DEPARTMENT OF REVENUE

REVENUE CORRESPONDENCE:

General Assessment, Taxation, Appeals and Abatements

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 Modules 6-8 of the Property Tax Administrator's Manual.

Updated March 2024

DEPARTMENT OF REVENUE

Abatements

April 16, 2003

A. Keith Albertsen
Douglas County Assessor
Courthouse
305 8th Avenue West
Alexandria, Minnesota 56308

Dear Mr. Albertsen:

Sometime ago, you wrote and included a memo addressed to you from your county attorney. In that memo, the county attorney maintained that as the county assessor, your role in the abatement process is to approve all abatements as long as they are properly filed and meet the statutory limitations.

We disagree. In our opinion, for an abatement to be successful it requires affirmative action on the part of the county assessor, county auditor and county board of commissioners. The assessor's role in the abatement process is either to approve or deny abatement requests based upon the appropriateness of the abatement from an assessment perspective. If the assessor believes the abatement is inappropriate, he or she should deny the abatement application. The abatement would stop at the point of denial. Likewise if the county assessor approves the abatement but the county auditor denies it, the abatement would proceed no further. Only abatements that have been approved by both the county assessor and the county auditor reach the county board of commissioners for final action.

For background on this perspective, I am enclosing a copy of a letter on this subject from Department of Revenue Attorney Lance Staricha to Assistant Becker County Attorney Gretchen Thilmony. I trust that this letter, in conjunction with Mr. Staricha's letter, will satisfactorily clarify the assessor's role in the abatement process.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone: (651) 296-0336
e-mail: john.hagen@state.mn.us

C: Lance Staricha

November 20, 2003

Gordon McFaul
St. Louis County Auditor
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Mr. McFaul:

For some time, we have been trying to identify how best to cancel $6,660.60 in taxes owed against two lots in the city of Gilbert dating back to 1982. The St. Louis County Board of Commissioners favored abating the tax. However, their abatement authority in Minnesota Statute 375.192 was limited to abatements involving only the current and two prior tax years.

On April 22, 2003, the St. Louis County Board of Commissioners adopted a resolution recommending the Minnesota Commissioner of Revenue abate the tax against the Gilbert property. On April 28, 2003, Sam Aluni of Trenti Law Firm sent a request for abatement to the Commissioner along with the resolution from the St. Louis County Board of Commissioners.

It is unclear what happened to this original abatement request. On September 11, 2003, Mr. Aluni again wrote the commissioner providing a copy of the original correspondence and again requesting the commissioner abate the tax amount. This correspondence was forwarded to me. On September 23, 2003, I spoke to Mr. Aluni by telephone and informed him that, although the Commissioner of Revenue has the statutory authority to abate the tax, the commissioner has not exercised that authority since 1990 when the abatement authority was given to the counties. Additionally, even when the commissioner did exercise that authority, we can find no instance where abatements were ever granted for more than the current and two preceding tax years.

Following our conversation, Mr. Aluni contacted St. Louis County Assessor Mary Durward and relayed the Commissioner's unwillingness to act on the Gilbert abatement.

Shortly after Ms. Durward received Mr. Aluni's letter, you contacted me and urged us to rethink the Commissioner's policy on abatements. I assured you that I would relay your request to the proper authorities. On November 10, 2003, property tax division acting director Gordon Folkman, staff attorneys Harriet Sims and Lance Staricha, assistant commissioner Raymond Krause and I met to review the abatement policy of the Commissioner of Revenue. This is what we concluded:

The authority of the Commissioner of Revenue to abate, pursuant to Minnesota Statute 270.07 is a discretionary authority. This authority applies not only to property taxes but to all other forms of state taxes as well. We believe that the authority of the Commissioner of Revenue to act on property tax abatements is an important responsibility, and one that should be preserved. However, we are reluctant to grant abatements outside of the current plus two year authority that counties already have. This is particularly true when there are other options available.

(Continued…)

Since the Commissioner of Revenue has declined to exercise his discretionary authority to abate the tax on the city of Gilbert properties, we recommend you pursue one of the two following options:

1. If a tax judgment for the taxes has not yet been obtained, have the county proceed to list the property on the delinquent tax list they produce in 2004, and then the city would "file an answer" and object to those taxes under Minnesota Statute 279.15. The court would likely cancel the taxes since the property was exempt during each of the assessment years. (See also Minnesota Statute 279.19.)

2. If a tax judgment has been obtained but the property has not yet forfeited, the city should file a petition in court seeking to vacate the tax judgment under Minnesota Statute 279.22 on the basis that the property was not subject to taxation. This can be a "summary" (i.e., quick) proceeding.

We have concluded that, even though the Commissioner of Revenue has the authority to abate the tax, the commissioner would exercise that authority only as a last resort when there is no other option available for dealing with the situation.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone (651) 296-0336
e-mail: john.hagen@state.mn.us

C. Ray Krause, Assistant Commissioner
Harriet Sims, Attorney
Lance Staricha Attorney
Gordon Folkman, Acting Director
Deb Volkert, Assistant Director

November 24, 2003

Lori Schwendemann
Lac Qui Parle County Assessor
Courthouse
600 6th Street
Madison, Minnesota 56256

Dear Lori:

Your e-mail to John Hagen regarding economic development tax abatements has been forwarded to me for reply. Your e-mail outlined a situation where the Dawson EDA built two apartment buildings and made payments in lieu of tax. Now the Dawson EDA wants to sell the apartment buildings to Southwest Minnesota Housing Partnership. Southwest Minnesota Housing Partnership is asking for an economic development tax abatement that would phase in the property tax over a 10-year period. Your questions regarding the situation are as follows:

1. **Can economic development tax abatements be granted on existing buildings?**

   Answer: Yes, as long as the other requirements for economic development abatements are met.

2. **Can the city approve their own abatement if the county decides it does not want to approve the abatement?**

   Answer: Yes. They could approve it for the city's portion of the property taxes.

3. **Is there any other information that would be helpful?**

   Answer: Yes. There is a document available on our website that details the instructions for economic development tax abatements. The link to the document is:

   taxes.state.mn.us/taxes/property_tax_administrators/other_supporting_content/ecdvabate.shtml

If you have further questions, please contact our division.

Sincerely,

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

October 14, 2004

Robert Wagner, Polk County Assessor
Courthouse, 612 N. Broadway
Suite 201
Crookston, Minnesota 56716-1452

Dear Mr. Wagner:

In an email on October 5, 2004, you asked for a recommendation on how an abatement request should be handled. In that email you presented the following information:

> An individual purchased a property that was classed as a seasonal residential property, they moved into the property and occupied it as their homestead. However, they failed to make application for homestead. Consequently, they did not receive the homestead classification. The property owner sold the property on September 15, 2004, to a new owner who will be using the property seasonally. The original property owner now has made an application for abatement seeking to restore the homestead to the property for the year that they owned the property.

You asked if the abatement should be granted. As you know, abatements are discretionary which means that the county can either approve or deny the abatement at will and the decision cannot be appealed. Because abatements are discretionary, many assessors or county boards will not approve them in instances when the abatement results from the property owners failure to file for homestead.

A second issue that we have not been entirely able to resolve is whether the applicant has the legal standing to make application for abatement. The very first line in Minnesota Statute 375.192, the statute regulating abatement authority states:

"Upon written application by the owner of any property"

The fact that the applicant did not own the property at the time the abatement application was made causes us to question if they are even eligible make application for abatement. We spent a significant amount of time researching our files for a clarification of this issue. However, we were unable to find where we had ever addressed this question before and, since we knew that you wanted a timely response, we called an end to our search. In the absence of any information to the contrary, our preliminary determination would be that only the current owner of the property has the legal right to make application for abatement.

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 31, 2005

Marcy Barritt
Murray County Assessor
Courthouse
P.O. Box 57
2500 28th Street
Slayton, Minnesota 56172-0057

Dear Ms. Barritt:

Thank you for your question regarding local option abatements.

Your county granted abatements for residential and commercial properties after the Lake Wilson explosion. You asked for clarification on levying back the lost tax dollars for the county portion as well as the city and school district. You also asked if you would have to refund the state tax portion on the commercial properties.

Minnesota Statutes, Section 273.123, Subdivision 7, states in part:

> *"…The county board may levy in the following year the amount of tax dollars lost to the county government as a result of the reductions granted pursuant to this subdivision."*

Local option abatements are handled by the county. Since the decision to approve or deny a local option abatement is at the discretion of the county, it is our opinion that only the county loses tax dollars when a reduction in property tax is granted to a property taxpayer. Since the county does not reduce city, school or state tax dollars when granting a local option abatement, the lost tax dollars would not need to be apportioned back to the other taxing jurisdictions.

If you have other questions, please contact our division.

Regards,

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

July 5, 2007

Kim Mills
Dodge County Assessor's Office
County Courthouse
22 E 6th Street – Dept 44
Mantorville, MN 55955-2205

Dear Kim:

Thank you for your recent inquiry; it has been forwarded to me for a reply. In your e-mail, you asked if the Social Security number field is required on abatement forms that are completed and presented to the County Board for approval.

Social Security numbers are specifically required as part of the abatement application by Minnesota Statutes 375.192, subdivision 2. It states, in part, "…*The application must include the Social Security number of the applicant*…" This subdivision goes on to say, "... *The county auditor shall submit a form containing the Social Security number of the applicant and such other information the commissioner prescribes* …"

The Social Security number is a required field on any abatement application form. It will also need to be submitted to the Commissioner of Revenue as prescribed by law once the abatement is approved. Therefore, you will need to gather this information on the abatement application used by your office.

You noted that the abatement process requires approval by the County Board at its meeting, which is a public meeting. Your county scans the abatement applications and attaches them to the meeting's minutes, which are part of the public record. You are well aware that Social Security numbers are considered "private data" and need to be guarded. Your office can take any appropriate measures to guard this data; and your county likely has policies in place. As a recommendation, you could use the Department of Revenue's standard abatement forms, but prior to scanning and submitting them to the board, you could redact the Social Security number field on a copy while maintaining the original for your records and for state reporting purposes.

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

May 17, 2010

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

Dear Mr. Albertsen:

Thank you for your question concerning abatements. You have asked if the department has provided definitions of what clerical errors and hardships are for the purposes of Minnesota Statute 375.192.

"Clerical" errors are narrowly defined as errors made by someone doing the work of a clerk. These include math errors, transposition of numbers, keypunch errors, and coding errors. Clerical errors do NOT include errors of estimations or incorrect data used in making the estimations, such as an incorrect record of the actual square footage or the number of bathrooms. These errors would be "errors in judgment."

"Hardship" is more difficult to define. The Department of Revenue has encouraged the counties to develop their own written policies as to what constitutes a hardship. In the absence of a written hardship policy, auditors and assessors should defer to the county board to determine the existence of hardship on a case-by-case basis.

Concerning your specific questions, the omission of a porch or having a difference in opinion about what constitutes a one-story house versus a one-and-a-half story house would not be considered clerical errors.

The information above comes from the departments Auditor/Treasurer manual which you can find on our website:
http://www.taxes.state.mn.us/taxes/property_tax_administrators/other_supporting_content/atmanual.shtml

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 15, 2010

Brandon Larson
St. Louis County Assessor's Office
larsonb@co.st-louis.mn.us

Dear Mr. Larson:

Thank you for your question concerning the abatement or removal of erroneous special assessments. You have a situation in which a Sewer District placed a special assessment on a property incorrectly and would now like to remove the special assessment. You have asked if the special assessment can be removed and if so, how many years can you go back to remove it.

Per our phone discussion on 11/09/10, the Property Tax Division's Auditor Treasurer Manual states that a special assessment abatement form prescribed by the Department of Revenue must be completed. This is incorrect. This section of the manual is based on outdated information and will be updated to reflect the current abatement process, which is outlined below.

