permanent" requirement of the 1b classification. However, if you deem it necessary, you may require the applicant to provide a current letter of disability award before you grant the 1b classification. According to law, the county assessor may require an applicant to provide the proof (i.e. additional documentation) deemed necessary to verify that a person qualifies or continues to qualify for the classification.

2. Do we need all the pages of the notice of award letter?
You need sufficient documentation stating that the applicant is totally and permanently disabled. Only the pages of the letter which satisfy this requirement are needed.

3. The SSA letters do not state "totally and permanently" disabled. Do these letters qualify a person for class 1b?
Again, the SSA only pays disability payments to persons with total disabilities that have lasted at least one year or are expected to result in death. This definition of disability satisfies the "total and permanent" requirement of the 1b classification. However, the county assessor may require an applicant to provide any additional documentation deemed necessary to verify that a person qualifies or continues to qualify for the classification.

4. A person sent in a SSA notice of disapproved claim that says the person was denied SSA benefits but also states that: "You were disabled in 2007" and "Although you are not eligible for the reason given above, we have determined that you are disabled." The person also sent in a letter from a Neurology Specialist and disability parking certificates. There is no documentation that the person is receiving disability payments. Would this person qualify for class 1b?
In our opinion, the documentation provided by this applicant would not qualify him/her for the 1b classification. Letters from doctors and disability parking certificates are not valid documentation of a person's disability for class 1b purposes. Furthermore, if the person is not receiving disability payments from the SSA (or another qualifying agency) they are not eligible for class 1b.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

April 16, 2009

LuAnn Hagen
Hennepin County Assessor's office
A-2103 Government Center
300 S. 6th Street
Minneapolis, Minnesota 55487-0213

Dear Ms. Hagen:

Thank you for your question concerning the 1b classification. You have presented us with the following scenario:

> The Social Security Administration (SSA) changes a person's disability payments to "retirement benefits" when they reach full retirement age. Can people who are able to prove permanent and total disability but no longer receive Social Security “disability payments” qualify for the 1b class?

It is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for the 1b class. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. In the instance you cited, if the person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class.

Persons who have become disabled after retirement age, and therefore never received “disability payments” from the SSA, are not eligible to receive the 1b classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

2009343

October 12, 2009

Linda Rooney
Ramsey County
90 W. Plato Blvd PO Box 64097
St Paul, MN 55164-0097

Dear Ms. Rooney:

Thank you for your questions concerning the class 1b blind/disabled homestead. You have asked if people receiving Supplemental Security Income from the Social Security Administration (SSA) can receive the class 1b homestead.

In our opinion, people receiving Supplemental Security Income may be eligible for the class 1b homestead. The SSA administers two programs designed to provide benefits to disabled individuals. These programs are (1) Social Security Disability Insurance and (2) Supplemental Security Income. To qualify for Supplemental Security Income an individual must be age 65 years or older, blind, **or** have a disability that meets Social Security's definition of a disability. The SSA's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. The SSA's definition of being blind also meets the requirements for class 1b, although an eye doctor's report or letter giving detail of the person's sight must be included in the application for class 1b.

However, a person who is merely age 65 years or older is not eligible for class 1b. For this reason, it is important that the documentation that you receive clearly states that a person is receiving Supplemental Security Income due to a disability or blindness. If you cannot determine if a person is receiving Supplemental Security Income due to a disability or blindness, it is appropriate to request the applicant to provide you with further documentation until you are satisfied that the person meets the statutory requirements of class 1b. The onus is on the applicant to prove to you that they meet the necessary requirements. If the applicant cannot do so, denial of the classification is appropriate.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009350

October 12, 2009

Jody Anderson
Kanabec County Assessor's Office
715 4th St
International Falls, MN 56649

Dear Ms. Anderson:

Thank you for your questions concerning the class 1b blind/disabled homestead. You have asked the following questions:

1. **A person cannot be employed and receive the 1b classification. How do you know if a person is employed?**
   Most agencies that pay out disability payments (e.g. Social Security Administration, Railroad Retirement Authority, etc.) require that a person must be unable to hold gainful employment in order to be considered permanently and totally disabled. Therefore, it can be assumed that someone receiving disability payments for a permanent and total disability is not working at an occupation that brings them an income. However, there may be instances where the disability status of a person changes, or some other factor comes into play that may cause you to question the appropriateness of granting class 1b. The county assessor has the authority to request information or require a new application to be completed at any time if there is a question as to whether or not a person is appropriately receiving the 1b classification.

2. **A person qualified for class 1b in October 2006. Currently, she is working two jobs. Is this a permanent classification as long as they live at the property or should the classification be removed?**
   If a person's disability status changes so that they are no longer considered permanently and totally disabled or they are able work at an occupation that brings the person an income, the 1b classification should be removed from the property. We would recommend contacting this individual to determine the status of her disability before making any changes.

3. **The disabled veterans homestead market value exclusion applications have information on the percentage that the applicants are disabled. For class 1b do we just assume it is a 100 percent disability?**
   The Veteran's Administration rates disabilities using different standards then those used for the administration of class 1b. Applicants for class 1b must be permanently and totally disabled. For the purposes of the 1b classification, permanently and totally disabled describes a condition which is permanent in nature and totally incapacitates a person from working at an occupation which brings the person an income. An individual who is permanently and totally disabled must be receiving payments because of their disability. Payments from a qualifying agency are used as evidence of a disability when determining whether or not a person is eligible for a disabled homestead. However, only providing evidence of a payment is not sufficient. A letter from a qualifying agency stating that an individual is permanently and totally disabled and is eligible to receive disability payments is required.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009394

October 28, 2009

Michael Hansen
Ramsey County Assessor's Office
90 W Plato Blvd
PO Box 64097
St Paul, MN 55164-0097

Dear Mr. Hansen:

Thank you for your question concerning the appropriate method for applying a fractional class 1b blind/disabled homestead. You have asked how to apply a fractional class 1b homestead (50 percent) to a property with a Total Market Value (TMV) of $61,300.

When a class 1b homestead is fractionalized the benefit is prorated accordingly. The number that is pro-rated is the maximum benefit amount of $50,000. In your example, the homestead is pro-rated 50 percent. Therefore, the property can receive a .45 percent class rate on up to $25,000 of value.

In your example, the proper tax capacity calculations would be as follows:

- Class 1b: $25,000 x .0045 = $112.50
- Class 1a: $36,000 x .01 = $360.00

  Total Tax Capacity = $472.50

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

C: Derrick Hodge, DOR

May 13, 2010

Erin Chesney
Minnesota House

Dear Ms. Chesney:

Thank you for your question concerning the class 1b special homestead for the blind/disabled. You have inquired as to whether or not an applicant for class 1b must provide proof that they receive disability payments.

According to Minnesota Statute 273.13, subdivision 22, paragraph (b):

> "Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34." [Emphasis added.]

It also states that:

> "Property is classified and assessed under paragraph (b) only if the commissioner of revenue or the county assessor certifies that the homestead occupant satisfies the requirements of this paragraph." [Emphasis added.]

Minnesota Statute 273.1315, which concerns the certification of class 1b property, also states that:

> "The declaration [application] must contain the following information:
> (1) the information necessary to verify that, on or before June 30 of the filing year, the property owner or the owner's spouse satisfies the requirements of section 273.13, subdivision 22, paragraph (b), for class 1b classification; and
> (2) any additional information prescribed by the commissioner."

Therefore, for the purposes of administration, the department finds that it is prudent to receive proof of disability payments from applicants for the 1b classification. Disability payments are used as proof that a government agency or other income-providing source considers the applicant permanently and totally disabled. People receive disability payments because it has been determined that their disability "incapacitates the person from working at an occupation which brings the person an income" (Minnesota Statutes 273.13). If a person is unable to receive disability benefits, it is possible that they do not meet the permanently and totally disabled definition found in law. Therefore, we have consistently advised assessors and applicants that proof of disability income may be necessary.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

June 15, 2010

Jo E. Dooley
Wadena County Assessor's Office
dooleyjo@co.wadena.mn.us

Dear Ms. Dooley:

Thank you for your recent questions concerning the class 1b blind/disabled homestead. You have asked how the benefit should be applied in cases where the blind/disabled property owner co-owns the home with someone else who is not his/her spouse, in this case a father and son.

As you are aware, spouses are considered one unit for property tax purposes. This means that the full benefit of a reduced class rate of .45 percent on the first $50,000 of a property's value would apply whether the property is owned solely by a disabled person or by the disabled person along with his/her spouse.

However, for any other ownership scenario, including father and son, the benefit would be fractionalized to represent the qualifying blind/disabled person's percentage of ownership. In this case, in which the blind/disabled person co-owns the property with their son, the benefit would be a reduced class rate of .45 percent on the first $25,000 of the property's value.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

June 15, 2010

Edna Coolidge
Anoka County Assessor's Office
Edna.Coolidge@co.anoka.mn.us

Dear Ms. Coolidge:

Thank you for your question concerning the class 1b homestead for the blind/disabled. You have asked if an "Affidavit of Blindness" from the Minnesota Department of Economic Security (MDES), State Services for the Blind, is appropriate documentation for granting the 1b classification.

The department has held that when applying for class 1b an eye doctor's report giving detail of the person's sight must be included. Reports from eye doctors make it clear that the person meets the definition of blind as provided in statute. Blind, as determined in Minnesota Statutes, section 256D.35, means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

However, if the "affidavit of blindness" completed by the MDES provides sufficient information to determine that the applicant meets the statutory definition of blind (above), you may accept it as sufficient documentation for granting class 1b. If you are uncertain if the affidavit provides sufficient information, we suggest that you request that the applicant provide you with a report from an eye doctor.

If you have any further questions or concerns, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

Chelsea King
Polk County Tax Service Center/Assessor's Office
612 N Broadway Ste 201
Crookston MN 56716

chelsea.king@co.polk.mn.us

Dear Ms. King,

Thank you for your recent question regarding the class 1b blind/disabled homestead. You have asked, in the case of a qualifying person passing away, would a surviving spouse at the property continue the 1b classification until the next assessment year?

Yes. If a property receives 1b blind/disabled homestead, and the qualifying owner passes away, the classification will not be removed until the next assessment year (provided the property does not sell or transfer in the meantime). In other words, if a surviving blind/disabled person passes away after January 2, 2010, the 1b classification is removed for the 2011 assessment (taxes payable 2012).

Please do not hesitate to contact us via email at proptax.questions@state.mn.us if you have any further questions.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

December 21, 2010

Chelsea King
Polk County Assessor's Office
612 N Broadway Ste 201
Crookston MN 56716

chelsea.king@co.polk.mn.us

Dear Ms. King,

Thank you for your recent question to the Property Tax Division regarding the 1b blind/disabled homestead classification. A woman applied for the 1b classification on a property owned by her father. However, her father lives in a nursing home. You have asked if the daughter's application as power of attorney is acceptable, and if the property would qualify for 1b classification while the qualifying disabled person is in a nursing home.

To answer your first question, it is acceptable for someone with appropriate power of attorney documentation to fill out the application on behalf of the qualifying disabled person.

In terms of granting the 1b classification while the qualifying disabled person is in a nursing home, the property may qualify for 1b provided the following items are true:

- That the property is owned by the qualifying disabled person (or the qualifying person and his spouse);
- That the property is continuing to receive homestead treatment under the provisions of Minnesota Statutes, section 273.124, subdivision 1, paragraph (f) which allows for a person to be absent from the residence due to nursing home care;
- That no one other than the occupant's spouse occupies the home as a homestead and the home is not rented by anyone else;
- That the person seeking the 1b classification is able to verify that he is permanently and totally disabled and was receiving disability payments prior to the age of retirement.

If those facts are present in the situation you have outlined, we believe that the property in question may qualify for the 1b classification. If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

February 14, 2011

Lyn Regenauer
Chisago County Assessor's Office
LJregen@co.chisago.mn.us

Dear Ms. Regenauer,

Thank you for your question regarding disability payments and qualifying for the 1b class. You have outlined the following scenario:

> *I have a property owner who is totally and permanently disabled and was receiving disability benefits but had not applied for the reduction in taxes. He is now over the age of 65 and wants to apply for the benefit. Typically a person retires about the age of 65 and would be receiving retirement benefits. The way the law is written (MS 273.13, Subd. 22) incapacitates the person from working at an occupation which brings the person an income.*
>
> *Does this person qualify for the disability benefit because he has been totally and permanently disabled for years, or because of his age no longer qualifies because the income he is receiving would be considered "retirement"? If this is the case that he does not qualify, do we need to be going to all of our disabled applicants and checking their age every year to see if they continue to qualify? And at what age do we consider the benefit changing from disability to retirement?*

It is our understanding that only people that were designated by the Social Security Administration (SSA) as disabled before they were eligible to retire can qualify for the 1b class. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. In the instance you cited, if the person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

If you have additional questions or concerns, please contact our division by email at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey
State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 11, 2011

Crystal Campos
Tax Clerk
Taxpayer Services Department
600 E 4th St
Chaska, MN 55318
ccampos@co.carver.mn.us

Dear Ms. Campos,

Thank you for your recent questions to the Property Tax Division. Shawn Wink has forwarded two of your questions to the Information and Education Section, which are answered below.

1. **Your county has received an application for special homestead classification (form PE12). The form states that the application is due before October 1. This is not an annual application. The form was completed on 3-9-11 for the special classification but the taxpayer included a letter from Social Security Administration with an effective start date for benefits of July 2010. Should an abatement be processed to change the classification for pay 2011 or is the statutory application deadline the deciding factor?**
   The statutory application deadline is the relevant date. Unless there was a hardship in the applicant's ability to file timely application by the statutory deadline, an abatement would not be appropriate. Assuming that the property owner has provided all necessary documentation along with the application, it would likely be approved by the assessor for the 2011 assessment year (for taxes payable in 2012).

2. **What date is used to determine tax exemption class? Is it the date of application or date of deed? There is an application for exemption from a school district dated 4-5-11. The application listed date of acquisition as 9-1-2009. They would like pay 2011 taxes to be abated. Is it possible to do that based on the acquisition date?**
   Minnesota Statutes, section 272.02, subdivision 38, paragraph (b) outlines the conversion of taxable status for a property during the assessment year.

   > *"Property… that is subject to tax on January 2 that is acquired before July 1 of the year is exempt for that assessment year if the property is to be used for an exempt purpose under subdivisions 2 to 8 [public burying grounds, public school houses, public hospitals, education institutions, church property, institutions of purely public charity, and public property used for public purposes]."*

   In the situation you have outlined, the property was acquired after the July 1 cutoff date for the 2009 assessment year, however it was owned by a qualifying exempt institution on January 2, 2010 for the 2010 assessment. The property owner should have made application to the County Assessor so that the assessor would have been able to determine the facts of the situation before granting or denying property tax exemption. Without any additional information, in most cases such as the one you have outlined, the property would be eligible (provided it is being used for school district qualifying exempt purposes) for property tax exemption beginning with the 2011

assessment year, for taxes payable in 2012. An abatement of taxes under this provision is at the discretion of the county.

If you have any additional questions, please do not hesitate to contact the Information and Education Section of the Property Tax Division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

May 3, 2011

Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for your question concerning class 1b blind/disabled homesteads. You have received an application with documentation from an eye doctor stating that the applicant is "legally blind for income tax purposes." You have inquired as to whether this would qualify the applicant for the 1b classification.

According to our research, it appears that the requirements for class 1b are met if the applicant is legally blind for income tax purposes because the definition of legally blind for income tax purposes matches the definition used in Minnesota Statutes 273.13 concerning the 1b classification. However, if you feel it is necessary, you may ask for further documentation proving that the applicant meets the following requirements:

- central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or
- if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

June 15, 2011

Dianne Reinart
Traverse County Assessor
dianne.reinart@co.traverse.mn.us

Dear Ms. Reinart:

Thank you for your question concerning the 1b classification for the blind/disabled. You have asked if the required documentation only has to say that the applicant is "disabled" or if it has to state that they are "permanently and totally disabled."

Documentation from the Social Security Administration will not state that the applicant is permanently and totally disabled. However, the Social Security Administration's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. Therefore, documentation that proves that the person is receiving disability benefits through the Social Security Administration is sufficient to grant the 1b classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

September 1, 2011

Susie Sohlman
Koochiching County Assessor's Office
Susie.Sohlman@co.koochiching.mn.us

Dear Ms. Sohlman:

Thank you for your question concerning the 1b homestead classification for the blind/disabled. You have received an application which states that the applicant's disability is expected to last at least five months or more. You have asked for our opinion on how to proceed with this application.

The definition of disability under Social Security is different from other programs, but it is a strict definition of disability. Social Security pays only for total disability. No benefits are payable for partial disability or for short-term disability. "Disability" under Social Security is based on a person's inability to work and the following rules apply:

- A person cannot do the work that they did before;
- The SSA determines that a person cannot adjust to other work because of his/her medical condition(s); and
- The disability has lasted or is expected to last for at least one year or to result in death.

Therefore in general, the SSA pays monthly cash benefits to people who are unable to work for a year or more because of a disability. If you have documentation that implies that the disability will not last for at least a year, you may need to ask the applicant for further documentation proving that the disability is not temporary. Until which time you receive information establishing the disability as lasting for at least one year, we do not recommend granting the 1b classification.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

September 19, 2011

Brenda Shoemaker
Otter Tail County Assessor's Office
Government Services Center
Fergus Falls, MN 56537
BShoemak@co.ottertail.mn.us

Dear Ms. Shoemaker,

Thank you for your recent question to the Property Tax Division regarding the 1b classification for properties that are occupied by surviving spouses of paraplegic veterans. You have asked how recent changes to the disabled veterans' market value exclusion may affect these properties. Specifically, you have asked about a property in your county which had been receiving the exclusion under a surviving spouse, and for which you had changed the classification to 1b after the exclusion was removed one additional assessment year after the year of the veteran's death.

Minnesota Statutes, section 273.13, subdivision 22, paragraph (b), clause (3) allows the 1b classification for properties owned and occupied as a homestead by "the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008." This provision was enacted in 2008 for approximately 32 surviving spouses of paraplegic veterans who had been receiving the classification since their qualifying spouses had passed away. In effect, it was a "grandfather" provision for those specific surviving spouses of paraplegic veterans.

In the scenario you have outlined, the property received the disabled veterans' market value exclusion under M.S. 273.13, subdivision 34 because a qualifying permanently and totally disabled veteran homesteaded the property. When the veteran passed away, his surviving spouse received the exclusion for one additional assessment year after the year of the veteran's death, as was provided in statute at that time. Recently-enacted laws have changed this provision to allow the surviving spouse to receive an additional three taxes payable years of the exclusion, provided she continues to own and occupy the property as her homestead, ownership has not changed, and she has not remarried.

As stated in the 2011 Special Session Law Summary:

> *"…surviving spouses who received the benefit for taxes payable in 2009 and 2010 should also receive the benefit for taxes payable in 2012, 2013, and 2014 – five total payable years. This assumes the surviving spouse has not remarried, nor has sold, transferred, or otherwise disposed of the property. If a permanently and totally disabled veteran passes away in 2012, the surviving spouse would receive the benefit for taxes payable in 2012 (based on the 2011 assessment as the veteran's exclusion), as well as for taxes payable in 2013, 2014, 2015, 2016, and 2017 (based on assessment years 2012 [the year of the veteran's death], 2013, 2014, 2015, and 2016)."*

The department recently created an application for these surviving spouses for the 2011 assessment year, which is due on September 15 to be eligible for taxes payable in 2012.

The 1b classification is not applicable to these scenarios where a property has changed from a 1b classification to be eligible for the market value exclusion. Once a property qualifies for the market value exclusion, a surviving spouse of a permanently and totally disabled veteran may receive the exclusion for up to five additional taxes payable years after the year of the veteran's death. The property does not, however, change to a 1b classification unless the qualifying owner (the surviving spouse) is permanently and totally disabled or blind, as required by the 1b classification.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

October 11, 2011

Steven Skoog
Becker County Assessor
slskoog@co.becker.mn.us

Dear Mr. Skoog,

Thank you for your recent question regarding the class 1b blind/disabled homestead. Your question was forwarded by Brad Averbeck to the Information and Education Section for response. You have outlined the following scenario: Recently, an individual applied for the 1b classification on his homestead property in Becker County. The individual was diagnosed with muscular dystrophy, and this condition has been present for several years. His insurance provider pays disability insurance benefits based on a total disability, however they do not currently consider him "permanently and totally" disabled. They are not scheduled to make a determination for another two years as to whether it is permanent in nature. The individual does not receive Social Security disability payments, due to having been employed outside of the United States for some time. Because neither the insurance company nor the Social Security Administration have provided the individual with documentation that he is permanently and totally disabled, you have asked if written documentation from a medical provider would be sufficient to grant the 1b classification.

Unfortunately, based on the information you have provided, the applicant does not meet the qualifications for the 1b classification. Minnesota Statutes, section 273.13, subdivision 22 provides, "Property is classified and assessed [as 1b] only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph." Without such certification, the assessor may not grant the 1b classification. A letter from a medical doctor may not be used in lieu of this certification.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

November 8, 2011

Becky Kotek
Rice County Assessor's Office
bkotek@co.rice.mn.us

Dear Ms. Kotek:

Thank you for your question concerning the 1b classification for the blind/disabled. You have an applicant that submitted a letter from the Social Security Administration stating that the applicant is "entitled to Medicare hospital and medical insurance beginning October 2010". There is no mention of disability anywhere on the letter. You have asked if this is sufficient documentation to receive class 1b.

In our opinion, this is **not** sufficient documentation to grant the applicant the 1b classification. Medicare is provided to all individuals after they turn a certain age. We advise that you request the applicant to supply your office with documentation stating that they are permanently and totally disabled and receiving payments from the Social Security Administration (or other qualifying agency) due to that disability.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

March 19, 2012

Doreen Pehrson
Nicollet County Assessor
dpehrson@co.nicollet.mn.us

Dear Ms. Pehrson:

Thank you for your question concerning the 1b classification for the blind/disabled. You have asked if property owners can qualify for a class 1b homestead if they have letters from their doctors saying they are permanently and totally disabled. An applicant in question does not receive a disability payment.

A letter from a doctor stating that the applicant is permanently and totally disabled is not sufficient to grant the 1b classification. As stated in Minnesota Statute 273.13, subdivision 22, paragraph (b):

> "Property is classified and assessed… [as class 1b] only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph…" [Emphasis added.]

Therefore, an applicant for class 1b must be receiving disability payments and the letter stating that the applicant is permanently and totally disabled must come from the income-providing source/agency. A letter from a doctor is not sufficient.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

May 29, 2012

Shelly Nelson
Pennington County Assessor's Office
manelson@co.pennington.mn.us

Dear Ms. Nelson,

Thank you for your recent question regarding the Blind/Disabled Homestead Classification. You have provided us with the following information:

> *A taxpayer in your county received social security disability payments but now receives social security retirement benefits because he has entered into retirement age. You have asked if he can apply for the blind/disabled homestead classification and if so what paperwork is needed.*

It is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for class 1b. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. If a person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

If you have any additional questions or concerns please feel free to contact our division us at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 16, 2012

Ashley Kurtz
Rock County Assessor's Office
ashley.kurtz@co.rock.mn.us

Dear Ms. Kurtz:

Thank you for your question concerning the 1b classification for the blind/disabled. You have a situation in which a property owner received the class 1b blind/disabled homestead on a property. It now came to the attention of your office that the qualifying property owner passed away in 2009. His wife never notified the assessor's office of his death and continued to receive the blind/disabled homestead benefit. The county assessor has requested that you send a corrected tax statement for the years that the wife benefited from the homestead incorrectly. You do not want to send corrected tax statements because you believe it was an honest mistake and the wife has since sold the property. You have asked if you are *required* to send corrected tax statements concerning the years the property erroneously received the 1b classification.

As noted on the application for class 1b, it is the responsibility of the property owner to notify the county assessor within 30 days of a change in the disability status of the qualifying occupant, ownership, occupancy, or marital status. According to Minnesota Statute 273.1315:

> *"Failure to notify the commissioner within 30 days that the property no longer qualifies under that paragraph* [class 1b] *because of a sale, change in occupancy, or change in the status or condition of an occupant shall result in the penalty provided in section 273.124, subdivision 13, computed on the basis of the class 1b benefits for the property, and the property shall lose its current class 1b classification."*

Therefore, it in order to promote consistency in the assessment and adhere to the intention of the law, it is our opinion that the penalty provided in Minnesota Statute 273.1315 must be assessed.

If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

May 16, 2012

Keith Albertsen
Douglas County Assessor
keith.albertsen@mail.co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for your questions concerning the 1b classification and the disabled veterans' market value exclusion. Your questions are answered in turn below.

Question 1: If a class 1b blind or disabled property owner passes away after the assessment date, is the1b classification removed as of the next assessment date for taxes payable the following year? What if the owner sells the property after the assessment date?
If the owner passes away during the assessment year, the class 1b property remains on the property and is removed for the next assessment year unless the property is sold or transferred in the interim, in which case the classification should be removed from the property at the time of sale.

If the owner does not pass away but decides to sell the home and purchase a new home, the owner is required to notify the county assessor of the change and the 1b class should be removed from the original property and extended to the newly acquired property. If a new property is not acquired, the 1b classification should remain on the property until the next assessment year or until which time it is sold or transferred, whichever comes first.

Question 2: If a veteran who is qualifying for the veteran's market value exclusion at the 70 percent or more disabled level passes away, is the exclusion removed for the current assessment year or is it removed for the next assessment year? If a veteran qualifies as 70 percent or more disabled and sells the property, is the exclusion removed for the current assessment year or is it removed for the next assessment year?
The exclusion is removed in the assessment year of the veteran's death or the assessment year in which the property is sold. As you may recall, the exclusion is granted for an assessment year and affects taxes payable the following year. If a veteran with 70% or greater disability qualified for the 2012 assessment for taxes payable in 2013, but passed away or sold the property in 2013, the exclusion would be removed for the 2013 *assessment* year, but not for the 2013 *payable* year.

If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

June 15, 2012

Linda Rooney,
Ramsey County Assessor's Office
Linda.Rooney@CO.RAMSEY.MN.US

Dear Ms. Rooney:

Thank you for your question concerning the 1b homestead classification for the blind/disabled. You have asked for clarification concerning individuals receiving Supplemental Security Income as a disabled person. You have presented us with the following scenario:

> The county received paperwork for an individual who is applying for the 1b classification. The letter she provided from the Social Security Administration stated she is receiving Supplemental Security Income as a disabled individual. She is not of retirement age and based on the amount of hours she has worked she is only entitled to Supplemental Security Income payments. You are unsure how to tell when and if a person who is receiving Supplemental Security Income qualifies for the 1b classification.

In our opinion, people receiving Supplemental Security Income may be eligible for the class 1b homestead. The SSA administers two programs designed to provide benefits to disabled individuals. These programs are (1) Social Security Disability Insurance and (2) Supplemental Security Income. To qualify for Supplemental Security Income an individual must be age 65 years or older (retirement age) **OR** be blind or have a disability that meets Social Security's definition of a disability. This means that people who are less than retirement age who receive Supplemental Security Income if they are blind or disabled may qualify for class 1b.

It is important that the documentation that you receive clearly states that a person is receiving SSI due to a disability or blindness. If you cannot determine if a person is receiving SSI due to a disability or blindness, it is appropriate to request that the applicant to provide you with further documentation until you are satisfied that the person meets the statutory requirements of class 1b. The onus is on the applicant to prove that they meet the necessary requirements. If the applicant cannot do so, denial of the classification is appropriate.

If the applicant is qualifies for Supplemental Security Income for the first time after they have reached retirement age the payments are not considered disability payments and therefore the applicant is not eligible for the 1b classification.

If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

September 20, 2012

Linda Rooney
Ramsey County Assessor's Office
Linda.Rooney@CO.RAMSEY.MN.US

Dear Ms. Rooney:

Thank you for your question concerning class 1b blind/disabled homesteads. You have presented us with the following scenario and question:

Your office received an application for the 1b homestead classification. Provided with the application was a letter from the doctor stating:

> "At the visit on October 3, 2011 the best-corrected visual acuity was 20/70 in the right eye and 20/300 in the left eye. She has age-related macular degeneration in both eyes and amblyopia in the left eye. As a result of these, she has significantly limited visual acuity and is legally blind in her left eye.
>
> As a result of this… [the patient] should be afforded all privileges and compensation as a result of her legal blindness in the left eye."

Your understanding is that the doctor specifically states the applicant is legally blind in the left eye. You have asked if this qualifies for class 1b or if the individual needs to be legally blind in both eyes?

According to Minnesota Statutes 273.13 and 256D.35, in order to receive the 1b classification due to blindness, the applicant must meet the following criteria:

> *"'Blind' means the condition of a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or, if visual acuity is greater than 20/200, the condition is accompanied by limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees. A person who receives supplemental security income based on other visual disabilities may also be eligible for the Minnesota supplemental aid program."*

Per the above statutory language, visual acuity cannot exceed 20/200 in the better eye. In the scenario you have outlined, the applicant's visual acuity in the better eye is 20/70, which exceeds 20/200. Therefore, unless the applicant can prove to you that her better eye is limited "*in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees",* it does not appear that she will qualify for class 1b.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

October 18, 2012

Brenda Shoemaker
Office Support Supervisor
Otter Tail County Assessor's Office
BShoemak@co.ottertail.mn.us

Dear Ms. Shoemaker:

Thank you for your question submitted to the Property Tax Division in regard to 1b property classification. You have provided the following scenario: In your county, there is a property owned in both a husband and wife's names that qualifies for 1b classification. The husband passed away in 2012, so you are removing the 1b classification for the 2013 assessment. However, if you have asked, if the spouse purchases and moves to a new property during the 2012 assessment year, is the 1b classification immediately removed?

According to Module 3 of the Property Tax Administrator's Manual, in the case of a person receiving the 1b classification passes away mid-year:

"The 1b class should be left on the property for the current assessment year and be removed the next assessment year. However, if the property were sold between the death and the next assessment date, the 1b class should be removed from the property for the current year [emphasis added]."

Therefore, if the property was not sold by the wife after her husband's death but she moved to a new property, the 1b classification would remain on the original property for that current year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 14, 2012

Beverly Johnson
Polk County Assessor's Office
Beverly.Johnson@co.polk.mn.us

Dear Ms. Johnson,

Thank you for your recent question concerning the 1b classification (blind/disabled homestead). You have outlined the following scenario:

In your county, the parents of a disabled child are interested in applying for the 1b classification. You have asked how to treat the class 1b disabled application in this situation.

Unfortunately, the property is not eligible for the special class 1b homestead classification (disabled homestead) because the child is a minor and is not listed as an owner of the property. Since the parents own the property, and would be using the property as their homestead, the property does not qualify for this special homestead classification.

If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
600 North Robert Street
Mail Station 3340
St. Paul, MN 55101

Tel: 651-556-6091
Fax: 651-556-5128
TTY: Call 711 for Minnesota Relay
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MINNESOTA · REVENUE

May 13, 2013

Karl Lindquist
Grant County Assessor's Office
Karl.lindquist@co.grant.mn.us

Dear Mr. Lindquist:

Thank you for your recent question regarding the Blind/Disabled Homestead Classification. You have provided the following information:

> In your county, you have an individual who was receiving Social Security benefits in 1992. At that time, the taxpayer was under the retirement age. Grant County has recently received an application requesting 1b classification (Blind/Disabled Homestead). The taxpayer is currently over the age of retirement and was not receiving the 1b benefit at his or her previous residence.

You would like to know if the taxpayer qualifies for the Blind/Disabled Homestead Classification.

It is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for class 1b. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. If a person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

If you have any further questions, please contact our division at proptax.question@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 30, 2013

Michaelle Cronquist
Crow Wing County Land Services
michaelle.cronquist@crowwing.us

Dear Ms. Cronquist:

Thank you for submitting your questions to the Property Tax Division regarding the 1b blind/disabled homestead classification.

Scenario 1: A taxpayer has sent in a letter from the Social Security Administration (SSA) stating the applicant has been disabled since 1995; however, the taxpayer benefits have been converted to retirement benefits since the taxpayer turned 65.

Scenario 2: Your office received a letter from the Social Security Administration stating the applicant's benefits are now retirement benefits through the SSA, due to the age of the taxpayer. The letter also stated the taxpayer has been found completely disabled by the SSA prior to age 66.

Question: You would like to know if the taxpayers in the above scenarios qualify for the blind/disabled homestead classification.

Answer: It is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for class 1b. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. If a person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

In both scenarios, it appears the taxpayers were receiving disability payments from the SSA prior to retirement, and those payments have now converted to retirement payments due to the ages of the taxpayers. Therefore, both taxpayers are most likely eligible for the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

October 22, 2013

Linda Rooney
Ramsey County Assessor's Office
Linda.Rooney@co.ramsey.mn.us

Dear Ms. Rooney:

Thank you for submitting your question to the Property Tax Division regarding bind/disabled homesteads. You have provided the following:

An individual property owner was approved for the 1b blind/disabled homestead classification on May 22, 2013 for taxes payable 2014. The property owner filed a quit claim deed dated June 13, 2013, in which he transferred the property into his trust and granted a life estate to his mother. He is the only grantor of the trust. Your questions are answered in turn below.

1. **Because a life estate was granted to the mother, does this property still qualify for the 1b classification?**
   It has been the longstanding position of the Department of Revenue that retention of a life estate interest in a property is a sufficient ownership interest to secure homestead. Therefore, since the mother (and not the disabled individual) is the holder of the life estate, this property is not eligible to receive the 1b classification. The property must be homesteaded by the blind/disabled individual to receive this special homestead, and in order to qualify for homestead, the individual applying must be the owner of the property.

2. **On a property that has a life estate, it is your understanding that the person(s) with the life estate is granted the right to homestead. The owner would be allowed to homestead if the person with the life estate is deceased. You asked if you have been administering this correctly.**
   As stated earlier, it has been the longstanding position of the Department of Revenue that retention of a life estate interest in a property is a sufficient ownership interest to secure homestead; therefore your county is administering this correctly.