Minnesota Statute 375.192, subdivision 2, states that:

> *"the county board may consider and grant reductions or abatements on applications only as they relate to taxes payable in the current year and the two prior years; provided that reductions or abatements for the two prior years shall be considered or granted only for (i) clerical errors…"*
>
> *"No reduction, abatement, or refund of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of the municipality."*

Therefore, according to law, the board (county board, city board, town board, etc.) that oversees the district in which the property is located must approve the abatement of the special assessments. The abatement may only apply to the current year taxes, plus the two prior years' taxes.

The Department of Revenue no longer oversees the abatement of special assessments. Special assessments are better handled at a county or local jurisdiction level. As per the law above, the abatement of the special assessment must be approved by the board or similar taxing authority of the municipality in which the special assessment was made. We recommend discussing this issue with your county attorney to determine which board is the appropriate board to approve or deny the abatement.

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

Debbie Maresch
Carver County Assessor's Office
dmaresch@co.carver.mn.u

Dear Ms. Maresch,

Thank you for your question regarding abatement eligibility for a disabled individual. You provided us with the following question:

> *If a taxpayer is disabled, and the taxpayer does not file for the disabled classification because he or she is unaware of the verbiage on the application as far as the application deadline, could an abatement be approved? A taxpayer received a statement from Social Security Administration Retirement, Survivors, and Disability Insurance. Benefits started in July of 2010; the applicant was unaware of the property tax program that is available to taxpayers in the State. The application says "please return before October 1st". They made application on 3-11-2011.*

In other words, you have asked if it would be appropriate to grant a property tax abatement for the 2010 assessment year for the individual who may have qualified but did not apply until assessment year 2011.

In our opinion, granting an abatement for assessment year 2010 would be inappropriate. The October 1 deadline for filing class 1b blind/disabled homestead applications is statutory, and therefore not discretionary. We have consistently held that abatements are not appropriate in cases where a person has failed to meet the statutory application deadline, except for in cases of hardship. Although assessors should attempt to inform taxpayers of special program eligibility, it is ultimately the responsibility of the taxpayer to enroll in a special program.

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

Sincerely,

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

MINNESOTA ▪ REVENUE

October 28, 2011

Laurie Hein
Anoka County Assessor's Office
Laurie.Hein@co.anoka.mn.us

Dear Ms. Hein,

Thank you for your recent question to the Property Tax Division regarding delinquent property taxes for individuals who are on active duty with the United States Armed Forces. You have asked for information regarding ability to waive or abate property taxes or penalties for individuals on active duty.

An abatement of taxes is a possibility depending on the circumstances, as would be the case with any taxpayer. If a property owner has delinquent taxes subject to an interest penalty, however, the Servicemembers Civil Relief Act, Title V, provides the following:

> *"Whenever a servicemember does not pay a tax or assessment on property described in subsection (a) when due, the amount of the tax or assessment due and unpaid shall bear interest until paid at the rate of 6 percent per year. An additional penalty or interest shall not be incurred by reason of nonpayment. A lien for such unpaid tax or assessment may include interest under this subsection."*

"Property described in subsection (a)" includes:

> *"real property occupied for dwelling, professional, business, or agricultural purposes by a servicemember or the servicemember's dependents or employees--*
> *(A) before the servicemember's entry into military service; and*
> *(B) during the time the tax or assessment remains unpaid."*

In other words, the interest penalty on delinquent property taxes on real property as described above is limited to 6% per annum under the Servicemembers Civil Relief Act.

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

December 27, 2011

Sharon Mitchell
Taxation Supervisor
Carver County Taxpayer Services
Government Center - Administration Building
600 E 4th Street
Chaska, MN 55318-2102
smitchel@co.carver.mn.us

Dear Ms. Mitchell,

Thank you for your recent question to the Property Tax Division. It was forwarded to the Information and Education Section for research and response. You have outlined the following scenario: A property was classified as seasonal residential recreational for the 2010 assessment (for taxes payable in 2011). The taxpayers have asked your county to process an abatement in order to change the 2010 classification from seasonal to residential homestead. However, if you process the requested abatement, it would result in an increase in property taxes due to referendum market value (RMV) based taxes. You believe you recall guidance from the Department of Revenue that abatements cannot be granted that increase the taxes on a property, and therefore you have asked for our advice and opinion.

By their very definition, abatements are a reduction in taxes. You are correct that abatements cannot result in increased taxes. Additionally, homestead is a fact situation that must have been established by December 1, 2010 and an application made by December 15, 2010 for the property to be classified as homestead for taxes payable in 2011. If the facts for homestead were not established by that time, the property is not properly classified as homestead property for taxes payable in 2011.

For the property to currently be homestead, homestead must have been established by December 1 and application must have been made by December 15, 2011 for taxes payable in 2012. An abatement of the payable 2011 taxes is not justified, nor is it properly applied as it would increase the owner's property taxes.

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

June 8, 2012

Nancy Gunderson
Moorhead City Assessor's Office
nancy.gunderson@ci.moorhead.mn.us

Dear Ms. Gunderson,

Thank you for your recent question to the Property Tax Division. You have provided us with the following information:

> You were recently notified that the city of Moorhead has a mobile home co-op that surpassed 50% occupancy of lots by shareholders in late November 2011. The co-op is asking for an abatement for taxes payable in 2012. You have asked, will they qualify for this abatement or would it be a classification change for assessment 2013? You are also asking our opinion on whether you need to verify the 50% occupancy by requesting mobile home homestead applications from the parties noted prior to changing the classification for 2012, pay 2013.

Our suggestion would be to treat this as a homestead situation. Since the co-op surpassed 50% occupancy of lots by shareholders before December 15, 2011 those shareholders would qualify for a mid-year homestead. While this question also results in a classification change for the mobile home co-op, we would still recommend changing the classification after the assessment date, as may also be done for other properties that experience a classification change due to granting homestead (e.g. 4b to 1a, 1a to 1b, 4c to 1c, etc.). Since the mid-year homestead was not granted in 2011 then the abatement for pay 2012 should be granted.

We would strongly recommend that you request homestead applications from the co-op shareholders so that you can make a determination that the park co-op is eligible for homestead treatment and the resultant 4c(5)(ii) classification. As the assessor you have the right to request documentation from the shareholders to prove they are eligible for the homestead treatment.

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

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August 24, 2012

Lana Anderson
St. Louis County Assessor's Office
andersonl3@stlouiscountymn.gov

Dear Ms. Anderson,

Thank you for your question concerning abatement forms. You have asked if the department has an abatement form specifically for homestead abatements. You have also asked several other questions which are answered in turn below.

Is there an abatement form specifically for homesteads?
Yes, the department has made an application for abatement for homestead property. The application is attached as part of this correspondence. This application has not been updated in recent years but it is still usable.

Does anyone from Revenue ever audit or review the abatements for any reason?
Abatements for the current year and two previous assessment years are made at the discretion of the county. However, the department does receive notification of all abatements granted at the county level per Minnesota Statute 375.192:

> *"The county auditor shall notify the commissioner of revenue of all abatements resulting from the erroneous classification of real property, for tax purposes, as nonhomestead property. For the abatements relating to the current year's tax processed through June 30, the auditor shall notify the commissioner on or before July 31 of that same year of all abatement applications granted. For the abatements relating to the current year's tax processed after June 30 through the balance of the year, the auditor shall notify the commissioner on or before the following January 31 of all applications granted. The county auditor shall submit a form containing the Social Security number of the applicant and such other information the commissioner prescribes."*

Do you require that counties use the form you provide or are we allowed to have a "*version*" of it that we use?
In cases where statute orders the department to prescribe an application, we do not allow the counties to make changes to the content of the form (other than adding the county name and contact information). In cases where statute does not order the department to prescribe the form, but the department has designed and distributed the form for the convenience of the counties, we encourage the counties to make only minimal changes in order to maintain consistency and uniformity across the state.

Minnesota Statute does not prescribe the department to create the abatement forms. However, we do strongly recommend that only minimal changes to the content of the forms are made in order to maintain statewide uniformity.

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

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October 29, 2012

Connie J. Erickson
Yellow Medicine County Assessor
415 9th Avenue, Suite 102
Granite Falls, MN 56241
connie.erickson@co.ym.mn.gov

Dear Ms. Erickson:

Thank you for your recent question to the Property Tax Division regarding court-ordered detachments of agricultural land from a city to a township. You have asked for effective dates of these orders (in cases where the court order does not specify an effective date).

We discussed your question with our Auditor/Treasurer section, as well as referring to the *Auditor/Treasurer Manual*. We have determined that the appropriate action would be to treat the detachment similarly to an annexation. As outlined in the *Auditor/Treasurer Manual*, if this detachment (or annexation, as described in the manual) occurred prior to August 1, the township would levy taxes in the following payable year. If the detachment from the city happened after August 1, the city would levy taxes for the following payable year.

The Auditor/Treasurer manual is available on the Department of Revenue website via the following link: http://www.revenue.state.mn.us/local_gov/prop_tax_admin/Pages/Manuals-and-Education.aspx. If you have any additional questions, please do not hesitate to contact the Information and Education section via email at proptax.questions@state.mn.us.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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December 20, 2012

Lori Grams
Aitkin County Treasurer
lgrams@co.aitkin.mn.us

Dear Ms. Grams:

Thank you for your question concerning the reimbursement of overpaid taxes. Due to an abatement, a taxpayer in your county has now overpaid the amount of tax due. You have asked if you the reimbursement should be paid to the taxpayer listed for the property or if you need to verify who sent you the check and reimburse them. We discussed your question with our Auditor/Treasurer section, as well as our attorney.

There is no statute that specifically addresses this issue. Some counties have written policies concerning the repayment of taxes. However, if your county does not have a written policy, it is our opinion that you should, to whatever extent possible, make the payment to the person who paid the property taxes (i.e. the person who wrote the check). If it is not possible to pay the person who wrote the check, then the payment should be made to the person listed on the property tax statement.

You have also asked if there is a parcel with multiple owners do you need to list all the owner names on the check or just the first name listed on the tax record. Again, some counties have written policies concerning these types of issues. If however, you county does not, it is our opinion that the person who paid the taxes or who is listed on the property tax statement should receive the payment. It is not necessary to list all of the owners on the check. It is the responsibility of the owners to determine how the payment is distributed.

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

January 29, 2013

Sherri Kitchenmaster
Property Tax Compliance Office
sherri.kitchenmaster@state.mn.us

Dear Ms. Kitchenmaster:

Thank you for relaying the concerns of the Nobles County assessor, Joe Udermann, about an assisted living facility in Adrian, MN that was previously exempt and became taxable. The property was sold to a taxable entity in 2011 and the taxable status wasn't changed in the county records before the valuation notices went out in the spring of 2012. Consequently, the owners did not receive a valuation notice because the property was, erroneously, still coded as exempt. The county changed the property to taxable in October 2012 as *commercial property*; however, it should have been changed to taxable as *4a apartments* which would provide a reduced total property tax. The Truth in Taxation notice has now been sent and the new owner is saying they cannot afford the taxes due; they budgeted for $30,000 and the tax due, based on the incorrect classification as commercial, is around $120,000. The county has now reviewed the property and determined that the value for the property is too high and needs to be changed, but the value for the 2012 assessment was already set.

You have asked if there is anything that can be done, other than an abatement, to address the value and incorrect taxes at this point.

As you know, the fact they did not receive a valuation notice does not affect the value or classification of the property. Property that is omitted or undervalued must be added to the tax rolls in accordance with Minnesota Statute 273.02, subdivision 1:

> *"If any real or personal property be omitted in the assessment of any year or years, and the property thereby escape taxation, or if any real property be undervalued by reason of failure to take into consideration the existence of buildings or improvements thereon, or be erroneously classified as a homestead, when such omission, undervaluation or erroneous classification is discovered the county auditor shall in the case of omitted property enter such property on the assessment and tax books for the year or years omitted, and in the case of property undervalued by reason of failure to take into consideration the existence of buildings or improvements thereon, or property erroneously classified as a homestead, shall correct the net tax capacity or classification thereof on the assessment and tax books and shall assess the property, and extend against the same on the tax list for the current year all arrearage of taxes properly accruing against it, including therein, in the case of personal property taxes, interest thereon at the rate of seven percent per annum from the time such taxes would have become delinquent, when the omission was caused by the failure of the owner to list the same. If any tax on any property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, undervaluation by reason of failure to take into consideration the existence of buildings or improvements, erroneous classification as a homestead, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year."*

Therefore, the county is obligated to place the property on the tax rolls for the 2012 assessment, taxes payable in 2013. However, the options to reconcile the mistakes are limited at this point in time. The county can abate the value and/or classification or the taxpayer can appeal to tax court. If the taxpayer

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appeals to tax court, the county may consider, for public relation purposes, stipulating to the revised value and/or classification (thus avoiding the actual trial when both parties are in agreement.). If the county and taxpayer cannot agree on the appropriate valuation and/or classification of the property, the taxpayer can file in tax court and see what the judge decides is an appropriate value and classification for the property.

Although an abatement of taxes may pose certain administrative problems, we suggest the county abate the value and/or classification if the county finds that the valuation and classification of the property are indeed incorrect.

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

April 11, 2013

Beverly Johnson
Polk County Assessor's Office
beverly.johnson@co.polk.mn.us

Dear Ms. Johnson:

Thank you for submitting your question to the Property Tax Division regarding an abatement situation in your county. You have provided the following:

A taxpayer who had qualified for the veterans' exclusion for several years did not return his application for taxes payable 2013. The taxpayer stated that he sent it, but the application was not received for this year's taxes so he did not receive the exclusion. The taxpayer called the Department of Revenue and claims that someone suggested that your county grant an abatement for this year. You are under the impression that you are not allowed to grant abatements for the veterans' exclusion and would like clarification.

Ultimately, the decision to grant the abatement in this situation is up to the discretion of the County. An abatement for the current taxes-payable year may be granted for virtually any reason, however abatements for the prior two years' should be limited to cases of clerical errors or when the taxpayer has failed to file for a reduction or adjustment due to a hardship, as determined by the county board.

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 14, 2013

Kelly Princivalli
Carver County Assessor's Office
600 East Fourth Street
Chaska, MN 55318-2102
kprincivalli@co.carver.mn.us

Dear Kelly:

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

Scenario:
A few years ago, you were at a conference and had heard that some counties have a processing fee for abatements. You have asked if this is correct and if there is a way to charge a processing fee for filing for abatements.

Answer:
While Minnesota Statutes, section 375.192 does not specifically *preclude* a fee from being collected with abatement applications, a fee does seem contrary to the intent of the law. Because all applications for abatement must be reviewed by the County (whether they are approved or not), it would seem contrary to the law that a fee be charged. What if someone was unable to pay the fee, for example? The application would still need to be considered regardless. It is our opinion that a practice of charging fees to file abatement applications is not a good best practice.

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 24, 2014

Faye Lien
Kandiyohi County Assessor's Office
Faye_L@co.kandiyohi.mn.us

Dear Ms. Lien:

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

Scenario: You received a call from a homeowner who purchased a home in 2011. The homeowner has just now realized that they could claim homestead. You have sent the homeowner a homestead application and told them they would now qualify for a midyear homestead.

Question: You have asked if/how a person could file for abatement for the scenario above.

Answer: Counties have the authority to grant abatements under Minnesota Statutes, section 375.192. Current law only allows counties to grant abatements related to taxes payable in the current year and the two previous years. Current-year abatements can be used to correct virtually any type of valuation or classification issue. However, abatements for the two previous years are limited to instances where a clerical error was made or the taxpayer failed to file for a reduction or an adjustment due to hardship based on the taxpayer's ability to file for property tax relief, e.g. homestead classification.

From the scenario provided it appears the homeowner has not applied for homestead since the time of purchase and there has not been a clerical error by the county. It is not clear that there was a hardship preventing the homeowner from filing for homestead. The Minnesota Department of Revenue is in the opinion that it is not appropriate to grant an abatement in a situation where a property owner has failed to file for homestead. The onus is on the taxpayer to apply for homestead. However, it may be suitable to review your county's abatement policy regarding approval of homestead abatements.

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

April 6, 2016

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

Dear Ms. Lund:

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

Scenario:

- Two brothers and a cousin own farm land together.
- They each are entitled to their own agricultural first-tier value limit because their individually-owned homesteads are established at 100% ownership.
- In the county's tax system, all parcels were under one owner's linkage so only one owner received their agricultural first-tier value limit for their land, not each owner.
- This error has been corrected.

Question 1:
Would this be considered a clerical error and qualify for an abatement of the current year and two prior years?

Answer 1:
Yes, the error would be considered a "clerical" error and would qualify for an abatement of the current year taxes and two prior years. We are assuming the owners in this case qualify to receive their own first tier value limit by meeting statutory requirements.

We have stated "clerical" errors are narrowly defined as errors made by someone doing the work of a clerk. These include math errors, transposition of numbers, keypunch errors and coding errors. Remember, clerical errors do NOT include errors of estimations or incorrect data used in making the estimations. These errors would be "errors in judgment."

Question 2:
Does the County Board have the option to choose to grant the abatement for the two prior years, or is it mandatory that a clerical error must be granted?

Answer 2:
Yes, the County Board has the authority to grant or deny the abatement. If they grant the abatement, they can choose how many years to abate, however, they can't go back more than the two previous years. Only abatements approved by both the County Assessor and County Auditor should be heard by the County Board for final approval or denial.

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 20, 2018

Jeffery Johnson
Sterns 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 the local option disaster abatement. You have provided the following scenario and question:

Scenario:

- A fire destroyed the attached garage and two-story portion of a homesteaded property in February of 2018.
- The total square footage loss of the home exceeded 50%.
- The owner continues to reside in a portion of the property.

Question: Should the abatement request, filed in accordance with Minnesota Statute 273.1233, be denied since the homeowner still resides on the property?

Answer: Minnesota Statute 273.1233, subdivision 2(b) explains how the abatement should be calculated when a property is destroyed but not located in a disaster area. The formula that used in a local option disaster abatement is as follows:

$$\left(\begin{array}{c}\textbf{Net Tax}\\ \text{(as computed using the market value established}\\ \text{January 2 of the year of the destruction)}\end{array} - \begin{array}{c}\textbf{Net Tax}\\ \text{(as computed using the reassessed market}\\ \text{value established after the destruction)}\end{array}\right) \times \frac{\text{\# of full months the property was not usable}}{12}$$

MN Statute does not use the term "uninhabitable", instead statute uses "unusable". In the past, statute did reference "uninhabitable", but that was changed to "unusable" during the 2007 legislative session. Since the law change it has been our interpretation that the structure must be at least 50% damaged and that portion of the structure is unusable. We feel the intention behind this law is to allow property owners to still occupy, if they are able, however at least 50% of the structure must be damaged and unusable. In the scenario you provided, it appears that you have determined that over 50% of the structure was damaged and the portion of the property that is damaged is unusable. We feel that the local option disaster abatement in this example may be approved, at the discretion of the county board.

Please be sure to also consider other disaster relief such as local option disaster credit and the homestead disaster credit. Both of these credits are used for property taxes payable in the following year of the disaster. Keep in mind, they need to apply for the local option disaster credit by the end of this year. We encourage the county to educate the property owner on the disaster relief options that are available to them.

Finally, in any event, the local option abatements and credits are just options for the property owner. The county board may choose to approve, deny, or only approve a portion of a local option abatement or credit. Because of this, each application has to be considered independently based upon its own merits. The decision to approve or deny a local option abatement or credit is at the discretion of the county board.

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

Assessment Practices & Assessor Duties

May 8, 2003

Adeline Olson
Pennington County Assessor
Courthouse
101 N. Main
P.O. Box 616
Thief River Falls, Minnesota 56701

Dear Adeline:

You have asked for a clarification of local assessor duties and responsibilities. Specifically, you have asked for a clarification of the division of duties between the local and county assessor and if the county has the authority to raise the values that are presented by the local assessor if the county assessor feels that the values are too low.

Yes, the county assessor has the authority to do so. In fact, we would argue that the county assessor has an **obligation** to do so. Statutory support for this is found in several statutes. Minnesota Statute 273.061, subdivision 7, states in part that:

> *"The duty of the duly appointed local assessor shall be to view and appraise the value of all property as provided by law, but all the book work shall be done by the county assessor, or the assessor's assistants, and the value of all property subject to assessment and taxation shall be determined by the county assessor…"*

The first four statutory duties assigned to county assessors in Minnesota Statute 273.061, subdivision 8 involve local assessors. It states in part that:

> *"The county assessor shall have the following powers and duties:*
>
> *(1) To call upon and confer with the township and city assessors in the county and advise and give them the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real property in the county will be attained.*
> *(2) To assist and instruct the local assessors in the preparation and proper use of land maps and record cards, in the property classification of real and personal property and in the determination of property standards of value.*
> *(3) To keep the local assessors in the county advised of all changes in assessment laws and all instructions which the assessor receives from the commissioner of revenue relations to their duties.*
> *(4) To have the authority to require the attendance of groups of local assessors at sectional meetings called by the assessor for the purpose of giving them further assistance and instruction as to their duties."*

Furthermore, Minnesota Statute 273.064, EXAMINATION OF LOCAL ASSESSOR'S WORK; COMPLETION OF ASSESSMENTS, states that:

> *"The county assessor shall examine the assessment appraisal records of each local assessor anytime after December 1 of each year and shall immediately give notice in writing to the governing body of said district of any deficiencies in the assessment procedures with respect to the quantity of or quality of the work done as of that date and indicating corrective measures to be undertaken and effected by the local assessor not later than 30 days thereafter. If, upon reexamination of such records at that time, the deficiencies noted in the written notice previously given have not been substantially corrected to the end that a timely and uniform assessment of all real property in the county will be attained, then the county assessor with the approval of the county board shall collect the necessary records from the local assessor and complete the assessment or employ others to complete the assessment. When the county assessor has completed the assessments, the local assessor shall thereafter resume the assessment function within the district. In this circumstance the cost of completing the assessment shall be charged against the assessment district involved. The county auditor shall certify the costs thus incurred to the appropriate governing body not later than August 1 and if unpaid as of September 1 of the assessment year, the county auditor shall levy a tax upon the taxable property of said assessment district sufficient to pay such costs. The amount so collected shall be credited to the general revenue fund of the county."* (underline added)

In conclusion, it is certainly within your authority to increase a local assessor's values if you find them to be too low. The seriousness of a local assessor not performing their duties properly cannot be understated. If a property is not assessed properly, they are not paying their fair share of property tax. For the property tax to have any semblance of fairness, all property owners must be treated in a like manner. If you have further questions or concerns, please contact our division.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division

Mail Station 3340
St. Paul, MN 55146-3340

Fax: (651) 297-2166
Phone (651) 296-0335
e-mail: stephanie.nyhus@state.mn.us

September 21, 2006

Steve Behrenbrinker
St. Cloud City Assessor
City Hall
400 2nd Street South
St. Cloud, MN 56301

Dear Steve:

Thank you for your question regarding the definition of "new construction." I apologize for the lateness of this response. You provided the following example:

> *An old garage is valued at $5,000. It is torn down and a new garage is built which is valued at $15,000.*
>
> ***First interpretation**: New construction is $15,000 (any value added for construction that occurred from the previous assessment).*
>
> ***Second interpretation**: New construction amount is $10,000 ($15,000 value of new garage minus $5,000 value of old garage) (any <u>additional</u> value added for construction that occurred from the previous assessment).*

You have asked which is the correct "new construction" amount and why.