3. **Should you issue the 1b classification as a joint classification?**
   In this situation, the son does not qualify for homestead as he does not currently receive homestead. The mother qualifies for 100% owner-occupied homestead (there is no split/relative homestead).

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 7, 2014

Marci Moreland
Carlton County Assessor
P.O. Box 440
Carlton MN 55718
Marci.Moreland@co.carlton.mn.us

Dear Ms. Moreland:

Thank you for submitting your question to the Property Tax Division regarding homestead. I apologize for the delay in response; we wanted to ensure that we vetted this question with our Legal Services Division prior to responding. You have provided the following scenario and question.

Scenario:
A property was sold on contract for deed. It was purchased by a corporation as conservator for an individual (the conservatee). The conservatee has a disability, and has applied for homestead and the 1b classification.

Question:
Does the property qualify for homestead and 1b classification?

Answer:
Yes, the conservatee has sufficient ownership interest for both homestead and the 1b classification (assuming the disability is permanent and total).

The conservatee is ultimately the owner of the property, and the conservator is simply managing the financial decisions for the conservatee.

Under the Uniform Probate Code, a conservator is responsible for protecting the assets of the estate of a protected person who has been determined to be "unable to manage property and business affairs because of an impairment in the ability to receive and evaluate information or make decisions, even with the use of appropriate technological assistance," and that the protected person's property "will be wasted or dissipated unless management is provided or money is needed for the support, care, education, health, and welfare of the individual…and that protection is necessary or desirable to obtain or provide money." When a court appoints a conservator, title in the conservatee's property does not vest in the conservator. The conservator does not have any ownership rights in that property, beyond what might be granted by the court or statute.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

March 18, 2014

Susie Sohlman
Koochiching County Assessor's Office
Susie.Sohlman@co.koochiching.mn.us

Dear Ms. Sohlman:

Thank you for submitting your question to the Property Tax Division regarding the 1b blind/disabled homestead classification. You have provided the following scenario and question.

Scenario:
A taxpayer applied for 1b classification and attached a letter from the Social Security Administration (SSA) stating that as of July 2012 they are changing his benefit from disability to retirement because he has reached the retirement age. This is the first application you received from him and you are not aware of him receiving the benefit before.

Question:
Is the taxpayer not eligible for the 1b classification because he is no longer receiving disability payments?

Answer:
It is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for class 1b. This is due to the fact that the SSA will not designate persons of retirement age or older as disabled. If a person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 12, 2014

Timothy Birman
Saint Louis County Assessor's Office
birmant@stlouiscountymn.gov

Dear Mr. Birman:

Thank you for submitting your question to the Property Tax Division regarding the 1b homestead classification for the blind/disabled.

Scenario: You have provided us with a letter from the Minnesota Department of Human Services stating that the State Medical Review Team (SMRT) has determined that the applicant qualifies for Medical Assistance due to meeting the SMRT's definition of disabled. This letter indicates that the applicant will receive payments for being considered disabled.

Question: You have asked if this letter is sufficient documentation to grant the 1b classification.

Answer: It is not clear that the property owner qualifies as totally and permanently disabled. In order to qualify for the 1b classification, the applicant must be considered totally and permanently disabled and the disability must totally incapacitate the person from working at an occupation that provides income (Minnesota Statute 273.13, subdivision 22, paragraph b).

The SMRT determines eligibility for medical assistance using a two-tiered test. First, if the person is considered disabled by the Social Security Administration, then they are considered disabled by the SMRT.

However, if the person does not meet the Social Security Administration's definition of disabled (which we have said qualifies as "totally and permanently" disabled), then the SMRT makes a disability determination of its own. Although it mirrors the Social Security Administration's process, the SMRT's definition of "disabled" is not as stringent as the Social Security Administration's definition and does not necessarily require a permanent and total disability. Furthermore, the SMRT allows certain people who are employed (making an income) to receive disability payments.

Therefore, we recommend that you request the applicant to provide:

1. Documentation of a disability determination from the Social Security Administration ; **OR**
2. Documentation from the SMRT showing that the applicant's disability is permanent and totally prevents them from working at an occupation that provides an income.

Without this further documentation, we cannot conclude that the "total and permanent disability" requirement for class 1b has been met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 3, 2014

Kelsey Jorissen
Anoka County Assessor's Office
Kelsey.Jorissen@co.anoka.mn.us

Dear Ms. Jorissen,

Thank you for contacting the Property Tax Division regarding Class 1b – Blind/Disabled Homestead. You provided us with the following information.

Scenario:

- A property owner in your county has applied for Class 1b – Blind/Disabled Homestead.
- They have provided you with the completed application, a letter from the Department of Labor and Industry explaining worker's compensation benefits, and judgment and decree documents that your office has on record from a divorce settlement which explains additional details of the applicant's disability benefits.
- The form from the Department of Labor and Industry is called a Permanent Total Disability Agreement.
- The insurance claim, divorce decree, and the individual himself state that he is 84.32% disabled.
- The divorce decree states that the individual is able to work and does take home a gross salary per month as well as a PARTIAL disability payment per week. It also states that the individual is not receiving Social Security payments until he is no longer working.
- The property owner states that he was injured in February of 1991. The accident left him as a paraplegic. Since his injury was work-related, he receives benefits for Permanent Total Disability regardless of whether he works of not.

Question: Does this applicant qualify for Class 1b?

Answer: According to the information that you provided, it appears that the applicant is employed and receiving an income from the employer. Minnesota Statute 273.13 states that a person who is eligible for class 1b must be permanently and totally disabled meaning that their disability must incapacitate the person from working at an occupation which brings the person an income. Therefore, according to the statute, it appears that this application should be denied due to the applicant being employed.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator Senior
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 7, 2014

Amy McDonnell
Clay County Assessor's Office
amy.mcdonnell@co.clay.mn.us

Dear Ms. McDonnell:

Thank you for submitting your question to the Property Tax Division regarding 1b blind/disabled homestead. You have provided the following scenario and question.

Scenario: You attended the "Assessing the Person" seminar at the 2014 MAAO Fall Conference and were given a handout that states the Social Security Administration is a qualifying agency that commonly pays disability payments. The handout also noted that the documentation must specify whether the person is "permanently and totally" disabled.

Question: If a letter from the Social Security Administration does not state "permanently and totally" disabled, is it sufficient to grant the 1b classification?

Answer: Documentation from the Social Security Administration may not state that the applicant is permanently and totally disabled. However, the Social Security Administration's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. Therefore, documentation that proves that the person is receiving disability benefits through the Social Security Administration is sufficient to grant the 1b classification. However, if the applicant is of retirement age, you may need to further verify that the applicant meets the definition of permanent and total disability, and isn't simply receiving payments due to retirement age.

It is important that the documentation that you receive clearly states that a person is receiving SSI due to a disability or blindness.

- If you cannot determine if a person is receiving SSI due to a disability or blindness, it is appropriate to request that the applicant to provide you with further documentation until you are satisfied that the person meets the statutory requirements of class 1b.
- The onus is on the applicant to prove that they meet the necessary requirements.

If the applicant cannot do so, denial of the classification is appropriate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 31, 2014

Theresa Quinn
Sherburne County Assessor's Office
Theresa.Quinn@co.sherburne.mn.us

Dear Ms. Quinn,

Thank you for contacting the Property Tax Division regarding class 1b blind/disabled homestead. You provided us with the following information.

Scenario:

- A property owner recently submitted an application and documentation for class 1b
- The documentation that was submitted is from the Social Security Administration office
- Page one states that the decision was fully favorable but does not mention "permanently and totally disabled" nor does it explain what "fully favorable" means
- Page two explains the social security benefits and states that the applicant is "entitled to monthly disability benefits"

Question: Does this property owner qualify for class 1b or should the county request more information?

Answer: Documentation from the Social Security Administration will not state that the applicant is permanently and totally disabled. However, the Social Security Administration's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. Therefore, documentation that proves that the person is receiving disability benefits through the Social Security Administration is sufficient to grant the 1b classification.

Another factor to verify is if the benefits are disability payments and not simply retirement-age benefits. According to the application, this applicant is 64. Since the applicant is under retirement age of 65, it is assumed that she is receiving Social Security disability benefits and not retirement benefits. Therefore, it is our opinion that this applicant would qualify for the 1b classification.

If you have any further questions, please contact our division.

Sincerely,

JESSI GLANCEY
State Program Administrator Senior
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

April 16, 2015

Susie Sohlman
Koochiching County Assessor's office
Susie.Sohlman@co.koochiching.mn.us

Dear Ms. Sohlman:

Thank you for submitting your question to the Property Tax Division regarding 1b blind/disabled homestead classification. You have provided the following scenarios and questions.

Scenario 1: A man was injured on the job; the date of the injury was 02/28/74. The man submitted a pension paystub that states "permanent total disability". This man is over the age of 65 and this is the first time he has applied for class 1b for this property.

Question 1: Is the man eligible for the 1b blind/disabled homestead classification?

Answer 1: Yes. From the information provided, the man has submitted proof of his disability from a qualifying agency (pension paystub), and the proof states the man has a "permanent total disability." As long as the above are true, then granting the 1b classification would be appropriate.

Scenario 2: A man is over the age of 65 and he submitted a letter from an ophthalmologist indicating he is legally blind.

Question 2: Is the man eligible for the 1b blind/disabled homestead classification, even though he is over 65?

Answer 2: Yes, the man is eligible for the 1b classification. There is nothing in Minnesota statute preventing a person over 65, who is blind as defined in Minnesota Statutes 256D.35, to qualify for the 1b blind/disabled classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

June 25, 2015

Steve Hurni
Property Tax Compliance Officer
steve.hurni@state.mn.us

Dear Mr. Hurni:

Thank you for submitting your question to the Property Tax Division regarding 1b blind/disabled homestead. You have provided the following question.

Question: If a person does not provide any documentation indicating that he/she is "totally and permanently disabled" and Social Security indicates that anyone receiving a disability payment from them is periodically reviewed to determine whether they should continue to receive a payment, is it appropriate for Traverse County to grant a "totally and permanently disabled" homestead benefit?

Answer: Documentation from the Social Security Administration will not state that the applicant is permanently and totally disabled. However, the Social Security Administration's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. Therefore, documentation that proves that the person is receiving disability benefits through the Social Security Administration is sufficient to grant the 1b classification.

However, if the applicant is unable or unwilling to provide documentation proving that the person is receiving disability benefits through the Social Security Administration; then it would not be appropriate to grant the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

October 2, 2015

Pam Moe
Becker County Assessor's Office
prmoe@co.becker.mn.us

Dear Ms. Moe:

Thank you for submitting your question to the Property Tax Division regarding the 1b blind/disabled homestead classification. You have provided the following scenario and question.

Scenario:

- A gentleman purchased property in 2008.
- The gentleman is 69 years old.
- A letter from the Social Security Administration (SSA) states that he started receiving disability benefits in July 2005 and he became disabled under the SSA rules as of February 1, 2005.

Question:
Does this individual qualify for the blind/disabled homestead classification?

Answer:
Yes, it is our understanding that only people that were designated by the SSA as disabled before they were eligible to retire can qualify for class 1b. Because this person is able to provide you with documentation proving that they are considered permanently and totally disabled and had previously received disability payments from the SSA, the person would likely be eligible for the 1b class. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, are not eligible to receive the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 12, 2016

Cindy Marti
Brown County Assessor's Office
Cindy.Marti@co.brown.mn.us

Dear Ms. Marti:

Thank you for submitting your question to the Property Tax Division regarding 1b blind/disabled homestead. You have provided the following question:

Question: If a taxpayer is receiving the special homestead classification for persons who are blind/disabled on a base property, are they also eligible for the blind/disabled classification on a homestead extension parcel?

Answer: Yes. The classification applies to value of homesteaded property rather than acres. The first $50,000 of taxable market value of class 1b property has a classification rate of 0.45%. The remaining taxable market value has a class rate using the rates for class 1a residential homestead or agricultural homestead, whichever is appropriate. If the value of the base parcel is less than 50,000 then the remaining amount (up to $50,000) can be extended to the next contiguous homestead parcel and will use the 0.45% classification rate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

October 11, 2016

Julie Shelstad
Morrison County Assessor's Office
Julies@co.morrison.mn.us

Dear Ms. Shelstad:

Thank you for submitting your question to the Property Tax Division regarding the ability to grant a class 1b, Blind/Disabled Homestead based on a Federal Employee Retirement System award letter.

Scenario:

- Owners of a property located in your county submitted an application for Blind/Disabled Homestead 1b classification with an award letter for a disability from the Federal Employee Retirement System (FERS).
- Your county has not received this type of letter, and you are unsure whether this form of award letter is acceptable.

Question: Does the Federal Employee Retirement System award letter qualify to receive the Blind/Disabled Homestead 1b classification?

Answer: The award letter from FERS is not an acceptable award letter for the 1b Blind/Disabled Homestead classification. An individual who is permanently and totally disabled must be receiving payments from a qualifying agency because of their disability.

Examples of qualifying agencies are:

- Social Security Administration
- Veterans Administration
- Public or private pension plans
- Welfare Supplemental Security Income
- Workers Compensation

A letter from a qualifying agency stating that an individual is permanently and totally disabled and is eligible to receive disability payments is required. The award letter you provided us for review, does not specify that the individual is permanently and totally disabled nor does it specify that the individual is receiving disability payments.

The individual must provide documentation that specifies their disability status as well as documentation proving they are receiving disability benefits through a qualifying agency prior to the county approving the 1b classification application.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody
State Program Administrator Senior
Property Tax Division
Phone: (651) 556-6091

December 1, 2016

Joyce Larson
Washington County Assessor's Office
joyce.larson@co.washington.mn.us

Dear Ms. Larson:

Thank you for submitting your question to the Property Tax Division regarding a Class 1b, Blind/Disabled Homestead application. You have provided the following scenario and question:

Scenario:

- The county has received a Class 1b application from a property owner who claims to be totally and permanently disabled.
- With the application, a letter from the Public Employees Retirement Association of Minnesota (PERA) dated July 15, 2011was provided and states that her application for duty disability benefits has been approved under the Police and Fire Plan.
- A letter from PERA, dated February 7, 2016, declares her payment amount.
- A letter from PERA, dated September 13, 2016, states that disability benefits began August 1, 2010, and payments will continue as long as the individual is disabled.
- The county has requested on two separate occasions that the property owner provide paperwork showing she is totally and permanently disabled, but PERA has not provided her with such a declaration.

Question: Do the letters from PERA provide sufficient information to allow the county to accept the application for Class 1b classification?

Answer: No, although the individual may be receiving payments from a qualifying agency, only providing evidence of a payment is not sufficient, the agency has not certified that the individual is totally and permanently disabled. In accordance with Property Tax Fact Sheet 18, a letter from a qualifying agency stating that an individual is permanently and totally disabled and is eligible to receive disability payments is required.

Although it mirrors the Social Security Administration's process, the PERA's definition of "disabled" may not be as stringent as the Social Security Administration's definition and may not necessarily require a permanent and total disability. Furthermore, the letter from PERA states payments will continue "as long as the individual is disabled" leaving the option to not be a total and permanent disability.

The individual must provide documentation that specifies her disability status as well as documentation proving she is receiving disability benefits through a qualifying agency prior to the county approving the 1b classification.

Therefore, we recommend that you request the applicant to provide:

1. Documentation of a disability determination from the Social Security Administration; **OR**
2. Documentation from the PERA showing that the applicant's disability is permanent and totally prevents them from working at an occupation that provides an income.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin

State Program Administrator
Information and Education Section
Property Tax Division

December 16, 2016

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for submitting your question to the Property Tax Division regarding the 1b classification (blind/disabled homestead). You have provided the following scenario and question:

Scenario:

In your county, the parents of a disabled child have applied for the 1b classification. The disabled child lives with them.

Question:

With the disabled child living with the parents, can they qualify for a 1b classification (disabled homestead)? In alternate, could they qualify for class 1b on a relative homestead?

Answer:

No, as stated in the Property Tax Administrator's Manual –Module 3: *Classificaiton of Property*:

> "Class 1b cannot be granted to blind/disabled minor children living with their parents. The homestead is granted to the parents based on their ownership and occupancy of the property. It is not appropriate to grant the reduced class rate for class 1b based on the blindness/disability status of a minor child who lives with them."

Even if the child is not a minor, unfortunately, the property is not eligible for the special class 1b homestead classification (disabled homestead) because the adult-child is not listed as an owner of the property. The property would not qualify for class 1b on a relative homestead, again, because the parents own the property, and would be using the property as their homestead. The parents continued occupancy of the property supersedes any chance of the property being a relative homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Anderson
Supervisor
Property Tax Division
Information & Education
Phone: 651-556-6091

March 1, 2018

Julie Shelstad
Morrison County Assessor's Office
julies@co.morrison.mn.us

Dear Ms. Shelstad,

Thank you for submitting your questions to the Property Tax Division regarding a Class 1b, Blind/Disabled Homestead application. You have provided the following scenario and questions:

Scenario:

- The county has received a Class 1b application from a property owner who had worked for a railroad and now claims to be totally and permanently disabled.
- The applicant provided a disability agreement dated October 17, 2002, outlining his permanent disability status that will forever prohibit and incapacitate him from returning to any railroad employment.

Question One:

Is the railroad disability agreement document sufficient to grant the Class 1b, Blind/Disabled Homestead classification?

Answer:

No. More information would be required. Although the letter references a permanent disability, in order to qualify for the 1b classification, the applicant must be considered permanently and totally disabled. The agreement provided states that the permanent disability will forever prohibit and incapacitate the applicant from returning to any railroad employment, not that the individual is permanently disabled and unable to return to *any* form of income producing employment as required by statute.

Additionally, an individual who is permanently and totally disabled must be receiving payments because of their disability. Payments from a qualifying agency or income providing source are used as evidence of a disability when determining whether or not a person is eligible for a 1b blind/disabled homestead. The agreement provided does not specify that the individual is receiving disability payments.

Question Two:

Is the railroad considered a qualifying agency?

Answer:

It depends on whether the railroad is paying out ongoing disability payments in a manner similar to workers compensation or pension benefits. Statute allows a government agency "or income-providing source" to certify disability requirements. In the past private pension plans and workers compensation have been deemed to meet this definition.

We recommend that you request the applicant to provide:

1. Documentation of ongoing payments due to their disability; *and*
2. A disability determination from a qualifying agency or documentation from the railroad showing that the applicant's disability is permanent and total which prevents them from working at an occupation that provides an income.

Without this further documentation, we cannot conclude that the "total and permanent disability" requirement for class 1b has been met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

April 26, 2018

Jill Murray
Norman County Assessor's Office
jill.murray@co.norman.mn.us

Dear Ms. Murray,

Thank you for submitting your question to the Property Tax Division regarding class 1b Blind/Disabled Homestead applications. You have provided the following scenario and question:

Scenario:

- A mother, son, and daughter each own residential parcels and have applied for class 1b Blind/Disabled Homestead.
- The daughter has submitted a letter from the Social Security Administration stating that she is entitled to monthly payments as a disabled individual. You have approved this application.
- The mother has submitted a letter from the Social Security Administration stating that she is receiving disability payments through her deceased husband's record.
- The son has submitted a letter from the Social Security Administration stating that he is receiving disabled child's benefit on his deceased father's record.
- None of the individuals requesting the 1b Blind/Disabled Homestead benefit provided a disability award letter from the Social Security Administration.

Question: Is the Social Security documentation provided for the mother and son adequate to receive class 1b Blind/Disabled Homestead on their respective residential parcels?

Answer: It has been our guidance that documentation that proves a person is receiving disability benefits through the Social Security Administration is sufficient to grant the 1b classification. Since we have not reviewed the referenced letters we are unable to provide an opinion on the merit of the information within. If you have determined that the letters provide proof the applicants are receiving disability benefits due to their individual disability status, then you may grant the request for 1b classification. However, we would strongly recommend requiring documentation clearly stating that the Social Security Administration is making disability payments based on their individual disabilities, such as a copy of the original disability award letter, and not merely making survivorship benefit payments.

Minnesota Statute 273.13, subdivision 22 clearly states that Class 1b property must be used for homestead purposes by **a person who is permanently and totally disabled**. It goes on to say that the property can only be classified as 1b if the government agency or income providing source certifies that the **occupant** satisfies the disability requirements. Therefore, it is important to verify that the payments are based on their individual disabilities, since statute does not allow for survivorship benefit payments.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 10, 2018

Wendy Iverson
Dodge County Assessor's Office
wendy.iverson@co.dodge.mn.us

Dear Ms. Iverson,

Thank you for submitting your question to the Property Tax Division regarding 1b classification. You have provided the following scenario and question:

Scenario:

- Owner has a manufactured home that is assessed as personal property.
- An application for class 1b residential blind/disabled homestead was submitted on April 26, 2018.
- The application was approved for 1b classification.

Question: Since manufactured homes are assessed in the same year they are taxed, should the county apply the benefit to the current assessment/taxes payable year (2018) or the next year?

Answer: Applications for Class 1b Blind/Disabled Homestead are due October 1st in order to classify a property 1b for the current assessment year for taxes payable the following year. Even though taxes on manufactured homes are payable in the same year as the assessment, this fact would not impact the administration of the 1b classification. Therefore, in this situation the 1b classification rate would be applied to the taxes payable in 2019. If the county feels the property owner should benefit from the 1b classification for the current assessment/taxes payable year, then the county could allow an abatement for the current assessment/taxes payable year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 6, 2018

Steve Carlson
Becker County Assessor's Office
sccarls@co.becker.mn.us

Dear Mr. Carlson

Thank you for submitting your question to the Property Tax Division regarding documentation required for the 1b blind/disabled classification. You have provided the following scenario and question:

Scenario:

- A Benefit Verification Letter from the Social Security Administration was submitted to prove that a person is entitled to 1b classification on their property.
- The letter stated that the applicant is "entitled to monthly disability benefits", but did not show the amount of the benefit.

Question: Is this sufficient documentation to grant 1b blind/disabled classification?

Answer: Yes. Minnesota Statute 273.13, subdivision 22, paragraph (b) states in part that any person who is "permanently and totally disabled" and provides documentation to that effect from a qualifying agency is entitled to receive 1b blind/disabled classification on their homestead. The Social Security Administration only pays disability benefits to persons with disabilities that have lasted at least one year or are expected to result in death, which meets the requirement of "permanently and totally disabled". Therefore, any letter from the Social Security Administration that indicates a person is eligible for disability benefits is sufficient documentation for 1b classification, regardless of the level of benefits listed.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 13, 2018

Stacy Bannor
Beltrami County Assessor's Office
stacy.bannor@co.beltrami.mn.us

Dear Ms. Bannor,

Thank you for submitting your question to the Property Tax Division regarding 1b blind/disabled classification. You have provided the following scenario and question:

Scenario:

- An individual qualifies for 1b blind/disabled homestead and sells their home mid-year.

Question: Would the property continue to be classified as 1b blind/disabled for assessment year 2018, taxes payable in 2019?

Answer: No. The 1b blind/disabled homestead classification should be removed for the current assessment year. The 1b blind/disabled homestead classification is unique in that the qualification is specific to the person rather than the use of the property, therefore the classification follows the property owner. A property owner who qualifies for 1b blind/disabled homestead must notify the county assessor within 30 days of the date of sale of the property, if there is a change in occupancy, status, or condition of the occupant that would no longer warrant the property for the 1b classification. Failure to do so may result in the property owner being subject to fraudulent homestead penalties.

In the scenario given, the assessor should remove the 1b classification and classify the owner's new home as 1b blind/disabled homestead (assuming all qualifications are still met) for the current assessment year.

You can find this information as well as additional information about the 1b blind/disabled classification by reviewing module 3 of the Property Tax Administrators Manual.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 21, 2018

Joyce Larson
Washington County Assessor's Office
joyce.larson@co.washington.mn.us

Dear Ms. Larson,

Thank you for submitting your follow-up question to the Property Tax Division regarding calculating the homestead exclusion and net tax capacity (NTC) for 1b properties. You have provided the following scenario and question:

Scenario One:

- Two **unrelated** individuals own a residential parcel.
- **One owner occupies** the property and receives 50% homestead.
- The owner/occupant qualifies for the 1b classification.
- The estimated market value of this property is $225,000.

Scenario Two:

- Two **related** individuals own a residential parcel.
- **One owner occupies** the property and receives a 50% owner-occupied homestead and a 50% relative homestead.
- The owner/occupant qualifies for the 1b classification.
- The estimated market value of this property is $175,000.

Question: How do you calculate the NTC in the above scenarios?

Answer:

For classifications that depend on the status of a qualifying person along with the use of a parcel, that classification is also tied directly to the qualifying owner and the owner's homestead status of the property. Since the homestead status is different in each scenario, the net tax capacity calculation will also be different.

When a parcel is owned by multiple owners, the county must consider each ownership when determining homestead status. Also, in terms of persons qualifying under the provision of being blind or disabled, the qualifying person may own and occupy the home with a spouse and receive a full benefit. However, for joint ownership with someone other than a spouse, fractional benefits will apply to reflect the fractional ownership. When determining net tax capacity, the county must also consider the fractional ownership of the property because the 1b tier amount must be fractionalized to represent the fractional ownership.

Scenario One:
A person who is blind/disabled (Owner 1) co-owns the property with an unrelated individual (Owner 2). The owner who is blind/disabled occupies the property, and the other owner does not. It appears the property would be classified as 1b, 1a, and 4bb(1) and qualify for a 50% owner-occupied homestead and a 50% non-homestead.

To calculate the NTC when there are two owners, we must calculate the homestead exclusion first to determine the TMV. In a fractional homestead situation, the process changes. A partial homestead should not get a larger exclusion based on using a smaller value (and less phase-out). Therefore, for a fractional homestead, the values used to calculate the exclusion are the values as if the homestead was a full homestead, and then the resulting exclusion amount is fractionalized.

1. Calculate the homestead market value exclusion
    A. Calculate the initial, or maximum, exclusion amount
        - $76,000 X 40%= $30,400
    B. Determine the amount of value, if any, that is over the $76,000 threshold
        - $225,000 - $76,000= $149,000
    C. Multiply the amount in step Bby 9%
        - $149,000 x 9%= $13,400
    D. Take step A (initial/maximum exclusion) minus the amount in step C
        - $30,400 -$13,410= $16,990
    E. The extra step, because it is fractional ownership, is to fractionalize the computed homestead exclusion amount based on the homestead percentage
        - $16,990 x 50%= $8,495 homestead exclusion amount for each qualifying owner

2. Determine ownership % (100%/ # of owners)
    A. Owner 1 100% / 2 = 50%
    B. Owner 2 100% / 2 = 50%

3. Determine the share of EMV (Total EMV x owner % from step 2)
    A. Owner 1 $225,000 x 50%= $112,500
    B. Owner 2 $225,000 x 50%= $112,500

4. Calculate the Taxable Market Value for each owner (EMV-exclusions, if applicable)
    A. Owner 1 $112,500 - $8,495= $104,005 TMV
    B. Owner 2 $112,500- $0= $112,500 TMV

The 1b tier must also be fractionalized since the occupying owner is only receiving a 50% homestead so they are entitled to only 50% of the 1b tier.

1. Determine the tier limit for 1b (1b tier limit x ownership % from above)
    A. Owner 1 First $50,000 x 50%= $25,000*

    *Value over the first tier is classified as 1a or 2a

    B. Owner 2 n/a

The calculation in scenario one would be:

Owner 1:	TMV	x Class Rate	= Net Tax Capacity
	$25,000	x 0.45% (1b)	= $112.50
	$79,005	x 1.00% (1a)	= $790.05
		Total	= $902.55
Owner 2:	TMV	x Class Rate	= Net Tax Capacity
	$112,500	x 1.00% [4bb(1)]	= $1,125.00

Total local net tax capacity for the parcel = $2,027.55

Scenario Two:
A person who is blind/disabled (Owner 1) co-owns the property with a related individual (Owner 2). The owner who is blind/disabled occupies the property, and the other relative does not. It appears the property would be classified 1b and 1a qualifying for 50% owner-occupied homestead and 50% relative homestead.

Again, to calculate the NTC when there are two related owners, the TMV must be fractionalized. However, since the property is receiving a full homestead (relative homesteads also qualify for the homestead exclusion and class 1b) the homestead exclusion and 1b tier does not need to be fractionalized.

1. Calculate the homestead market value exclusion
    A. Calculate the initial, or maximum, exclusion amount
        - $76,000 X 40%= $30,400
    B. Determine the amount of value, if any, that is over the $76,000 threshold
        - $175,000 - $76,000= $99,000
    C. Multiply the amount in step B by 9%
        - $99,000 x 9%= $8,910
    D. Take step A (initial/maximum exclusion) minus the amount in step C
        - $30,400 -$8,910= $21,490

The homestead exclusion should equal $21,490.

2. Determine ownership % (100%/ # of owners)
    A. Owner 1 100% / 2 = 50%
    B. Owner 2 100% / 2 = 50%
3. Determine the share of EMV (Total EMV x owner % from step 2)
    A. Owner 1 $175,000 x 50%= $87,500
    B. Owner 2 $175,000 x 50%= $87,500
4. Calculate the Taxable Market Value for each owner (EMV-exclusions, if applicable)
    A. Owner 1 $87,500 - $10,745= $76,755 TMV
    B. Owner 2 $87,500 - $10,745= $76,755 TMV

The calculation in scenario two would be:

Owner 1:	TMV	x Class Rate	=	Net Tax Capacity
	$25,000	x 0.45% (1b)	=	$112.50 (Owner-occupied)
	$51,755	x 1.00% (1a)	=	$517.55
Owner 2:	TMV	x Class Rate	=	Net Tax Capacity
	$25,000	x 0.45% (1b)	=	$112.50 (Relative)
	$51,755	x 1.00% [1a]	=	$517.55

Total local net tax capacity for the parcel = $1,035.10*

*The net tax capacity should equal $1,035.10 whether the tier is fractionalized by tier assigning $25,000 to each owner (as shown) or fractionalized to two separate records under Owner 1 ($25,000 as owner-occupied and $25,000 relative). How the tax is distributed between the owners is up to your county policy and programing.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

April 12, 2019

Nancy Heibel
Koochiching County Assessor's Office
Nancy.Heibel@co.koochiching.mn.us

Dear Ms. Heibel,

Thank you for submitting your question to the Property Tax Division regarding documentation required for the 1b blind/disabled classification. You have provided the following scenario and question:

Scenario:

- A property owner submitted a letter from the Social Security Administration along with their application for the 1b classification on their property.
- This letter stated that the applicant received SSI benefits for disability.
- The letter did not state whether or not the property owner's disability is total and permanent.

Question: Is this sufficient documentation to grant 1b blind/disabled classification?

Answer: Yes. The Social Security Administration's definition of a disability is strict and in our opinion meets the statutory requirements of being "totally and permanently" disabled. The Social Security Administration only pays disability benefits to persons with disabilities that have lasted at least one year or are expected to result in death, which meets the requirement of "permanently and totally disabled". Therefore, a letter from the Social Security Administration that indicates a person is eligible for disability benefits is sufficient documentation to grant the 1b classification. As a reminder, it is important to review the benefit letter sent to the applicant to ensure that the payment is being received because of a disability.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 16, 2019

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for submitting your question to the Property Tax Division regarding class 1b. You have provided the following scenario and question:

Scenario:

- Father, Son, and Daughter own a residential home
- Father and Mother are married and occupy the home
- Father and Mother qualify the property for a full homestead
- Mother has a qualifying disability for the 1b classification
- Mother's name is not on the deed

Question: Does Mother qualify the residential property for class 1b?

Answer: Our guidance on this topic has recently changed. 1b is a specific classification for homestead property, not a benefit program. Like other classifications that provide reduced rates, 1b requires a specific use (in this case the homestead use) while also imposing additional requirements of the qualifying person. Minnesota Statutes 273.13 Subdivision 22 (b) is silent on the specific ownership requirements of the qualifying homesteading person. As such we look to Minnesota Statutes 273.1315, subdivision 2, (a)(1) which outlines the requirements for certification of 1b property and states: "the information necessary to verify that, on or before June 30 of the filing year, the property owner ***or the owner's spouse*** satisfies the requirements of section 273.13, subdivision 22, paragraph (b), for class 1b classification;" (emphasis added). Therefore, as a homesteaded parcel of a married couple, the requirements of the qualifying person would be met by a spouse even if that spouse is not listed on the deed. In order to continue to qualify, the spouse listed on the deed and the qualifying spouse must both homestead the property.

Please note, this guidance does not extend to benefit programs such as the Market Value Exclusion for Veterans with a Disability. Although both may require the property to be the homestead of the qualifying person, one is a classification and the other is a benefit program where statute has clearly defined the ownership requirements.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division
Phone: 651-556-6091

October 1, 2019

Joy Kanne
Mower County Assessor's Office
joyk@co.mower.mn.us

Dear Ms. Kanne,

Thank you for submitting your question to the Property Tax Division regarding Special Homestead for Property Owners who are Blind or Disabled (1b) classification. You have provided the following scenario and question:

Scenario:

- The county received an application for Special Homestead Classification for Property Owners who are blind or Disabled (1b).
- The county received the following support documents: joint stipulation and a check stub.
- The county issued a denial to the applicant and requested a disability award letter from a qualified agency.

Question: Is the joint stipulation and/or a check stub acceptable documentation for approval for the 1b classification?

Answer: No. Applicants for class 1b homestead for the blind/disabled classification must be able to provide documentation of their disability from a qualifying agency attesting to the applicants total and permanent disability rating. Minnesota Statute does not define a qualifying government agency or certified income-providing source, however the state has determined that agencies that typically qualify include:

- Social Security Administration
- Veterans Administration
- Public or private pension plans
- Welfare Supplemental Security Income
- Workers compensation

In the past, we have determined that copies of check stubs or physician's letters are not acceptable forms of verification. The applicant must provide documentation from one of the above sources showing that their disability is permanent and total. This is defined in statute as "a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income." Until the applicant provides such documentation, the application should be denied.

Please note that to receive a blind/disabled homestead classification, the applicant also must first qualify for homestead either as an owner/occupant or as a qualified relative.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

November 2, 2022

Jennifer,

Thank you for contacting the Property Tax Division regarding classification. You provided us with the follow scenario and question.