In our opinion, for consistency purposes, you would subtract any destruction first, and then add the new construction value (i.e. gross). Rationale: You have two lots side by side - one lot is bare and the other has an existing house. New houses are constructed on both lots (the existing house on the one lot is demolished). If the net increase in value is reported as new construction, the lot that had the existing house could be subject to limited market value (LMV) and property tax refund (PTR), while the bare lot would not. It doesn't seem fair (new construction should not be eligible for LMV or PTR). Your garage scenario is parallel to this example.

In conclusion, the new construction amount should be the "gross" amount of value, not the "net" amount.

If you have further questions or concerns, 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

June 4, 2007

Ms. Beverly Sullivan, CMA
Crow Wing County Assessor's Office
Courthouse
326 Laurel Street
Brainerd, MN 56401

Dear Ms. Sullivan,

Your May 17 email has been referred to me for response. This letter will confirm our telephone conversation on May 30.

We understand that an error was made in 2005 when entering the estimated market value (EMV) of a commercial property owned by Rohlfing of Brainerd, Inc. The EMV was entered as $69,200 and the correct EMV was $695,000. The error continued in 2006 when the EMV was entered as $72,500 rather than $700,000. You discovered the error this year.

You have asked whether Minnesota Statutes, section 273.02, would allow you to correct the errors, recalculate the taxes payable in 2006 and 2007 and add these additional taxes to the taxes already billed for 2007. In our opinion, section 273.02 is not applicable here, this error cannot be considered omitted property and you should not bill the property owner for the additional taxes.

Section 273.02 allows assessors to make corrections to prior years' assessments under very limited circumstances. If an assessor discovers:

1. a property that had been entirely omitted from a previous assessment;
2. a property that was undervalued because the assessor was unaware of improvements made to the property or new buildings on the property; or
3. a property that had been erroneously classified as homestead property,

the assessor can use section 273.02 to correct the assessment records, recalculate the taxes that should have been billed and add those additional taxes to the current year's tax bill.

As we understand the facts of this case, none of the three circumstances described above fit what happened here. The subject property was not "omitted" nor were buildings or improvements missed. This was an error in data entry and we know of no statutory authority to correct this error for previous assessment years.

We reviewed Minnesota Statutes, section 274.175. This section provides that assessors can make corrections to the assessment rolls after the boards of review only as provided in sections 273.01 and 274.01 which allow assessors to correct clerical errors and change homestead classifications until the tax extension date for the current assessment year. This means that you can correct the 2007 EMV, if you haven't already done so. If the original value notice sent to the property owner this year was still incorrect, we recommend that you immediately send a corrected notice and advise the property owner of their right to appeal the corrected value to the County Board of Appeal and Equalization.

(Continued…)

You asked about the December 1 reference in section 273.02. This does not come into play in this situation since this is not omitted property.

We, of course, recommend that you audit your current assessment as rigorously as possible to avoid these types of errors. We understand that you already do some auditing and we suggest that you review your procedures just to assure yourselves that the assessment is as correct as possible.

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

Sincerely,

DOROTHY A. MCCLUNG
Property Tax Division

March 10, 2008

Al Heim
39109 55th Ave
Sartell, MN 56377

Dear Mr. Heim,

Thank you for your question concerning the duties of assessors. You have asked if a county assessor can legally appraise a property (in their county) for right-of-way purposes.

Minnesota Statutes 270.41, subdivision 5, prohibits assessors from "making appraisals or analyses, accepting an appraisal assignment, or preparing an appraisal report… on any property within the assessment jurisdiction where the individual is employed or performing the duties of the assessor under contract."

However, the statute goes on to state that:

> *If a formal resolution has been adopted by the governing body of a governmental unit, which specifies the purposes for which such work will be done, this prohibition does not apply to appraisal activities undertaken on behalf of and at the request of the governmental unit that has employed or contracted with the individual. The resolution may only allow appraisal activities which are related to condemnations, right-of-way acquisitions, or special assessments.*

According to said statute, an assessor may legally appraise a property for right-of-way purposes if the appraisal is requested by the governing body of a governmental unit (County Board, etc.) and done on their behalf.

Please remember that this only applies when a formal resolution has been adopted by a governmental unit and that such appraisals can only be related to condemnations, right-of-way acquisitions, or special assessments.

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 21, 2009

Stephen Hacken
Winona County Assessor
Courthouse
171 West 3rd Street
Winona, Minnesota 55987

Dear Mr. Hacken,

Thank you for your recent questions to the property tax division. Your three questions are answered in turn below.

1. **What statute gives the assessor the right to value a property if the assessor is not allowed access?**

Answer: It is the assessor's duty to value all property. Minnesota Statutes, section 273.20 states:

> *"Any officer authorized by law to assess property for taxation may, when necessary to the proper performance of duties, enter any dwelling-house, building, or structure, and view the same and the property therein.*
>
> *Any officer authorized by law to assess property for ad valorem tax purposes shall have reasonable access to land and structures as necessary for the proper performance of their duties. A property owner may refuse to allow an assessor to inspect their property. This refusal by the property owner must be either verbal or expressly stated in a letter to the county assessor. If the assessor is denied access to view a property, the assessor is authorized to estimate the property's estimated market value by making assumptions believed appropriate concerning the property's finish and condition."*

Further, for local boards of appeal and equalization, Minnesota Statutes, section 274.01, subdivision 1, paragraph (b) states:

> *"The board may not make an individual market value adjustment or classification change that would benefit the property if the owner or other person having control over the property has refused the assessor access to inspect the property and the interior of any buildings or structures as provided in section 273.20."*

2. **Where in statute is 90-105%?**

Answer: We assume that you are asking about the 90-105 percent median sales ratio requirement. The assessor's statutory duty is to value all property at its estimated market value. The 90-105 percent median sales ratio guideline was developed by MAAO and the Department of Revenue, and is based off of IAAO standards. The median ratio standard is intended to measure the overall level of assessment in a given jurisdiction.

(Continued…)

3. Is a tax statement illegal if it does not say it is a bill?
Answer: Minnesota Statutes, section 276.04, subdivision 2 outlines the requirements for property tax statements. It is not a requirement that the statement specifically say "This is a bill." However, by including two payments stubs and supplying an address to remit such payments (one for each half of taxes), and by stating a payment due date, the intent of the statement appears quite clear that it is in fact a bill that requires payment. Furthermore, subdivision 3 of the same section states in part that "The validity of the tax shall not be affected by failure of the treasurer to mail the statement."

If you have any further questions, 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 2, 2009

Steve Hurni
Regional Representative
15085 Edgewood Road
Little Falls MN 56345

Dear Mr. Hurni,

Thank you for your recent question to the Property Tax Division. You have asked if counties are required to make copies for Realtors and whether they are allowed to charge fees if they are so required. In May of 2005, the Department of Revenue issued a memo regarding copies and fees, and it was advised in that memo that the Minnesota Information Policy Analysis Division website (http://www.ipad.state.mn.us/index.html) is the most comprehensive source for this type of information.

Minnesota Statutes, section 13.03, outlines access to government data. As you are aware, property tax information is public except for information which is specifically private by statute (such as individual Social Security numbers). In short, the statute outlines the following:

> *"The responsible authority or designee shall provide copies of public data upon request. If a person requests copies or electronic transmittal of the data to the person, the responsible authority may require the requesting person to pay the actual costs of searching for and retrieving government data, including the cost of employee time, and for making, certifying, and electronically transmitting the copies of the data or the data, but may not charge for separating public from not public data. However, if 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and instead, the responsible authority may charge no more than 25 cents for each page copied. If the responsible authority or designee is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible."*

We recommend reading the statute in its entirety for other specific information. 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

July 16, 2009

Jack C. Renick
Lake County Assessor
601 3rd Avenue
Two Harbors, MN 55616

Dear Mr. Renick:

Thank you for your question concerning the assessment of interval interests in community developments. You have presented us with the following situation:

> Originally, a parcel was created for each unit in the community and described as "Unit 1 and 2.44% of the Common Elements." Now, a unit has been split into eight interval interests each with its own parcel number described as: "Unit 1 and 2.44% of the Common Interests, Interval Interest 1-8."
>
> A whole unit sells for $400,000. An interval interest can sell for $65,000. Therefore, if eight interval interests are sold for $65,000 the value would be $520,000 even though the value as a single unit is $400,000.

You have asked if a sale of an interval interest should be considered a valid sale for sales ratio purposes.

It should be noted that an interval interest should not have its own parcel number. The parcel number should apply to the actual unit (e.g. Unit 1 and 2.44% of the common elements). Each unit should be assessed separately and receive a tax statement, not each interval interest. It is the responsibility of the developer to make certain that the taxes are paid; how the taxes are apportioned to the interval interest/timeshare owners is not the responsibility of the county. This was also outlined in a letter to you dated February 9, 2009.

It is our opinion that the sale of an interval interest would be considered a partial interest sale and should be rejected for sales ratio purposes. The sale of the actual unit may be considered a valid sale, but not the sale of interval interests.

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

2009311

August 20, 2009

Debra Davis
Chief Deputy Auditor/Treasurer
Itasca County Auditor/Treasurer's Office
Courthouse
123 NE 4th Street Room 202
Grand Rapids, Minnesota 55744-2600

Dear Ms. Davis,

Thank you for your recent question to the Property Tax Division. You have outlined the following scenario: Grand Rapids Township is in the process of being annexed into Grand Rapids City. The city is annexing the township in multiple phases. The last phase of annexation has an effective date of December 31, 2009. You have asked if you may proceed with annexation of parcels based on the information you have acquired from the City Attorney or if there is another option.

We do not recommend annexing any parcels before the actual action takes place. Any annexation after August 1 is not effective for the current assessment year. The township must levy for any parcels which are still part of the township after August 1. The city may not levy on the area annexed after August 1, 2009 until 2010. Minnesota Statutes, section 414.033 outlines laws concerning annexation, of which subdivision 12 concerns property taxes:

> *"Subd. 12.* ***Property taxes.***
> *When a municipality annexes land under subdivision 2, clause (2), (3), or (4), property taxes payable on the annexed land shall continue to be paid to the affected town or towns for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year."*

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

Sincerely,

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

MINNESOTA ▪ REVENUE

October 5, 2010

Mike Cebulla
Stearns County Assessor's Office
michael.cebulla@co.stearns.mn.us

Dear Mr. Cebulla,

Thank you for your email regarding notices of valuation and classification, which was forwarded to me for response. Your two questions are answered below.

1. Your value notices only print 3 property classifications. Is there a requirement on how many classifications need to be printed on the form?
Answer: The forms that the Department of Revenue has created allow space for four property classifications. In the event that a single parcel of property has five or more classifications, you may need to provide some sort of written addendum. We do not have additional space on the form due to statutory requirements to increase the size of this space for what we would assume to be a very limited number of properties.

2. Some properties are partially exempted. Do the estimated market values (EMVs) for both the taxable and exempt portions get listed, or is the EMV for the exempt portion not listed?
Answer: The EMV is the property value prior to any exemptions/exclusion. The full EMV should be listed, regardless of whether a portion of the property is taxable or exempt. The taxable market value (TMV) would, of course, reflect value that is exempt from property taxes. For example, a $200,000 property has a portion which is exempt. The exempt portion's EMV is $50,000. The value notice would show a full $200,000 EMV, but only the $150,000 TMV.

If you have any further questions regarding the Notice of Valuation and Classification, please contact 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

MINNESOTA · REVENUE

March 10, 2011

Wayne Anderson
Pope County Assessor
wayne.anderson@co.pope.mn.us

Dear Mr. Anderson:

Thank you for your email regarding a property in your county which was under-assessed for the 2010 assessment. It has been assigned to me for research and response. In your email, you indicated that your office recently became aware of "omitted" property in one of your jurisdictions. The property consists of approximately 117.31 total acres of which approximately 71 acres are tilled. The land has always been assessed, but a permit was issued for new construction of a building in 2007. The information was not provided to your office by the township and the building therefore was not taxed for the 2008, 2009, or 2010 assessments. Given the county policy for abatements of current year plus two prior years, you have asked if you should go back to correct the assessment for six years for the omitted property.