Scenario:

- A property owner applied for the Class 1b – Blind and Disabled Homestead
- They have included a letter from the Social Security Administration stating that as of 2020, the disability payment has been changed to a retirement benefit due to the recipient's age
- This is the first application submitted by this property owner

Question: Is this sufficient to qualify for the 1b classification?

Answer: Yes. The Social Security Administration (SSA) will only pay disability benefits to people with a permanent and total disability. Therefore, a letter from the SSA that indicates a person was eligible for disability benefits that have now been changed to retirement benefits due to the age of the recipient is enough documentation to grant the 1b classification. The SSA will not designate persons of retirement age or older as disabled. Persons who have become disabled after retirement age, and therefore never received "disability payments" from the SSA, would not be eligible to receive the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 8, 2023

Dear Katie,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property was owned under a contract for deed by a husband and wife.
- The husband qualified for a 1b blind/disabled homestead classification but passed away in April of 2023.
- An affidavit of survivorship and warranty deed fulfilling the contract was recorded in May of 2023.
- The name of the property is now in only the surviving spouse's name.

Question: When would the 1b, blind/disabled, classification be removed?

Answer: Based on the information provided, the 1b classification should remain for the current assessment year and be removed for assessment year 2024. Usually when a qualifying spouse passes away, the 1b classification remains on the property for the current year and is removed for the next assessment year unless the property is sold or transferred in the interim. While a warranty deed was recorded in this situation, this is not viewed as a transfer of title as it was a completion of a contract for deed and ownership interest did not change. Because the warranty deed is only in the surviving spouse's name and married couples are considered one entity for property tax purposes, the classification should remain for this current year. However, the classification would be removed if the owner sold the property, moved, or there were other ownership changes during the current assessment year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

November 20, 2023

Dear Chad,

Thank you for submitting your question to the Property Tax Division regarding the 1b – Blind and Disabled classification. You have provided the following scenario and questions:

Scenario:

- A residential property is owned by Mom, Daughter A, and Daughter B
- Mom and Daughter A occupy the property
- Mom qualifies for the 1b – Blind and Disabled Homestead classification
- Mom owns a separate residential property in her name only, and Daughter B occupies and is receiving a relative homestead

Question One: Can Mom or Daughter A qualify for a relative homestead on Daughter B's ownership interest?

Answer: Yes, when determining whether a property with multiple owners should receive homestead, it is important to evaluate each owner's eligibility independently. Daughter B's 1/3 interest in the property would qualify for a relative homestead.

Question Two: Can Mom qualify for 1b – Blind and Disabled Homestead on either daughter's ownership interest?

Answer: Mom cannot qualify for 1b on Daughter A's interest as Daughter A owns and occupies the property and is receiving an owner-occupied homestead on her ownership interest in the property. However, Mom can apply for a relative homestead on Daughter B's interest, which would be eligible for the 1b classification, as relative homesteads qualify for the 1b classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Class 2c - Managed Forest Land

July 29, 2008

Paula West, Executive Director
Leech Lake Area Watershed Foundation
PO Box 455
Hacksensack, MN 56452

Dear Ms. West:

Thank you for your questions concerning the new 2c Managed Forest Land classification. You asked the following questions:

What is the difference between "Managed Forest Land" and "Rural Vacant Land?"

1. "Class 2c Managed Forest Land" is basically forest land that is covered under a qualifying *forest management plan*. Class 2c property is, for the most part, going to look like a forest. Property owners must apply with their county assessor to receive the 2c Managed Forest Land classification.

2. "Class 2b rural vacant land" does not need to be forest. Basically, anything that is not productive agricultural land or *2c managed forest land* could possibly be class 2b (slough, wasteland, meadows, nonproductive agricultural land, forest that is not covered under a forest management plan, etc.). Class 2c and class 2b property may sometimes physically appear the same; the difference is that class 2c property must have a qualifying forest management plan.

How does class 2c property work on lakeshore property? Does the new class supersede the "highest and best use" value?

Class 2c Managed Forest Land may be applicable to property located on lakeshore as long as it meets all the necessary requirements. However, the "highest and best use" language that you reference will not affect the valuation of 2c property. Minnesota Laws Chapter 366, Article 6, section 28, amended M.S. 273.13, subdivision 33 by adding a reference to class 2b property as underlined below:

*"Except as provided in subdivision 23, paragraph (c), real property that is not improved with a structure and for which there is no identifiable current use must be **classified** according to its highest and best use permitted under the local zoning ordinance."*

This language deals with classification. Previously, assessors did not have a good option for classifying unimproved property with no easily identifiable use. Therefore, assessors were required to classify it according to its highest and best use. This practice led to significant differences in classification within counties and between counties; it also led to significant

(Continued…)

Paula West, Executive Director
Leech Lake Area Watershed Foundation
July 29, 2008

differences in taxes. The new language provides a method of classifying large tracts of unimproved land with no identifiable use in a more uniform manner than in the past. Consequently, unimproved land with no identifiable may be classified as 2b (or 2c if application is made), rather than being subject to the assessor's determination of highest and best use.

However, land will still be **valued** at its highest and best use. For property tax assessment purposes, the (1)valuation and (2)classification of property are separate issues. Therefore, forest land that sits on the lakeshore may be *classified* as 2c (rather than seasonal or residential or whatever its highest and best use would otherwise be), but will still be *valued* according to its highest and best use. In essence, the classification rate is reduced, but the land will always be valued at its highest and best use.

The issue is further complicated by the fact that "subdivision 23, paragraph (c)" references 2b property only, not 2c property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

August 12, 2008

Dan Weber
Kanabec County Assessor
Courthouse
18 North Vine Street
Mora, Minnesota 55051

Dear Mr. Weber:

Thank you for your question concerning the 2c Managed Forest Land classification. You have asked if farming a portion of a parcel makes the parcel ineligible for the 2c Managed Forest Land classification. For example, would an 80 acre parcel with 50 acres of forest land and 30 acres of tilled land be eligible for the 2c classification?

It is possible for a parcel of property to be partially farmed and be eligible for the 2c classification. Farming a portion of a property does not disqualify the remaining portions of the property from being eligible for the 2c classification. **However, any land used for agricultural purposes (e.g. pastureland) cannot receive the 2c classification.** In regards to the example above, the 50 acres of forest land could qualify for the 2c classification if it met all the necessary requirements, and the 30 acres of tilled land could be classed as 2a productive agricultural land.

Please be aware that the property in question may benefit more by having the forest land classified as 2b non-productive land if it is contiguous to 2a productive land under the same ownership that is homesteaded, because this would allow it to receive homestead benefits. Class 2c land cannot be homesteaded.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

August 12, 2008

A. Keith Albertsen
Douglas County Assessor
Courthouse
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Mr. Albertsen:

Thank you for your question concerning the 2c Managed Forest Land classification. You have inquired as to how to classify a property that has less than 20 acres of forest land covered under a forest management plan (FMP) after assigning the necessary 10 acres to a structure. Specifically, you have asked how to handle a 28 acre parcel with a residence and a FMP.

As stated in our memo from July 16:

> *A property that is improved with a structure that is not a minor ancillary nonresidential structure must be split-classified, with at least 10 acres being assigned to, and centered on, the structure. If a property must be split-classified and the resulting forest land is less than 20 acres, the property is not eligible for the classification.*

Therefore, a 28 acre parcel with a residence and a FMP must have 10 acres split-classified and assigned to the residence. This would result in 18 acres of remaining forest land. Because the remaining forest land is less than 20 acres, this property would not qualify for the 2c Managed Forest Land classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 10, 2008

Bridget Olson
Nicollet County Assessor's Office
Government Center
501 South Minnesota Ave
St. Peter, Minnesota 56082

Dear Ms. Olson:

Thank you for your question concerning the 2c Managed Forest Land classification. You presented us with the following situation and question:

> A farmer's property has a forest management plan and apparently meets all the requirements for class 2c, however his land is already at the **.50%** (for 2008 assessment, taxes payable 2009) agricultural homestead class rate. What type of benefit will he receive?

There would be no benefit to the owner if the property was classified as 2c. The 2c class rate is higher at .65%. Class 2c property that is contiguous to 2a homestead property will not receive homestead benefits and the lower .50% class rate. Contiguous 2b (rural vacant land) property does receive the homestead benefits and the lower class rate, so in cases of forest land that is contiguous to 2a homestead land, it would be more beneficial to have the forest land classed as 2b.

The only time it would be more beneficial to classify property as 2c rather than 2b (on property contiguous to the agricultural homestead), would be on any acres that exceed the first tier of value ($890,000 for the 2008 assessment), because those acres have a class rate of 1.00%.

Also, please be aware that the reduced agricultural homestead class rate is **.50% for the 2008 assessment year, taxes payable 2009.**

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 16, 2008

Larry Daigle
Itasca County Assessor's Office
Courthouse
123 NE 4th Street Room 202
Grand Rapids, Minnesota 55744-2600

Dear Mr. Daigle:

Thank you for your questions concerning the 2c Managed Forest Land classification. You have asked the following questions:

Question 1: Can class 2c property be linked to a homestead and receive homestead benefits?
Answer 1: Class 2c property cannot be homesteaded or linked to a homestead.

Question 2: Does 2c property get limited market value?
Answer 2: Yes. If the land classified as 2c received limited market value under its previous classification, the limited market value should continue to apply to the 2c property for the 2008 assessment. For the 2009 assessment, no property should receive limited market value since the law will sunset.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 22, 2008

Carol M. Schutz
Chippewa County Assessor
629 North 11th Street, Suite 3
Montevideo, MN 56265

Dear Ms. Schutz:

Thank you for your questions concerning the 2c Managed Forest Land classification. You have presented us with the following scenario and related questions:

> A parcel contains 35 acres that are eligible for the 2c Managed Forest Land classification. The parcel also has a 25% homestead on it.

Question 1: Can class 2c property be linked to a homestead and receive homestead benefits?
Answer 1: Class 2c property cannot be homesteaded or linked to a homestead.

Question 2: If 2c property cannot be homesteaded, how much value of the forest land should be taxed at the reduced 2c class rate of .65% (using the example above)?
Answer 2: If application is made and the forest land is classified as 2c, all of the value on all of the 2c property should receive the .65% class rate. Class 2c property is unaffected by homesteads or partial homesteads.

However, please be aware that it may be more beneficial for the property owner if the forest land is classified as 2b (if it is contiguous to 2a agricultural homestead property under the same ownership), because 2b property may be part of a 2a agricultural homestead and receive the .50% class rate. The only time it would be more beneficial to classify property as 2c rather than 2b (on property contiguous to the agricultural homestead), would be on any acres that exceed the first tier of value ($890,000 for the 2008 assessment), because those acres have a class rate of 1.00%.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

October 15, 2008

Bob Hansen
Hubbard County Assessor
301 Court Avenue
Park Rapids, MN 56470

Dear Mr. Hansen:

Thank you for your question concerning the 2c Managed Forest Land classification. You have asked if the Forest Management Plan (FMP) follows the property upon sale or if it is tied to the owner that enrolled the property?

The FMP is tied to the owner of the land. The DNR has informed us that they would like the FMP to be updated to reflect current ownership. Therefore, if a property is sold or transferred, the FMP must be updated and a new application must be submitted in order for the new owner to qualify for the 2c classification. The 2c classification should be removed for the next assessment year if the new owner has not submitted a new application containing an updated FMP by that time.

We strongly recommend that you send a new application or letter to the new owners informing them that their newly purchased property will only remain classified as 2c if they update their FMP and submit a new application to you, the county assessor. If application is not made by the time of the next year's assessment, the 2c classification will be removed from the property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

November 12, 2008

Gary Amundson
Regional Rep
MN Department of Revenue
2462 West Shamineau Drive
Motley, MN 56466

Dear Gary:

Thank you for your question concerning the 2c Managed Forest Land classification. You have asked if land that was previously classified as SRR could receive the 2c classification.

Yes. If the land has a forest management plan and the landowners follow the prescriptions outlined in the plan, the property can receive the 2c classification. Property does not have to be classified as rural vacant land before becoming class 2c. In most instances, land will be classified as either rural vacant land or SRR land before becoming class 2c Managed Forest Land. However, we do foresee some instances of large tracts of unplatted forest land that have previously been classified as residential or agricultural becoming class 2c property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

November 25, 2008

Mary Black
Cook County Assessor
411 2nd Street
Grand Marais, Minnesota 55604-1150

Dear Ms. Black:

Thank you for your question concerning the 2c Managed Forest Land classification. You have presented us with the following scenario:

> A property owner owns a 20 acre parcel of which 19.5 acres has a forest management plan. The remaining .5 acres is split out for a homestead. Can this property qualify for the 2c Managed Forest Land classification? How should this property be classified?

To begin, in order to qualify for the 2c Managed Forest Land classification there must be at least 20 eligible 2c acres. Also, class 2c property that contains a structure (other than a minor ancillary nonresidential structure) must have 10 acres split out and assigned to that structure. Therefore in this instance, after assigning 10 acres to the house, there is only 10 acres remaining that could be classified as 2c (thus the property would not qualify). The most likely classification of this property would be either:

1. A split-classification, with 10 acres assigned to the house and 10 acres classified as 2b Rural Vacant Land; or
2. Class 1a Residential Homestead, if the entire property is used for purposes of the homestead.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009053

February 4, 2009

Bridget Olson
Nicollet County Assessor's Office
Government Center
501 South Minnesota Ave
St. Peter, MN 56082

Dear Ms. Olson:

Thank you for your question concerning the 2c Managed Forest Land classification. You have asked how you should determine what land should receive the 2c class rate of 0.65 percent on an ag homestead parcel when land values and homestead limits are subject to change.

Simply put, any land that qualifies and is enrolled in the 2c Managed Forest Land classification may receive a class rate of 0.65 percent. You should, to the best of your ability, work with a land owner to inform him/her how changes in land values and the increase in the ag homestead limit will affect the property. However, it is not your responsibility to automatically change acres from 2c to 2a (or vice versa) in order to grant the land owner the greatest benefit. Land that is enrolled in the 2c classification **will** receive the 0.65 percent class rate until it no longer qualifies or the owner informs you that they want to cancel enrollment.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

April 29, 2009

Gary Griffin
Todd County Assessor's Office
Courthouse
221 1st Avenue South
Long Prairie, Minnesota 56347

Dear Mr. Griffin:

Thank you for your question concerning the 2c managed forest land classification. You have presented us with the following scenario:

> A person owns 127 acres of property. 113 acres are enrolled in class 2c managed forest land and the remaining 14 acres are classified as residential homestead. You have asked what would happen if the owner farmed over 10 acres of the 14 acres not enrolled in class 2c. Would the agricultural classification/agricultural homestead apply to the entire 127 acres or just the acres not enrolled in class 2c?

If the property owner farmed over 10 acres of property they would be eligible for the agricultural classification on the acres actually being farmed, but not the acres enrolled in class 2c managed forest land. They may also qualify for an agricultural homestead, but again, this would not extend to any of the class 2c acres. Class 2c managed forest land cannot be used for agricultural purposes and cannot be homesteaded.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

2009318

August 26, 2009

Brad Averbeck
P.O. Box 84
Detroit Lakes, MN 56502

Dear Mr. Averbeck:

Thank you for your question concerning class 2c Managed Forest Land. You have asked what our policy is for property owners who have forest management plans that have expired during enrollment in the 2c class and who are unable to get a renewed or updated plan before the next application deadline of May 1.

Property owners seeking classification of property as class 2c Managed Forest Land must have a valid forest management plan that is less than 10 years old at the time of application. Because the applications for class 2c apply to the current assessment year, applicants must have a forest management plan that is valid as of January 2 of the year of application. Additionally, the forest management plan must be valid at the time of application. In other words, if the forest management plan expires February 3, but the property owner applies by February 2, they may be eligible for the assessment year. If the forest management plan expires in June of the current assessment year, but the property owner applies before May 1, they may be eligible for that assessment year but would need to get an updated plan before their next application.

If a property owner has a management plan that expires before January 2, and the owner does not get the plan renewed and make application before May 1, that owner can not qualify for the current assessment year.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

December 9, 2009

Paul Knutson
Rice County Assessor
County Government Center
320 3rd Street NW, Suite #4
Faribault, MN 55021-6100

Dear Mr. Knutson:

Thank you for your question concerning the 2c managed forest land classification and Green Acres. You have presented us with the following situation:

A 140 acre parcel has a forest management plan on the entirety of the parcel. The owner has applied for the 2c classification on 57 acres. The remainder of the property is CRP land and the owner would like to enroll it in Green Acres.

You have asked the following questions:

1. **Can the owner pick and choose what acres they want to enroll in class 2c or are they required to enroll everything that is covered under the forest management plan?**
   Owners can choose which acres to enroll in the 2c managed forest land classification. Applicants are not required to enroll all property covered under a forest management plan into the 2c classification. They must, however, meet the minimum requirement of 20 acres.

2. **Can the owner apply for Green Acres on the remaining CRP acres?**
   Yes. Land that is enrolled in CRP is eligible for Green Acres if it was farmed prior to enrollment in CRP. There is no provision that excludes a property from having some of the land receiving Green Acres and other parts of the land receiving the 2c managed forest land classification. Please note that the same land cannot be receiving both Green Acres and class 2c.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

March 24, 2010

Lee Brekke
Wadena County Assessor
415 Jefferson St S
Wadena, MN 56482

Dear Mr. Brekke:

Thank you for your question concerning class 2c Managed Forest Land. You have asked what the policy is for property owners who have forest management plans that have expired during enrollment in the 2c class and who are unable to get a renewed or updated plan before the next application deadline of May 1.

Property owners seeking classification of property as class 2c Managed Forest Land must have a valid forest management plan that is less than 10 years old at the time of application. Because the applications for class 2c apply to the current assessment year, applicants must have a forest management plan that is valid as of January 2 of the year of application. Additionally, the forest management plan must be valid at the time of application. In other words, if the forest management plan expires February 3, but the property owner applies by February 2, the property may be eligible for class 2c for that assessment year but the property owner would need to get an updated plan before the next application.

If a property owner has a management plan that expires before January 2 of the assessment year, and the owner does not get the plan renewed and make application before May 1, that owner cannot qualify for the current assessment year.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

March 30, 2010

Margaret Dunsmore
St. Louis County Assessor's Office

Dear Ms. Dunsmore:

Thank you for your questions concerning the 2c Managed Forest Land classification. Your questions are answered in turn below:

1. **Are we supposed to keep a database of when forestry plans expire, or does the DNR do that?**
   No, you are not required to keep a database of plans. The DNR keeps a database of all the forest management plans that are registered. The DNR is also required to send each county a listing of all registered forest management plans on an annual basis. (In reality, the DNR sends out the listing every several months.) You may also contact Andrew Arends at the main DNR office to request the listings of all registered forest management plans be sent to you at any time.

2. **Are we supposed to notify taxpayers when their plans expire, or does the DNR do that?**
   It is not the statutory responsibility of the assessor's office to notify taxpayers when their forest management plans expire. However, it may be beneficial for the taxpayers in your county if you give them prior notice of the expiration date of their plans so that their enrollment in class 2c is not interrupted.

3. **Will the DNR notify us of expired plans in February so we can change class codes before the Local Board of Review notices are printed?**
   As stated in question 1, the DNR keeps a database of all the forest management plans that are registered. The DNR is also required to send each county a listing of all registered forest management plans on an annual basis. (In reality, the DNR sends out the listing every several months.) You may also contact Andrew Arends at the main DNR office to request the listings of all registered forest management plans be sent to you at any time.

4. **When calculating a plan's expiration date, do we use the date the plan was signed by the forester or the date it was registered with the DNR?**
   The date the plan was signed is when the plan becomes effective. Ten years after the plan is signed by the plan writer, it expires.

5. **Why do we need to have the full management plan in our files? Can we just have the pages with the dates, parcels, forester, and owner info?**
   In our experience, it is beneficial to have a copy of the forest management plan in case questions arise in the future concerning the use of the property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

April 29, 2010

Mike Frank
Todd County Assessor's Office
mike.frank@co.todd.mn.us

Dear Mr. Frank:

Thank you for your question concerning the 2c managed forest land classification. You have presented us with the following scenario:

> An application for class 2c managed forest land has been submitted for 318 acres of property. The property has met all the requirements to qualify for class 2c. However, the applicant is not the owner of the property, but rather the lessee. The lease is for 25 years and started in 2005. The application and forest management plan are in the name of the lessee.

You have asked if this property can qualify for the 2c managed forest land classification.

In our opinion, the application from the lessee cannot be approved. Minnesota Statute 273.13, subdivision 23, paragraph (d) states that "the owner of the property must apply to the assessor in order to initially qualify for the reduced tax rate…" [Emphasis added.] Furthermore, it is the owner of the property who is ultimately responsible for the property taxes on the property. Therefore, it is the owner of the property that must apply for the 2c managed forest land classification.

We are of the opinion that the owner of the property could apply for class 2c using the lessee's forest management plan. We would recommend that you speak with the concerned parties and inform them that it would be acceptable if the owner applied for the reduced class rate using the lessee's forest management plan.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

July 22, 2010

Bob Hansen
Hubbard County Assessor
bhansen@co.hubbard.mn.us

Dear Mr. Hansen,

Thank you for your recent question regarding the application process for 2c Managed Forest Land classification. You have asked if there is any potential for a property owner to file the required application after the May 1 deadline, if the property owner had an approved forest stewardship plan prior to the deadline but was not "dutifully made aware" of the registration requirement.

The May 1 assessment deadline is statutorily-required under Minnesota Statutes, section 273.13, subdivision 23, paragraph (d). Barring any compelling hardships, all property owners are required to adhere to that deadline in order to receive the reduced class rate provided by the managed forest land classification. If the property owner has provided an application with an approved forest stewardship plan after the May 1 deadline, that application may serve as the application for 2c classification for the 2011 assessment (taxes payable 2012).

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Very sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

May 11, 2011

Tom Nash
tom.nash@state.mn.us

Dear Mr. Nash:

Thank you for your questions concerning the 2c managed forest land classification. You have asked several questions which are addressed below:

Is the 2c application an annual application?
No, the 2c application is a one time application. However, as you mentioned in your letter, the Department of Natural Resources (DNR) sends each county a list of properties with qualifying registered forest management plans. This list is updated and sent several times a year. The assessor should annually cross-reference this list to make certain that any property owners with 2c managed forest land appear on the list sent by the DNR.

Can land be enrolled in CRP, CREP, RIM, or Green Acres if the same land is already enrolled in the 2c classification? If not, should this be added to the application?
Land which is classified as class 2c cannot also be enrolled in CRP, CREP, RIM, or Green Acres. This is stated in the instructions on the 2c Managed Forest Land application but it is not in the certification section. We may consider adding it there in an updated version of the form.

If you have any other questions or concerns, please contact us at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

MINNESOTA · REVENUE

October 11, 2011

Lorri Houtsma
Isanti County Assessor's Office
lorri.houtsma@co.isanti.mn.us

Dear Ms. Houtsma:

Thank you for your question concerning the 2c managed forest land classification. You have a property owner that has property enrolled in class 2c. The person has purchased additional land which is contiguous to the land enrolled in class 2c. You have asked if the person must amend their forest management plan to include the newly purchased property before receiving class 2c on that property.

All class 2c land must be covered by a forest management plan developed by a DNR approved plan writer. Therefore, in order for the newly acquired property to qualify for class 2c, the owner must first amend their current forest management plan to include those acres.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

February 16, 2012

Jody Moran
Washington County
Jody.Moran@co.washington.mn.us

Dear Ms. Moran,

Thank you for your question regarding plat law. You have outlined the following scenario: A property in Washington County was split into two lots and platted due to development code in Washington County. The property was split-classified as 2b rural vacant land and residential homestead (it maintained the rural vacant land classification because the platting was an administrative requirement). Plat deferral was applied to the 2b land. In 2011, the property owner enrolled 40 acres on both parcels into the 2c Managed Forest Land classification. The plat deferral was removed when the classification changed, and the property owner questioned the removal. You have asked for the Department of Revenue's opinion related to plat law on 2c land.

We discussed your question with legal staff. As you are aware and have correctly addressed, administrative plats do not disqualify a property from the 2b or 2c classification. Additionally, the statute related to plat deferral under Minnesota Statutes, section 273.11 does not specifically preclude class 2c land from receiving the plat deferral. Therefore, the property may still receive plat deferral even though it is enrolled in the 2c classification.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 2, 2012

Kelly M. Schroeder
Pine County Assessor
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder:

Thank you for your question concerning the 2c managed forest land classification. You have a property owner in your county who has a management plan that is now over ten years old. The property owner contends that he does not need to update the management plan in order to continue to qualify for the 2c classification because the plan was less than ten years old when he applied and qualified for the program. You have asked if his contention is correct.

According to Minnesota Statute 273.13, subdivision 23, paragraph (d):

> *"Class 2c managed forest land consists of no less than 20 and no more than 1,920 acres statewide per taxpayer that* **is** *being managed under a forest management plan that meets the requirements of chapter 290C"* [Emphasis added.]

Within Minnesota Statute 290C, it is stated that a forest management plan must be "prepared or updated within the past ten years by an approved plan writer." Therefore, in order to continue to qualify for the 2c managed forest land classification, the property owner in question must have a forest management plan that was created or updated within the last ten years.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

June 21, 2013

Julie Greene
Ottertail County Assessor's Office
JGreene@co.ottertail.mn.us

Dear Ms. Greene:

Thank you for submitting your question to the Property Tax Division regarding the 2c managed forest land classification. You have asked the following:

> For a property to be eligible for the 2c classification, must taxes be current and not delinquent? If the taxes are delinquent on a property applying for the 2c classification, how should the application be handled?

The requirements for classification as 2c managed forest land are described in Minnesota Statutes, section 273.13, subdivision 23, paragraph (d):

> *"Class 2c managed forest land consists of no less than 20 and no more than 1,920 acres statewide per taxpayer that is being managed under a forest management plan that meets the requirements of chapter 290C, but is not enrolled in the sustainable forest resource management incentive program. It has a class rate of .65 percent, provided that the owner of the property must apply to the assessor in order for the property to initially qualify for the reduced rate and provide the information required by the assessor to verify that the property qualifies for the reduced rate. If the assessor receives the application and information before May 1 in an assessment year, the property qualifies beginning with that assessment year. If the assessor receives the application and information after April 30 in an assessment year, the property may not qualify until the next assessment year. The commissioner of natural resources must concur that the land is qualified. The commissioner of natural resources shall annually provide county assessors verification information on a timely basis. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does not disqualify the property from classification under this paragraph."*

As with other property tax classifications under section 273.13, there is no requirement that the taxes be current and not delinquent. Provided that the other requirements are met, and application is filed, a property with delinquent taxes may still be classified as 2c; however, classification as 2c will not impede the delinquency procedures.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

August 19, 2013

Lee Brekke
Wadena County Assessor
Lee.Brekke@co.wadena.mn.us

Dear Lee:

Thank you for submitting your question to the Property Tax Division regarding the 2c managed forest land classification. I apologize very sincerely for the delay in this response; for inexplicable reasons I lost this file for a time. Your question and our response are outlined below.

Scenario:
In your county, there is a 100-acre property that is classified as 2c that was owned by a 4 individuals. At one point, three of the individuals quitclaimed their interest to the 1 remaining owner. The forest management plan was registered with the Department of Natural Resources under the name of one of the previous owners.

Question:
Is it recommended that the plan be updated and a new application be submitted with information related to the new sole owner? Does this owner have to update the plan and register under his name?

Answer:
We address this question in the Property Tax Administrator's Manual, Module 3 – Classification:

> **Does the FMP follow the owner upon sale or is it tied to the owner that enrolled the property?**
> **Answer:** The FMP is tied to the owner of the land. The DNR has informed us that they would like the FMP to be updated to reflect current ownership. Therefore, if a property is sold or transferred, the FMP must be updated and a new application must be submitted in order for the new owner to qualify for the 2c classification. The 2c classification should be removed for the next assessment year if the new owner has not submitted a new application containing an updated FMP by that time. *We strongly recommend that assessors send a new application or letter to the new owners informing them that their newly purchased property will only remain classified as class 2c property if they update their FMP and submit a new application.*

The manual is available on our website via:
http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/ptamanual.aspx. If you have any further questions, please contact our division at proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

September 22, 2013

Jonathan Crowe
Olmsted County Assessor's Office
Crowe.jonathan@co.olmsted.mn.us

Dear Mr. Crowe:

Thank you for submitting your question to the Property Tax Division regarding the 2c managed forest land classification. You have provided the following:

A property owner in your county has approximately 86 acres of property currently enrolled into 2c managed forest land. He is thinking of building a home and garage on the property, and you believe he will be homesteading the property once it is completed.

Question:
Other than a site inspection of the new dwelling, will the property owner need to fill out another application for 2c managed forest land or need to take any other steps to keep the 2c class on the remaining 76 acres?

Answer:
Properties that are improved with a structure that is not a minor, ancillary, non-residential structure (e.g. home, cabin, commercial building, etc.) must be split-classified with at least 10 acres being assigned to and centered on the structure. It will be up to the assessor to remove the 10 acres for any structure that does not qualify as a minor, ancillary, non-residential structure. The portion of the property that includes the structure would then be classified based on the use of the structure.

In this situation, we recommend that the taxpayer submits a new 2c classification application in order to update the number of acres that will be enrolled in the 2c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

October 1, 2013

Jonathan Crowe
Olmsted County Assessor's Office
Crowe.jonathan@co.olmsted.mn.us

Dear Mr. Crowe:

Thank you for submitting your follow up questions to a letter dated September 23 from the Property Tax Division regarding the 2c managed forest land classification. You have provided the following:

A property owner has approximately 86 acres of land enrolled in the 2c managed forest land classification and has an approved forest management plan currently registered with the DNR. He will be building a home on the land and will homestead the property. Therefore, only 76 acres will be enrolled in the 2c classification.

Questions:

1. Will the landowner need to have another forest management plan completed?
2. Will an approved plan writer need to go back onsite after blueprints and site plan have been developed, or before they can be developed?

Answer:
Assuming the current FMP includes the 10 acres that no longer qualify for the 2c classification; this FMP may not be up to date. It is our recommendation that the taxpayer contacts his/her plan writer to have the FMP updated to reflect the change imposed on the property. It is the plan writer's decision whether or not a site visit is necessary. As the assessor, it is your responsibility to update the acreage that qualifies for the 2c classification and remove the 10 acres for the homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 12, 2014

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore:

Thank you for submitting your question to the Property Tax Division regarding 2c managed forest land. You have provided the following question.

Question: If a person has two building sites on a property enrolled in the 2c Managed Forest Land classification, does the county remove 10 acres for each building site? If the two are close enough to be included in the same 10 acres, can only one 10-acre site be removed from 2c classification?

Answer: Each parcel that has an improvement that is not a minor ancillary structure must have 10 acres split off and classified according to the use of the structure. In this specific situation, it appears the two building sites are close enough to be included in the same ten acres; therefore, it does appear to be appropriate to only reduce this parcel by 10 acres. However, if the building sites were on opposite ends of a multiple-acre parcel, then the two building sites should have 10 acres split off for each building site. For example, if one building site is 40 acres away from the second building site, the county would be required to split off 10 acres for each building site and classify according to use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

5/15/15

Kristina Botzek
Sherburne County Assessor's Office
Kristina.Botzek@co.sherburne.mn.us

Dear Ms. Botzek,

Thank you for contacting the Property Tax Division regarding Class 2c Managed Forest Land. You provided us with the following information.

Scenario:

- A property owner wants to enroll 2 parcels into the Managed Forest Land classification.
- The parcels are contiguous and he would meet the acreage requirements for Managed Forest, however, 1 of the parcels is platted and one is unplatted.
- The application for 2c Managed Forest clearly states only unplatted real estate qualifies, but the DOR fact sheet does not.

Question: Can property be platted and enrolled in class 2c?

Answer: No; for property to qualify for 2c it must first be 2b land (which cannot be platted), therefore that requirement would roll over to the 2c requirements as well. If the unplatted parcel is 20 acres, then that individual parcel could qualify for 2c, but the platted parcel does not qualify.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY
State Program Administrator Principal
Property Tax Division
Phone: 651-556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

September 4, 2015

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan:

Thank you for submitting your question to the Property Tax Division regarding the 2c managed forest land classification.

Scenario: Your office received an application for the 2c classification. The forest management plan covers 1,020 acres of contiguous forest land. However, 80 acres are owned by Wayne and 940 acres are owned by Wayne's deceased mother. The 940 acres are currently in "informal probate." One of Wayne's siblings is the executor of the estate.

Question 1: Can your office process the application as it is, since the forest management plan covers all of the acreage – even though the contiguous acreage is under different ownership?

Answer 1: No; only the owner of the property can apply for the 2c classification. Wayne may apply on his 80 acres, but not the 940 acres that he does not currently own.

Question 2: Can the executor of the estate file an application for 2c on behalf of the estate?

Answer 2: Yes; the executor of the estate could file an application for 2c on the property owned by the estate.

Question 3: If both Wayne and the estate executor file applications, can the property be approved under one forest management plan?

Answer 3: Wayne can file application for his 80 acres, and the estate executor can file on the estate's 940 acres. The forest management plan must be in the name/s of the owner/s however (i.e., both Wayne and the owning estate should be listed as the property owners).

Question 4: Could Wayne file on his 80 acres, even though the forest management plan covers additional acres?

Answer 4: Yes; Wayne can file on his 80 acres, even if the plan covers additional acres (provided the forest management plan is also in Wayne's name).

Question 5: If the estate is settled and the property is split between five siblings, would a new plan need to be filed?

Answer 5: Yes. The Department of Natural Resources has informed us that they would like the forest management plan (FMP) to be updated to reflect current ownership. Therefore, if a

property is sold or transferred, the FMP must be updated and a new application must be submitted in order for the new owner to qualify for the 2c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

November 3, 2015

Douglas Walvatne
Otter Tail County Assessor
DWalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding 2c classification. You have provided the following scenario and question:

Scenario:

- An owner has an approved stewardship plan involving 4 contiguous parcels with 29 total acres.
- The owner has a licensed travel trailer on the property which is less than 300 square feet.
- The property abuts Walker Lake with about 700 feet of lakeshore frontage.

Question: Would any of this land be eligible for the 2c classification?

Answer: Yes; from the information provided it appears the acreage meet the requirements for the 2c classification. The travel trailer is subject to motor vehicle registration fees and is treated as personal property; therefore, the travel trailer is not considered an improvement to the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

April 4, 2017

John Carlson
Private Forest Management Coordinator
MN DNR Forestry
john.c.carlson@state.mn.us

Dear Mr. Carlson,

Thank you for submitting your questions to the Property Tax Division regarding land eligible for the 2c managed forest land classification. You have provided the following questions:

Question 1: If a non-minor structure is located in the corner of a parcel preventing the structure from being centered on the 10 acres without overlapping an adjacent parcel, should a polygon be created in the corner of the parcel to accommodate the 10 acres?

Answer: The assessor will use land on the same parcel to split classify acres to arrive at the 10 acre requirement. This should be assigned to and centered on the structure, however, parcel boundaries may not make this practical in all situations.

Question 2: In cases where there are multiple non-minor structures on a parcel that are separated by more than 10 acres, does the assessor have to split classify 10 acres around each one?

Answer: Statute does not specify a specific number of acres between multiple non-minor structures before an assessor has to split off 10 acres with the structure. Statute only specifies that 10 acres must be split off and classified according to the use of the structure. Therefore, if structures are close enough then the assessor would only split off 10 acres around those structures, however if structures were on opposite ends of a large multi acre parcel, then the assessor should split 10 acres off for each structure. I have included a letter that may offer you further assistance concerning this specific question.

Question 3: To further clarify question 2, if the 10 acres assigned to multiple non-minor structures do not overlap with any of the acres that are covered under the Woodland Stewardship Plan, then no acres need to be deducted from 2c?

Answer: Yes. When properties are improved with structures that are not minor, ancillary, non-residential, the remaining acres may remain as 2c, but 10 acres must be classified according to the use for any ancillary structures.

Question 4: Should the assessor change a property's classification rate of 0.5% (agriculture) to the 1.0% (rural vacant land) class rate once the landowner applies for the Sustainable Forest Incentive Act (SFIA)?

Answer: An assessor would reclassify agricultural land if it is enrolled in SFIA and no longer used for agricultural purposes. If it is reclassified as 2b rural vacant land included as part of an agricultural homesteaded, then the 2b land will continue to have a .5% classification rate.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

June 2, 2017

Carice Golberg-Cummins
Hubbard County Assessor's Office
cgolberg@co.hubbard.mn.us

Dear Ms. Golberg-Cummins,

Thank you for submitting your question to the Property Tax Division renewal applications for 2c, Managed Forest Land. You have provided the following information and question:

Information:

- Your office sends letters (as a courtesy) to all 2c enrollees whose forest management plans are entering their tenth year so they may update and continue enrollment.
- The letter is sent 6-12 months prior to the May 1 application deadline.
- The letter clearly states they need to contact their forest plan writer to update the plan, register that updated plan with the DNR, and provide a copy of the updated plan with a new application to the County Assessor's Office.
- Requesting the updated documentation is the policy the county has operated under since 2C was introduced in 2008.

Question: Can the county request updated documentation to continue 2c enrollment?

Answer: MN Statute does not require property owners to reapply to continue the 2c classification, however staututte does require that the forest management plans be less than 10 years old. Statute also gives the county assessor full authority to classify a property, therefore if a county has a policy in place to verify classification requirements the property owner must comply with that policy for the classification to be granted. The Minnesota Department of Revenue (DOR) encourages counties to create and enforce administrative policies so that property tax administration is accurate and uniform throughout the county and the state.

As always, the DOR recommends that county policies are put in writing and applied to every property owner throughout the county so that all properties are treated equally and that all property owners pay the right amout of tax, no more, no less.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey

State Program Administrator Coordinator
Property Tax Division, Information & Education
Phone: 651-556-6091

February 5, 2018

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@stlouiscountymn.gov

Dear Ms. Dunsmore,

Thank you for submitting your question to the Property Tax Division regarding Class 2c Managed Forest Land. You have provided the following scenario and question:

Scenario:

- A landowner applied for the Class 2c Managed Forest classification.
- The property was previously platted.
- The property is enrolled in a conservation easement.

Question:

Does the conservation easement allow the property to be classified 2c even though it was platted?

Answer:

No. The presence of the conservation easement does not remove the requirement that the land be un-platted in order to qualify for class 2c. The only time platted parcels are eligible to be classified 2c is when administrative plats were required by the county due to a development code. In that case, platted land may still be eligible for the 2c classification assuming it meets all other requirements.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

June 4, 2018

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for submitting your question to the Property Tax Division regarding minor ancillary structures on land with a forest management plan. You have provided the following scenario and question:

Scenario:

- A parcel of land has an active forest management plan.
- A structure under 300 square feet is located on the parcel.
- The structure is occasionally used for seasonal recreational purposes.
- The county has determined that the structure is similar to a cabin.

Question: What is the criteria for "occasional use" that would not require the structure and surrounding 10 acres to be removed from the 2c Managed Forest classification?

Answer: State statute does not define occasional use, therefore it has been Revenue's guidance that the **primary use** is best defined by the use of the structure. A memo issued July 16, 2008 on Class 2c Managed Forest Land notes that improvements such as water, sewer, or electrical hook ups for residential purposes would most likely **prohibit a structure** from being primarily a minor, ancillary structure. Since final interpretation of what qualifies as occasional use would be at the assessor's discretion, any classification determinations using frequency of use should be made based on county policy and applied consistently throughout the county.

Again, if the primary use of a structure that is less than 300 square feet is minor, ancillary, and **non-residential** it has been the department's policy that the occasional overnight use for hunting or other outdoor activities would not require that the structure and surrounding 10 acres be split off.

If however, the use of the minor, ancillary structure is determined to be something other than nonresidential use, then the structure and surrounding 10 acres must be split off and classified according to the use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

September 21, 2018

Margaret Dunsmore
St. Louis County Assessor's Office
dunsmorem@StLouisCountyMN.gov

Dear Ms. Dunsmore,

Thank you for submitting your question to the Property Tax Division regarding 2c managed forest land. You have provided the following scenario and question:

Scenario:

- A parcel of land currently classified as 2c managed forest land includes an 18 acre hayfield that must be cut for wildlife purposes according to the required forest management plan.
- The owner does not receive any financial compensation by the individual who cuts the hayfield.
- The individual cutting the hayfield would now like to graze sheep on the 18 acres.

Question: Would the introduction of sheep to the 18 acre hayfield disqualify it from the 2c managed forest land classification?

Answer: In accordance with Minnesota Statutes 273.128, subdivision 23 (d), for a property to be eligible for the 2c managed forest land classification it must include at least 20 acres of forest land, not to exceed 1920 acres, and a corresponding forest management plan registered with the Department of Natural Resources (DNR) must have been completed within the last 10 years. Furthermore, for a property to qualify for 2c managed forest land it cannot be used agriculturally, be enrolled in the Sustainable Forest Incentive Act program, CRP, CREP, RIM, or the Green Acres program.

While the information provided indicates that the total acreage in the program exceeds the minimum required amount, no information was provided concerning the details of the forest management plan. Our recommendation would be to obtain a copy of the forest management plan and determine if the introduction of the sheep would be a violation of the plan. The assessor could then evaluate the property and the forest management plan together to determine whether or not the use has changed in such a manner that the property must be reclassified.

Question: Would the introduction of sheep to the 18 acre hayfield result in the classification being changed from 2c management forest land to 2a agricultural?

Answer: As you are aware, the assessor determines the classification of property. If the property in the scenario is 10 or more acres and used to produce an agricultural product for sale, then the classification would need to be changed to 2a agricultural to reflect the change in use.

As always, our opinion is based on the facts provided. If the facts were to change then our opinion could change as well. Ultimately, classification of a property must be determined by the assessor based on the use of the property and the requirements listed in Minnesota Statutes.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 18, 2018

John Carlson
Private Forest Management Coordinator/MN DNR Forestry
john.c.carlson@state.mn.us

Dear Mr. Carlson,

Thank you for submitting your question to the Property Tax Division regarding 2c Managed Forest Land. You have provided the following scenario and question:

Scenario:

- A property owner has a forest management plan that expired June 10, 2018.
- The property owner plans to update the plan in the spring of 2019 and have the updated version available prior to the April 30, 2019 application deadline.
- The forest management plan will not be current and registered with the DNR on the assessment date, January 2, 2019.

Question: Will the property be able to qualify for 2c for the 2019 assessment year?

Answer: Minnesota Statute 273.01 requires all real property subject to taxation shall be assessed (classified and valued) on January 2 of that year. If on January 2 the forest management plan has expired and the requirements for 2c are no longer met, then the counties should remove the 2c classification.

Minnesota Statue 273.13, subdivision 23(d) allows property owners to apply for 2c no later than April 30 for the current assessment year. If the 2c classification was removed on January 2 due to an expired forest management plan, the property owner could reapply and provide the updated plan and any other required information to the county by April 30. Assuming all requirements are met, the property would be eligible to receive class 2c Managed Forest Land for the 2019 assessment year.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

August 21, 2019

Tina Von Eschen
Kanabec County Assessor
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding Class 2c Managed Forest Land. You have provided the following scenario and question:

Scenario:

- A property owner has a perpetual Permanent Wetland Preserve conservation easement on 160 acres of land.
- Some of the land is classified as 2c Managed Forest Land.
- The most recent forest management plan does not mention any of the land being part of an easement.

Question: Does a conservation easement prohibit a property from being classified as Managed Forest Land?

Answer: Yes. Class 2c Managed Forest Land must be managed under a forest management plan that meets the requirements laid out in Minnesota Statutes 290C and must **not** be enrolled in the Sustainable Forest Incentive Act program. Additionally, it has always been our guidance that if land is classified as 2c, it also must meet the definition of "forest land" in Minnesota Statutes 290C.02 which prohibits land from being enrolled in conservation reserve or easement plans in Minnesota Statutes 103F.501 to 103F.531. Permanent Wetlands Preserve easements are detailed in Minnesota Statutes 103F.516, which means that a property with such an easement does not meet the definition of "forest land" found in M.S. 290C and therefore is ineligible for 2c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 15, 2020

Brian Grahek
St. Louis County Assessor's Office
GrahekB@StLouisCountyMN.gov

Dear Mr. Grahek,

Thank you for submitting your question to the Property Tax Division regarding 2c classification. You have provided the following scenarios and questions:

Scenario 1:

- A 91-acre parcel is owned by two people
- Person A has 25% ownership interest in the parcel, Person B has the remaining 75% ownership interest
- Person A has a forest management plan (FMP) written in 2020 and has applied for 2c classification on the entire parcel
- Person B is not mentioned on the submitted forest management plan

Question: Can Person A apply for 2c classification?

Answer: Yes. Ownership interest is not a factor in determining the enrollment in the 2c classification. Percentage of ownership interest is a factor solely when fractionalizing agricultural homestead. Because Person A is an owner of the parcel, they can apply for 2c classification. The owner is signing the application on behalf of all owners of the property and agree to follow the land's forest management plan.

Scenario 2:

- There are two contiguous parcels under common ownership
- Parcel A contains 40 acres of forest land under a forest management plan
- Parcel B contains 2.5 acres with a residential structure on it
- The owner has applied for the 2c classification on Parcel A

Question: Does the structure on Parcel B need to be considered when determining how many acres of Parcel A are eligible for the 2c classification?

Answer: No. Because the structure is located on a separate parcel, it is not a factor in determining how many acres qualify for the 2c classification on Parcel A. Even if ownership is the same, parcels must be valued and classified independently, with limited exceptions for enrollment in certain programs.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section
Property Tax Division
Phone: 651-556-6922

December 10, 2021

Dear Joshua,

Thank you for submitting your question to the Property Tax Division regarding the 2c classification. You have provided the following scenario and question:

Scenario:

- A subdivision contains 10 residential parcels and nine outlots
- Two of the nine outlots are platted along with the residential parcels
- The outlots total approximately 360 acres and are about 80% wooded
- Each residential parcel is individually owned, with those owners also owning a 1/10 share of each outlot
- The subdivision's covenant gives each individual owner membership in a non-profit corporation
- In 1998, a conservation easement was placed on the nine outlots and is held by the Minnesota Land Trust
- A forest management plan for the nine outlots was registered in September 2021 in the name of a trust related to the non-profit corporation

Question: Would the outlots be eligible to receive the 2c Managed Forest Land classification?

Answer: The seven outlots that are not platted appear to be eligible for the 2c classification. One of the requirements of the 2c classification is that the property cannot be platted, therefore the two platted parcels would not be eligible for the 2c classification.

The rest of the outlots would need to be enrolled in a forest management plan that would meet the requirements of Minnesota Statutes 290C. While M.S. 290C.02, subdivision 6 states that "forested land" cannot be enrolled in a conservation easement program, easements with the Minnesota Land Trust fall into easements described in paragraph (iii), which only prohibit property with easements conveyed after May 30, 2013 from being considered to be "forested land". Because the easement was conveyed in 1998, as long as the unplatted outlots meet the other requirements of subdivision 6 (such as being at least 50% wooded and not used for residential or agricultural purposes), they would be considered to be "forested land" and would then meet that requirement.

The assessor still must verify that the ownership of the forest management plan matches with that of the application, and all other classification and application requirements must still be met. If so, the parcels would be eligible for the 2c classification.

The opinion is based solely on information provided and the facts provided. If any of the facts of the situation were to change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Class 4c(3)(i) and 4c(3)(ii) Non-Profit Organizations

August 14, 2008

Cindy Okstad
St. Louis County Assessor's Office
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Ms. Okstad:

Thank you for your questions concerning the 4c(3)(ii) classification for non-profit community service organizations. You have asked the following questions:

1. **A fraternal organization has an apartment on the 2nd floor of their property, which is rented out and has a separate record as residential property. Could the organization still qualify for the 4c(3)(ii) classification on the rest of the building?**
   Statute declares that property owned by a non-profit community service organization must not be used for residential purposes on either a temporary or permanent basis in order to qualify for the 4c(3)(ii) classification. Therefore, it is our opinion that the residential use of the property in question would disqualify the entire property from receiving the 4c(3)(ii) classification.

2. **Could a Union Hall qualify for the 4c(3)(ii) classification if they meet the requirements?**
   Organizations must be organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes and must be exempt from federal income taxation pursuant to sections 501(c)(3), (10), or (19) of the Internal Revenue Code in order to receive the 4c(3)(ii) classification. If the Union Hall qualifies as a 501(c)(3), (10), or (19) organization, it most likely could qualify for the 4c(3)(ii) classification as long as it meets all other requirements.

3. **If a building does qualify for the 4c(3)(ii) classification, does the benefit extend to adjacent parking lots owned by the organization? Does it extend to parking lots that are not adjacent (e.g. a couple of blocks away)?**
   The 4c(3)(ii) classification is only applicable to real property of up to three acres that is owned and used by non-profit community service organizations. Adjacent parking lots would qualify, but must fit within the three-acre limit. In our opinion, non-adjacent parking lots do not qualify.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

August 14, 2008

Lori Schwendemann
Laq qui Parle County Assessor
Courthouse
600 6th Street
Madison, Minnesota 56256

Dear Ms. Schwendemann:

Thank you for your questions concerning the new 4c(3)(ii) classification. You have asked the following questions:

1. If an organization charges a nominal rate ($25) to rent a hall for a meeting, do they qualify for 4c(3)(ii)?
Statute declares that the property must be allowed to be used for public or community meetings or events for no charge. If any dollar amount is charged in order to hold a meeting or event, the entire property would not qualify for class 4c(3)(ii) and should be classified according to its use (most likely 3a commercial). *However, if the hall was not rented to paying customers for more than six days in the year preceding the assessment, the hall portion of the building could be split-classed as 4c(3)(i). In this case, the rest of the property could qualify for 4c(3)(ii) if it meets the charitable donations requirement.*

2. An organization charges $175 for a hall rental for a wedding reception, unless you use the organizations catering service, in which case the hall rental is free. Does this qualify as 4c(3)(ii) property?
No. This type of property would not qualify because it charges a fee for the use of the hall. *However, if the hall was not rented to paying customers for more than six days in the year preceding the assessment, the hall portion of the building could be split-classed as 4c(3)(i). In this case, the rest of the property could qualify for 4c(3)(ii) if it meets the charitable donations requirement.*

3. If an organization has a full service bar that is open 6 days a week and they make annual donation/contributions that are at least equal to their previous year's property tax, does the entire property qualify for 4c(3)(ii) classification?
(1) Properties must make annual donations/contributions that are at least equal to their previous year's property tax **and** (2) be used for public and community events for no charge. Both of these factors (1 and 2) must be present for an organization to qualify. If an organization's property does not have an area that is allowed to be used for public meetings for no charge, the entire property would be ineligible for the 4c(3)(ii) classification, even if they made charitable contributions equal to their previous year's property taxes.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 10, 2008

Rollie Huber
Deputy Assessor
Washington County Assessor's Office
2150 Radio Drive
Woodbury, MN 55125

Dear Mr. Huber:

Thank you for the following question concerning the 4c(3)(ii) classification.

Question: An American Legion has a residence on the 2nd floor of their property. Could the organization still qualify for the 4c(3)(ii) classification on the rest of the building?

Answer: Statute declares that property owned by a non-profit community service organization must not be used for residential purposes on either a temporary or permanent basis in order to qualify for the 4c(3)(ii) classification. Therefore, it is our opinion that the residential use of the property in question would disqualify the entire property from receiving the 4c(3)(ii) classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 16, 2008

Susan E. Wiltse
415 N Main Street
PO Box 130
Blue Earth, MN 56013

Dear Ms. Wiltse:

Thank you for your question concerning the 4c(3)(ii) classification. You have provided us with the following scenario:

> An American Legion that qualifies for the 4c(3)(ii) classification on its meeting and club room property also owns a separate agricultural parcel that is rented out to a farmer who owns the adjoining land.

Question: Does the agricultural parcel owned by the Legion qualify for the 4c(3)(ii) classification?

No. Statute declares that the property must be owned and **used** by the organization. This property is rented to another person who farms the land. Also, this parcel most likely does not meet the "charitable contributions" and "public/community events free of charge" requirements. Furthermore, please remember that only a **maximum of three acres** of land and buildings, which are owned and used by a non-profit community service organization, can qualify for the reduced class rate.

It is our opinion that the intent of this legislation was meant to be limited to a single base parcel (or at the very least parcels contiguous to the base parcel totaling a maximum of three acres), and not separate noncontiguous parcels spread around the county.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

September 16, 2008

Sylvia Schreifels
Washington County Assessor's Office
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Ms. Schreifels:

Thank you for your question concerning property owned by nonprofit community service organizations. You have asked for clarification concerning the limit of up to a maximum of three acres that can qualify for the 4c(3)(i) and 4c(3)(ii) classifications. Specifically, you asked if there is a three acre limitation, and if so where it is has been stated.

Minnesota Laws, Chapter 154, Article 2, Section 13, amended Minnesota Statutes 273.13, subdivision 25 to read:

> "real property up to a maximum of three acres of land owned and used by a nonprofit community service oriented organization and that is not used for residential purposes on either a temporary or permanent basis, qualifies for class 4c provided that…" [Emphasis added]

This was also stated in our memo sent on June 6, 2008 that was designed to help counties administer the 4c(3)(i) and 4c(3)(ii) classifications. It can be found in the first full paragraph under the heading "Classification." The following is copied from our memo:

> "Taxable non-profit community service organizations may now be classified a number of different ways depending on how they are used and according to their level of charitable contributions/donations. Class 4c(3)(i) and 4c(3)(ii) provide for classification of up to a maximum of three acres of land and buildings, that is owned and used by a non-profit community service organization, and that is not used for residential purposes on either a temporary or permanent basis." [Emphasis added]

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

October 6, 2008

Cindy Okstad
St. Louis County Assessor's Office
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Ms. Okstad:

Thank you for your questions concerning the 4c(3)(ii) classification. You have asked the following questions:

Question 1: An organization owns a property with a meeting room and a bar room. The organization meets the requirements for 4c(3)(ii). How should the property be classified?

Both the meeting room and bar room can be classified as 4c(3)(ii). However, if the meeting room was used for revenue producing activities for 6 days or less in the previous assessment year, it may be split-classed as 4c(3)(i), with the remainder of the property classified as 4c(3)(ii).

Question 2: If an organization qualifying for the 4c(3)(ii) classification leases space to another non-profit organization, can the leased area be classified as 4(c)(ii) as well?

No. The law states that the property must be owned and used by the qualifying organization.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

October 15, 2008

Sylvia Schreifels
Washington County Assessor's Office
Washington County Govt Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Ms. Schreifels:

Thank you for your question concerning the 4c(3)(ii) classification. You have asked if contributions made by an auxiliary organization can qualify towards the total contribution amount of the "parent" organization." As per your example, do the contributions made by the organization *Voiture 44* (which is affiliated with the Forest Lake American Legion) count as contributions made by the Forest Lake American Legion?

Minnesota Statutes 273.13, subdivision 25, references the organization that owns the property, but not any affiliated or auxiliary organizations that may have a relationship with the "parent" organization. Therefore, the charitable contributions must be made by the organization that owns the property. Charitable contributions made by affiliated or auxiliary organizations do not qualify.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

October 15, 2008

Becky Kotek
Rice County Assessor's Office
Government Services Building
320 Third Street NW, Suite 4
Faribault, Minnesota 55021-6100

Dear Ms. Kotek:

Thank you for your question concerning the 4c(3)(ii) classification. You have presented us with the following scenario:

> An organization qualifying for the 4c(3)(ii) classification owns two parcels: a main parcel containing a building, and a contiguous parcel with the parking lot for the building.

You have asked if both parcels can qualify for the 4c(3)(ii) classification.

Minnesota Statutes 273.13, subdivision 25, declares that a **maximum of three acres** of land and buildings, which are owned and used by a non-profit community service organization, can qualify for the reduced class rate.

It is our opinion that the intent of this legislation was meant to be limited to a single base parcel, or at the very most, parcels contiguous and used in conjunction with the base parcel totaling a maximum of three acres. In this circumstance, we believe that the parcel containing the parking lot could receive the 4c(3)(ii) classification. However, the property taxes for this parcel must be added to the property taxes for the base parcel, and the total of both parcels must be used to determine if the organization made charitable donations equal to the property's previous year's property taxes.

Please be aware that this opinion is based solely on the information provided. If any of the facts of the situation were to change, our opinion would be subject to change as well.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information and Education Section
Property Tax Division

January 15, 2009

LuAnn Trobec
Minnesota Counties Information Systems
413 SE 7th Avenue
Grand Rapids, MN 55744

Dear Ms. Trobec:

Thank you for your question concerning the 4c(3)(ii) classification. We apologize for the amount of time it has taken to issue a response to your question. It took multiple internal meetings and discussions with our legal staff before we felt comfortable issuing our official opinion. You have asked if a nonprofit organization can be located on leased land and receive the 4c(3)(ii) classification.

We have concluded that a qualifying non-profit organization can receive the 4c(3)(ii) classification if it is located on property leased to that organization from one of the tax-exempt entities listed under Minnesota Statutes 273.19, subdivision 1. The lease agreement must be for at least one year and the property must have been exempt before the lease agreement was made. Under this type of lease agreement, the 4c(3)(ii) organization will be taxed according to Minnesota Statutes 273.19 and will, for all purposes of taxation, be treated as the owner of the property. In our opinion, a qualifying non-profit organization leasing land from one of the tax-exempt entities listed under Minnesota Statutes 273.19, subdivision 1, satisfies the "ownership" requirement found in the 4c(3)(ii) statute.

Non-profit organizations leasing property from entities other than one of the tax-exempt entities listed under Minnesota Statutes 273.19, subdivision 1, do not qualify for the 4c(3)(ii) classification.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

DREW IMES, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

May 19, 2011

Lee Brekke
Wadena County Assessor
Lee.Brekke@co.wadena.mn.us

Dear Mr. Brekke,

Thank you for your recent question to the Property Tax Division regarding a property owner's application for the 4c(3)(ii) non-profit community service oriented organization classification. You have outlined the following scenario: An American Legion property owns three contiguous parcels of property. One of the parcels contains the structure, and the other two are bare land. The Legion does not make charitable contributions and donations equal to their property taxes. However, the charitable contributions do exceed the property taxes for the two parcels of bare land. The property owner has inquired whether the two parcels of bare land would qualify for the 4c(3)(ii) classification.

The 4c(3)(ii) classification requires that the property be available for use for public and community meetings. Additionally, the property must provide charitable contributions and donations (typically in the form of legal gambling/pull tab operations). It would appear logical that the bare land is neither hospitable for public meetings, nor a place where the charitable gambling activities occur. It is our understanding that the 4c(3)(ii) classification applies to the portion of the structure used for qualifying purposes and up to a maximum of three acres of land. In the situation you have outlined, and based on the information you have provided, it does not appear as though the property as a whole qualifies for the 4c(3)(ii) classification. Further, we do not think it would be appropriate to classify the unimproved portions of the land as 4c(3)(ii) if the structure itself does not qualify.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

April 13, 2012

Edna Coolidge
Anoka County Assessor's Office
Edna.Coolidge@co.anoka.mn.us

Dear Ms. Coolidge,

Thank you for your recent question to the Property Tax Division regarding an application for the 4c(3)(ii) non-profit community service oriented organization classification. You received an application with the form LG1010 (now known as Schedule C) showing what appeared to be donations by the organization for coffee and pop for various public and community meetings. You have asked if these would be considered "charitable contributions" if they are not listed as a qualifying "A Code" on the LG1010 (Schedule C).

Providing coffee and pop are not considered qualifying charitable contributions and are not qualifying A-Codes for the LG1010 (Schedule C). They are not to be considered for purposes of determining if a property qualifies for the 4c(3)(ii) classification. On a form LG1010 (Schedule C), "charitable contributions" are defined as expenditures coded A-1 to A-7, A-10 to A-15, and A-19. Only expenditures with these codes qualify as charitable contributions when the county assessor determines if an organization has made charitable contributions in an amount equal to the previous year's property tax.

We will look to clarify this information in the Property Tax Administrator's Manual, which is available on our website at www.revenue.state.mn.us. If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 8, 2012

Edna I. Coolidge
Anoka County Property Records and Taxation
Edna.Coolidge@co.anoka.mn.us

Thank you for your question concerning the 4c(3)(i) and for 4c(3)(ii) property tax classifications for nonprofit community service oriented organizations. You have provided us with the following questions.

You have received an application with Schedule C (formerly LG-1010) and a hand written list of donations made by the organization for 2011. The list has the date, name of the organization receiving the donation, and the amount donated. Can this list be used along with the Schedule C to equal the previous year's property tax?
Only expenditures coded as A-1 to A-7, A-10 to A-15, and A-19 on the Schedule C qualify as charitable contributions when the county assessor determines if an organization has made charitable contributions in an amount equal to the previous year's property tax. The items listed on the handwritten list should not be considered.

An organization has provided a list of group functions that have used the property for meetings and events free of charge. On the list the organization has listed a value that could have been charged. Can these values be considered a donation? Also on the list are volunteer hours, flowers for hospitalized veterans, recreation and campership fund, and funeral lunch supplies. Can they be used as donations?
As stated above, only expenditures coded as A-1 to A-7, A-10 to A-15, and A-19 on the Schedule C qualify as charitable contributions when the county assessor determines if an organization has made charitable contributions in an amount equal to the previous year's property tax. In order to qualify for the 4c(3)(ii) classification, the organization must allow the property to be used for public and community meetings or events for no charge. The value that could have been charged to hold meetings cannot be considered.

Please review the Property Tax Administrator's Manual, which is available on our website at www.revenue.state.mn.us to learn more about the 4c(3)(ii) classification. If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

August 29, 2012

Kelly Schroeder
Pine County Assessor's Office
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder:

Thank you for your recent question to the Property Tax Division regarding the 4c(3)(ii) classification. I apologize for the delay in response. You had outlined the following scenario: It came to your attention that a portion of a property that has been exempt in your county as an institution of purely public charity should not have been exempt. You believe it may qualify for the 4c(3)(ii) classification though, instead of becoming class 3a.

You asked two questions, which are answered in turn below.

To qualify as 4c(3)(ii) property, the organization must have made donations equal to the amount of property taxes paid. This property has been exempt however, so they have not paid property taxes. Should your office calculate what the taxes would have been had the property been taxable?
The only way to grant the 4c(3)(ii) classification going forward would be to calculate what the payable 2012 taxes would have been (using the 2011 estimated market value). This information may be used to determine whether the property qualifies for the 4c(3)(ii) classification for the 2013 assessment year. The property owners must make annual charitable contributions and donations in an amount that is at least equal to the property's previous year's property taxes paid (excluding state general taxes), and the property must be available to be used for public and community meetings or events for no charge, as appropriate to the size of the facility.

Is there any possibility of changing the property's classification for the 2012 assessment?
The property may not change classification (or exempt status) for the 2012 assessment. The cutoff date for making this property taxable was July 1, 2012. Because the conversion date has passed, the property may not now become taxable. The property will initially become taxable for the 2013 assessment for taxes payable in 2014. Please note that this does mean that the 2014 assessment will be determined based on calculating what the 2013 taxes *would have* been, had the property been taxable based on the 2012 value.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

July 18, 2013

Rita Treml
Brown County Assessor
rita.treml@co.brown.mn.us

Dear Ms. Treml:

Thank you for submitting your question to the Property Tax Division regarding the 4c(3)(ii) classification for non-profit community service oriented organizations. You have provided the following:

Scenario: The Izaak Walton League owns a parcel that is 17.04 acres and used for a shooting range and other group activities. They do not qualify for the 4c(3)(i) classification since they rent the property out for more than six days a year. They may qualify for the 4c(3)(ii) classification since they are a 501(c)(8) organization and contribute an amount greater than or equal to their 2013 property taxes to qualifying charitable purposes.

Question: Since the 4c(3)(ii) classification is limited to 3 acres, how should the remaining 14.04 acres be classified? According to the *Property Tax Administrator's Manual*, module 3, page 52, we cannot split-classify the parcel as both 4c(3)(ii) and commercial property.

Answer: The statement in the *Property Tax Administrator's Manual* concerning split-classification is not applicable in this case. If a property is over 3 acres in size, there are limited instances when it can be split-classified as 4c(3)(ii) and 3a commercial property. In the scenario you have provided, up to 3 acres may receive class 4c(3)(ii) and the remaining acres should be classified as 3a commercial property. The limitation on split-classifications applies only to the 3 acres in question (i.e., the three acres used as 4c(3)(ii) property cannot also be split-classified as 3a commercial, but other acreage may be). The manual will be updated to cover these scenarios.

Please note: In addition to submitting an application proving that an amount equal to the previous year's property taxes was donated towards qualifying charitable purposes, the property must also allow for public and community meetings or events to be held on the property for no charge. The organization must provide proof of public meetings and events held on the property at the request of the assessor.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

May 14, 2014

Lisa Janssen
St. Cloud City Assessor's Office
Lisa.Janssen@ci.stcloud.mn.us

Dear Ms. Janssen:

Thank you for submitting your question to the Property Tax Division regarding 4c(3)(ii) classification for nonprofit community service oriented organizations.

Scenario: An organization within the City of St. Cloud currently qualifies for 4c(3)(ii) classification. The main revenue generated from the club comes from liquor and foods sales along with gambling revenue. The organization is considering turning over the gambling activities to another organization and rent the booth to them.

Question: If they were to turn the gambling activities over to another organization, would the property continue to qualify for 4c(3)(ii)?

Answer: Minnesota Statute 273.13, subdivision 23, paragraph (d), clause (3) requires that the organization that owns the property also makes annual charitable contributions and donations at least equal to the property's previous year's property taxes on the property. It does not require that the organization participate in lawful gambling, it only requires that the charitable contributions and donations made by the organization must be put towards the same purposes that are described under the lawful gambling purposes statutes.

Therefore, there is no requirement that the lawful gambling be operated by the same organization that owns the property. It does, however, require that the charitable contributions and donations be made by the organization that owns the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information and Education Section
Property Tax Division

October 23, 2018

Kimberly Jensen
Hennepin County Assessor's Office
Kimberly.Jensen@hennepin.us

Dear Ms. Jensen,

Thank you for submitting your question to the Property Tax Division regarding the 4c(3)(ii) classification. You have provided the following scenario and question:

Scenario:

- A non-profit organization has a space that they lease to another non-profit organization.
- The property owner applied for 4c(3)(ii) classification.

Question: Do donations, as required for the 4c(3)(ii) classification, need to be from the owner or are donations given from the tenant qualified?

Answer: Charitable contributions and donations must be made by the owner of the property. According to Minnesota Statutes 273.13, subdivision 25(d)(3) to qualify for class 4c(3)(i) or (ii) the property must be owned and used by a nonprofit community service organization. We interpret this as being the same qualifying nonprofit community service organization, and would not include charitable contributions or donations made from another nonprofit organization leasing a space from the property owner.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

Commercial (3a)

October 2, 2003

Marty Schmidt
Courthouse
326 Laurel Street
Brainerd, MN 56401

Dear Marty:

Your e-mail regarding classification was forwarded to me for reply. You asked for clarification on the following situation: A person purchases a tract of land but the seller retains the right to occupy the property as long as he wishes or until death. The buyer operates a septic pumping business. He uses the land as a place to dump the sewage product that he collects as fertilizer for crops that he plants. He also has the same arrangements on eleven other parcels that he does not own in your county.

In a telephone conversation on August 11, 2003, you mentioned that this 40-acre tract is currently classified as residential homestead. You also mentioned that there is an "occupancy agreement" attached to the deed. You are wondering what affect this has, if any, on the classification of the parcels that he doesn't own.

First, you should consult with the county attorney and determine if, in fact, the "occupancy agreement" constitutes a life estate. If the seller retains a life estate and continues to occupy this property for purposes of homestead, the seller will be eligible to continue to receive homestead.

The answer regarding the eleven other parcels is dependent on what effect the sewage product had on the use of the properties. If the application of sewage does not affect the use of the property (e.g. if it is agricultural and continues to be farmed) the classification would not change.