The situation you have outlined is not an abatement issue. Value cannot be "abated" onto the tax rolls. Nor is the property "omitted" as it is not escaping all forms of taxation (you indicated the land is being taxed). Rather this property has been undervalued due to the failure to take into account new improvements since you were unaware a building permit was issued on the property. You can, however, correct the 2010 assessment for taxes payable in 2011 under Minnesota Statutes, section 273.02 which states in part that:

> *"…if any real property be undervalued by reason of failure to take into consideration the existence of buildings or improvements thereon, or be erroneously classified as a homestead, when such omission, undervaluation or erroneous classification is discovered the county auditor shall … in the case of property undervalued by reason of failure to take into consideration the existence of buildings or improvements … shall correct the net tax capacity or classification thereof on the assessment and tax books and shall assess the property, and extend against the same on the tax list for the current year all arrearage of taxes properly accruing against it, including therein, in the case of personal property taxes, interest thereon at the rate of seven percent per annum from the time such taxes would have become delinquent, when the omission was caused by the failure of the owner to list the same. If any tax on any property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, undervaluation by reason of failure to take into consideration the existence of buildings or improvements, erroneous classification as a homestead, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.*
>
> *...Nothing in subdivisions 1 to 3 shall authorize the county auditor to enter omitted property on the assessment and tax books more than six years after the assessment date of the year in which the property was originally assessed or should have been assessed and nothing in subdivisions 1 to 3 shall authorize the county auditor to correct the net tax capacity or classification of real property as herein provided more than one year after December 1 of the year in which the property was assessed or should have been assessed.*

(continued)

The Department of Revenue's Auditor/Treasurer Manual clarifies this provision:

"Real property assessments, which are undervalued by reason of omission of the value of buildings, or real property that was erroneously classified as homestead, should be corrected and taxes computed for addition to the current tax. However, the correction in this case cannot be made after December 1 of the year following the year in which the erroneous assessment was made."

Since you discovered the error in February 2011, you may add the value of the building to the assessment for the 2010 assessment for taxes payable in 2011, and certainly for the 2011 assessment (the current and previous years' assessments). We recommend you send the taxpayers a letter informing them of the situation and of their only appeal option for the 2010 valuation, which is to Minnesota Tax Court.

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

October 4, 2011

Larry Austin
Regional Representative
Property Tax Division
larry.austin@state.mn.us

Dear Mr. Austin,

Thank you for your recent question to the Property Tax Division regarding adding improvement value to properties during the assessment year after boards of appeal and equalization have adjourned. In St. Louis County, improvements were made to properties that should have been added to the tax rolls for the 2011 assessment year. Unfortunately, those improvements were missed by the local assessors. St. Louis County is looking for guidance as to how to add the improvement value going forward.

Minnesota Statutes, section 273.02, subdivision1 outlines the process for correcting undervalued properties. For any real property undervalued by failure to take into consideration improvements on the property, when the undervaluation is discovered, the County Auditor shall correct the net tax capacity on the assessment and tax books "and shall assess the property, and extend against the same on the tax list for the current year [i.e. current taxes payable year] all arrearage of taxes properly accruing against it." This subdivision continues:

> "*If any tax on any property liable to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, undervaluation by reason of failure to take into consideration the existence of buildings or improvements, erroneous classification as a homestead, or other cause, the amount of such tax which such property should have paid shall be added to the tax on such property for the current year.*"

Therefore, the 2012 taxes payable may be corrected by the auditor to reflect the amount that would have been due if the property had been valued including the new improvements that existed on January 2, 2011. The assessment rolls for the 2011 year may not, at this time, be changed by the assessor's office.

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

Sincerely,

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

MINNESOTA · REVENUE

June 11, 2012

Jodi Lindberg
Kanabec County Assessor's Office
jodi.lindberg@co.kanabec.mn.us

Dear Ms. Lindberg:

Thank you for your question to the Property Tax Division regarding a value change on a property in your county. A taxpayer applied for the 2c Managed Forest Land classification. He applied before May 1, 2012 but after his jurisdiction's local board of appeal and equalization. His forest plan shows that your land types were incorrect, and changing those codes to match the forest management plan would increase his property's value. You have asked if you should change the property's value for the 2012 assessment, or if you have to wait until the 2013 assessment.

Minnesota Statutes, section 274.01, subdivision 1 provides:

> *"No changes in valuation or classification which are intended to correct errors in judgment by the county assessor may be made by the county assessor after the [local] board has adjourned in those cities or towns that hold a local board of review; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after adjournment until the tax extension date for that assessment year."*

A valuation adjustment is considered a correction of an error in judgment rather than a clerical error. Therefore if you inform the property owner at least ten days prior to the County Board of Appeal and Equalization (CBAE) meeting, you may request that the CBAE adjust the value based on your new findings. If you do not appeal the value to the CBAE, the value may be changed for the 2013 assessment.

If you have any further questions, please contact us via proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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

Tel: 651-556-6091
Fax: 651-556-3128
TTY: Call 711 for Minnesota Relay
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MINNESOTA · REVENUE

August 29, 2012

Brad Averbeck
Property Tax Division
brad.averbeck@state.mn.us

Dear Mr. Averbeck:

Thank you for forwarding us a question from Peter Doll concerning the determination of market value. Mr. Doll has inquired as to what the proper methodology is to determine the market value in a specific Tax Court scenario. He refers to a Tax Court case in which he states, "The court indicated the taxpayer was entitled to both reductions; the limited market value was calculated first and [then] the sales ratio adjustment." Mr. Doll has asked if the same methodology should be used for a property subject to plat deferral: Should the plat deferral amount be calculated first and then apply the sales ratio adjustment?

In our opinion, both Limited Market Value (which is a form of value that is no longer applicable) and a plat deferral value should be calculated using the actual market value of the property or, in other words, the estimated market value. This means that the sales ratio adjustment, if warranted, should be applied first. Then, from the adjusted value (which should constitute the correct estimated market value), you can calculate the plat deferral value.

Please inform Mr. Doll of this opinion.

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

January 8, 2013

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

Dear Ms. Moreland:

Your question concerning whether or not an easement is sufficient to make two parcels contiguous has been forwarded to the Property Tax Division for reply. The scenario you have outlined is as follows:

> A person owns 120 acres contiguous to his home. He also owns another 40-acre parcel but it is separated by a 40-acre parcel owned by a different person. He has an easement across the intervening 40-acre parcel that he doesn't own in order to access the property he does own. Should the two parcels under his ownership be considered contiguous?

Although roads**,** streets, waterways, or other similar intervening property does not break up contiguity, it is our opinion that a parcel under separate ownership does. Furthermore, the easement would not make the two parcels under his ownership contiguous. An easement is not "real estate" or "real property" and does not make the two parcels contiguous for property tax purposes.

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

August 13, 2013

Tom Reineke
Property Tax Compliance Officer
Tom.ErnsteReineke@state.mn.

Dear Mr. Reineke:

Thank you for submitting your questions to the Property Tax Division regarding a township terminating the employment of a local assessor.

You have asked the following questions, which are answered in turn:

1. **What are the requirements of the township/county after termination?**

   The vacancy must be filled within 90 days. If the vacancy is not filled within 90 days, the office will be terminated. If the position is not filled, the county auditor will appoint a resident of the county as the township assessor. The county auditor may appoint the county assessor as assessor for the township, in which case the town will be billed for the services performed and expenses incurred by the county assessor in acting as assessor for the town.

2. **When does the 90 day time limit start?**

   The 90 day limit starts immediately after the local assessor's position has become vacant.

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 20, 2013

Angela Johnson
Carver County Assessor's Office
ajohnson@co.carver.mn.us

Dear Ms. Johnson,

Thank you for submitting your question to the Property Tax Division regarding electronic signatures on property tax forms.

Question:

Carver County is working with Data Bank, a vendor for e-signatures, for your contracts. Since we have provided you with fillable forms, you would like to know if this also gives you permission to use e-signatures on these forms as permitted signatures?

Answer:

After consulting with our legal staff, it is our opinion that electronic signatures are not an option for property tax applications. Under Minnesota Statute 645.44, subdivision 14, if a law requires a signature, that signature must be in writing (unless the person is unable to write). In order to allow electronic signatures, the law would have to be changed.

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

June 2, 2014

Luann Hagen
Hennepin County Assessor's Office
Luann.Hagen@hennepin.us

Dear Ms. Hagen:

Thank you for submitting your question to the Property Tax Division regarding electronic signatures on property tax forms, such as homestead applications, Green Acres, and other programs.

Questions:
Hennepin County's eGov initiative is underway and your office would like to allow for persons to file electronically for homestead, Green Acres, and other programs administered by the assessor. You have asked if the applicant can type their name as a signature on the applications and is that sufficient for the initial application if you are mailing an affidavit to the property owner as "proof of occupancy" subsequent to filing the application? Do you need a more stringent form of verification of the person signing the document? Has the department advised other counties in this regard?

Answer:
After consulting with our legal staff regarding your questions and similar questions from other counties, it is our opinion that electronic signatures are not an option for property tax applications. The law requiring the homestead applications says that the application "must be signed" by the applicant. Furthermore, under Minnesota Statute 645.44, subdivision 14, if a law requires a signature, that signature must be in writing (unless the person is unable to write). In order to allow electronic signatures, the law would have to be changed.

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

September 26, 2014

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

Dear Mr. Johnson,

Thank you for contacting the Property Tax Division regarding requirements for local assessors. You asked us the following question.

Question: What is the county assessor required to provide to the local assessor in order to complete the assessment?

Answer: There are a few statutes that reference the duties of a local assessor and a county assessor when it comes to completing the assessment.

Minnesota Statute 273.061, subdivision 7 refers to the duties of a local assessor. The statute states:

> *"The duty of the duly appointed local assessor shall be to view and appraise the value of all property as provided by law,* ***but all the book work shall be done by the county assessor, or the assessor's assistants, and the value of all property subject to assessment and taxation shall be determined by the county assessor****, except as otherwise hereinafter provided. If directed by the county assessor, the local assessor shall perform the duties enumerated in subdivision 8, clause (16)." (emphasis added)*

Minnesota Statute 273.061 subd 8 (1)-(4) outlines the powers and duties given to the County Assessor in regard to a local assessor:

> *(1) "To call upon and confer with the township and city assessors in the county, and advise and give them the* ***necessary instructions and directions as to their duties under the laws of this state****, to the end that a uniform assessment of all real property in the county will be attained.*
>
> *(2) To assist and instruct the local assessors in the* ***preparation and proper use of land maps and record cards, in the property classification of real and personal property, and in the determination of proper standards of value****.*
>
> *(3) To keep the local assessors in the county advised of all changes in assessment laws and all instructions which the assessor receives from the commissioner of revenue relating to their duties.*
>
> *(4) To have authority to require the attendance of groups of local assessors at sectional meetings called by the assessor for the purpose of giving them further assistance and instruction as to their duties".*

In other words, the county assessor is required to provide information regarding the parcels/jurisdictions for which the local assessor is responsible. The county assessor should also provide the local assessor with information about law changes, classification issues, and determining value.

The county assessor is not required by law to provide any electronic devices, measuring tools, or any other tools to assist the local assessor to perform their duties. The county assessor can provide those items but is not required to.

You can find additional information regarding the roles of local assessors and county assessors in the Property Tax Administrator's Manual, Module 1 - *General Property Tax Law.*

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

August 17, 2015

Peggy Trebil
Goodhue County Assessor
509 West Fifth Street
Red Wing, MN 55066
Peggy.Trebil@co.goodhue.mn.us

Dear Ms. Trebil:

Thank you for submitting your question to the Property Tax Division regarding the sale of a vacant hospital. You have provided the following scenario and question:

Scenario:

- A vacant hospital is scheduled to be sold on August 15, 2015.
- It is going to be demolished and sold as 4 residential lots.
- Statute requires "the assessor's estimated market value for taxes levied in the year of the sale shall be no greater than the sales price of the property…"

Question: What year does "taxes levied" refer to? The year the levy was set (2015 assessment for pay 2016), or the year the levy is payable (2015 payable from the 2014 assessment)?