If the application of sewage prevents the property from sustaining an agricultural use, the classification would then reflect the use, or in this case, lack of use. In the absence of a use, if the only use was processing and storage of sewage sludge, we would conclude that since that is part of the commercial endeavor, the proper class would be commercial.

If there is no discernable use, property should be classified as its most probable highest and best use. If there is potential for split classification, the assessor should make that determination and classify the property based upon its existing use.

If you have further questions, please contact me again.

Sincerely,

RHONDA M. THIELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-3540
e-mail: rhonda.thielen@state.mn.us

Property Tax Division Mail Station 3340 Phone: (651) 297-7975
St. Paul, MN 55146-3340 Fax: (651) 297-2166
maureen.arnold@state.mn.us

April 11, 2002

Bruce Sanders
Assessor's Office
Maple Grove Government Center
12800 Arbor Lakes Parkway
Maple Grove, MN 55369

Dear Mr. Sanders:

Your question to John Hagen concerning the preferred commercial classification was referred to me for reply. In your letter you gave two examples and asked how many preferred commercial classifications should be given in each example. I apologize for the delay in sending this letter.

In the first example, two buildings are each located on separate contiguous parcels. Each parcel is owned by the same individual who rents the buildings. One is operated as a machine shop and the other as an asphalt paving company.

The answer is only one preferred commercial classification should be granted. Per Minnesota Statutes 273.13, subdivision 24, paragraph a, clause 1:

> *In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure.*

Although different businesses are located on each parcel, the owner of the property does not operate the businesses as they are rented out. Since the ownership is the same for the contiguous parcels, only one preferred commercial classification is allowed.

In the second example, a developer is building business townhomes for sale. The business townhomes are located on separate but contiguous parcels while they are being built. The developer owns the parcels and buildings.

The answer again is only one preferred classification should be granted. The ownership is the same, each parcel does not have a separate business, and the parcels are contiguous so therefore only one preferred classification is warranted.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

MAUREEN ARNOLD, Information Officer
Information and Education Section

March 27, 2003

Keith Albertsen
Dakota County Assessor
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Keith:

Your e-mail dated February 12, 2003, has been referred to me for reply. You asked whether property that is owned by telephone companies and not state assessed, is supposed to be classed as public utility property or commercial?

The real property of telephone companies should be valued at its highest and best use. It is our opinion that this property should be classified as commercial (class 3a).

If you have further questions, please contact our division again.

Very truly yours,

RHONDA M. THIELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-3540
e-mail: Rhonda.Thielen@state.mn.us

January 21, 2003

Carol Schutz
Chippewa County Assessor
Courthouse
629 North 11th Street
Montevideo, Minnesota 56265

Dear Carol:

Your e-mail to John Hagen regarding the proper classification of grain elevators has been forwarded to me for a reply.

You asked if it was proper to give each of the elevators in your county a preferred commercial classification. In our opinion, the answer is yes, it is proper. The language that limited the preferred commercial classification of elevators to one parcel per owner per county was eliminated in 1997.

If you have further questions regarding this issue, please contact our division.

Sincerely,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-0335
e-mail: stephanie.nyhus@state.mn.us

April 6, 2004

Gale Zimmermann
Morrison County Assessor's Office
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Gale,

Your email to Stephanie Nyhus has been forwarded to me to reply. The email is regarding what is the proper classification of a licensed puppy raiser. Your email states:

> *"We have two licensed puppy raisers up here in Morrison County. They sell the puppies wholesale to retailers. These are large operations who raise hundreds maybe even thousands of puppies. We are currently classifying the property as commercial. One of the owners is telling us that no other county has them commercial & that they have them as ag. We looked at the law and could not find anything. Could you please advise."*

Minnesota Statutes, Section 273.13, Subdivision 23, clause e states:

"The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;
(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;
(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);
(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;
(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;
(6) insects primarily bred to be used as food for animals;
(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and
(8) maple syrup taken from trees grown by a person licensed by the Minnesota Department of Agriculture under chapter 28A as a food processor."

Dogs or puppies are not mentioned specifically and are not considered to be an agricultural product. We have no knowledge of any county that is classifying the raising of dogs as agricultural. Therefore, we agree with your decision to classify the property as commercial.

Should you deny the agricultural classification, please advise the taxpayer of the appeal process that is available to them.

Please let me know if you have any further questions.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092 Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

April 19, 2004

Bob Turek
Bloomington

Dear Mr. Turek:

Your question regarding the preferred commercial class rate on two office buildings owned by the same person and separated by a street has been referred to me for a reply. You asked if they are both entitled to the preferred commercial class rate.

Minnesota Statute 273.13, subd. 24 states in part:

> "*In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure. For the purposes of this subdivision, the first tier means the first $150,000 of market value. Real property owned in fee by a utility for transmission line right-of-way shall be classified at the class rate for the higher tier.*
>
> *For purposes of this subdivision, parcels are considered to be contiguous even if they are separated from each other by a road, street, waterway, or other similar intervening type of property."*

The two office buildings are considered to be contiguous even through they are separated by a street. The law states in order for contiguous parcels owned by the same person to receive more than one preferred classification, they must be separate businesses operated by the owner of the property and each business must be housed in a separate structure. Even though the two office buildings are separate structures, they are considered to be the same business.

Therefore, the property owner is entitled to only one preferred commercial class rate on the two office buildings for property tax purposes.

If you have further questions, please contact our division.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114
Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

August 3, 2004

Farley R. Grunig
Pipestone County Assessor
box144b@hotmail.com

Hi Farley:

Thanks for your email questioning the assessment of in-home businesses and your requests for some guidance from the Department of Revenue.

You asked what criteria should be considered when deciding if a business located in the home or on the same parcel as the residence should be classified as a business or if only the residential use should be reflected in the classification?

You identified two options and asked which one was correct.

1. Only assess a business if a specific area of the structure or property is exclusively devoted to the business or,
2. If a business is being operated from the property, then at least some value must be assigned a business classification.

Our answer is we would not endorse either option.

It would be nice, particularly in the case of local assessors, if they could be provided with a finite definition telling them when to recognize a commercial use of the property. I have looked for an answer to the question of "when should a commercial use be recognized" for much of my career with little or no success. Since no two situations are ever the same, the best that I can do for you, and in turn you can do for your local assessors, is to provide them with some guidelines.

It is extremely difficult to pinpoint when a hobby or a very occasional activity transitions to commercial activity that needs to be recognized by the assessor. Some of the tests that may prove helpful are:

- Does the property owner file income tax based upon the commercial activity?
- Does the property owner sell a product or service?
- Does the property owner advertise a product or service?
- Do they meet customers or clients on the property?
- Is a portion of the property dedicated to the commercial activity?

These questions are not definitive, but they help to identify when a commercial activity should be recognized for property tax purposes.

Other issues that are not necessarily assessment related but do factor into determining whether to recognize a commercial use are:

- Have any other property owners questioned the lack of a commercial assessment or is the property in direct competition with another like business that is already classed as commercial?

- If the answer to either of these questions is yes, it becomes more imperative from an equity perspective that the commercial use be recognized for assessment purposes.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 556-6106
E-Mail: john.hagen@state.mn.us

January 23, 2006

Michael Frankenberg
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Mr. Frankenberg:

Your letter to John Hagen has been forwarded to me for reply. You have stated that a taxpayer has questioned the commercial classification you have placed on a pole shed that is used for retail sales of gifts and crafts. The taxpayer believes that the property should be classified only as residential property since it is zoned residential and he has a special permit which restricts the advertising signage, limits staffing and limits the square footage and traffic for the purpose of commercial activity.

As you are aware, Minnesota law requires that assessors classify properties according to their actual use for property tax purposes. If there are two or more identifiable uses to a property, the assessor may split classify the property. Zoning does not ordinarily affect the classification by assessors for property tax purposes unless the property is not improved with a structure and there is no identifiable use of the property. In such cases where the property is unimproved, the assessor must classify the property at its most probable, highest and best use that is permitted under local zoning ordinances.

Retail sales of gifts and crafts are certainly a commercial activity. Therefore, we feel it is appropriate that you split class the property as residential and commercial property.

Please be advised that this opinion is only advisory in nature. The county assessor must make the final determination as to the appropriate classification of property. If the taxpayer disagrees, he or she may follow the appropriate avenues of appeal.

This opinion is based solely on the facts provided. If any of the facts differ, our opinion would be subject to change as well. If you have any further questions, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

March 28, 2007

Gary Griffin
Todd County Assessor's Office
Courthouse
221 1st Avenue South
Long Prairie, Minnesota 56347

Dear Gary:

Thank you for your question regarding the preferred commercial class rate for an office building. I sincerely apologize for the delay in answering your question.

You provided the following: A building consists of four separate offices in four separate condos with each having their own parcel identification number. You asked if each parcel is entitled to the preferred commercial class rate.

Minnesota Statute 273.13, subd. 24, paragraph (a), clause (1), states in part that:

> *"Except as otherwise provided, each parcel of commercial, industrial, or utility real property has a class rate of 1.5 percent of the first tier of market value, and 2.0 percent of the remaining market value. In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure. For the purposes of this subdivision, the first tier means the first $150,000 of market value…"*

Property owners who have contiguous parcels of property that constitute **separate** businesses that may qualify for the first tier class rate must notify the assessor by July 1 for treatment beginning with taxes payable in the following year. Therefore, in our opinion, if the condos are owned by the same person or entity, they qualify for only one preferred commercial class rate.

However, if there are different owners for all of the parcels in this situation, each parcel would receive the class rate of 1.5 percent for the first tier (up to $150,000) of market value and 2 percent for the remaining market value.

Please understand that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

October 23, 2007

Cynthia Blagsvedt
Fillmore County Assessor's Office
Fillmore County Courthouse
PO Box 67
Preston, MN 55965

Dear Ms. Blagsvedt,

I am responding to your recent inquiry regarding the classification of land within a commercial quarry. According to your email, an eight-acre portion of the quarry is filled with water. Currently, Fillmore County has the entire quarry site classified as class 3a commercial-industrial. The new owner has asked you if the lake portion of the quarry could be classified as something else since it is now useless for commercial purposes. You have asked us to comment.

It is our opinion that the entire site is appropriately classified as class 3a because it is all part of a commercial quarry. The presence of significant water should be considered when you value the quarry but does not impact the classification

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

MINNESOTA · REVENUE

May 19, 2010

Diane Swanson
Kandiyohi County Assessor's Office
400 Benson Ave. SW
Willmar, MN 56201

Dear Ms. Swanson

Thank you for your e-mail. It has been assigned to me for response. You asked a series of questions which will be answered individually below.

1. **What constitutes commercial property vs. industrial property?**
   Answer: Commercial property is used for offices, stores, banks, restaurants, hotels, shopping centers, strip malls, service centers, etc. Industrial property is used for manufacturing plants, warehouses, distribution facilities, etc.

2. **Is there a list of what is taxable and what is not for commercial/industrial properties (i.e. scales, fuel storage tanks, etc.)?**
   Answer: There is no specific list for commercial/industrial property. Generally, all property is taxable except that which is exempted by law. Therefore, the presumption is that all property is taxable. However, there is an exemption for most personal property provided in Minnesota Statutes section 272.02, subdivision 9. Part of an assessor's job is to determine what will be assessed and taxed as real property, and what is exempt as personal property. Real property is generally defined in Minnesota Statutes, section 272.03 for the purposes of taxation as being land, buildings, structures and fixtures but does not include any tools, equipment, or machinery. For additional information you may want to review Module 1 of the recently updated Property Tax Administrator's Manual which is now available on our website. It may be viewed at: http://www.taxes.state.mn.us/taxes/property_tax_administrators/other_supporting_content/Module%201.pdf

   You may also want to review the Exempt Module for assistance in determining whether or not the storage tanks are taxable or exempt. Generally, if the tanks are part of the production or distribution process, they are exempt as equipment. However, if they are simply performing a shelter function, and are not part of the production or distribution process, they would be taxable as real property.

3. **A property owner has fuel storage tanks on his commercial property. The tanks and equipment are owned by Cenex. There is no rent for the tanks but the owner of the property must buy fuel from Cenex. Should they be taxable and to whom?**
   Answer: Again, the answer is dependent upon how the tanks are used. If the tanks are used for the distribution of fuel, they would be exempt as equipment. However, if they are simply used for storage or shelter from the elements, they would likely be taxable as real property.

If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us

Sincerely,

Stephanie L. Nyhus
Principal Appraiser
Information and Education Section

May 18, 2011

Tom Houselog
Rock County Assessor
tom.houselog@co.rock.mn.us

Dear Mr. Houselog:

Thank you for your question to the Property Tax Division concerning two letters that were distributed by the department in the past. You provided two letters from 2002 and 2004 concerning the preferred commercial class rate on class 3a property. You have asked if the department's opinion has since changed.

The letters clarify that for a commercial property (including contiguous separate tax parcels) to qualify for more than one first-tier "preferred" commercial classification rate, the owner of the land must operate two separate businesses in separate structures. It does not appear that Minnesota Statutes, section 273.13, subdivision 24 has changed since that time:

> *"In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure."*

A commercial property that consists of multiple parcels under the same ownership is typically allowed only one preferred rate. However, if there are separate businesses which are housed in separate structures and on separate parcels, then the each parcel may be eligible for the preferred commercial class rate.

The letters you have referenced reflect this opinion and therefore remain correct.

If you have any other questions or concerns, please contact us at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

MINNESOTA · REVENUE

September 13, 2012

Rita Treml
Brown County Assessor
Rita.Treml@co.brown.mn.us

Dear Ms. Treml:

Thank you for your question concerning the 3a commercial classification. You have expressed concerns with correspondence issued by the department concerning the application of the preferred commercial class rate. Your concern is as follows:

> *"In this letter* [DOR letter] *it is states that 3 contiguous parcels under separate ownership would not be eligible for separate preferred commercial rates due to the fact that the parcels contain the same business. This is a totally new concept that I had not been aware of previously, as other assessors in my region.*
>
> *If you refer to the property tax manual on page 45 of the classification of property in module 3, it states that "Each parcel of commercial, industrial or utility real property has a class rate of 1.5% for the first tier (up to $150,000) of market value and 2.00% for the remaining market value. This first tier is known as the "preferred commercial" classification. Property owners who have contiguous parcels of property that constitute separate businesses that may qualify for the first-tier class rate shall notify the assessor by July 1 of the assessment year to be eligible for the current assessment year for taxes payable the following year." Nowhere does it say that properties owned by different entities, but part of the same business should be linked.*
>
> *I ask you to please reconsider your previous answer in light of the information provided."*

The department maintains the opinion that in order to receive separate preferred commercial classification on parcels owned by the same entity, each parcel must contain a separate business. The department's *Auditor/Treasurer's Manual* states the following:

> "The definition of class 3 requires that in the case of contiguous parcels of property owned by the same person or entity, the "preferred commercial" benefit (i.e. the lower class rate) for the first tier of value can only be applied once for the group of parcels as a whole. (The exception to this is that each separate business may receive the first-tier reduced class rate if the contiguous property owned by the same person or entity contains separate businesses in separate structures.) In order to limit a group of commercial parcels to the $150,000 first tier limit, they must be chained in the calculation. For example, the first parcel may be valued at $120,000 and a second parcel may have a value of $70,000. Without chaining, the restriction would not be able to be enforced and both parcels would all be at the first-tier rate. By chaining these parcels, only the first $30,000 of the second parcel would receive the first tier class rate."

We apologize if the *Property Tax Administrator's Manual* does not clearly state this. We will consider including this statement in the *Property Tax Administrator's Manual* as we continue to make updates to the manual. If you have any additional questions, please do not hesitate to contact the division via email at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

November 6, 2014

Holly Soderbeck
Revenue Tax Specialist Senior
holly.soderbeck@state.mn.us

Dear Ms. Soderbeck:

Thank you for submitting your question to the Property Tax Division regarding classification rates for utility properties. You have provided the following scenario and question.

Question: Would a utility company get a preferred rate for their locally assessed property as well as their state assessed property?

Answer: No; the real and personal property combined value receives one first-tier rate.

A breakdown of the classification rates is:

- All real and personal property (combined) for one entity in a county receives only one first-tier classification rate for that entity in that county.
- Generation, transmission, and distribution systems are included in the first-tier value.
- Personal property that is tools, implements, and machinery not described above is excluded from the first tier class rate. These tools, implements, and machinery that are not part of the generation, transmission, or distribution systems have a set 2.00% classification rate on all of its value.
- Property owned in fee by a utility for transmission line right-of-way has a set 2.00% classification rate (no first tier).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 7, 2014

Keith Albertsen
Douglas County Assessor
keitha@co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for submitting your question to the Property Tax Division regarding classification rates for utility properties.

Scenario: For public utilities, the Department of Revenue instructs that the real and personal property is eligible for one first-tier classification rate on all parcels.

Question 1: Does this include all parcels in the county or in each taxing district?

Answer 1: The first-tier classification rate applies to the value of all property (real and personal) of a utility company in a county. In other words, the entire value of real and personal property combined in a county receives only one first-tier classification rate.

Question 2: Does a public utility get a first-tier rate on real property and a first-tier rate on personal property?

Answer 2: No; the real and personal property combined value receives one first-tier rate.

A breakdown of the classification rates is:

- All real and personal property (combined) for one entity in a county receives only one first-tier classification rate for that entity in that county.
- Generation, transmission, and distribution systems are included in the first-tier value.
- Personal property that is tools, implements, and machinery not described above is excluded from the first tier class rate. These tools, implements, and machinery that are not part of the generation, transmission, or distribution systems have a set 2.00% classification rate on all of its value.
- Property owned in fee by a utility for transmission line right-of-way has a set 2.00% classification rate (no first tier).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 8, 2015

Jason McCaslin
Jackson County Assessor
jason.mccaslin@co.jackson.mn.us

Dear Mr. McCaslin:

Thank you for submitting your question to the Property Tax Division regarding personal and real property. You have provided the following scenario and question.

Scenario:

- Commercial land is owned by an entity.
- A different entity built a bank on the land and is leasing the land from the other entity.

Question 1: Should the assessor create a personal property record for the bank?

Answer 1: No, the bank should not be taxed as personal property. The property is not exempt land and should be taxed as real estate to the owner of the land. The landowner would be responsible for the taxes, and could pass them onto the lessees per a lease agreement, but the owner of the real estate is technically responsible for the taxes.

Question 2: In the event that a personal property parcel is not created for the bank, would a 2nd preferred commercial rate be applicable?

Answer 2: Minnesota Statutes, section 273.13, subdivision 24 states:

> "*In the case of contiguous parcels of property owned by the same person or entity, only the value equal to the first-tier value of the contiguous parcels qualifies for the reduced class rate, except that contiguous parcels owned by the same person or entity shall be eligible for the first-tier value class rate on each separate business operated by the owner of the property, provided the business is housed in a separate structure.*"

According to statute, for a commercial property to qualify for more than one first-tier "preferred" commercial classification rate, the owner of the land must operate two separate businesses in separate structures. In this scenario, there is only one owner and only one business operating the property and there are not two separate parcels. Therefore, this situation does not qualify for separate preferred commercial tier rates.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 24, 2016

Nancy Gunderson
Clay County Assessor
Nancy.gunderson@co.clay.mn.us

Dear Ms. Gunderson:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question.

Scenario:

- In Clay County, there is a 14.69-acre parcel with 6 acres of tillable land owned by Valley RC Flyers.
- Valley RC Flyers is a registered non-profit in North Dakota.
- The parcel has two improvements and a grassy area where their meetings are held. The parcel also has a place for members to operate their model aircrafts and planes.
- Valley RC Flyers charges dues to maintain the field and pay taxes.

Question: What is the appropriate classification for this parcel?

Answer: Based on the use of the property, one of two options would be appropriate: class 3a commercial, or class 5(2)-all other property.

Because the use is limited to members who pay a fee, the commercial classification is likely, even if the property is owned by a not-for-profit organization.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

March 10, 2016 *Edited 2/24/2021*

Douglas Walvatne
Ottertail County Assessor
DWalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question.

Scenario:

- A property in Ottertail County is used as a scrap-booking and quilting retreat.
- The property is a 4 bedroom, 3 bath home that is rented mainly on weekends.
- In 2015 the property was rented approximately 122 days.
- It is rented by the weekend, with a maximum of 10 people.
- The house is completely furnished with bedding, towels, dishes, etc. The customers bring their projects to work on and their own food/beverages.
- The property does not supply typical recreational activities (e.g., hiking, skiing, snowmobiling).

Question: How should this property be classified?

Answer: Based on the information provided it appears these properties could qualify for 4b(1) as short-term residential rental properties assuming:

To Qualify for 4b(1) each property meets the following requirements:

- Rented for periods of less than 30 consecutive days
- Containing fewer than four units
- Rented for more than 14 days in the preceding year
- Non-homesteaded

It does not qualify for the commercial Seasonal Residential Recreational (resort) classification because it does not have three or more rental units, and there are no recreational activities provided.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

November 10, 2016

Kelly Schroeder
Pine County Assessor's Office
Kelly.Schroeder@co.pine.mn.us

Dear Ms. Schroeder,

Thank you for contacting the Property Tax Division regarding recreational activities. You provided us with the following information.

Scenario:

- There are two letters issued by the Minnesota Department of Revenue that seem to have conflicting opinions on whether a crafting retreat and/or a scrapbooking retreat would qualify as a recreational activity for class 4c(1), Commercial Seasonal/Resorts.

Question: Do either or both of these "retreats" qualify as a recreational activity?

Answer: The letters you reference don't clearly define whether these retreats would qualify as a recreational activity. Upon review of MN Statute 273.13 sub. 25(d), it is clear that for a property to qualify for 4c(1) classification they must provide at least one of the following activities:

- Renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment
- Provide marina services, launch services, guide services
- Sell bait and fishing tackle

Since crafting/scrapbooking activities are not part of this list, they would not be considered a recreational activity to qualify the retreat property for the 4c(1) classification. A property that is used only for crafting/scrapbooking retreats and only providing crafting/scrapbooking activities should be classified as 3a, Commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us

Sincerely,

Jessi Glancey
State Program Administrator Coordinator
Property Tax Division
Phone: 651-556-6091

March 30, 2017

Liz Lund
Roseau County Assessor's Office
liz.lund@co.roseau.mn.us

Dear Ms. Lund,

Thank you for submitting your question to the Property Tax Division regarding billboard site classification. You have provided the following scenario and question:

Scenario:

- The county is in the process of identifying all billboard sites throughout the county.
- Through this process you've identified the different types of billboards that are located throughout your county.
- Many of the billboards located in your county are small handmade signs that are used for religious purposes.
- Billboards are either placed by the property owner or made by someone else and placed in the property owners yard.
- Others located in your county are low to the ground, wood frame billboards.
- The county plans to split .5 acres for each billboard and classify as commercial.
- Most property owners that have these billboards and/or handmade signs receive a very minimal annual rent, averaging about $200. Some property owners receive no income at all.

Question 1: If the land owner has a billboard that is advertising a business that the land owner operates and the business is located on a different parcel, should the land still be classified as commercial? The land owner will not receive any income from the billboard, since the land owner owns the billboard.

Answer: In Minnesota, all properties must be equally assessed. The memo that was sent on November 22, 2013 applies to *all* properties containing billboards, regardless of income received. The correct classification of the section of the property containing the billboard would be 3a commercial property.

However, the valuation of the billboard site must also reflect the "highest and best use" of the property, which means the value related to its maximum earning potential that is legally persmissible, physically possible, and maximally productive. The 2013 memo does not indicate that an actual lease agreement and/or income received should play a factor in the valuation of the billboard. Therefore you must value the site using highest and best use, consider market rents and the location of the billboard site.

Question 2: The owner of the land does not own the billboard, but they allow the billboard to be there rent free. The billboard is advertising for the City of Roseau, however it is unclear if the city owns the billboard or if the business that is mentioned on the billboard owns the billboard. Should the classification of the site be commercial, even if an exempt entity owns the billboard?

Answer: Yes, the classification of the site should be commercial to keep all billboard sites consistent and assessed equally. The city does not own the land, therefore the billboard site would be taxable to the land owner. Again, as stated in question 1, valuing this site must reflect the "highest and best use" of the property.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Jessi Glancey
State Program Administrator Coordinator
Property Tax Division, Information & Education
Phone: 651-556-6091

April 28, 2017

Joanne Corrow
Le Sueur County Assessor's Office
jcorrow@co.le-sueur.mn.us

Dear Ms. Corrow,

Thank you for submitting your question to the Property Tax Division regarding the classification and homestead of two rental units above a commercial business. You have provided the following scenario and question:

Scenario:

- Lower level of building is a commercial business.
- The upper level of the building has two separate residential rental units.
- The property is currently split classified.
- The owner now occupies one of the rental units and has applied for homestead.

Question: Should the two units be treated as a duplex and granted homestead?

Answer: The information provided indicates that the property's primary use is for commercial purposes, not residential. Since the property is primarily commercial it should not be treated as a duplex under Minnesota Statutes, Section 273.12, subdivision 22, and should only receive homestead on the unit occupied by the owner. The remaining unit not occupied by the owner should be classified as 4b(1) Residential Non-Homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

February 16, 2018

Lorna Sandvik
Nicollet County Assessor
lorna.sandvik@co.nicollet.mn.us

Dear Ms. Sandvik,

Thank you for submitting your question to the Property Tax Division regarding classification for solar installations. You have provided the following scenario and question:

Scenario:

- A 76.24 acre parcel is currently split classified 3a/2a.
- 31 acres are farmed and are classified 2a.
- 45 acres contain a 5 megawatt solar installation and are classified 3a.
- A second solar project is being proposed by a second solar energy company, covering 10 acres with a nameplate capacity of 1 megawatt.

Question: Should the 10 acres for the new solar system be classified 2a or 3a?

Answer: If it is determined that the solar facilities are completely independent of each other, state statute stipulates that the nameplate capacity of the individual facility will determine if the production tax is paid, and thereby the primary use of the underlying real property upon which it is constructed. In this case, even though the majority of the parcel appears to be used for solar energy production, the production capacity of the new installation does not rise to the level subject to the production tax. Therefore the land would be classified without regard to the solar structure per *Minnesota Statute 272.02 Subdivision 24*.

For more information on whether the nameplate capacity of the new facility should be combined with the existing 5 megawatt facility, we would recommend you contact the State Assessed Property section within the Department of Revenue at sa.property@state.mn.us.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

March 2, 2018

Mark Manderfeld
Blue Earth County Assessor's Office
mark.manderfeld@blueearthcountymn.gov

Dear Mr. Manderfeld,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There is a non-profit membership organization operating as a boat club.
- The property contains two parcels that are split between Blue Earth County and Le Sueur County.
- The boat club's members pay fees for such things as dock slips and maintenance.
- Blue Earth County has been classifying the property as 4c(12) non-commercial seasonal residential recreation.
- The property does not have a residential use.

Question: Should the 4c(12) non-commercial seasonal residential recreation classification be changed to a 3a commercial classification? Does the non-profit status of the organization matter when classifying the property?

Answer: As you stated, the property does not have a residential component so the 4c(12) non-commercial seasonal residential recreation classification is **not** the correct classification. Since the information provided does not indicate the property is being used as a 4c(11) marina, the most likely classification is 3a commercial, assuming the assessor has determined the property is being used in a corresponding manner.

When classifying property, you must look at the use of the property and classify according to that use. The fact that the organization that uses the property is a non-profit company does not play a factor in determining classification of property. There are other property tax programs and exemptions that are available to property owners that qualify. These programs/exemptions do not affect the classification of a property. Therefore, it appears the classification should be 3a commercial and the organization may research and apply for a special program or exemption as a purely public charity if they feel they qualify.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

May 25, 2018

Lauren Anderson
Hubbard County Assessor's Office
laurenanderson@co.hubbard.mn.us

Dear Ms. Anderson,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A logging business utilizes a large heated building that is located on the same parcel as the owner's private residence.
- The parcel is currently classified residential homestead.
- The owner claims the building is utilized for maintenance of business and personal vehicles.
- Owner also claims depreciation on the building for income tax purposes.

Question: How should the property be classified?

Answer: The information provided indicates the property could be split classified 1a homestead and 3a commercial for the building utilized for logging purposes. Although the building may be used for personal and commercial purposes, if the assessor determines the **primary use of the building** is to further the purpose of the business, then the classification should reflect that use. The strongest indication that the main use of the building serves a commercial purpose is the depreciation of the structure on the owner's income tax returns. Only business assets may be deducted for income tax purposes, so if the owner is using a portion of the building for personal use then a portion should remain undepreciated to accommodate the personal use.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

August 22, 2018

Patti Miller
Benton County Assessor's Office
pmiller@co.benton.mn.us

Dear Ms. Miller,

Thank you for submitting your questions to the Property Tax Division regarding the classification of solar farms.

Scenario:

The assessor's office is aware of several solar farms coming into production in Benton County in the near future. You are seeking guidance on how the proposed properties should be classified.

Question 1: How does the county know if a solar farm generates more than one megawatt of power?

Answer: According to Minnesota Statute 272.029, a solar energy generating system exceeding one megawatt of nameplate capacity (maximum rated output) is subject to the solar energy production tax. If the assessor is unsure if the nameplate capacity is in excess of one megawatt, the assessor would need to request such information from the solar energy generator to ensure classification accuracy.

Question 2: If a solar farm generates **more** than one megawatt of power, should the portion of the land containing solar panels be classified as commercial?

Answer 2: Yes. Minnesota Statute 272.02, subdivision 24 states that land should be classified as 3a commercial if it is used primarily for solar energy production and subject to the solar energy production tax. As mentioned previously, solar farms with a capacity exceeding one megawatt are subject to this tax.

Question 3: Can the owner of a solar farm still retain the agricultural classification on the rest of the land not classified as commercial, even if less than 10 acres of agricultural land on the property remains?

Answer 3: Remaining agricultural land not utilized as part of a solar farm producing more than one megawatt of nameplate capacity should be classified as agricultural, assuming the remaining portion meets all the agricultural classification criteria of Minnesota Statute 273.13 subdivision 23. Failure to do so would result in the removal of the agricultural classification from the remaining portion.

Question 4: If the solar farm generates **less** than 1 megawatt, would the land continue to be classified as it is currently, including the acreage that has solar panels?

Answer 4: Yes. According to Minnesota Statute 272.02, subdivision 24, property not subject to the solar energy production tax (less than one megawatt of nameplate capacity) should be classified without regard to the energy system.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division
Phone: 651-556-6091

October 31, 2019

Cindy Marti
Brown County Assessor's Office
Cindy.Marti@co.brown.mn.us

Dear Ms. Marti,

Thank you for submitting your question to the Property Tax Division regarding the preferred commercial class rate. You have provided the following scenario and question:

Scenario:

- There are three contiguous parcels classified as commercial
- All three parcels have the same business use and mailing address
- Ownership is listed on the deeds as follows:
    - Parcel A: S Well Comp., Inc.
    - Parcel B: S Well Co.
    - Parcel C: S. Well Company

Question: Are these parcels each eligible for the first tier preferred commercial class rate since the ownership titles are different? Does it matter that the title is "Inc." vs "Co." vs "Company"?

Answer: If the parcels are owned by different entities, they may each qualify for a first tier preferred commercial class rate. Each parcel should be classified for a first tier classification rate only if it is **verified** that each ownership entity listed on the three deeds is a separate and distinct entity. We would recommend consulting with the county attorney's office on how best to verify the fact that they are separate entities. If it is determined they are not separate entities then the entity would only be eligible for one preferred commercial class.

For additional guidance on Minnesota Statute 273.13, subdivision 24 and the first tier preferred commercial class rate refer to the 3a Classification –Preferred Commercial First Tier memo sent September 18, 2019.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 31, 2019 *Edited 2/24/2021*

Gregg Swartwoudt
Lake County Assessor's Office
Gregg.swartwoudt@co.lake.mn.us

Dear Mr. Swartwoudt,

Thank you for submitting your question to the Property Tax Division regarding short-term rentals. You have provided the following scenarios and questions:

Scenario 1:

- There are several properties in Lake County that have detached garages with living spaces in the upper levels.
- These living spaces are being used as short-term rentals.

Question: Should these properties be split-classified as homestead and commercial?

Answer: If it is determined that the primary use of the living space above the detached garage is for short-term rental rather than in conjunction with the homestead, then it should be classified as 4b(1) assuming it meets the requirements outlined in statute. The rest of the property, including any part of the garage that is not used for short-term rental, should be classified according to use.

Scenario 2:

- A commercial building has six apartments located on the same floor.
- Four of the apartments are used exclusively for short-term rental.

Question: How should the apartments be classified?

Answer: If four units' primary use is as a short-term rental, then those units should be classified as commercial; they would not be eligible for 4b(1) as there are four or more units. These units would still be considered when determining the classification of any residential non-homestead units because the number of units on the property hasn't changed, just the use of four units have changed. In this scenario, the two units used for residential purposes would therefore still be classified as 4a.

Scenario 3:

- Several seasonal residential recreational properties sit on 20+ acres of land and are being used as short-term rentals.
- Currently the primary structure and surrounding 10 acres are classified as seasonal recreational residential.
- The additional acres are classified as rural vacant land.

Question: If the seasonal recreational residential properties are determined to be used as short-term rentals and meet the definition of 4b(1), should 10 acres around the buildings also be classified as 4b(1)?

Answer: Yes. If a parcel containing rural vacant land is greater than 20 acres and contains a residential or other non-minor structure, the structure and surrounding 10 acres must be split off and classified according to use. This is a requirement when classifying property as rural vacant land and is not impacted by the primary use of the structure. In this situation, the classification of all 10 acres of seasonal recreational residential would be changed to 4b(1) if the assessor determines that the primary use is for short-term rental. The remaining acres would continue to be classified 2b rural vacant land.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 2, 2019

Shelly Nelson
Red Lake County Assessor's Office
manelson@co.red-lake.mn.us

Dear Ms. Nelson,

Thank you for submitting your question to the Property Tax Division regarding the 3a commercial classification. You have provided the following scenario and question:

Scenario:

- Parcel A is owned by a corporation which operates a car dealership
- Parcel B is owned by an individual who is a member of the corporation
- Parcel B has two uses:
  - 1/3 of the parcel is used as a shop associated with the car dealership
  - 2/3 of the parcel is used for the owner's personal use
- Parcel A and Parcel B are contiguous

Question: Does each parcel qualify for a 3a preferred commercial first tier class rate?