Answer: The taxes levied at the time of the sale should be based upon taxes payable in 2015, which would have used the January 2014 value.

Please send any additional questions you may have to proptax.questions@state.mn.us.

Sincerely,

Jeff Holtz
State Program Administrator
Property Tax Division
Email: proptax.questions@state.mn.us

DEPARTMENT OF REVENUE

Appeals

May 3, 2007

Judy Liddell
Administrative Support Specialist
Morrison County Assessor's Office
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Judy:

Thank you for your question regarding open book meetings. You asked if you are required to submit Local Board of Appeal and Equalization record forms or any other documentation to the Department of Revenue (DOR) for open book meetings.

No documentation is required to be sent to the DOR for open book meetings **unless a scheduled Local Board of Appeal and Equalization meeting has been changed to an open book format**. In this situation, the only form required to be sent to us would be the Certification Form indicating that the Local Board of Appeal and Equalization meeting was changed to an open book format due to the board's failure to have a quorum and/or a training certified member present at the meeting. The Certification Form must be faxed to Jodi Rubbelke at 651-556-3128. A Local Board of Appeal and Equalization record form is not required in that situation.

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

MINNESOTA · REVENUE

June 8, 2011

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

Dear Ms. Dunsmore,

Thank you for your question regarding whether lessees of a property can appeal the property's value without permission from the owner. You provided the following information:

> In St. Louis County there are various leases which have their own parcel codes. For Minnesota Power (MP), the Local Board of Appeal and Equalization notices go directly to Minnesota Power, which Minnesota Power distributes to the lessees. A question has been posed as to whether or not the lessees can appeal the property's value without the permission of Minnesota Power. Because their lease fees are based on the value, MP has an interest in whether or not the value is lowered. Also, if permission is required, you have asked if a letter from MP accompanying the appellant be sufficient.

Minnesota Statutes, section 278.01, subdivision 1 allows for Tax Court petitions to be filed by "Any person having personal property, or any estate, right, title, or interest in or lien upon any parcel of land, who claims that such property has been partially, unfairly, or unequally assessed in comparison with other property …"

While not specifically a statute referring to boards of appeal and equalization, it is our opinion that because the lessees have interest in the property that is owned by Minnesota Power, they do have the right to appeal to the Local Board, County Board or in Tax Court without needing permission from Minnesota Power.

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

Sincerely,

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

MINNESOTA · REVENUE

August 29, 2012

Brad Averbeck
Property Tax Division
brad.averbeck@state.mn.us

Dear Mr. Averbeck:

Thank you for forwarding us a question from Peter Doll concerning the determination of market value. Mr. Doll has inquired as to what the proper methodology is to determine the market value in a specific Tax Court scenario. He refers to a Tax Court case in which he states, "The court indicated the taxpayer was entitled to both reductions; the limited market value was calculated first and [then] the sales ratio adjustment." Mr. Doll has asked if the same methodology should be used for a property subject to plat deferral: Should the plat deferral amount be calculated first and then apply the sales ratio adjustment?

In our opinion, both Limited Market Value (which is a form of value that is no longer applicable) and a plat deferral value should be calculated using the actual market value of the property or, in other words, the estimated market value. This means that the sales ratio adjustment, if warranted, should be applied first. Then, from the adjusted value (which should constitute the correct estimated market value), you can calculate the plat deferral value.

Please inform Mr. Doll of this opinion.

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

February 14, 2014

Dianne Reinart
Traverse County Assessor's Office
dianne.reinart@co.traverse.mn.us

Dear Ms. Reinart,

Thank you for submitting your question to the Property Tax Division regarding posting and publishing local appeal option dates and formats.

Question:

If the meeting is an open book meeting, does the township still post the meeting in the town hall, or is it enough that the assessor's office publishes the date and time in the newspaper?

Answer:

There is no requirement that open book meetings be either posted in the town hall or published in the local paper. However, the dates and times of the open book meetings must be stated on the Notice of Valuation and Classification so that property owners are given the opportunity to discuss the valuation and/or classification of their property with county assessment staff. Please note that in a jurisdiction that does not have a Local Board of Appeal and Equalization, the property owner is not required to attend an open book meeting in order to appeal to the County Board of Appeal and Equalization.

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

July 1, 2014

Lisa Braun
Mille Lacs County Assessor's Office
lisa.braun@co.mille-lacs.mn.us

Dear Ms. Braun,

Thank you for contacting the Property Tax Division regarding a county board of appeal and equalization question. You provided us with the following information.

Scenario:

- At the Mille Lacs County board of appeal and equalization (CBAE) meeting a parcel was presented to the board to be lowered due to a site being removed.
- The value that was put into the computer prior to the CBAE meeting was incorrect.
- Neither the appraiser nor the board realized the original value was incorrect.
- The board made the change that the appraiser was requesting.
- Recently, the owner of the parcel contacted the county to verify that the amount was correct.
- The county discovered that the value was entered into the computer incorrectly and the value that was presented to the board was incorrect.

Question: Can the county change this value now that the county board of appeal and equalization has adjourned? Can the change be labeled as a clerical error?

Answer: "Clerical" errors are narrowly defined as errors made by someone doing the work of a clerk. These include math errors, transposition of numbers, keypunch errors, and coding errors.

Clerical errors do NOT include errors of estimations or incorrect data used in making the estimations, such as an incorrect record of the actual square footage or the number of bathrooms. These errors would be "errors in judgment."

According to the information you provided it appears this is a clerical error. The county may make the change to the value as a clerical error. Provided the resulting value for the assessment year is the value agreed upon by the CBAE, it should be fine.

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

DEPARTMENT OF REVENUE

County Board of Appeal and Equalization (CBAE)

June 20, 2007

Mr. Dan Eischens, SAMA
Jackson County Assessor
Courthouse
413 Fourth Street
Jackson, Minnesota 56143

Dear Mr. Eischens:

Your email to Monte Struck regarding the County Board of Appeal and Equalization (CBAE) has been forwarded to me for reply. In your email, you noted that the Notice of Valuation and Classification states that taxpayers "must call in advance to get on the agenda" for the CBAE. You have asked if there is a formal requirement that requires taxpayers to get on the agenda prior to appearing before the CBAE.

Minnesota Statute 274.13 covers the rules concerning the CBAE, but does not require that taxpayers contact the CBAE and get on the agenda before appearing before the board. Rather, this request is a strong recommendation by the Department of Revenue. The Department's fact sheet regarding the appeals process for taxpayers states that the Department, "strongly recommend(s) that you call or write your county auditor or assessor to schedule your appearance before the board." This fact sheet can be found at: http://taxes.state.mn.us/taxes/property/publications/fact_sheets/html_content/appealing_propfs1_onscreen.shtml.

While the Department of Revenue strongly recommends that taxpayers contact the CBAE before attending a meeting, if a taxpayer has followed the appropriate procedures for appearing before the CBAE, the CBAE must allow the taxpayer to appear. Generally, taxpayers must appear before the local board of appeal equalization (LBAE) before they can appear before the CBAE.

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

Sincerely,

ANNA LANGER
State Program Administrator
Information and Education Section
Property Tax Division

April 22, 2008

Farley R. Grunig
Jackson County Assessor
Courthouse
413 Fourth Street
Jackson, Minnesota 56143

Dear Mr. Grunig:

Thank you for your recent question regarding appeal procedures. You outlined the following situation: An error was made when calculating the estimated market value (EMV) of a parcel. The error was discovered prior to the Local Board of Appeal and Equalization (LBAE). A correction was calculated and presented to the Local Board. The Board approved the change in EMV, but the owner did not personally appear before the Board. The owner feels that the new EMV is excessive, and you are wondering whether this property owner is eligible to appeal to the County Board of Appeal and Equalization.

Assessor recommendations brought to the board for action are considered a normal appeal process at the LBAE. As would be the case if the property owner had personally appeared before the board, the jurisdiction must notify the appellant of the decision of the board, and that property owner **is** able to appeal that decision. A letter notifying the appellant of the decision ensures that they understand the action taken by the board, and notifies the appellant of additional appeal options if they are not satisfied with the board's decision. Avenues of appeal include the County Board of Appeal and Equalization and the Minnesota Tax Court. We recommend that you use a similar letter format that you would use if the appellant had appeared personally before the board, and outline information concerning how to appeal to the County Board of Appeal and Equalization. We see no reason to disenfranchise the property owner in the situation you have outlined.

If you have any other needs or questions, please do not hesitate to contact our division.

Sincerely,

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

June 25, 2008

Patricia Stotz
Mille Lacs County Assessor
Mille Lacs County Courthouse
635-2nd Street SE
Milaca MN 56353

Dear Ms. Stotz,

You recently asked if Local Boards of Appeals and Equalization (LBAE) or County Boards of Appeals and Equalization (CBAE) have the authority to grant green acres benefits or is this solely the authority of the county assessor. In our opinion, only county assessors can grant green acres benefits.

The green acres program is a powerful tool that reduces the tax burden for certain agricultural properties. But the criteria for qualification are specific and must be documented by the owner as part of the application process. The timelines for the application are also specific. Under the 2008 standards, the applicant must demonstrate that the land generates the minimum income for inclusion in the program.

If the land qualifies and if the application was complete and timely, we assume the county assessor would grant the green acres benefits. If the land does not qualify, if the application was not complete or timely, neither the LBAE nor the CBAE can overrule the assessor.

The LBAE and the CBAE may review the classification and valuation of a property. Green acres is not a classification, rather it is a special benefit to certain properties classified as agricultural properties. The estimated market value or "high value" of a property classified as agricultural may be considered by the LBAE or the CBAE but the green acres or "low" value is determined by the Department of Revenue and may not be changed at the local level.

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

Sincerely,

Dorothy A. McClung
Property Tax Division

October 1, 2008

Tom Houselog
Rock County Assessor's Office
Courthouse
P.O. Box 509
Luverne, Minnesota 56156-0537

Dear Mr. Houselog,

Thank you for your recent questions concerning county boards of appeal and equalization. You have questions concerning the role of the county auditor at these board meetings.

Question 1: Is the auditor a voting member of the board?
Minnesota Statutes, section 274.13, outlines that the county auditor is a member of the board of appeal and equalization, and hence a voting member. The law reads

> *"The county commissioners, or a majority of them, with the county auditor, or, if the auditor cannot be present, the deputy county auditor, or, if there is no deputy, the court administrator of the district court, shall form a board for the equalization of the assessment of the property of the county…"*

Therefore, the board must include the county auditor (or deputy county auditor, or court administrator for the district court) as a voting member.

Question 2: Would the auditor qualify as a "trained member" of the board if the auditor has attended the Department of Revenue training course?
If the county auditor has attended an appeals and equalization course developed or approved by the Department of Revenue (pursuant to Minnesota Statutes, section 274.135), the auditor may serve as the voting member who meets the training requirements.

Question 3: Are there special circumstances in which the auditor is not a voting member of the board?
If the county board of appeal and equalization transfers its duties to a special board of appeal and equalization, the auditor is not to be a voting member of that board. The county auditor is required to attend the special board of appeal and equalization meetings as a recorder of board actions (M.S. 274.13).

If you have any further questions or concerns relation to county boards of appeal and equalization, please contact us at proptax.questions@state.mn.us.

Sincerely,

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

MINNESOTA ▪ REVENUE

June 9, 2010

Julie Roisen
Blue Earth County Assessor
204 South 5th Street
P.O. Box 3367
Mankato MN 56002

julie.roisen@co.blue-earth.mn.us

Dear Ms. Roisen,

Thank you for your recent question regarding the meeting time requirements for County Boards of Appeal and Equalization (CBAE). Blue Earth County has five scheduled appointments for CBAE appeal, with no appointment later than 1:30 in the afternoon. You have asked if the board must still meet until 7:00 p.m. if all decisions are finalized prior to that time.