Answer: Yes. Since the parcels have different owners each parcel would qualify for a separate preferred commercial first tier class rate. If the entity or the individual owned both contiguous parcels and used those parcels for the same business operation, those parcels would only be entitled to one preferred commercial first tier.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

DEPARTMENT OF REVENUE

Condos/Townhomes

July 1, 2004

Farley Grunig
Pipestone County Assessor
Courthouse 416 S. Hiawatha
P.O. Box 458
Pipestone, Minnesota 56164-1566

Dear Mr. Grunig:

Your e-mail to John Hagen has been forwarded to me for reply. Your questions were regarding a condominium association that purchased a parcel of adjoining land. The title was held in the name of the condominium association. You have asked us if the property should be listed on the tax roll as a separate parcel assessed to the condo association or if the value of the parcel should be split among the units. You also noted that the same condo association purchased a parcel back in 1988. That parcel has been assessed as a separate parcel to the condo association and the value has not been split among the units. You have indicated that the condominium development was built in 1975.

For guidance in the matter, I researched Chapters 515 "Minnesota Condominium Act" and 515A "Uniform Condominium Act" of the Minnesota Statutes. Sections 515A.1-101 through 515A.4-117 apply to all condominiums created after August 1, 1980. The provisions of sections 515.01 to 515.29 do not apply to condominiums created after August 1, 1980, and do not invalidate any amendment to the declaration, bylaws, or floor plans of any condominium created before August 1, 1980.

After reviewing these chapters, it appears that the value of any common areas should be divided among the units since each unit owner would be entitled to an undivided interest of those common areas. We suggest that you review the bylaws and declarations of the condominium association which should be recorded with the county. These should describe the common areas and facilities. If, in fact, the documents specify that unit owners are also entitled to an undivided interest in the common areas, you should allocate the value of the common areas among the unit owners.

If you need further assistance, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

January 6, 2006

Dave Oien
Goodhue County Assessor's Office
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Mr. Oien:

Thank you for your question regarding the classification of condominium units.

You indicated that you have a 33-unit condominium complex located in Lake City which has lakeshore frontage on Lake Pepin. You sent out a questionnaire to each owner asking how each unit is being used. For the owners who indicated that they do not have their unit available for lease and use it only for seasonal purposes, you classified those units as seasonal residential recreational. However, the majority of the owners indicated that they have two uses for their unit: (1) They occupy it for their own use throughout the year ranging from one week to a couple of months, and (2) They also rent it out for various lengths of time throughout the year. You stated that because these units are available for rent in a so-called "rental pool," you have classified them as commercial. You have asked if you correctly classified these units.

Yes, we are of the opinion that you have correctly classified these units. For property to receive the seasonal residential recreational classification, the property must only be used seasonally. Since some units are available for rent throughout the entire year, it is appropriate to classify them as 3a commercial.

We urge you to continually monitor the use of these units so that the proper classification is given based on how the unit is used on January 2 of each year.

This opinion is based solely on the facts provided. If any of the facts differ, our opinion is subject to change.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

MINNESOTA · REVENUE

November 29, 2012

Dave Sipila
St. Louis County Assessor
sipilad@stlouiscountymn.gov

Dear Mr. Sipila:

Thank you for your question concerning the classification and homestead designation of residential buildings owned by cooperative associations. Although cooperative property and condominium property differ in terms of how people own the real estate (a person owns specific real estate in a condominium, whereas a person owns interest in the association in a cooperative), statute guides us to treat both types of property similarly.

You have asked if the common interest areas of cooperative property are eligible to be treated as homestead and how it should be classified.

Per Minnesota Statute 273.124, subdivision 2:

> *"The total value of planned community common elements, as defined in chapter 515B, including the value added as provided in this paragraph, must have the benefit of homestead treatment or other special classification if the unit in the planned community otherwise qualifies. The value of a planned community unit, as defined in chapter 515B, must be increased by the value added by the right to use any common elements in connection with the planned community. The common elements of the development must not be separately taxed."*

Therefore, the common interest areas of cooperative properties are eligible for homestead benefits in the same manner of the unit(s) they are attributed to, and are appropriately classified with the unit(s), e.g. as 1a residential homestead property. Much like in a condominium, the value for a portion of the common interest area should be appropriated to each unit in the cooperative.

If you have any additional questions please do not hesitate to contact the Property Tax Division of the Minnesota Department of Revenue at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

DEPARTMENT OF REVENUE

Golf Courses

September 8, 2005

Brad Johnson
Goodhue County Assessor
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Dear Brad:

Thank you for your question regarding the taxation of a city owned golf course.

You stated that the city of Red Wing intends to buy out the lease on Mississippi National Golf Course and will have an operating agreement with a manager to run the course. You note that Minnesota Statutes make reference to municipal golf courses being exempt if not leased. As the employees may be contracted to the contract manager per the operating agreement and are not city employees, you question whether the property still functions as leased property. The city believes it would not function as leased property, as long as there is an operating agreement and not a lease. You asked for our opinion.

Minnesota Statute 273.19, Subdivision 1 states in part:

> *"Except as provided in subdivision 3 or 4, tax-exempt property held under a lease for a term of at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, shall be considered, for all purposes of taxation, as the property of the person holding it…"*

We are unable to tell from your email how the "management agreement" is going to be structured. Be aware, however, that Minnesota Statute 273.19, Subdivision 1(a) provides that:

> *"For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease* (emphasis added). *A lease has a 'term of at least one year' if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users."*

Furthermore, if the employees are, as you inferred, contracting with the manager, the property would be taxable under Minnesota Statute 272.01, Subd. 2(a) which states:

> *"When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available* (emphasis added) *and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property in the same amount and to the same extent as though the lessee or user* (emphasis added) *was the owner of such property."*

(Continued…)

Since it appears that the golf course would be solely run by a manager through an operating agreement, we believe that would preclude the property from qualifying for exemption as a public property used exclusively for a public purpose.

Because it does not seem that the city would have a part in the golf course's operation, our only option would be to say that the golf course would be taxable and should be assessed as personal property to the operator pursuant to Minnesota Statute 272.01, Subd. 2 (a).

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

March 20, 2006

Marcy Barritt
Murray County Assessor
Courthouse
P.O. Box 57
2500 28th Street
Slayton, Minnesota 56172-0057

Dear Marcy:

Your question on golf courses has been assigned to me for reply. You outlined the following situation. The Slayton Country Club is currently classified as class 3a commercial property but they would like to be classified as class 4c(2) qualified golf course. You stated that membership is required to golf there. However, they do allow non-members to purchase a maximum of two punch cards of six rounds of golf each. Thus, non-members may golf there a maximum of 12 times per season.

Minnesota Statute 273.13, subdivision25, paragraph (d), clause (2) states in part that qualified property used as a golf course may be classified as class 4c(2) if:

> *" (i) it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable to green fees typically charged by municipal courses; and*
>
> *(ii) it meets the requirements of section 273.112, subdivision 3, paragraph (d).*
>
> *A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a property;"*

It is our opinion that to qualify for this classification, a golf club must allow non-members to golf on a daily basis. It cannot be limited as it is in the case with the Slayton Country Club punch cards. Based on the information provided, we believe that the Slayton Country Club should continue to be classified as 3a commercial property.

Please be advised that this opinion is only advisory in nature. You, as the county assessor, must make the final decision on the appropriate classification of the property. If the taxpayer disagrees with your decision, they may follow the appropriate avenues of appeal. If you have further questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109 Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

MINNESOTA ▪ REVENUE

April 30, 2010

Joyce Schmidt
Pipestone County Assessor
416 Hiawatha Ave S.
Pipestone MN 56164

joyce.schmidt@co.pipestone.mn.us

Dear Ms. Schmidt,

Thank you for your recent question to the Property Tax Division regarding the classification of a golf course in your county. You have outlined the following: A privately-owned golf course in Pipestone County allows both members and non-members to use the course. The course also offers men's and women's leagues, however only members of the course are eligible to play league golf. The general public may schedule tee times for a fee, and residents of the City of Pipestone are limited to ten tee times per year (after which they are required to purchase a membership or are denied access to use the golf course). Non-members are restricted to their use of the golf course during certain hours of the day. You have asked if the 4c(2) Golf Course classification is appropriate for this establishment.

In order to be classified as 4c(2) property a golf course must meet the following requirements (see Minnesota Statutes, section 273.13, subdivision 25; and Minnesota Statutes, section 273.112, subdivision 3, paragraph d):

1. The golf course must be open to the public. It may charge membership fees or dues, but membership may not be required to use the property for golfing, and the green fees may must be comparable to fees typically charged by a municipal course.
2. The golf course must be made available without discrimination on the basis of sex during the time it is open for use by the public or by its members. The golf course may be restricted on the basis of sex no more frequently than one (or part of one) weekend each calendar month and no more than two (or part of two) weekdays each week for each sex. Memberships that permit play during restricted times may be allowed only if the restricted times apply to <u>all</u> adults using the membership.
3. If the golf course has food or beverage facilities or services, it must allow equal access to both men and women members of all membership categories at all times.

It appears that, for the most part, the golf course in question meets most of the above requirements. However, because the course requires non-members to purchase a membership if they wish to golf more than ten times per year, it is unclear whether this restriction is prohibitive in terms of qualifying under that first requirement for the 4c(2) class rate.

Because the class rate provided for 4c(2) properties causes a tax shift paid for by residents of the City of Pipestone, we are not able to definitively say that this golf course qualifies for the preferential class rate due to the restrictions in place. We do not think that you have been incorrect to classify the property as commercial class 3a property.

If the golf course were to operate without the restriction on number of plays for non-members, it would be clear that they meet the requirements for the 4c(2) golf course classification rate, assuming no other facts of the situation were to change.

This opinion is only an advisory opinion based on the information which you have provided. If any of the facts were to change, our opinion is subject to change as well. If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

May 11, 2011

Chad Bohnsack
Scott County Taxation Department
CBohnsack@co.scott.mn.us

Dear Mr. Bohnsack:

Thank you for your questions concerning the class 4c(2) public golf course classification. You have asked the following questions concerning how to determine if a green fee for playing golf is comparable to green fees typically charged by municipal courses.

1. **Golf courses generally have several rates that they charge their patrons. Should we be using one of their rates or an average of all of their rates to determine qualifications for the 4c(2) classification? Or should we use an average daily rate?**
   Most golf courses, including municipal courses, have different greens fees for weekend versus weekday play, daytime versus evening play, and varying discounts depending on the age of the player. When comparing rates, we recommend that you compare all the rates of the golf course seeking 4c(2) classification with all the rates of municipal courses in the surrounding area. It may be possible to do this using an average of all rates offered.

2. **If there are no municipal courses in the area, could other courses be substituted?**
   If there are no municipal courses in the immediate area, you may extend the area to consider municipal courses that may be comparable in bordering counties or cities. Scott County is considered to be one of the seven metropolitan counties and therefore we believe it would be appropriate to compare the greens fees of the golf course in question to the greens fees of the many municipal golf courses located within the seven-county metropolitan area.

We understand that this question relates to a classification appeal at a Local Board of Appeal and Equalization. We hope we were able to address your questions in sufficient time; however, you may also suggest that the board vote "no change" on the appeal and then bring it forward to the County Board of Appeal and Equalization. Our response times to questions vary, particularly during the legislative session, and if that route best suits your needs you may recommend it to the board. If you have any other questions or concerns, please contact us at proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

MINNESOTA · REVENUE

December 26, 2014

Ryan Kraft, Appraiser
Olmsted County Assessment Services
kraft.ryan@CO.OLMSTED.MN.US

Dear Mr. Kraft:

Thank you for submitting your question to the Property Tax Division regarding classification of a golf course.

Scenario: A private golf course in your county is classified as 3a commercial. The property owner believes that the property should be classified as 4c(2) because the course is open to residents of the City of Byron.

Question: Does allowing Byron residents to use the golf course meet the requirement that it must be open to the public in order to receive the 4c(2) Golf Course classification?

Answer: No; being open to residents of a given city does not meet the requirement that the course must be open to the general public. It is our opinion that restricting access to residents of one city is not sufficient to meet this requirement.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

May 30, 2017

Sherri Kitchenmaster
Lyon County Assessor
sherrikitchenmaster@co.lyon.mn.us

Dear Ms. Kitchenmaster,

Thank you for submitting your question to the Property Tax Division regarding the eligibility of a private golf course for the Open Space deferment. You have provided the following scenario and question:

Scenario:

- A private golf course in Marshall operates a membership only club.
- Individuals cannot golf at the course unless they have a membership

Question 1: Is this considered a membership restriction resulting in the golf course not meeting the 4c(2) classification requirements?

Answer: Yes, this would be considered a membership restriction and they would not meet the requirements to be classed as 4(c)2. As you have determined, Minn. Stat. 273.13, subd. 25 (d) allows for a golf course to charge membership fees for use of the course, but a membership cannot be a prerequisite for utilizing the facility if the golf course wishes to obtain the 1.25% tax rate provided by 4c(2) classification. If the golf course had a membership fee structure and allow individuals without membership to play the course at comparable green fees typically charged by municipal courses, they may meet the 4(c)2 classification requirements.

Question 2: Can a private golf course receive the tax deferral benefits of Open Space if the membership requirements disqualify it from the 4c(2) classification?

Answer: The Minnesota's Private Outdoor Recreational, Open Space and Park Land Tax Property Tax, a deferral benefit commonly referred to as Open Space, is independent from the statutory requirements of 4c(2) classification.

Open Space qualifications are located in Minn. Stat. 273.112, which lists specific requirements that golf courses must meet in order to receive property tax deferral benefits. One of the qualifications for a private golf course to qualify for Open Space is that it have a membership of 50 or more or be open to the public (paragraph c of Minn. Statute 273.112). In the scenario you provided, because it has already been established the private golf course is not open to the public, it may qualify for Open Space deferral if it meets the minimum amount of members, and all other statutory qualifications are satisfied, even though the course does not qualify for 4c(2) classification due to its membership only policy.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

June 6, 2017

Sherri Kitchenmaster
Lyon County Assessor's Office
SherriKitchenmaster@co.lyon.mn.us

Dear Ms. Kitchenmaster,

Thank you for submitting your follow up question to a letter we sent you on May 30, 2017 regarding the eligibility of a private golf course for the Open Space deferral. You have requested a response for the related question:

Question: If a semi-private golf course in the city of Marshall restricts course access to residents of Marshall, but allows non-residents of the city open access to the course, is this still considered a membership restriction resulting in the golf course not meeting the 4c(2) classification requirements?

Answer: Yes, we would still consider this a membership restriction because the issue still remains that a segment of the public, in this case non-member residents of the city, are being refused access to the course, yet non-residents of the city are allowed unrestricted access. As Minn. Stat. 273.13, subd. 25 (d) states, a golf course may charge membership fees or dues and still retain its 4c(2) eligibility, but a membership fee requirement may not be the determining factor for admittance. In the scenario you have described, the golf course is discriminating against city residents since they cannot golf without a membership; making the golf course ineligible for 4c(2) classification.

As mentioned in the prior letter, failure to qualify for 4c(2) classification does not preclude the golf course from Open Space deferral as long as all requirements under Minn. Stat. 273.112 have been met.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

February 16, 2017

Janene Hebert
Hennepin County Assessor's Office
Janene.Hebert@hennepin.us

Dear Ms. Hebert,

Thank you for submitting your question to the Property Tax Division regarding the correct classification for a property used as a golf course. You have provided the following scenario and question:

Scenario:

- The property originally consisted of four parcels of land totaling approximately 226 acres at the time of assessment.
- The property was zoned and used as an 18-hole golf course and country club.
- The property was later subdivided into 46 parcels: the golf course parcel; 44 residential parcels located along the northerly and northwestern periphery of the golf course; and an outlot.
- The 44 residential parcels were subject to additional taxes after they ceased to qualify for the Open Space Program.

Question: What is the correct classification for the parcel of land where the golf course is located?

Answer: Since the parcel in question is owned by the golf course, zoned as a golf course, and utilized by the golf course, the correct classification is 3a commercial. Although there are portions of the parcel that function in a supportive role and are not necessarily used as part of the golf course playing area such as greens and fairways, it is clear the entire parcel is part of the golf course. Therefore, the use of the golf course parcel as a whole would be a commercial use and classified as 3a commercial.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

DEPARTMENT OF REVENUE

Group Homes

MINNESOTA • REVENUE

June 12, 2009

Julie Hackman
Property Records & Licensing Division
1st Floor, Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Ms. Hackman:

Thank you for your question regarding a property in Olmsted County. You outlined the following situation: You have a property that provides six suites for senior housing. Each suite includes a living room, bedroom, and kitchenette. In addition, there is a common living room, dining room, kitchen, a storage area, and a detached garage for use by the residents. Based on the information available on their website, the property appears to offer some level of basic care to its residents. Additional services are available for a fee. You have asked us how you should classify the property for property tax purposes.

Based on the information provided, it appears that this property functions largely in the same way as larger assisted living facilities with each tenant having an apartment and also having access to the larger common areas. Therefore, the most applicable classification appears to be class 4a. Minnesota Statutes, section 273.13, subdivision 25 defines class 4a property as:

> *"residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more."*

Please understand that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If the taxpayer disagrees with the classification of the property, they may pursue the appropriate avenues of appeal. If you have additional questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

October 26, 2017

David Sipila
St. Louis County Assessor's Office
sipilad@stlouiscountymn.gov

Dear Mr. Sipila,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A privately owned property in the City of Duluth is licensed by the Department of Human Resources as a "Residential Facility for Adults with Mental Illness."
- The property was a private residence prior to being converted into a treatment facility.
- The building is 5,828 square feet and has 16 rooms consisting of 8 bedrooms, 3.5 baths, and 5 offices.
- The facility is licensed for 16 recipients with an average occupancy of 12, and a maximum stay of 90 days per recipient.
- The property has a current classification of 4a Residential Non-homestead.

Question: What is the correct classification for this property?

Answer: As with any property in Minnesota, how the property is used determines its classification. In the scenario you have outlined, the property is located in a residential neighborhood and being used as a for profit treatment facility. You indicate that the property is currently classified as 4a Residential Non-homestead, however, the number of livable units needs to be considered when determining the classification in this situation.

According to the 2016 Residential Non-Homestead Memo, "unit" is defined as "*a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, and sanitation*." The residents in this scenario often share bedrooms, have communal bathrooms, gathering areas, and appear to share one kitchen, all indications the residential facility is a singular living unit, not the 4 or more individual living units as required by 4a classification. If the facility is the singular living unit it appears to be, a classification other than 4a will need to be considered.

Due to the primary use of the property being commercial in nature, and due to being owned and operated by a non-exempt, for profit company, it could be classified as 3a Commercial/Industrial. Some things to consider when classifying this property would be the type of services provided, temporary housing aspects of the business, and the primary use of the property.

Whenever deciding classification, uniformity should be considered when making the determination. It is recommended that you discuss the classification of the property with your property tax compliance officer

(PTCO) to seek guidance on the issue. It might also be advantageous to discuss the issue with surrounding counties to help determine how other assessors are classifying similar properties.

Please note that our opinion is based solely on the facts as provided. If any of the information changes, or if new information comes to light, our opinion would be subject to change as well. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education
Property Tax Division
Phone: 651-556-6091

August 23, 2019

Ashley Gunderson
Hennepin County Assessor's Office
Ashley.gunderson@hennepin.us

Dear Ms. Gunderson,

Thank you for submitting your question to the Property Tax Division regarding classification of group homes. You have provided the following scenario and question:

Scenario:

- Two parcels each contain twin homes
- Both parcels are run as assisted living facilities
- Each twin home has five bedrooms, 10 bedrooms per parcel
- Each parcel is licensed for 10 beds
- Each parcel has 10 residents currently occupying as their primary residence
- The use is permitted within the neighborhood
- None of the units is homesteaded

Question: What is the correct classification for these parcels?

Answer: The department has recently reviewed its prior guidance related to group homes. In 2016, the department issued a memo on non-Homestead residential classifications which included guidance on defining units. Given that these facilities' primary use is to provide long-term residential housing, our guidance prior to this memo had been to classify them as 4a apartments if six or more residents were occupying the home.

This guidance has been revised to instead focus on the number of units and the duration of the occupancy, rather than the number of residents. A unit or dwelling is defined as "a single unit providing complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation." From the information you have provided, it is not clear if the bedrooms being rented provide cooking facilities and the other requirements necessary to be considered a complete dwelling unit. If the rooms do meet this criteria, the 4a classification could be appropriate. However, if the rooms occupied by residents do not qualify as complete and independent living facilities, then each twin house would contain two dwelling units. Because the residents occupy these units as their principal residence (rented for more than 30 days), the classification for both parcels would be 4b(1).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section
Property Tax Division
Phone: 651-556-6091

DEPARTMENT OF REVENUE

Resorts: 1c Homestead Resort; 4c(1) Resort

December 7, 2004

Robert Moe
Otter Tail County Assessor
Courthouse
121 West Junius Street
Fergus Falls, Minnesota 56537

Dear Bob:

Your e-mail to John Hagen has been forwarded to me for reply. In your e-mail, you referenced a letter we issued in April 2004 to Mr. David Lutz where we stated that, in our opinion, 0.01% ownership as stated in copies of a contract for deed and a subsequent modification agreement for the Ten Mile Lake Resort property was not enough ownership interest to qualify for homestead. Therefore, it was our opinion that the resort was not eligible for the Ma and Pa resort class (Class 1c). In your e-mail to John, dated November 30, 2004, you have stated that the resort has now formed an LLC, and have asked us what percentage of ownership would be necessary to qualify for Class 1c. In addition, you faxed me a copy of a warranty deed which transferred ownership of the resort from Gerald F. Schultz and Shirley M. Schultz (husband and wife) and trustees under the Gerald F. Schultz Revocable living trust dated January 3, 1995, to Ten Mile Lake Properties, LLC.

In forming this opinion, I have reviewed the file on the letter we issued in April 2004 (#2004047) as well as the warranty deed you provided. I find it very troubling that Mr. Lutz made his case for granting homestead to Elaine Ferber, a 0.01% owner in the resort by referring to a contract for deed and a modification to the contract for deed that were not recordable due to the lack of signatures by a notary, thus making the contract and its modification completely void. Now, it appears from the warranty deed that those listed in the contract were not, in fact, owners at all because the property had already been transferred to Ten Mile Lake Properties, LLC in December 2003. This limited liability company is now the owner of record. Incidentally, I spoke with the office of the Minnesota Secretary of State. They confirmed to me that Ten Mile Lake Properties, LLC was registered in Minnesota beginning in 2003 and re-registered with their office in 2004. However, they were not allowed to give me the names of the members of the entity.

According to Minnesota Statute 273.13, subdivision 22, in order for you to grant residential homestead (Class 1a) as well as the Ma and Pa resort classification (Class 1c) to the property, *"...a part of it must be used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company..."* Therefore, you must determine if a member of the limited liability company occupies a portion of the property as their homestead before you grant a portion of the property the Ma and Pa resort class. In order to determine who is a member of the limited liability company that owns

(Continued…)

the property, you must examine the legal documents that establish Ten Mile Lake Properties, LLC. If the entity refuses to provide copies of these documents, the property should be denied Class 1a – residential homestead and Class 1c – Ma and Pa resort class. In that case, the property would likely be split-classed with a portion being classified as Class 4c – Seasonal Residential Recreational – Commercial and the remainder (the restaurant and any units that were rented for over 250 days) classified as 3a – Commercial.

I consulted with our legal staff regarding your question about the amount of ownership a member of the limited liability company must possess in order to be granted homestead. They have stated that as long as the property is occupied by a bona fide member of the limited liability company, they would be eligible to receive homestead. Again, the level of ownership and the membership in the limited liability company can only be verified by examining the organizational papers of Ten Mile Lake Properties, LLC.

If you have further questions on this, please contact our division.

Sincerely,

STEPHANIE NYHUS, Principal Appraiser
Information and Education Section
Property Tax Division
Phone: (651) 556-6109
Fax: (651) 556-3128
E-mail: stephanie.nyhus@state.mn.us

October 19, 2005

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Thank you for your questions regarding the classification of resorts. In August, you emailed John Hagen and Jacquelyn Betz several situations pertaining to the proper classification of Ma & Pa resort property. At that time, you asked for direction regarding the classification of Ma & Pa resorts considering the recent law changes. You noted that various coding issues needed revisions so that counties in the MCCC co-op in conjunction with ACS could implement changes in order to meet the deadline of the assessor's abstract.

On August 17, 2005, John Hagen responded to your request informing you that, with the exception of a few questions, most of our responses would be the same regardless of the recent law changes affecting homestead resorts.

The following clarifications were made at that time regarding the recent law changes:

- The homestead portion of the property should be class 1a residential homestead;
- Pools, tennis courts and other amenities that function as part of the resort are to be classified as class 1c (this was conveyed at all of the new law seminars);
- Retail gift shops, restaurants, etc. should (continue to) be classified as 3a commercial.

You asked if the construction of language contained in H. F. No. 138 – 2005 1st Special Session as posted July 13, 2005, has an effect on DOR policy pertaining to the classification of an owner occupied unit under the following circumstances:

Example #1: A resort with ten cabins and one owner-occupied single family home.

This was clarified in John Hagen's email to you in August. The homestead portion of the property should be classed 1a residential homestead.

Example #2: A resort with ten cabins, a year round occupied rental unit and an owner-occupied single family home.

The owner-occupied single family home should be classed 1a residential homestead (homestead portion of the property) and the year-round occupied rental unit should be classed 3a commercial.

(Continued…)

Minnesota Statute 273.13, subd. 22, paragraph c, states in part:

> *" Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy…"*

Consequently, if the property is classed as 1c commercial seasonal-residential recreational – under 250 days and includes homestead (Ma & Pa Resorts), any rental unit that is rented for more than 250 days must be classed as 3a commercial.

Example #3: A resort with ten cabins, a triplex (rented to year-round occupants) and an owner-occupied single family residence.

Again, the owner-occupied single family residence (homestead portion of the property) should be classed as 1a residential homestead. The triplex should be classed as 3a commercial since it is being rented for more than 250 days.

You also asked for the proper classification of a golf course which is operated in conjunction with a resort that is for guests only and not open to the public. A golf course at a resort that is open only during the time the resort is open for guests, which is used primarily for the convenience of its guests and is not open to the public is included within the resort classification.

If you have further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

JOAN SEELEN, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6114 Fax (651) 556-3128
E-mail: joan.seelen@state.mn.us

April 9, 2007

Bob Hansen
Hubbard County Assessor
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Bob:

Thank you for you e-mail. You outlined the following situation. Two unrelated owners own a resort property. One of the owners occupies and operates the resort. The owner receives a 50 percent homestead on the 1a portion of the resort. You have asked if the 1c portion of the property should be fractionalized as well.

Minnesota Statute 273.13, subdivision 22, paragraph (c) states in part that:

> *"Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if title to the homestead is held by the corporation, partnership, or limited liability company…."*

As stated above, the definition of class 1c property is resort property that "includes a portion used as a homestead by the owner." Therefore, based on the information provided, it is our opinion that the class 1a residential homestead portion of the property should receive a fractional homestead. However, the class 1c portion of the property should not be fractionalized since it does include a portion of the property that is used by one of the owners of the property.

If you have further questions or concerns, please direct them to us at proptax.questions@state.mn.us.

Sincerely,

STEPHANIE L. NYHUS, SAMA
Principal Appraiser
Information and Education Section

September 24, 2007

A. Keith Albertsen
Douglas County Assessor
Douglas County Courthouse
305-8th Ave. West
Alexandria, MN 56308

Dear Mr. Albertsen,

I am responding to your email inquiry dated August 23 regarding a resort property in Douglas County. The current owner is contemplating a transfer of the property to his daughter and son-in-law. The current owner intends to continue living at the resort and the daughter and son-in-law will not be living there. I am assuming that the resort is currently classified as 1c property—a Ma and Pa resort. The owner has asked you about homestead benefits under three scenarios and you have asked us to comment.

We will comment on each scenario in the same order you presented them. However, we want to remind you that these are all hypothetical scenarios and if any facts change, our comments may no longer be valid.

Scenario 1:

A. Owner deeds the entire resort to his daughter and son-in-law but retains a life estate in the entire resort. If the current owner continues to live there and operate the resort, the resort continues to qualify as class 1c. The owner's life estate interest qualifies for a full residential homestead. Until his death, the daughter and son-in-law have only a future interest in the property.

B. If the owner transfers the entire property by deed but retains a life estate in the dwelling only, the owner qualifies for a regular homestead on the portion subject to the life estate and the remainder of the resort, now owned by the daughter and son-in-law, would be classified as 4c or 3a, depending on how it is used.

C. If the deed transfers the entire property and a life estate is retained without specifying what portion of the property is subject to the life estate, the life estate covers the entire property and the results would be the same as clause a. above.

The owner should be discussing these options with his attorney to make sure the transfer is consistent the owner's intent. We cannot give the owner any legal advice.

Scenario 2:

Daughter and son-in-law purchase the resort from the current owner, the new owners do not occupy the property but the current owner does. The portion of the property used as a homestead by the father would qualify as a class 1a residential relative homestead. The remainder of the resort would be class 4c or 3a, depending on its use.

(Continued…)

Scenario 3:
Daughter and son-in-law purchase the property and then transfer the title to a LLC or LLP. The current owner continues to occupy the dwelling and the new owners do not. If the current owner is not a shareholder of the LLC or a member of the LLP, there is no homestead and the property no longer can be classified as class 1c.

The last question you ask is the toughest. What percentage of ownership must the current owner hold in the LLC or LLP? In the past, we have concluded that a token interest of one percent or less is not sufficient but we have not provided a minimum amount. If the owner and his family decide to pursue this option, you would need to look carefully at the documentation. Based on our comments regarding Scenarios 1 and 2, the owner and his family have simpler ways to retain homestead benefits if that is their only concern.

We would remind you again that we are responding to hypothetical situations. The real facts may change and that may change our responses.

If you have further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

February 12, 2008

Mike Dangers
Aitkin County Assessor's Office
Aitkin County Courthouse
209-2nd Street N.W.
Aitkin MN 56431

Dear Mr. Dangers,

I am responding to your recent inquiry regarding a resort property in Aitkin County. You asked if a relative homestead on a resort property qualifies the property for the class 1(c) "Ma and Pa" classification under Minnesota Statutes, section 273.13, subdivision 22, clause (c). In our opinion, not only would the relative homestead not qualify the resort property as class 1(c), we believe you should examine the relative homestead itself.

Section 273.124, subdivision 1, clause (c), provides the rules for relative homesteads and specifically excludes property that has ever been classed as seasonal recreational property when owned by the current owner. If the residence located on the resort was classed as seasonal residential recreational before the relative occupied the property, no relative homestead is allowed. Only occupancy by the owner as a principal residence would qualify the property for a homestead and then the entire property may be a "Ma and Pa" resort. If the residential portion of the resort has never been classed as seasonal recreational while owned by the current owner, the relative homestead may be appropriate but the remainder of the resort would be classed as a class 4(c)1 seasonal recreational property (commercial resort).

If you have any further questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

Dorothy A. McClung
Property Tax Division

November 13, 2008

Bob Hansen
Hubbard County Assessor
301 Court Avenue
Park Rapids, MN 56470

Dear Mr. Hansen,

Thank you for your questions concerning land classification under new legislation. Each of your questions is answered in turn below.

1. Does the 2b rural vacant land classification apply to large tracts located within organized cities?
Answer: If a parcel of land meets the statutory guidelines for rural vacant land (rural in character, unimproved with a structure, unplatted, etc.) it may be classified as 2b even if it is located within an organized city.

2. How are large resort tracts (over 20 acres) to be classified?
Answer: As always, property is classified according to use. For large tracts of resort property, if all acres are used for the purposes of the resort, the entire property should be classified as resort property. For example, for a 25-acre parcel operated as a resort with 10 acres devoted to buildings and the remaining 15 acres of wooded land used for hiking trails, skiing, etc., the entire 25-acres would be resort class.

3. For Ma & Pa resorts, how many acres would be split out for the primary residence? Is it possible for more than one acre to be residential but not receive homestead status?
Answer: Minnesota Statutes, section 273.1384 specifies that the residential homestead market value credit is only calculated on the house, garage, and immediately surrounding one acre of land is the only portion eligible for homestead:

> *"In the case of an agricultural or resort homestead, only the market value of the house, garage, and immediately surrounding one acre of land is eligible in determining the property's homestead credit."*

Based on this requirement, it seems logical that only the house, garage, and immediately surrounding one acre be considered the primary residence.

4. For Ma & Pa resorts, if the cabins were limited to ten acres, would the remainder of the parcel be classified as rural vacant land?
Answer: Not likely. Split-classification pertains only to parcels of property that are greater than 20 acres in size and are otherwise classified as 2b rural vacant land. Land that is classified as resort property because it is used for the purposes of the resort would not need to be split-classified. The statutory guidelines for split-classification are outlined in Minnesota Statutes, section 273.13, subdivision 2 (c), which states:

> *"Class 2b rural vacant land consists of parcels of property, or portions thereof, that are unplatted real estate, rural in character and not used for agricultural purposes, including land used for growing trees for timber, lumber, and wood and wood products, that is not improved with a structure. The presence of a minor, ancillary nonresidential structure as defined by the commissioner of revenue does*

(Continued…)

> *not disqualify the property from classification under this paragraph. Any parcel of 20 acres or more improved with a structure that is not a minor, ancillary nonresidential structure must be split-classified, and ten acres must be assigned to the split parcel containing the structure."*

In other words, a property which is classified as 2b property but is improved with a structure that is not minor, ancillary, and nonresidential in nature would need to be split-classified. If the property were not already classified as 2b rural vacant land, there is no necessity to split-classify unless there were separate and distinct uses of the property (e.g. residential or commercial). In the example you have outlined, the property is not classified as 2b rural vacant land, and therefore does not need to be split-classified.

5. If a resort has a commercial classification and a residence for the owners, would the homestead be on ten acres, or prorated between the two classifications?
Answer: Commercial property may never receive homestead treatment under any circumstances. Only the portion of the property used as a residence would be eligible for homestead. There are two possible answers to this question, depending upon how the resort property has been classified:

a. If the resort property is classified as 1c (Ma & Pa resort), only the portion of the property classified as 1a residential would receive homestead. The homestead would not be extended to any of the surrounding 1c property.
b. If the resort property is classified as 4c(1), there is no residential portion and therefore no acreage eligible for homestead.

6. If a resort were non-homestead, yet a manager lived on the property year-round, would ten acres be split with that residence?
Answer: If the manager who occupies the residence were an owner of the property, only that portion used for those purposes would be granted 1a classification. All other property would be classified according to use, in this case as a resort. If the manager was not an owner of the property, the 1a classification would not be proper (a more likely classification would be class 4b).

For large resort properties, we can think of few scenarios in which surrounding acreage would not be used for the purposes of the resort: whether for hiking, biking, skiing, or other resort activity. It is therefore not likely that the surrounding acreage would be a 2b classification, rather it would retain a resort classification.

If you have any further questions, please do not hesitate to contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

2009437

November 18, 2009

Jack C. Renick
Lake County Assessor's Office
Courthouse
601 3rd Ave
Two Harbors, MN 55616

Dear Mr. Renick:

Thank you for your question concerning homesteads and the 1c classification for Ma & Pa resorts. You have presented us with the following scenario and questions:

> A property is split-classified as a Ma and Pa resort (1c) and commercial property (3a). A five-unit motel is classed as commercial, four single-unit cabins are classified as resort (1c), and the residence and garage are classed as residential. The owner moved away in 2008, but his daughter is living there and has applied for a relative homestead.

Question 1: Does the property still qualify for class 1c with a relative homestead?
No. According to Minnesota Statutes 273.13, subdivision 22, paragraph (c), the property must be homesteaded by the owner to receive the 1c classification. In this scenario, the portion of the property occupied and used by the daughter would be classified as 1a residential relative homestead, and the remainder would likely be class 4c or 3a, depending on its use.

Question 2: Does the relative homestead extend to all the classifications on the property?
No. If the property qualifies for relative homestead, the benefit only applies to the portion of the property being used for residential purposes (i.e. the house and garage). As stated above, the remainder would be classified according to its use, likely as class 4c and/or 3a.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

June 1, 2010

Diane Swanson
Kandiyohi County
400 Benson Ave SW
Willmar MN 56201

diane.swanson@co.kandiyohi.mn.us

Dear Ms. Swanson,

Thank you for your recent classification question to the Property Tax Division. You have outlined the following scenario: There is a class 1c resort property in Kandiyohi County. This property has seasonal sites that are rented, however some of the sites contain manufactured homes which are owned by other individuals and assessed as personal property. You have asked the appropriate classification of the sites themselves (i.e. the land underneath the manufactured homes): manufactured home park, or part of the class 1c resort?

In our opinion, if the properties were occupied year-round, that residential use would make them appropriately classified as manufactured home park sites. However, because these sites are used only seasonally, it is still appropriate to classify them as a part of the 1c resort. This is based in part on Minnesota Statutes, section 273.13, subdivision 22, which provides that "A camping pad offered for rent by a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days." The manufactured homes themselves should continue to be assessed as personal property to the owners.

Please note that this opinion is based solely on the facts provided. If the use of the properties were to change (if they were used year-round, for example) or if the ownership of the sites were to change, our opinion is subject to change as well. Minnesota Statutes, section 273.13, subdivision 22 also provides "Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent."

If you have any further questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 6, 2011

Doug Walvatne
Otter Tail County Assessor
dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for your recent question regarding class 1c (Ma and Pa) resorts. It has been assigned to me for response. In your e-mail you outlined the following situation:

- A resort is located on two separate but contiguous parcels and was classified as class 1c resort for the 2009 assessment;
- The house and garage are located on one parcel and the resort is located on the other;
- In January 2009, the individual owners of the resort quitclaimed the resort parcel into an LLC but retained individual ownership of the parcel where the residential homestead is located;
- Due to the difference in ownership between the parcels where the residential homestead and resort are located, your office removed the 1c classification and classified the resort portion of the property as class 4c;
- In November 2010, the property owners quitclaimed the resort portion of the property from the LLC back to themselves as individuals.

You have asked if the property owners can now re-establish their 1c classification on a mid-year basis for the 2010 assessment.

In our opinion, there is no potential to grant the resort portion of the property class 1c for the 2010 assessment for the following reasons:

1. You classified the property based on the ownership and use on the assessment date of January 2, 2010. As of that date, the property consisted of two parcels with different ownership – a residential property which was owned and occupied by individuals and received an owner occupied homestead, and a resort property which was owned by an LLC and was classified as class 4c seasonal residential recreational–commercial property. Since the two parcels were not owned by the same individuals or entity, the property was not eligible for the class 1c (Ma and Pa) resort classification.

2. This is not a mid-year homestead question. The homestead on the parcel which was owned and occupied by the property owners correctly received a full year owner-occupied residential homestead based on its ownership and occupancy on the assessment date of January 2. Class 1c properties are not eligible for mid-year homesteads. Only residential and agricultural properties receive homestead. For class 1c resorts, the law specifies that "*the portion of the property used as a homestead is class 1a property under* [section 273.13] *paragraph (a).*"

(continued)

3. Pursuant to Minnesota Statutes, section 275.175, valuations and classifications of properties are final as of July 1 each year except under very narrow circumstances, one of which is extending a mid-year homestead, and as stated above, this is not a mid-year homestead situation.

4. The property owner made a conscious decision to change the ownership of the resort parcel for a particular reason, which was not likely related to property taxes. The appeal process for the 2010 assessment ended prior to when the ownership change took place in November 2010. The only remaining appeal option is to Minnesota Tax Court.

For the reasons listed above, it is our opinion that the classification of the property cannot be changed retroactively, based on the ownership change which took place in November 2010, for the 2010 assessment. If the taxpayer disagrees with their classification, they may appeal to Minnesota Tax Court by April 30, 2011. If you have additional questions or concerns, please direct them to proptax.questions@state.mn.us.

Sincerely,

Stephanie L. Nyhus, SAMA
Principal Appraiser
Information and Education Section

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6091
Fax: (651) 556-3128

March 9, 2011

Steve Skoog
Becker County Assessor's Office
slskoog@co.becker.mn.us

Dear Mr. Skoog,

Thank you for your recent question regarding resort properties. You asked general questions about the 1c and 4c classifications, and have also asked specific questions about two properties in Becker County. Your questions are addressed below.

You have asked for clarification on the differences between classes 1c Ma and Pa resorts and 4c commercial resorts. As you correctly stated, Ma and Pa Resorts do need to be located on public water, and they must be the owner's homestead. Those requirements are not necessary for the 4c classification. The two properties which you have included in your email do not appear to meet these 1c requirements.

To qualify for the 4c commercial resort classification the following requirements are listed in MN Statutes, section 273.13, subdivision 25:

- The property must be devoted to temporary and seasonal residential occupancy for recreation purposes, and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment.

- The property must contain three or more rental units. A "rental unit" includes a cabin, condominium, townhouse, sleeping room, or individual camping site.

- The property must provide recreational activities such as renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle.

- At least 40 percent of the property's annual gross lodging receipts must be from business conducted during 90 consecutive days.

- Additionally, one of the following must be met:

    i. At least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or
    ii. At least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle.

The owner has to designate which units meet the maximum 250 day use requirement and all other units are class 3a commercial. In other words, the property can be split classified. As provided in Minnesota Statutes, section 273.13, subdivision 25:

> *"Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated class 4c under this clause as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 4c property under this clause must provide guest registers or other records demonstrating that the units for which class 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested."*

Based on the requirements in Minnesota Statutes for the 4c resort classification, you had requested our opinion on two properties in Becker County. First, you provided the following details for The Lodge on Lake Detroit:

1. The property has 55 rooms. This meets the requirement that a resort must have 3 or more rental units.
2. More than 40% of the gross room receipts for the property for the year have been in June, July, and August for the past three years. If the property owner can verify that this is within 90 consecutive days, the property may meet this requirement for the seasonal classification.
3. The resort faces Big Detroit Lake and has a beach. The property provides a dock with 10 boat rental slips, and paddle boats, canoes, and kayaks are available for rent. If 20% of the property's gross receipts are from providing these recreational activities it would meet this recreational activity requirement. If not, 60% of their stays must be for 2 or more consecutive nights to qualify for the 4c resort classification.

If the Lodge on Lake Detroit meets all of the statutory requirements outlined above, any units used for 250 days or less may be eligible for the 4c classification. Any other units would be 3a commercial.

You provided the following details on The Holland House and Suites:

1. The property has 56 rooms. This meets the requirement that a resort must have 3 or more rental units.
2. More than 40% of the gross room receipts for the property for the year have been in June, July, and August for the past three years. If the property owner can verify that this is within 90 consecutive days, the property may meet this requirement for the seasonal classification.

3. The property is not adjacent to a public body of water and while they do provide an indoor pool and waterslide,this alone is not considered providing recreational activities for purposes of the seasonal resort classification. Because of this, the property does not qualify for the 4c class.

Additionally, you mentioned the Minnesota Tax Court case *Holland Motel. Inc., vs. County of Becker,* in which the Tax Court found this property to be commercial. Unless the use of the property has substantially changed since that time, there is no reason to change the classification. Based on the information provided, the property is still appropriately classified as 3a commercial.

Please understand that this opinion is based solely on the facts provided. If any of the facts of the situation were to change, our opinion would be subject to change as well. If you have any additional questions please contact proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

Property Tax Division
Mail Station 3340
600 North Robert Street
Saint Paul, Minnesota 55146-3340

Tel: (651) 556-6104
Fax: (651) 556-3128

May 18, 2011

Mark Vagts
Waseca County Assessor's Office
mark.vagts@co.waseca.mn.us

Dear Mr. Vagts:

Thank you for your question concerning the classification of a campground in your county. You have provided us with the following information concerning the property:

> The campground owner John has 4 parcels of property:
>
> Parcel 1 – John's residence
> Parcel 2 - campground with second residence in which John's father resides
> Parcel 3 - campground & campground store/office
> Parcel 4 - newly purchased farmland being converted to additional camping/RV spots
>
> All parcels are contiguous and abut a lake.
>
> In the past, parcels 1 and 2 have been in John's ownership. Parcel 3 was owned by the campground. Parcel 4 was purchased in 2010. John previously received the class 1c Ma & Pa Resort classification on parcel 2 and part of parcel 3, with a relative residential homestead on the second residence located on parcel 2 (based on occupancy by John's father).
>
> In 2010, John transferred the ownership of parcels 2, 3, and 4 to a LLC. The LLC is owned by John, his wife, and his two adult children. Because the ownership of the homesteaded parcel was no longer the same ownership as the resort property, the classification was changed for the 2011 assessment to class 4c seasonal residential recreational commercial on parcels 2, 3, and 4.
>
> John has since added his father to the LLC as a 1/16 of 1% owner to the LLC to give his father a share ownership.

Question 1: Is there a minimum requirement for ownership amount to be considered a shareholder? Does the above situation allow the classification to be changed back to 1c on parcels 2, 3, and 4?
There is not a minimum ownership amount required to be considered a member of an LLC. Therefore, because the father is a member of the LLC and occupies a residence located on property owned by the LLC, it is our opinion that the above scenario may qualify for the 1c classification (excluding parcel 1) if all other necessary requirements for 1c classification are met.

Question 2: The campground store/office/meeting room has been 3a commercial in the past. However, it is used for the campground and less than 250 days a year. Should it be classified 3a commercial, or 1c or 4c similar to campground?
The provision requiring a maximum use of 250 days a year only applies to the rental units (i.e. camping sites, cabins, etc.) and does not apply to the campground store/office/meeting room. Minnesota Statute 273.13, subdivision 22, paragraph (c) states that:

> *"The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 1c."*

Therefore, the store/office/meeting room should remain classified as 3a commercial property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section

August 23, 2011

Ronald Vikre
Fillmore County Assessor's Office
rvikre@co.fillmore.mn.us

Dear Mr. Vikre:

Thank you for your question concerning the 2011 legislative changes made to the 4c(1) seasonal recreational commercial classification. You have asked for clarification concerning the language which allows properties located in a city or township with a population less than 2,500 located outside of the metropolitan area that contains a portion of a state trail administered by the Department of Natural Resources to receive the 4c(1) classification.

Specifically, you have inquired as to whether these properties need to verify through receipts either the seasonal or recreational components that other seasonal recreational commercial properties must provide.

The new provision provides the 4c(1) classification to property which:

1. is not used commercially for more than 250 days;
2. contains three or more rental units;
3. contains 20 or fewer rental units; and
4. is located in a city or township with a population less than 2,500 located outside of the metropolitan area that contains a portion of a state trail administered by the Department of Natural Resources.

In other words, the businesses located in these specific townships or cities do not need to verify through receipts that 40 percent of their gross receipts are from 90 consecutive days, nor that either 60 percent of paid books are from two consecutive nights or that 20 percent of their annual gross receipts are from providing recreational activities. All other resort-type properties not in those specific townships must meet the receipt requirements.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

October 4, 2011

Ronald Vikre
Fillmore County Assessor's Office
rvikre@co.fillmore.mn.us

Dear Mr. Vikre:

Thank you for your question concerning the 4c(1) classification for seasonal residential recreational commercial property. You have inquired as to how to apply the 250-day rule to seasonal recreational commercial property. You have suggested that Minnesota Statute 273.13, subdivision 25, paragraph (d) contains two different types of property and that the 250-day rule applies to the two types of property.

Minnesota Statute 273.13, subdivision 25, paragraph (d) states the following:

> *"(d) Class 4c property includes:*
> *(1) except as provided in subdivision 22, paragraph (c), real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes, including real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used for residential occupancy, and a fee is charged for residential occupancy. Class 4c property under this clause must contain three or more rental units. A "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 4c property under this clause must provide recreational activities such as renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle. A camping pad offered for rent by a property that otherwise qualifies for class 4c under this clause is also class 4c under this clause regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days. In order for a property to be classified as class 4c, seasonal residential recreational for commercial purposes under this clause, at least 40 percent of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or (ii) at least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle. For purposes of this determination, a paid booking of five or more nights shall be counted as two bookings. Class 4c property classified under this clause also includes commercial use real property used exclusively for recreational purposes in conjunction with other class 4c property classified under this clause and devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by*

January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated class 4c under this clause as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 4c property under this clause must provide guest registers or other records demonstrating that the units for which class 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 4c."

Although class 4c properties may be structured differently (some consist of cabins only, some consist of larger lodges, some have a mixture of both, etc.), it is our opinion that the 250-day rule is to be applied on a per rental unit basis. As stated above, a rental unit is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. For example, in a building containing 14 rental units, one of which was rented over 250 days in the year preceding the assessment, that unit would not qualify for the 4c classification (assuming remaining units and property meet all the necessary classification requirements). The 250-rule would be applied the same whether the property consists of one larger building with 14 units or a property containing 14 separate cabins.

In other words, the **property as a whole** must meet the class 4c requirements, such as providing recreational activities, etc. Any **rental unit** (whether a cabin, sleeping room, or other) of the property that is used for 250 days or less is classified as 4c(1). Any rental unit of the property used for more than 250 days (or any commercial uses described in statute) is classified as 3a commercial.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

December 21, 2011
Allison Lowe
Cook County Assessor's Office
allison.lowe@co.cook.mn.us

Dear Ms. Lowe:

Thank you for your question concerning the 4c(1) seasonal residential recreational commercial (resort) classification. You have asked, if a hotel offers recreational packages operated by a separate entity than the hotel and located off-site, does it meet the requirement for class 4c properties of providing recreational activities?

In order to qualify for class 4c(1), there must be recreational activities provided by the operator of the property on-site. The recreational activities listed in statute are: renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; providing marina services, launch services, or guide services; or selling bait and fishing tackle. The department recognizes that there are some other types of activities that may also qualify a property as class 4c(1). However, we have stated that providing swimming and beach access, providing campfires, or simply being considered a good location to be used as a base camp for enjoying a region's unique recreational activities, does not qualify a property for class 4c(1). The resort must be the operator of the provided recreational activities and must be able to produce receipts from offering said activities.

We also received additional information concerning the classification of the Best Western Superior Inn and Suites located in Grand Marias. The owners have asked for your office to review the recent change in classification of the property from class 4c(1) to class 3a commercial. The owners of the property contend that the hotel does provide recreational activities that would qualify the property for the 4c(1) classification. The owners supplied a list of the following services provided through the Best Western Superior Inn and Suites:

- Vouchers are sold onsite for discounted golfing at Superior National golf course.
- Packages are sold onsite and online for guests wishing to experience dog sledding. The Dog Sledding Adventure package includes 2 nights' lodging and a 1.5-hour guided sled excursion for two people. Guests pay on site and the hotel takes care of setting up the arrangements for guests.
- In summer, bikes are available onsite free of charge.
- The hotel offers a private cobblestone beach for bonfires, rock castle building, swimming, etc.
- Lift tickets for Lutsen Mountain are sold onsite.
- Onsite space is provided for snowmobile trailers. Area trails are accessible from the provided parking lot. An advertisement is printed yearly in an area snowmobile map.
- Snowshoe equipment rental is available for 2011/2012 winter.
- Guests are referred to an adjacent business, Stone Harbor, for cross-country ski rentals and kayak rentals.

Of the above list, it is our opinion that only the onsite rental of snowshoes and bikes (if rented directly from the Best Western) are activities that may qualify the hotel as providing a recreational activity. However, as you know, per Minnesota Statute 273.13, subdivision 25, paragraph (d), if seeking the seasonal recreational commercial classification as a provider of recreational activities, resort property must be able to provide evidence that at least 20 percent of the hotel's annual gross receipts are from charges for providing recreational activities.
All other requirements for the 4c(1) classification would also need to be met.

In sum, according to the information that we have been provided, we agree with the current classification of the Best Western Superior Inn and Suites as class 3a commercial property.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA · REVENUE

March 26, 2012

Michaelle Cronquist
Crow Wing County Assessor's Office
Michaelle.cronquist@co.crow-wing.mn.us

Dear Miss Cronquist,

Thank you for your recent email regarding 1c (Ma and Pa) resort classification. You provided us with the following information: A resort owner owns multiple contiguous parcels which include the home and the resort property. The parcel containing the homestead is owned by the property owner as an individual and the other parcels are under the business name (WBR, Inc.). The property owners are homesteading their home and have requested that your office extend the homestead benefit to the resort property so that they could receive the 1c "Ma and Pa" resort class, rather than the 4c(1) seasonal residential recreational commercial classification. You have informed the property owner that homestead cannot be extended to the resort since the ownership is different from the homestead. The owner has stated that WBR, Inc. is owned by him and his wife. You have asked, should the 1c Ma and Pa resort classification be granted to the property owned by WBR, Inc?

You were correct when you stated that the homestead cannot be extended since the resort is owned by WBR, Inc. and the parcel where the homestead residence is located is owned by the resort owners as individuals. The two parcels are not owned by the same individuals or entity, therefore there is no potential to grant the resort portion of the property class 1c. The resort property should remain at the 4c(1) seasonal residential recreational commercial classification.

If you have any further questions or concerns please feel free to contact us at proptax.questions@state.mn.us

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 13, 2013

Peggy Trebil
Goodhue Assessor's Office
peggy.trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following:

> In your county, you have a marina which has 150 boat rental slips, a retail/repair shop, a restroom building, and boat docking/boat storage. The owner of the marina homesteads his mobile home on the premise, and the owner's son also has a mobile home on the property, which is being taxed as personal property. There are also two additional unlivable mobile homes which are taxed as personal property. In 2012 the marina had rental mobile homes, and that portion of land was classified as 1c Ma & Pa Resort. Prior to December 31, 2012 the rental mobile homes were removed from the parcel. Because the rental units were removed, you changed the classification for the January 2, 2013 assessment. The parcel is 16.38 acres.
>
> For the 2013 assessment you have classified the property as follows:
> - .50 acres (owner's mobile home) as residential homestead
> - 15.38 acres (retail/repair shop, restrooms, storage building and 150 boat rental slips) as commercial class
> - .50 acres with the personal property as residential non homestead

The owner of the property has asked that you verify with the Department of Revenue that the new classification is correct for the 2013 assessment.

After reviewing the submitted documentation, the 2013 assessment classifications appear to be correct. It would be inappropriate for a portion of this property to continue to be classified as 1c Ma & Pa Resort. As you are aware, one of the many requirements for Ma & Pa Resort classification is that the property must have three or more rental units. Rental units are defined as cabins, condos, townhouses, sleeping rooms, or individual camping sites equipped with water and electrical hookups for recreational vehicles. This particular property does not have any rental units; therefore, it does not qualify for the Ma & Pa Resort classification. The remaining property appears appropriately classified as commercial, residential homestead, and residential nonhomestead.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 27, 2013 *Edited 2/24/2021*

Brenda Shoemaker
BShoemak@co.ottertail.mn.us

Dear Ms. Shoemaker:

Thank you for submitting your question to the Property Tax Division regarding the 1c "Ma & Pa Resort" classification.

Scenario:

- In your county there is a resort with 13 cabins on six parcels.
- Jon owns five of the parcels, which contain 10 cabins and his homestead.
- Judy owns one parcel which contains three cabins and her homestead.
- Jon and Judy are not husband and wife.
- Each parcel abuts lakeshore.
- All recreational services are located on Jon's property, but the individuals staying in the cabins on Judy's parcel use the services he provides.

Questions:
Are Jon and Judy are each entitled to the 1c "Ma & Pa Resort" classification? If Judy's property does not qualify, how should her property be classified?

Answer:
Per Minnesota Statutes 271.13, subdivision 22, paragraph c:

> *"Class 1c property must contain three or more rental units. A 'rental unit' is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 1c property must provide recreational activities such as the rental of ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle."*

Based on the statutory requirements above, it is clear that the five parcels owned by Jon qualify for the 1c classification as it contains 3 or more rental units, is the homestead of the owner, it abuts lakeshore, and recreational activities are provided on this property.

Judy's property does not qualify for the 1c classification and would be split-classified as 1a residential homestead and 4b(1) short term rental if the rental cabins meet all requirements. This property does not provide recreational services, as is required for class 1c and 4c(1) properties. Although guests are able to use the recreational services provided on Jon's property, they must be provided on the parcels Judy owns in order for her property to qualify for the 1c "Ma & Pa Resort" classification. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 27, 2013

Karen Ladd
Aitkin County Assessor's Office
kladd@co.aitkin.mn.us

Dear Ms. Ladd:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following:

- A property in your county is currently classified as a 1c "Ma & Pa" resort.
- The owner is currently living in an assisted living facility.
- The owner's son is occupying the homestead and running the resort during the summer months.

You have asked if the 1c classification should be removed since the owner is no longer occupying the home located on the resort.

In our opinion, the homestead portion should not be removed, in accordance with Minnesota Statutes section 273.124, subdivision 1, paragraph (f), which allows for a person to be absent from the residence due to living in a nursing home or assisted living facility.

In this scenario, it would be appropriate to continue the 1c classification, since the property may still qualify for homestead by the owner. This is assuming all other requirements for this classification are met.

If the son applies for relative homestead, however, the property would not be eligible for 1c classification, as 1c resorts may not qualify based on relative homestead.

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

November 22, 2013 *Edited 7/27/2017 based on 2017 Legislative Session*

Lee Brekke
Wadena County Assessor's Office
Lee.brekke@co.wadena.mn.us

Dear Mr. Brekke:

Thank you for submitting your question to the Property Tax Division regarding the 1c "Ma & Pa Resort" classification. You have provided the following:

- A taxpayer in your county is requesting the "Ma & Pa Resort" classification on a property that is not on a lake, but it abuts the Shell River (it is unknown if this river is navigable).
- The property is 5 parcels consisting of 194 acres.
- The taxpayer has a license for 3 lodging units.
- The taxpayer offers guided trail rides on the property.
- The taxpayer lives on one parcel, the second parcel is where one of the lodging units are located, the third parcel is where the other 2 lodging units are, and the remaining 2 parcels are land only.
- Currently, 10 acres are receiving a residential homestead, 20 acres are classified as non-homestead, and the remainder of the land is classified as 2c managed forest land.

Questions:
Does this property qualify for the 1c "Ma & Pa Resort" classification? If so, how much of the 194 acres should be classified as 1c?

Answers:
In order to qualify for the 1c classification, the following requirements must be met:

1. It is commercial use real property that abuts public water (as defined in Minnesota Statutes, section 103G.055, subdivision 15) or a state trail administered by the DNR.
2. It is devoted to temporary and seasonal residential occupancy for recreational purposes, but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment.
3. The property must provide recreational activities.
4. The property must have three or more rental units.
5. The property must include a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead.

You would need to confirm that the river the property abuts is a qualifying public water body in order to determine if the property qualifies for the 1c classification. You would also need to verify whether the rental units are used more than 250 days per year. If it is determined that the waters are navigable and the rental units are not being used more than 250 days per year, this property may qualify for the 1c classification.

The portion of the property used as a homestead by the owner should be classified as class 1a residential homestead, and the remainder of the property is classified as class 1c. For any acreage that has a qualifying forest management plan and the owner has applied for 2c classification, it is appropriate to continue to classify those acres as 2c

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

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www.revenue.state.mn.us

MINNESOTA · REVENUE

December 9, 2013

Amy Rausch
Property Tax Compliance Officer
Minnesota Department of Revenue
amy.rausch@state.mn.us

Dear Ms. Rausch:

Thank you for submitting your question to the Property Tax Division regarding the 1c "Ma & Pa Resort" classification. You have provided the following:

Scenario:
A property in Cook County is requesting 1c classification. One parcel is owned by the Federal Government and is leased to the resort owners. The owners of the resort recently purchased a house that is not adjacent to the resort, but separated by more federal land that has trails on it. They have homesteaded the home, but now would like to extend their homestead to the resort. The owner said they are eventually going to start the resort on the property they just purchased as well because it has 1000 feet of shoreline and they will be building cabins. Also, the cross country ski trails span from the new homestead, through the federally-owned parcel, all the way to the resort which is on federally-owned land that they lease.

Questions:
Does the property qualify for the 1c classification when the homestead they just purchased is separated by another federal lot?

Answers:
In order to qualify for the 1c classification, the property must include a portion used as a homestead by the owner. In the scenario you have presented, neither of the parcels leased/owned by the taxpayer qualifies for the 1c classification because these parcels are separated by a parcel that is not under the same ownership. In order to qualify, the dwelling used as a homestead must be on the same property that the rental buildings are on. If the taxpayers decided to build more than 3 rental units on the parcel that includes their homestead and they met the other statutory requirements for the 1c classification, the parcel may qualify for the 1c classification. However, the current resort property is still separated from the homestead, and the two cannot be linked to achieve the resort classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

KELSEY JORISSEN, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

December 19, 2013

Bob Hansen
Hubbard County Assessor
bhansen@co.hubbard.mn.us

Dear Mr. Hansen:

Thank you for submitting your questions to the Property Tax Division regarding homestead and classification.

Scenario:

- In 2005 the Brandons transferred the property to the Little Norway Resort Cooperative Association
- The resort has 21 cabins, a two-story lodge (with a game room, meeting room, a convenience store, and social area), a bait shop, a playground, lakeshore, and docks.
- Under the cooperative plan, membership in the cooperative is for sale to persons or entities.
- In October 2013 the Brandons submitted a homestead application for property in the ownership name of Little Norway Resort Cooperative Association.
- The residential unit the Brandons occupy is the manager's/caretaker's residence and is not one of the 21 units identified in the Little Norway Resort Cooperative Association Declaration.

Questions:

1. **Does the residential structure occupied by the Brandons qualify for homestead?**

   It would appear that the Brandons would qualify for homestead because they are members/shareholders of the Little Norway Resort Cooperative Association (LNRCA) and occupy a unit under that ownership as their principle place of residence. From the information provided, the Brandons occupied the property before Dec 1st and submitted application to the county assessor before Dec 15th.

2. **If yes, what land area is to be extracted from the commons area of Little Norway Resort Association and attached to the residence?**

   The value of the common area is divided among the units. Each unit gets equal share of the value of the common elements.

3. **If the Brandons qualify for homestead on this residential structure, do the remaining seventeen units of Little Norway Resort Cooperative Association that have not been sold qualify for the Ma & Pa (1c) Resort Classification?**

   Yes, the unsold units may qualify for 1c classification. However, there must always be three or more rental units to qualify for 1c. If the property no longer qualifies for 1c, then the unit occupied by the Brandons could not be homestead due to ownership as a corporation and the fact that it is not a resort (it can only get homestead if it is a resort).

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

January 7, 2014

Allison Plummer
Cook County
Assistant County Assessor
allison.plummer@co.cook.mn.us

Dear Ms. Plummer:

Thank you for submitting your question to the Property Tax Division regarding the 1c "Ma and Pa Resort" classification. You have provided the following scenario and question.

Scenario:
The owner of a resort purchased a private residence adjacent to the resort. The resort owner homesteaded that residence, and the residence they previously homestead on the resort property became non-homestead and available for rent. The current homestead residence that is adjacent to the resort is owned by the owners in their individual names. However, the resort is owned by an entity.

Question:
Does the resort property qualify for 1c Ma & Pa Resort classification? Or, because the owners' homestead is titled differently (even if it is adjacent to the resort), is the property ineligible?

Answer:
In order for the resort property to qualify for 1c classification, the owners of the resort must include a portion used as a homestead by the owner of the resort. In the scenario you have outlined, the owners do not use a portion of the resort as their homestead. Rather, their homestead is located on a parcel under different ownership.

Because the resort owners do not homestead property that is part of the resort, the resort itself is ineligible for 1c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

April 23, 2014

Allison Plummer
Assistant County Assessor
Cook County Assessor's Office
allison.plummer@co.cook.mn.us

Dear Ms. Plummer:

Thank you for submitting your question to the Property Tax Division regarding the proper classification of a property located in your county. You have provided the following scenario and questions.

Scenario:

- An LLC owns a Ma & Pa resort where a husband and wife have claimed homestead.
- The husband is a member of the LLC along with a business partner.
- The wife is not listed as a member of the LLC.
- The husband is switching his residency to a different state for business, while the wife will continue to reside in the home.

Question 1:
Can the wife claim homestead on the property owned by the LLC?

Answer:
Since the property is owned by the LLC, one of the shareholders must reside in the home for the property to be eligible to receive a homestead. In the scenario you have outlined, a member/shareholder of the entity does not use a portion of the resort as the homestead. Rather, the qualifying person's wife uses a portion as her homestead. The property does not qualify for homestead.

Question 2:
Can the property receive the 1c "Ma & Pa Resort" classification since the wife is not listed as a member of the LLC that owns the resort?

Answer:
In order for the resort property to qualify for 1c Ma & Pa Resort classification, the property must include a portion used as a homestead by the owner of the resort (including a member of an entity that owns the resort). Since the resort owner does not qualify to homestead the property, the resort itself is ineligible for the 1c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Emily Hagen, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 22, 2015

Amy Rausch
Property Tax Compliance Officer
Minnesota Department of Revenue
amy.rausch@state.mn.us

Dear Amy:

Thank you for submitting your question to the Property Tax Division regarding classification of a resort property.

Scenario:

- A resort property is owned by The Lodge at Sugar Lake, Inc.
- The resort consists of a lodge, 6 cottages, pool, beach, golf course, tennis courts, marina, gift shop, restaurant, and conference center.
- Most of the resort and amenities are open May through September (sometimes starting Mid-April and/or ending in October).
- The owners of the resort live in a parcel that is contiguous to the resort's golf course; their home is in their individual ownership (not the same owner as the resort).

Question 1: What are the appropriate classifications of the property?

Answer 1: There are likely multiple classifications of this property.

- Rental units used for resort purposes (and that meet seasonal resort purposes) may be classified as 4c(1) commercial seasonal residential recreational.
- Any units that are used more than seasonally are likely class 3a commercial, unless they are leased to someone as a permanent residence.
- The beach area, marina, pool, etc. may also be classified with the resort.
- The conference and gift center are class 3a commercial.
- Based on its use, the restaurant may qualify for class 4c(10), seasonal restaurant on a lake, if all qualifications for that classification are met.

Question 2: Why are the restaurant, gift shop, and conference center not classified as a resort?

Answer 2: Minnesota Statutes, section 273.13, subdivision 25, paragraph (d), clause (1) specifies that the following uses do not qualify for the resort classification:

1. Restaurant
2. Bar
3. Gift shop
4. Conference center or meeting room
5. Other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreational purposes

Because those uses do not qualify for class 4c(1), they must be classified according to their actual use, which is likely commercial for the conference center, commercial or restaurant on a lake for the restaurant, and commercial or residential non-homestead for units that do not meet the resort classification requirements.

Question 3: Can the property be classified as 1c Ma & Pa Resort?

Answer 3: Under the current use, it may not. The resort would need to be occupied by the resort owner (which may include a member of the corporation, as it is owned by the corporation).

In this case, the owners (members) live in a property under different ownership. Even though it is contiguous to the resort property, it is not under the same owner and may not be linked to the resort.

Similar Ma & Pa resort properties either have the owner/s living on the resort, or have their homestead titled in the same name as the resort, even if it is on a separate-but-contiguous parcel. For example, if the home they occupy were titled in the same name as the corporation, the property may qualify for Ma & Pa Resort (provided all other resort requirements are met).

Please note that, even if classified as a Ma & Pa resort, Minnesota Statutes, section 273.13, subdivision 22, paragraph (c) still specifies that restaurants, bars, gift shops, etc. do not qualify for the Ma & Pa Resort classification.