In our opinion, if Blue Earth County requires appointments for CBAE appeals, the county must allow appointments until 7:00 p.m., but the board is not required to meet until 7:00 p.m. or on a Saturday (per Minnesota Statutes, section 274.14). If the board requires appointments and allows for appointment times as late as 7:00 p.m., but those times go unfilled, the board does not need to physically meet at or until 7:00 p.m., nor is the board required to allow walk-ins at that time. The allowance of scheduled appeals until 7:00 p.m. is sufficient.

However, if the Blue Earth CBAE allows for walk-ins and does not require appointments, the board may not adjourn prior to 7:00 p.m. In other words, if value notices sent to taxpayers show that the board will meet during a specific time frame, the assumption is that the board will be available during that time frame for walk-in appointments and therefore must meet (i.e. if the notices say the board will meet from 1 p.m.-7p.m., the board must be in attendance during that posted time for walk-ins).

We recommend that requirements to schedule an appeal to a CBAE be clearly stated in Notices of Valuation and Classification, and if appointments are required, rather than stating the specific time frame in which the board will be convened, list the time the board will begin only and be prepared to schedule appointments until 7p.m. to comply with statute.

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

February 10, 2011

Mark Peterson
Cass County Assessor
mark.peterson@co.cass.mn.us

Dear Mr. Peterson,

Thank you for your recent question regarding possible dates for County Boards of Appeal and Equalization (CBAE). In Cass County, appointments are available until 7:00 p.m., however if no appointments are made for that time, the board adjourns before 7:00. You have asked if this is sufficient to meet the requirements of Minnesota Statutes, section 274.14.

If Cass County requires appointments for appellants, it is sufficient to have appointment times available that extend until 7:00 p.m. If those appointment times remain unfilled, the board may adjourn prior to 7:00 p.m. and is also not further required to meet on a Saturday. It must be clearly stated on the Notice of Valuation and Classification that appointments are required, and must also be clear on any other posted or published notice of CBAE times.

If, however, the Cass CBAE allows for walk-in appeals, the board must be in attendance until 7:00 p.m. to meet the requirements. In other words, if the value notices show that the board will meet in session during a specific time frame (e.g. 1:00-7:00 p.m.), the assumption is that the board will be in attendance during that time to hear walk-in appeals.

We recommend that value notices state very clearly the dates and times of the CBAE along with whether appointments are required or whether walk-in appeals will also be heard. If you have additional questions, please contact us via email at proptax.questions@state.mn.us.

Sincerely,

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

MINNESOTA · REVENUE

April 26, 2011

Kit Johnson
Traverse County Assessor's Office
Kit.johnson@co.traverse.mn.us

Dear Mr. Johnson,

Thank you for your recent questions concerning County Boards of Appeal and Equalization. You have questions concerning the role of the County Auditor and what happens in the event of a tie vote.

Question 1: Is the auditor a voting member?
Minnesota Statutes, section 274.13, outlines that the county auditor is a member of the board of appeal and equalization, and hence a voting member. The law reads:

> *"The county commissioners, or a majority of them, with the county auditor, or, if the auditor cannot be present, the deputy county auditor, or, if there is no deputy, the court administrator of the district court, shall form a board for the equalization of the assessment of the property of the county…"*

Therefore, the board must include the County Auditor (or Deputy County Auditor, or Court Administrator for the district court) as a voting member. Under a special circumstance that the county board of appeal and equalization transfers its duties to a special board of appeal and equalization, the auditor would not to be a voting member of that board. The county auditor is required to attend the special board of appeal and equalization meetings as a recorder of board actions (M.S. 274.13).

Question 2: If the auditor is a voting member, what happens in the case of a tie vote?
Minnesota Statutes, section 375.07 states:

> *"A majority shall constitute a quorum, and no business shall be done unless voted for by a majority of the whole board..."*

In other words, if there is a tie vote, there would be no majority vote and the motion would not pass.

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

Sincerely,

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

MINNESOTA · REVENUE

August 22, 2011

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

Dear Ms. Blagsvedt,

Thank you for your recent question to the Property Tax Division. You have provided us with the following scenario:

> *The Fillmore County Board of Commissioners has requested that they receive the assessor's information on appellants prior to the County Board of Appeal and Equalization (CBAE). They feel that - if need be - they could contact the appellant to discuss the appeal. Your thought is that it would have potential to violate the open meeting law. Also, the appellant may view this as bias. You asked us for advice on this.*

The purpose of the County Board of Appeal and Equalization is to provide a fair and objective forum for property owners to appeal their valuation or classification. A property owner's first (informal) appeal should be brought to the county assessor. If the appeal is not resolved with the assessor, then a property owner can appeal to a local board, county board and/or Tax Court. The appellant and a commissioner should not discuss an appeal prior to the Count Board meeting in order to make a determination or share information that might not be shared at the meeting. You are correct in your statement that this type of situation has potential for violating the open meeting laws. The County Board of Appeal and Equalization meeting is subject to the open meeting law. The open meeting law requires that meetings of governmental bodies generally must be open to the public. Therefore, all county board of appeal and equalization proceedings must be public. Board members should not confer with each other, the assessor or appellants regarding specific appeals outside of the County Board of Appeal and Equalization meeting(s) where the appeal is taking place.

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

Sincerely,

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

MINNESOTA · REVENUE

June 11, 2012

Jodi Lindberg
Kanabec County Assessor's Office
jodi.lindberg@co.kanabec.mn.us

Dear Ms. Lindberg:

Thank you for your question to the Property Tax Division regarding a value change on a property in your county. A taxpayer applied for the 2c Managed Forest Land classification. He applied before May 1, 2012 but after his jurisdiction's local board of appeal and equalization. His forest plan shows that your land types were incorrect, and changing those codes to match the forest management plan would increase his property's value. You have asked if you should change the property's value for the 2012 assessment, or if you have to wait until the 2013 assessment.

Minnesota Statutes, section 274.01, subdivision 1 provides:

> *"No changes in valuation or classification which are intended to correct errors in judgment by the county assessor may be made by the county assessor after the [local] board has adjourned in those cities or towns that hold a local board of review; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after adjournment until the tax extension date for that assessment year."*

A valuation adjustment is considered a correction of an error in judgment rather than a clerical error. Therefore if you inform the property owner at least ten days prior to the County Board of Appeal and Equalization (CBAE) meeting, you may request that the CBAE adjust the value based on your new findings. If you do not appeal the value to the CBAE, the value may be changed for the 2013 assessment.

If you have any further questions, please contact us via proptax.questions@state.mn.us. Thank you.

Sincerely,

ANDREA FISH, Supervisor
Information and Education Section
Property Tax Division

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

Tel: 651-556-6091
Fax: 651-556-3128
TTY: Call 711 for Minnesota Relay
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MINNESOTA · REVENUE

June 26, 2014

Amber Randall
Itasca County Assessor's Office
Amber.Randall@CO.ITASCA.mn.us

Dear Ms. Randall:

Thank you for submitting your question to the Property Tax Division regarding boards of appeal and equalization. It was forwarded to the Information and Education Section for review and response. You provided record forms for Trout Lake Township Local Board of Appeal and Equalization (LBAE) and the Itasca County Board of Appeal and Equalization (CBAE).

On the record forms, you highlighted parcels that were granted value reductions at the CBAE. The same taxpayer's parcels were not appealed at the appropriate LBAE in Trout Lake Township.

Question: Is it true that the taxpayer should have appealed at the LBAE prior to being granted a reduction at the CBAE?

Answer: It is true that the County Board of Appeal and Equalization cannot grant a value reduction for a *taxpayer* who did not initially appeal at a Local Board of Appeal and Equalization (when there is an LBAE and not an open book meeting). This is found in Minnesota Statutes, section 274.01, subdivision 1, paragraph (f): "if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of appeal and equalization for a review of the assessment or classification."

However, the County Assessor *can* appeal at the CBAE without having brought the specific taxpayer's parcel forward at the LBAE.

Based on the information you submitted, the change that was made at the CBAE was an assessor-recommended change, not a taxpayer appeal. Because it is the assessor's recommendation, the CBAE acted within their authority when they granted the value change. There should not be an issue with the value reductions granted to those parcels based on the assessor's review and recommendation because it is not the *taxpayer* who appealed to the CBAE.

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

December 23, 2014

Keith Albertson
Douglas County Assessor's Office
keitha@co.douglas.mn.us

Dear Mr. Albertson,

Thank you for contacting the Property Tax Division regarding board of appeal and equalization (BAE) training. You provided us with the following information.

Scenario:

- A local board member for Alexandria City attended a BAE training on July 9, 2013
- That board member was recently elected to serve as the Douglas County Commissioner
- He will now be a member of the county board of appeal and equalization (CBAE)

Question: Does the training that he received in July follow him to his commissioner position?

Answer: Yes, the board of appeal and equalization training that he received in July 2013 is still active and he would be eligible to serve on the CBAE as the trained member. That BAE training is designed for both LBAE and CBAE board members, so the training is consistent between the two boards of appeal.

If the board member was the only trained member for Alexandria City, then that local board should be sure to send a board member to the March catch up courses so they have a trained member present at the meeting next spring.

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

Sincerely,

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

Data Privacy

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

June 25, 2002

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

Dear Mr. Keefe:

This letter is in response to your telephone call of June 20, 2002, regarding the income data for a hotel that is appealing their market value to the county board of appeal and equalization.

It is my understanding that during their appeal, you asked the hotel to supply you with income and expensed information in order to perform an income approach on the property. They complied with your request. You expressed concern that supplying this information to the county board of appeal and equalization would violate data privacy provisions.

I consulted with Mr. Lance Staricha, attorney with the Department of Revenue. He referred me to Minnesota Statute 13.51 subdivision 2, which states:

> ***Income property assessment data***. *The following data collected by political subdivisions from individuals or business entities concerning income properties are classified as private or nonpublic data pursuant to suction 13.02, subdivisions 9 and 12:*
>
> *(a) detailed income and expensed figures for the current year plus the previous three years;*
> *(b) average vacancy factors for the previous three years;*
> *(c) verified net rentable areas or net usable areas, whichever is appropriate;*
> *(d) anticipated income and expenses for the current year;*
> *(e) projected vacancy factor for the current year; and*
> *(f) lease information.*

He also stated that since the county board is part of the "political subdivision" that can collect and use the data, the assessor may share it with the board which is acting as the county board of appeal and equalization. Under no circumstances may this data be shared with any member of the public by the board or the assessor.

If you have further questions, please contact our division.

Sincerely

STEPHANIE, NYHUS, Senior Appraiser
Information and Education Section

October 15, 2008

Glen Erickson
Morrison County Assessor
Administration Building
213 1st Avenue SE
Little Falls, Minnesota 56345

Dear Mr. Erickson,

Thank you for your recent question pertaining to data privacy and property tax programs such as the class 1b blind/disabled homestead and the disabled veterans homestead market value exclusion. You have asked how Minnesota Statutes, Chapter 13 (Government Data Practices) pertains to such programs.

Minnesota Statutes, section 13.462, states that:

> *"The names and addresses of applicants for and recipients of benefits, aid, or assistance through programs administered by a government entity that are intended to assist with the purchase, rehabilitation**, or other purposes related to housing or other real property** are classified as public data on individuals [emphasis added]."*

In other words, as property tax information is public data, Minnesota Statutes Chapter 13 clarifies that for recipients of benefits which would entitle an individual to either the class 1b blind/disabled homestead or the disabled veterans homestead market value exclusion are not protected under provisions regarding private data. This concurs with our opinion outlined in a memo regarding HIPAA regulations and these same programs. We have discussed this issue at length with legal staff, and they have recommended (as noted in the memo) to check with your county attorney to see if you are considered a "covered entity" under HIPAA rules.