We recommend referring to the Property Tax Administrators' Manual, *Module 3 – Classification of Property* for more information. If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6091
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

November 19, 2015

Doug Walvatne
Otter Tail County Assessor
dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question

Scenario:

- A parcel is owned by an entity in Otter Tail County and it is currently classified as 4c(1**)** Seasonal Residential Recreational**.**
- One of the shareholders has inquired about moving a travel trailer on to the parcel and establishing that as his primary residence to receive the homestead status on the parcel.
- The shareholders would like to be eligible for the 1c classification.
- The parcel meets all of the other requirements for the 1c classification with the exception of the homestead

Question: Does owning and occupying a licensed travel trailer meet the homestead requirement of the 1c classification?

Answer: Yes, if a shareholder is occupying a travel trailer as their primary residence, then this property may be eligible for the Ma & Pa classification. Since the travel trailer is licensed, it would not be considered an improvement to the property, but in order for the property to receive homestead the travel trailer must be occupied as a dwelling unit and meet the homestead requirements in Minnesota Statute 273.124.

The property owner must be able to verify that the travel trailer is used as a primary residences (for example, the address is used on the owner's driver's license, the owner is registered to vote at the address, etc.).

If homestead is falsely claimed, penalties may also be assessed as allowed under statute.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

MINNESOTA · REVENUE

February 1, 2016

Douglas Walvatne
Otter Tail County Assessor
DWalvatn@co.ottertail.mn.us

Dear Mr. Walvatne:

Thank you for submitting your question to the Property Tax Division regarding linking parcels. You have provided the following scenario and question:

Scenario:

- A Ma & Pa resort consists of 14 parcels for the 2015 assessment, each of which has a cabin located upon it.
- Two of the 14 parcels were sold in the year 2014 and one was sold in 2015.
- The two that were sold in 2014 were reclassified as 4c(12) for the 2015 assessment and the one that has sold in 2015 will be reclassified as 4c(12) for the 2016 assessment.
- The owner has inquired about whether you could move the linkage order of Unit 1 and Unit 2 upward to receive the first tier tax rate for the 1(c) classification.
- Otter Tail County equated the methodology for this type of linkage to agricultural homesteads where parcels that are in the closest location to where the homestead is located are linked.

Question: Can the property owner decide the order of linking his property?

Answer: No; as a matter of policy, the Department of Revenue recommends that all linked parcels be linked in the order of their contiguity (the most contiguous parcel should be linked to the base parcel first, the next most contiguous second, etc.). In cases where two parcels are equally contiguous, the parcel with the greatest value is linked before the lesser-valued parcel.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Ricardo Perez
State Program Administrator
Property Tax
Phone: 651-556-4753
Email: proptax.questions@state.mn.us

December 13, 2016

Keith Albertsen
Douglas County Assessor
keith@co.douglas.mn.us

Dear Mr. Albertsen:

Thank you for submitting your question to the Property Tax Division regarding the homesteading of a resort. You have provided the following scenario and question:

Scenario:

- There is a resort located in your county.
- The resort resides on a single parcel.
- The resort is owned by an LLC.
- The sole shareholder of the LLC lives on an adjoining parcel in a home that is owned by the individual.
- The sole shareholder's daughter and son-in-law will be living on and managing the resort.

Question 1: What percentage of ownership in the LLC that owns the resort is necessary to grant the shareholders, the daughter and son-in-law, homestead?

Answer: When granting homestead status to entity-owned resort properties, there is no minimum ownership requirement. The law only requires that the individual be a "qualified person" (a shareholder, member, or partner) in an authorized entity. If the daughter and son-in-law become members/shareholders of the entity and they use a portion of the resort as a homestead, then all requirements will be met and homestead can be granted. Please note that all other requirements must be met to qualify for the 1c Ma & Pa Resort classification.

Question 2: Can the adjoining parcel owned by the individual be linked to the resort property which is owned by the LLC for homestead purposes?

Answer: Homestead status cannot be extended to the resort since it is owned by the LLC and the parcel where the homestead residence is located is owned by the resort owner as an individual. Since the two parcels are not owned by the same individual or entity, the resort parcel cannot be granted class 1c status in the scenario you have described.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Information and Education Section
Property Tax Division

01/12/2017

Keith Albertsen
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertsen,

Thank you for submitting your question to the Property Tax Division regarding Class 1c Ma and Pa Resorts. You have provided the following scenario and questions:

Scenario:

- Two parcels owned and operated by the property holder are abutting a body of water.
- One parcel includes the owner's home titled to his name.
- The other adjoining parcel is in an LLC with the property owner as member.
- The resort is a newly built five unit building abutting the owners residence.
- The resort offers many recreational activities including: two pedal boats, two motorized fishing boats, two steel docks, and two aluminum docks designated for boat launching and fishing.

Question: Does the 250 day rule include the number of days offered for rent or actually rented?

Answer: The 250 day rule is in reference to the number of days physically occupied or rented. To qualify for the Ma & Pa classification, this property must be devoted to a temporary and seasonal residential ***occupancy for recreational purposes***, but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. To fulfill this requirement, the property must not be occupied/rented for more than 250 days annually. Owners of real property desiring classification as 1c must submit a declaration to the assessor's office and provide guest registers or other records, by January 15 of the assessment year, that show which cabins or units were occupied for 250 days or less in the year preceding the assessment year.

Question: Do the 4c classification recreational requirements apply to the 1c classification?

Answer: No, 4c recreational activities requirements do not apply to the 1c Ma and Pa Resort classification. While it is clear that recreational activities must be provided, there is no direction or specific guidelines regarding the amount of recreational activities to fulfill the 1c statute requirements. Please note, according to statute, classification of property is ultimately up to the assessor, we recommend that the county have a policy in place on whether a resort offers enough recreational activities to qualify for the 1c classification. I have attached a resort bulletin sent in November of 2009 with additional information.

Finally, please note that for a property to receive the 1c Ma and Pa Resort classification, the homestead parcel and the resort parcel must be owned by the same person/entity. Therefore, the LLC must own the homestead parcel the home is on or the individual owner must own the resort parcel.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Kristine Moody

State Program Administrator Sr.
Property Tax Division
Information & Education
Phone: 651-556-6091

February 15, 2017

Doug Walvatne
Ottertail County Assessor
Dwalvatn@co.ottertail.mn.us

Dear Mr. Walvatne,

Thank you for submitting your question to the Property Tax Division regarding the correct classification of a resort that recently underwent expansion. You have provided the following scenario and question:

Scenario:

- An established resort recently constructed a lodge that includes a restaurant and gift shop.
- The entire resort, including the lodge, is currently classified as class 1c Ma and Pa Resort.
- The owner claims that 95% of the revenue generated by the lodge is from resort guest only, although the owner advertises that the lodge is open to everyone.

Question: What is the correct classification for the lodge?

Answer: According to Minn. Stat. 273.13, subdivision 22, paragraph c, restaurants, bars, gift shops, conference centers, and other nonresidential facilities not related to temporary or seasonal residential occupancy for recreational purposes do not qualify for the 1c classification. Since all property must be classified by its use, the resort would need to be split-classified to accommodate the recent construction.

The lodge, which includes a restaurant and gift shop, should be classified 3a commercial since it does not meet the requirements for 1c classification. The original resort property could continue to be classified as 1c Ma and Pa Resort, assuming recent construction has not altered it in a manner that it no longer qualifies.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Gary Martin
State Program Administrator
Property Tax Division
Information & Education
Phone: 651-556-6091

June 8, 2018

Bonnie Lay
Pope County Assessor's Office
bonnie.lay@co.pope.mn.us

Dear Ms. Lay,

Thank you for submitting your question to the Property Tax Division regarding 1c classification. You have provided the following scenario and question:

Scenario:

- There is a 1c homesteaded resort located in Pope County, owned by an ETAL.
- The resort is operated from a contiguous parcel that is owned and homesteaded by an individual.
- The individual is a member of the ETAL.

Question: Do the separate parcels qualify for the 1c resort classification since the homesteaded property is owned by an individual and not the ETAL?

Answer: Assuming the ETAL in this scenario is referring to an entity owned property, the resort would not qualify for the 1c classification. In accordance with Minnesota Statute 273.13, subdivision 22(c), in order for a resort property to qualify for 1c classification, the resort must include the homestead of the owner. Although the owner(s) of the homesteaded property are members of the ETAL, the ownership of the resort and homesteaded properties are separate and distinct. For this reason the resort is ineligible for 1c classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 17, 2018

Tina Deidrich-Von Eschen
Kanabec County Assessor's Office
tina.voneschen@co.kanabec.mn.us

Dear Ms. Von Eschen,

Thank you for submitting your question to the Property Tax Division regarding class 4c(1) seasonal residential recreational commercial property. You have provided the following scenario and question:

Scenario:

- A property contains 117 seasonal RV sites leased May 1 – September 30
- Leases include membership in the gated community
- Leases are paid for in four installments due on the 15th of September, November, February, and April
- 17 sites are available for weekend rentals
- The property is in close proximity to a lake, but does not abut public water or a state trail
- The property owner has proposed offering rental boats or ice fishing houses for members to rent in order to qualify for class 4c(1)

Question One: Would having boats or ice fishing houses available for members to rent enable the property to qualify for 4c(1)?

Answer: In order to qualify for class 4c(1), there must be recreational activities provided by the operator of the property onsite. The recreational activities listed in statute are: *renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; providing marina services, launch services, or guide services; or selling bait and fishing tackle.* Assuming the county has determined that the property meets this requirement then it may be appropriate to classify the property 4c(1) if all other requirements are met. However, it has been noted that the property is operated from May to September so it is unclear who would be renting the ice fishing houses when the members are no longer using the property on a regular basis. If during that time the rental would be purely from the public and not resort guests the rental of ice houses may not be a qualifying activity for the 4c(1) classification. Also, if resort guests are using the ice houses outside of the lease months, it is important to receive documentation to determine the rental unit is not used for more than 250 days in the previous year. If it is determined that units exceed the 250 day limit those units would be classified as 3a.

Question Two: Statute requires 40% of annual gross lodging receipts to be from business conducted during 90 consecutive days. Does that require them to collect payment during that period of operation, or can the quarterly payments made outside the 90 day season be used to meet this criteria?

Answer: Statute specifies that "at least 40% of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days." Statute does not state that payment of those receipts must also occur during that time. The department would interpret the situation you have described as meeting the intent of the statute as long as 40% or more of the annual gross receipts were "earned" during the 90 consecutive days.

Question Three: Does leasing 60% of the sites for the five month season satisfy the requirement that 60% of all paid bookings during the year must be for at least two consecutive nights?

Answer: Seasonal leases would be considered bookings for consecutive nights for the duration of the five month season. Statute states that reservations over five days shall be treated as two bookings. It would be up to the property owner to demonstrate to the assessor that these bookings from the leases represent at least 60% of the paid bookings for the **entire year**.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 19, 2018

Bonnie Lay
Pope County Assessor's Office
bonnie.lay@co.pope.mn.us

Dear Ms. Lay,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Entity A owns a golf course with a clubhouse and several seasonally rented cabins
- The golf course is currently classified 4c(2)
- The clubhouse is currently classified 3a
- Entity B owns an adjoining property containing a 1c homesteaded resort
- The member of Entity A and Entity B is the same person
- The homesteaded resort rents out the cabins, owned by Entity A, as part of the resort

Question One: Can the rental cabins owned by Entity A be combined with the homesteaded resort?

Answer: No. As you point out the properties are owned by separate entities therefore the cabins cannot be linked to the homesteaded resort owned by Entity B.

Question Two: Assuming all other requirements are met can the cabins be classified as 4c(1)?

Answer: It is important to remember that the requirements for 4c(1) must be met under Entity A, since the cabins are owned by Entity A. Therefore, if all requirements are met, then the cabins *may* qualify. However, statute defines the "recreational activities" that would qualify a property for the 4c(1) classification as:

- *renting ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; providing marina services, launch services, or guide services; or selling bait and fishing tackle.*

Therefore, a golf course would not be a qualifying recreational activity that would meet the requirement for the 4c(1) classification. The county would need to determine if there are other recreational activities being offered and operated by the ownership entity to meet the recreational activities requirement.

If the recreational activities requirement is met, then all other requirements must also be met for the cabins to qualify for 4c(1). When verifying if the other requirements are met, the county must be sure that those requirements are from business conducted by Entity A. Any business being conducted by Entity B would not qualify.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

October 4, 2019

Ginger Buitenwerf
Hubbard County Assessor's Office
ginger.buitenwerf@co.hubbard.mn.us

Dear Ms. Buitenwerf,

Thank you for submitting your question to the Property Tax Division regarding class 1c homesteaded resorts. You have provided the following scenario and question:

Scenario:

- A property is currently classified as 4c(1) Seasonal Residential Recreation Commercial (resort)
- The resort property does not abut public water
- The resort is owned by individuals
- The resort rents out more than three units for less than 250 days
- The resort provides recreational activities
- The owner also owns five units in a contiguous Common Interest Community property (CIC) and rents one of the units as part of the 4c(1) resort
- The common area of the CIC abuts the public water
- The common area of the CIC property is used for access to the lake by the 4c(1) resort

Question: Does the 4c(1) seasonal residential recreational commercial resort qualify for the 1c homesteaded resort classification?

Answer: No. Statute requires that a homesteaded resort must abut public waters. Although the units in the CIC allow **access** to public water, this access is via the common area of the CIC which is under different ownership than the 4c(1) resort. The parcels within the CIC that are under common ownership with the 4c(1) resort do not abut the public water as required by statute. It is our opinion that a partial ownership interest in the common area does not equal the necessary common ownership between the 4c(1) resort parcel and the parcel abutting public waters.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

December 19, 2019

Jason McCaslin
Jackson County Assessor's Office
jason.mccaslin@co.jackson.mn.us

Dear Mr. McCaslin,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- There is a 122.60 acre parcel located in the county that contains multiple uses.
- 20 acres of the parcel are used as a campground.
    - The campground is located on a lake and operates less than 250 days a year. The campground contains 180 rental units, 9 cabins, and 171 camper pads that are equipped with individual water and electrical hookups for recreational vehicles
    - The owner provides recreational services to the campers including the selling of bait and tackle, boat rentals, movie rentals, and a game room.
    - The campground is currently classified as 1c homesteaded resort because the owner occupies the property.
- 79.45 acres of the parcel are tillable acres and qualify for the agricultural classification.
- The property owner also resides on this parcel, therefore the HGA and the tillable acres (79.45) are classified as 2a, agricultural homestead.

Question: Does the HGA have to be classified as 1a residential homestead for the campground portion to qualify for the 1c homesteaded resort classification?

Answer: Yes, Minnesota Statute 273.13, subdivision 22(c) outlines the requirements for a property to qualify for the 1c classification. The statute states "the portion of the property used as a homestead is class 1a property under paragraph (a)" which implies that the homestead portion must be classified as 1a residential homestead.

Therefore, the HGA on this parcel must be classified as 1a residential homestead for the campground to qualify for the 1c homestead resort classification. If the HGA is classification changes to 1a residential homestead then the agricultural land would need to be reviewed for special agricultural homestead. If the requirements for special agricultural homestead are not met, then the agricultural land would need to be classified as agricultural non-homestead.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section
Property Tax Division
Phone: 651-556-6922

January 8, 2020

Robert Thompson
Cook County Assessor's Office
bob.thompson@co.cook.mn.us

Dear Mr. Thompson,

Thank you for submitting your question to the Property Tax Division regarding class 4c(1) resorts. You have provided the following scenario and question:

Scenario:

- A Common Interest Community (CIC) resort contains 100 short-term rental units
- The majority of the units are under individual/private ownership
- A single on-site resort manages the majority of the rental units
- The resort would otherwise meet the requirements for 4c(1):
    - Provides recreational activities
    - 40 percent of gross annual lodging receipts were from 90 consecutive days of business
    - 60 percent of all bookings were for two or more consecutive nights

Question: Should the individually-owned units be classified as 4c(1) seasonal residential recreational commercial resort?

Answer: In order to qualify for 4c(1), separately-owned units must be looked at individually in terms of all of the requirements listed in statute. Although the units in the CIC allow access to common areas and carry some amount of interest in the property, the common elements of the CIC are under different ownership than any individually-owned unit. Statute requires that a 4c(1) seasonal commercial resort contain three or more rental units, and "*the **business located on the property** must provide recreational activities* (emphasis added)." It is not clear the property in question, i.e. an individually-owned single unit, is providing those required activities on the property, rather it is the CIC resort that provides the recreational activities. Also, if they are single, individually-owned units, they would not meet the minimum unit threshold. Therefore based on the information provided, the individually-owned units do not clearly meet the requirements for 4c(1).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

February 1, 2024

Heather,

Thank you for contacting the Property Tax Division regarding 1C homestead resort classification. You provided us with the follow scenario and question.

Scenario:

- A resort is made up of parcels owned by two separate LLC's.
- The LLCs each have the same ownership.
- LLC A abuts public water and meets the qualifications of 1C -Homestead Resort.
- LLC B is comprised of a common interest and separate individual units/parcels but does not abut public water.

Question: Should LLC B be treated the same or separate as it does not appear to qualify independently under the 1C homestead resort classification?

Answer: Based on the information provided, LLC B would not qualify for 1c – Homestead resort. Although in some situation's parcels owned by different LLCs with the same ownership may qualify, each parcel must meet the qualifications for the 1c classification. From the information provided, LLC B does not appear to meet the basic requirements of 1C homestead resort classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

August 23, 2024

Dear Heather,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario 1:

- A resort property is owned by an entity and consists of six parcels.
- The resort was classified 1c – Homestead Resort as one of the members occupied a home on one of the parcels since 2001 per a homestead application submitted in 2012.
- Previously one parcel had been owned by a member of the entity and the residential structure was used for adult foster care. Since 2017 that parcel has been owned by the entity and resort uses are now part of the land. The structure continues to provide adult foster care, the parcel was split classified.
- In assessment year 2023 the 1c – Homestead classification was removed due to the entity not returning the required declaration and documentation.
- A homestead application submitted in 2024 states the homestead owners have lived in the home providing adult foster care since 2002. These homestead applications have resulted in overlapping dates of occupancy for each home.

Question: Since a qualifying member of the entity resided on the resort property regardless of the issues related to the homestead applications, should the resort be classified 1c – Homestead Resort?

Answer: The property would not qualify for the 1c – Homestead Resort classification for the current assessment year. Minnesota Statutes 273.13, Subdivision 22(c) requires the owner to submit a declaration to the assessor's office and provide guest registers or other records by January 15 of the assessment year. This information must show which cabins or units were occupied for 250 days or less in the year preceding the assessment year. This is a statutory requirement that cannot be waived by the assessor. As this was not done, the property would not qualify for the current assessment year but could potentially qualify for the 2025 assessment if the required information is filed in a timely manner.

Regarding the inconsistencies with the application, a homestead application is a legal document with penalties for knowingly providing false information. Inconsistencies or false statements should be referred to the county attorney for resolution.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,
Information & Education Section

Property Tax Division
Phone: 651-556-6922

November 15, 2024

Stacy,

Thank you for contacting the Property Tax Division regarding 4c(1) seasonal recreational resort. You provided us with the follow scenario and question.

Scenario:

- A property has a 4c(1) seasonal recreational resort.
- The owners recorded plats and created a Community Interest Company (CIC).
- Plats include 22 separate lots and a common area.
- All the platted lots are available for individual sale.

Question: Does the property still qualify for 4c(1)? If not, when does the classification change?

Answer: In order to continue to qualify for the 4c(1) classification, each of the separately-owned units must be looked at individually to determine if they continue to meet all listed requirements in statute. Statute requires that a 4c(1) seasonal commercial resort contain three or more rental units, and "the business located on the property must provide recreational activities." By selling individual lots to private individuals, the property owner threatens to lose the minimum unit threshold. The resort property would be eligible to continue receiving the 4c(1) classification until it ceases to meet the three unit threshold or the other requirements for 4c(1).

Once a lot is sold to a private individual, the unit would no longer be meeting the requirements for 4c(1), and would therefore need to be classified according to use, likely as 4c(12).

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

Seasonal Residential Recreational Non-Commercial

September 8, 2005

Bonnie Alsleben
Todd County Assessor's Office
Courthouse
221 1st Avenue South
Long Prairie, Minnesota 56347

Dear Ms. Alsleben:

Thank you for your email regarding homesteading a seasonal residential recreational property. You stated that Arlene, Judy, and Daniel own a seasonal residential recreational property in Todd County. Arlene is Judy's mother and Judy and Daniel are husband and wife. The property in question consists of a mobile home and a two-story cabin. Arlene will be occupying the property. Judy and Daniel reside in Andover, Minnesota. You have asked if Arlene is eligible for a homestead on the seasonal residential recreational property.

Minnesota Statute 273.124, subdivision 1, paragraph (c), states in part:

> *"property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner will not be reclassified as a homestead unless it is occupied as a homestead by the owner"*

Based on the information you provided, Arlene may be entitled to receive homestead on her ownership interest (1/3) if she occupies the property as her principle residence and makes proper application with any necessary documentation to the county assessor.

If you have any further questions, please direct them to proptax.questions@state.mn.us.

Sincerely,

MELISA REDISKE, Appraiser
Information and Education Section
Property Tax Division
Phone (651) 556-6092
Fax (651) 556-3128
E-mail: melisa.rediske@state.mn.us

September 10, 2007

Bob Anderson
Meeker County Assessor
Meeker County Courthouse
325 Sibley Ave.
Litchfield, MN 55355

Dear Mr. Anderson,

I am responding to your August 2 email asking our opinion about the correct classification of a property that is currently classified as seasonal residential recreational. As we understand the facts, the property is owned by three brothers and the wife of one of the brothers. The property has been used only on a seasonal basis. If one of the brothers moves into the home and uses it as his principal residence, what is the appropriate classification?

In our opinion, if one of the owners occupies the property as a homestead, the classification changes from seasonal residential recreational to residential. The brother owns one-third of the property and is eligible for a one-third homestead. The other two-thirds would be classed as 4b (1) property, not SRR. The property is not eligible for a full homestead (one-third regular homestead, two-thirds relative homestead) because it has been classified as SRR and only the portion occupied as a homestead by an owner can be qualified as homestead.

We believe that class 4b (1) is most appropriate for the non-homestead portion of the property. Since the property is not going to be used seasonally, the SRR class no longer fits. We acknowledge that Minnesota Statutes, section 273.13, subdivision 25, contains language that is difficult to interpret as we deal with property that was once classified as SRR. As we see it, the non-homestead portion of a property once classified as SRR must be either 4b or 4bb and both are problematic. We conclude that class 4b (1) is the most logical.

You mentioned that the brother who may move into this home already has a homestead property within 50 miles of the subject property. If he claims the Meeker County property as his homestead while his wife remains in St. Cloud, he will lose one-half of the homestead benefits on the St. Cloud property and cannot claim any homestead benefits on the Meeker County property. Please make sure that he is aware of that fact. We are currently working on a bulletin that will cover homestead benefits when spouses live apart.

If you have other questions, please contact us at proptax.questions@state.mn.us.

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

April 12, 2010

Pat Stotz
Mille Lacs County Assessor
pat.stotz@co.mmille-lacs.mn.us

Dear Ms. Stotz:

Thank you for your question concerning the homestead classification. You have presented us with the following scenario:

> A husband and wife jointly owned a seasonal property with the husband's parents. The husband's parents' names have been removed from the property and the husband and wife are now inquiring as to whether or not the change in ownership interest is enough to qualify their son for a relative homestead if he moved there. You informed them that because they owned the property (partial-interest) when it was classified as seasonal recreational that it was not eligible for homestead.

You have asked the following questions concerning this scenario:

Would the property be eligible for the residential non-homestead classification if the son lived there?
The property would be eligible for class 4b non-homestead if your review of the property indicates that the property is actually being used as a residence and not for temporary and seasonal occupancy for recreational purposes. It does not qualify for class 4bb because the law states that property that has been classified as seasonal recreational residential at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

Would the property be eligible for the residential non-homestead classification if one spouse occupied the property and the other spouse lived in the metro?
The property would be eligible for class 4b non-homestead if your review of the property indicates that the property is actually being used as a residence and not for temporary and seasonal occupancy for recreational purposes. It may not be classified as 4bb because the law states that property that has been classified as seasonal recreational residential at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

Also, please note that the law states that property that has been classified as seasonal recreational residential at any time during which it has been owned by the current owner will not be reclassified as homestead *unless* it is occupied by the owner/s. Therefore, if one of the parents occupies the property as the principal place of residence there may be the potential for the property to receive a partial (50 percent) homestead classification, or a full homestead classification if one of the requirements in Minnesota Statutes 273.124, subdivision 1, paragraph (e) is met.

If you have any other questions or concerns please direct them to proptax.questions@state.mn.us.

Sincerely,

Drew Imes, State Program Administrator
Information Education Section
Property Tax Division

MINNESOTA ▪ REVENUE

February 22, 2012

Jo Dooley
Wadena County Assessor's Office
dooleyjo@co.wadena.mn.us

Dear Ms. Dooley,

Thank you for your recent question to the Property Tax Division regarding classification. You have outlined the following scenario: An 85-acre parcel was classified as seasonal residential recreational (SRR) and rural vacant land. The parcel is listed under Marvin and (daughter) Dawn. Marvin and his wife have moved on to the property and plan to occupy it as their homestead. You have asked, since this parcel was SRR, can Marvin homestead it as an owner or would the parcel only qualify for a partial homestead?

Minnesota Statutes, section 273.124, subdivision 1, paragraph (c), which outlines residential relative homesteads, states:

"…Property that has been classified as seasonal residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner will not be reclassified as a homestead unless it is occupied as a homestead by the owner; this prohibition also applies to property that, in the absence of this paragraph, would have been classified as seasonal residential recreational property at the time when the residence was constructed. Neither the related occupant nor the owner of the property may claim a property tax refund under chapter 290A for a homestead occupied by a relative [emphasis added]…"

In other words, since only one owner plans to move onto the property and occupy it as his homestead, you are correct that this parcel would only qualify for a partial homestead. The correct classification for this parcel would be ½ owner-occupied homestead and ½ non-homestead.

If you have any additional questions, please do not hesitate to contact our division via email at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

June 5, 2013 *Edited 2/24/2021*

Val Svor
Kandiyohi County Assessor's Office
Val_S@co.kandiyohi.mn.us

Dear Ms. Svor,

Thank you for your recent email regarding seasonal recreational property located within your county. I apologize for the delay in response. You provided us with the following information:

- There is a property in your county that is located on a lake
- The property is rented out all summer
- A 2 day minimum policy is in place for the people that choose to rent the property
- There are weekly rates available
- The property is currently being classified as Seasonal Residential Recreational

You would like to know if the classification is correct and, if not, how the property should be classified.

It appears this property could qualify for 4b(1) as short-term residential rental property assuming each property meets the following requirements:

- Rented for periods of less than 30 consecutive days
- Containing fewer than four units
- Rented for more than 14 days in the preceding year
- Non-homesteaded

This property does not qualify for the commercial Seasonal Residential Recreational (resort) classification because it does not have three or more rental units, and there are no recreational activities provided

Please note that our opinion is based solely on the information provided. If any of the facts are misinterpreted, or if any of the facts change, our opinion is subject to change as well. If you have any additional questions or concerns please feel free to contact our division us at proptax.questions@state.mn.us.
Sincerely,

JESSI GLANCEY
State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

October 23, 2013

Penny Vikre
Cass County Assessor's Office
penny.vikre@co.cass.mn.us

Dear Ms. Vikre,

Thank you for submitting your question to the Property Tax Division regarding residential homestead.

Scenario:

- A property is owned by son and mom and was not previously occupied by either.
- The property was classified as seasonal residential recreational (SRR).
- The son moved in and applied for homestead.
- The property is currently receiving a 50% owner occupied homestead and the other 50% is classified as a residential non-homestead because it was previously classified as Seasonal Residential Recreational (SRR).

Question:

Could/should the other 50% be relative homestead since it was once seasonal?

Answer:

The 50% of the property that is owned by the mother could not receive a relative homestead because the property has been classified as SRR. Once a property is classified as SRR, the property cannot receive a residential relative homestead. It appears that the property is currently receiving the correct classification as described above.

If you have any additional questions or concerns please feel free to contact our division at proptax.questions@state.mn.us.

Sincerely,

JESSI GLANCEY, State Program Administrator
Information and Education Section
Property Tax Division

MINNESOTA · REVENUE

September 22, 2015

Karen McClellan
Kanabec County Assessor's Office
karen.mcclellan@co.kanabec.mn.us

Dear Ms. McClellan:

Thank you for submitting your question to the Property Tax Division regarding classification of a property.

Scenario:

- A property is classified as 4c(12) non-commercial seasonal residential recreational (SRR).
- The property used to have a manufactured home on the land.
- The manufactured home was removed and the owners built a house.
- The owners' son will occupy the home.

Question: Because the old manufactured home has been removed and a residence was built, can the property be classified as residential relative homestead?

Answer: No, the property may not be classified as relative homestead. Simply changing the structure does not allow the property to receive a relative homestead in this case. The property as a whole was previously classified as SRR under current ownership.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Andrea Fish
Supervisor, Information & Education Section
Property Tax Division
Phone: (651) 556-6340
Email: proptax.questions@state.mn.us

September 6, 2017

Kevin Scheidecker
Otter Tail County Assessor's Office
kscheide@co.ottertail.mn.us

Dear Mr. Scheidecker,

Thank you for submitting your question to the Property Tax Division regarding seasonal residential recreational property classification. You have provided the following scenario and question:

Scenario:

- The county classified property as seasonal residential recreational property.
- The owner appealed this classification and requested the opinion from the Department of Revenue.
- The parcel is 9.9 acres on a lake.
- The parcel has a dwelling that was classified as agricultural homestead until 2015, when the structure was vacated.
- In 2015 the owners placed the 9.9 acre parcel into trust and formed a farm partnership.
- In 2015 the owners became North Dakota residents and the parcel was reclassified as agricultural non-homestead.
- The lake parcel was changed from agricultural non-homestead classification to seasonal residential recreational.
- The property owner currently lives in an RV in ND, owns land, votes, and has a ND drivers licenses.
- The dwelling is occasionally used for family gatherings and holidays, and is not rented nor used by anyone but the owner.

Question: Is the proper classification of this property seasonal residential recreational?

Answer: According to the information provided it appears the proper classification of this property is seasonal residential recreational. Residential property is real estate used as a primary residence for homestead purposes and it appears that this property is not being used as a principal place of residency; therefore it would not qualify for a residential non-homestead classification. Classification of a property is ultimately up to the assessor and should be determined based on the use of the property.

Please refer to the Property Tax Administrators Manual, Module 3 – Classification for additional information on classification.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

May 3, 2018

Tina VonEschen
Kanabec County Assessor's Office
Tina.VonEschen@co.kanabec.mn.us

Dear Ms. VonEschen,

Thank you for submitting your question to the Property Tax Division regarding split classification for a hunting shack. You have provided the following scenario and question:

Scenario:

- There is a house on the 80 acre parcel receiving owner-occupied homestead.
- Approximately 11.3 acres are tillable and classified agricultural (2a) homestead; the remaining 66.7 acres are rural vacant (2b) land.
- There is a structure used as a hunting shack (less than 300 square feet) on the parcel.
- There appears to be electricity, LP tanks and an outhouse near the structure.
- In 2018 assessment the county has split-classified the structure as seasonal recreational 4c(12).

Question:

How should a "hunting shack" on agricultural 2a and rural vacant 2b property be classified?

Answer:

Based on the information given, the 10 acres and structure should be classified as seasonal recreational property 4c(12) and keep the remaining land classified as rural vacant 2b and agricultural 2a. To determine if property should be classified as rural vacant 2b land, it needs to be determined if the improvements made to the property are minor and ancillary. The Department of Revenue has defined minor ancillary structures as sheds or other primitive structures, the aggregate size of which are less than 300 square feet that add minimal value not used residentially with the exception of occasional overnight use for hunting or other outdoor activities.

If it is determined that the structure is used on more than an occasional basis, or if the building site provides water, sewer, or electrical hook ups for residential purposes, the property must be split classed according to the use of the property. Based on the information given, it does not appear that the structure is minor or ancillary and appropriate classification is 4c(12).

The opinion is based solely on information provided and the facts provided. If any of the facts of the situation were to change, our opinion is subject to change as well.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6091

DEPARTMENT OF REVENUE

September 19, 2023

Dear Janet,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- A property owner owns two contiguous parcels.
- Both are classified as 4c(12) Seasonal Residential Recreational Non-Commercial.

Question: Should the two parcels be "linked" and taxed as one or taxed individually?

Answer: Both parcels should have their net taxed capacity calculated and be taxed separately. Minnesota Statute 273.13 Subd. 4(c)12 states that:

"each parcel of noncommercial seasonal residential recreational property under clause (12) has the same classification rates as class 4bb property."

There is no language in M.S. 273.13 that states that 4(c)12 properties should be "linked" for classification rates or tiers. This indicates that each parcel of 4(c)12 properties should be considered individually and be given a classification rate of one percent on the first $500,000 of market value and 1.25 percent on the market value over $500,000.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922

DEPARTMENT OF REVENUE

October 15, 2024

Dear Alyssa,

Thank you for submitting your question to the Property Tax Division regarding classification. You have provided the following scenario and question:

Scenario:

- Two contiguous parcels are owned by the same owner
- Parcel A is three acres, parcel B is 40 acres
- The owner constructed a cabin for seasonal use on parcel A

Question: Because parcel A is under ten acres, should parcel B have a minimum of seven acres classified as 4(c)12?

Answer: No. With some exceptions, classification is based on the use of the **individual parcel**. Each parcel must be viewed independently and classified according to use. Because the parcel is less than 20 acres, parcel A must be entirely classified based on its use. This does not spill over to parcel B, even though it is contiguous and under the same ownership.

Please note that while parcel B is not required to be classified as 4(c)12 along with parcel A, it is not prohibited from being classified as such. If parcel B is used for seasonal recreational purposes (e.g. a dock, firepit, etc.) in conjunction with the cabin on parcel A, that land on parcel B should be classified accordingly. Because there is no structure on parcel B, there is no minimum acreage that would be required to be classified as 4(c)12 if this situation arose.

If you have any further questions, please contact our division at proptax.questions@state.mn.us.

Sincerely,

Information & Education Section
Property Tax Division
Phone: 651-556-6922