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 15, 2009

Judy Friesen
Brown County Assessor
Courthouse Square
P.O. Box 248
New Ulm, Minnesota 56073

Dear Ms. Friesen,

Thank you for your recent question concerning data privacy. In your county, the Auditor/Treasurer office has asked for you to supply them with all 2009 homestead applications. You have asked whether this information may be shared with them, specifically because of the presence of Social Security Numbers (SSNs) on these applications.

Minnesota Statute, section 273.124, subdivision 13, paragraph (c), states in part

> *"The Social Security numbers… are private data on individuals… but,… the private data may be disclosed… for purposes of proceeding under the Revenue Recapture Act to recover personal property taxes owing, to the county treasurer."*

Minnesota Statutes, section 13.355 (regarding privacy of SSNs) states:

> *"The Social Security numbers of individuals, whether provided in whole or in part, collected or maintained by a government entity are private data on individuals, except to the extent that access to the Social Security number is* ***specifically*** *authorized by law [emphasis added]."*

Information that may be shared is outlined in Minnesota Statutes, section 13.468, and includes:

> *"the name, telephone number, and last known address of the data subject; and the identification and contact information regarding personnel of the county unit responsible for working with the individual or family. If further information is necessary for the county unit to carry out its duties, each county unit may share additional data if the unit is authorized by state statute or federal law to do so or the individual gives written, informed consent."*

Therefore, it is our opinion that the only instance in which it would be appropriate to share Social Security numbers with the Auditor/Treasurer office would be under the Revenue Recapture Act. While you may share name, telephone number, address, etc. with the Auditor/Treasurer office, there is no specific authority in law to provide them with SSNs otherwise, unless you have the written, informed consent of the property owner.

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

2009300

August 12, 2009

Judy Friesen
Brown County Assessor
Courthouse Square
P.O. Box 248
New Ulm, Minnesota 56073

Dear Ms. Friesen:

Thank you for your question concerning the disclosure of a homestead application to a fraud investigator that works for Brown County. You have asked if you can give the fraud investigator a copy of a person's relative homestead application if you redact the Social Security number.

According to the homestead application provisions in Minnesota Statute 273.124, subdivision 13(c):

> *"the Social Security numbers, state or federal tax returns or tax return information, including the federal income tax schedule F required by this section, or affidavits or other proofs of the property owners and spouses submitted under this or another section to support a claim for a property tax homestead classification are private data…"*

Under the Minnesota Government Data Practices Act everything else on the application is public by default.

There should be little problem in identifying and redacting the Social Security numbers on an application.

The "affidavits or other proofs" being referred to above, are the statements submitted by a property owner or a property owner's spouse in order to establish or prove that the property owner's or the spouse's absence from the residence is because of a reason listed in Minnesota Statute 273.124, subdivision 1(e). Sometimes, the applicant makes such a statement by merely checking a box to indicate that they agree with a prepared statement preprinted on the application for convenience; and sometimes the applicant makes such a statement on a separate sheet that they submit as a part of the application.

The fraud investigator can obtain a copy of the completed application as long as the following are redacted: (i) Social Security numbers; (ii) state or federal tax return information; and, (iii) any check-mark, statement, or other information on the application that is meant to establish or prove that the reason why the owner/owner's spouse is absent from the property is because of a reason cited in Minnesota Statute 273.124, subdivision 1(e).

Please see our letter dated June 15 that was sent to you for more information regarding data privacy. 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 17, 2011

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

Dear Mr. Dangers,

Thank you for your recent question to the Property Tax Division regarding public and private data on exempt applications. For applications for property tax exemption of institutions of purely public charities, you have asked which portions are considered private data.

After conferring with legal staff, we have determined that the following list of government data that is normally gathered when administering property taxes is always private and must not be disclosed (except to the source of the information):

1. Social Security numbers (which may include federal tax identification numbers, see Minnesota Statute 13.355).
2. Data contained on sales sheets from private multiple listing service (MLS) organizations, where the contract with the organization requires the county to refrain from making the data public (M.S. 13.51).
3. Data concerning income-producing properties including (M.S. 13.51)
    a. detailed income and expense figures
    b. average vacancy factors
    c. net rentable or usable areas
    d. anticipated income and expenses
    e. project vacancy factors
    f. lease information.

This list is not exhaustive of all property tax data that may be private. You may also confer with your County Attorney to determine if your office has other data privacy practices. If you have 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 6, 2013

Jill Thompson
Hubbard County Assessor's Office
jmthompson@co.hubbard.mn.us

Dear Ms. Thompson:

Thank you for submitting your question to the Property Tax Division regarding data privacy and various property tax programs.

Question: Is it acceptable for counties to share information related to the 1b blind/disabled homestead classification and the disabled veterans' homestead market value exclusion? If someone is receiving one of the benefits in one county, and moves to another and homesteads prior to the mid-year homestead deadline, may counties share information with each other to verify eligibility for one of the programs?

Answer: Information related to your question can be found in the Property Tax Administrator's Manual, Module 1 – General Property Tax Law.

> *"While most information concerning income and sales taxes is private data, most information concerning property taxation is public information.* ***However, some data is specifically defined as being private data under Minnesota Statutes, Chapter 13****, the Government Data Practices Act.* ***This includes****:*
>
> 1. *Data contained on sales sheets received from private multiple listing service organizations where the contract with the organization requires the assessor to refrain from making the data available to the public;*
> 2. *Income information on individuals collected and maintained by the assessor that is used to determine eligibility of property for class 4d;*
> 3. *Detailed income and expense figures;*
> 4. *Average vacancy factors;*
> 5. *Verified net rentable areas or net usable areas;*
> 6. *Anticipated income and expenses;*
> 7. *Projected vacancy factors; and*
> 8. *Lease information.*
>
> *Great care should be taken to assure proper protection of such private data. That being said, in order to promote a uniform assessment and review of assessments, the Commissioner of Revenue, county assessors and local assessors may exchange data on property even if it is classified as private data under Chapter 13. The data for any property may include but is not limited to its sales, income expenses, vacancies, rentable or usable areas, anticipated income and expenses, projected vacancies, lease information, and private multiple listing service data. Data exchanged under this provision that is classified as private data must retain that classification.*
>
> *Some special programs (specifically the class 1b homestead and the Disabled Veteran's Homestead Market Value Exclusion) require assessors to utilize information that is protected within the federal Health Information Portability and Accountability Act (HIPAA)… However, the assessor's office would need to be declared a 'covered entity' under HIPAA privacy rules in order to be subject to the HIPAA regulations. After discussing this issue with legal professionals and other state agencies, the department has concluded that assessor's offices are most likely not 'covered entities' under HIPAA privacy rules. Therefore, property tax information relating to the blind/disabled classification and disabled veterans*

exclusion is public information. ***Nevertheless, the department strongly recommends that each assessor work with the county's privacy officer or data practices specialist to determine what departments in your specific county have been declared to be 'covered entities' and thus subject to HIPAA regulations.*** *In the unlikely event the county assessor's office is a 'covered entity' and subject to HIPAA regulations, the county may be limited in what information is considered public… [Emphasis added.]"*

Therefore, we strongly recommend you consult with your County's privacy officer and/or County Attorney to discuss some of your questions. Note, however, that this means that some counties may have privacy policies that differ from your county's, and they may be unable to provide information you request based on their own county's policy.

Additionally, as you correctly noted in your email, you may always request the property owner provide documentation to you directly.

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

August 27, 2014

Erik Skogquist
City of Coon Rapids
eskogquist@coonrapidsmn.gov

Dear Mr. Skogquist:

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

Scenario: You have been asked by the city inspections department to look for certain information that may help cite a property for illegal activity (i.e. prohibited zoning activities). The information will be reported to the city inspector to possibly cite an individual(s) for violating zoning codes.

Question: Is it against your ethical and license obligations to provide this information?

Answer: The following list of government data that is normally gathered when administering property taxes is always private and must not be disclosed (except to the source of the information):

1. Social Security numbers (which may include federal tax identification numbers, see Minnesota Statute 13.355).
2. Data contained on sales sheets from private multiple listing service (MLS) organizations, where the contract with the organization requires the county to refrain from making the data public (M.S. 13.51).
3. Data concerning income-producing properties including (M.S. 13.51)
    a. detailed income and expense figures
    b. average vacancy factors
    c. net rentable or usable areas
    d. anticipated income and expenses
    e. project vacancy factors
    f. lease information.

This list is not exhaustive of all property tax data that may be private. In the situation you have provided, it does not appear to meet the requirements of private data. Sharing information between offices such as the zoning office and the assessor's office is quite common and most of the time wouldn't be considered unethical or fall against license obligations. However, you may also want to confer with your County Attorney to determine if your office has other data privacy practices or you may want to review your policy in regard to interoffice data sharing.

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 18, 2015

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

Dear Mr. Johnson,

Thank you for contacting the Property Tax Division regarding Social Security numbers on abatement applications. You provided us with the following question:

Question: Is the social security number (SSN) field required on abatement applications? If so, should the SSN be redacted before passing the application onto the Auditor for processing?

Answer:
Social Security numbers are specifically required as part of the abatement application by Minnesota Statutes 375.192, subdivision 2. Some applications also need to be submitted to the Commissioner of Revenue as prescribed by law once the abatement is approved (for homestead abatements). Therefore, you will need to gather this information on the abatement application used by your office.

As you noted, SSNs are private data and should be redacted from all public documents. If the application goes to a public county board meeting, the SSN should be redacted. However, the county assessor's office can share that information with the county auditor's office. The county auditor should redact the information as soon as the document becomes viewable to the public.

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 16, 2015

Ginger Woodrum
Hubbard County Assessor's Office
glwoodrum@co.hubbard.mn.us

Dear Ms. Woodrum,

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

Question: Is it legal for the assessor's office/local assessors to take photos of structures on taxpayers' property? If so, can the office keep the pictures for internal purposes only? Is it legal to post these on our GIS site?

Answer: Yes, it is legal for all assessors to take photos of a structure located on a property. The Minnesota Department of Revenue encourages counties to take photos while inspecting a property as well as including that process within the county's quintile plan.

The DOR also recommends that the county download and label these photos into their CAMA systems as well as upload them to their county website. Photos of property are not classified as private data.

It is important to note that when taking photos you should never take photos of a property with the homeowners, homeowners' children, or anyone else in the picture. Be sure the photos are of the structure only.

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

DEPARTMENT OF REVENUE

Electronic Certificate of Real Estate Value (eCRV)

February 7, 2006 Note: 2019 Legislative changes raised the minimum value to $3,000

Diane Campbell
Lyon County Deputy Auditor/Treasurer
Courthouse
607 W. Main Street
Marshall, Minnesota 56258

Dear Diane:

Your email has been forwarded to me for reply. You have asked if a Certificate of Real Estate Value (CRV) must be filed in order to receive the homestead classification.

Yes, Minnesota Statute 272.115, subd. 4 states in part:

> *"...No real estate sold or transferred for which a certificate of real estate value is required under this section shall be classified as a homestead, unless a certificate of value has been filed with the county auditor in accordance with this section..."*

Furthermore, Minnesota Statute 272.115, subd. 1 states in part:

> *"...whenever any real estate is sold for a consideration in excess of $1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located when the deed or other document is presented for recording..."*

Consequently, if the sale price of the property is greater than $1,000, a CRV is required to receive homestead. There is an exception in the law that allows homestead properties that sell for less than $1,000 to not file a CRV and still receive homestead (Minnesota Statute 272.115, subd. 1). However, there should be a reasonable explanation as to why the property sold for less than $1,000 (e.g. parent to child).

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

July 15, 2008 Note: 2019 Legislative changes raised the minimum value to $3,000

Pam Hameister
Olmsted County PRL
Recording & Abstracting
Government Center
151 4th Street SE
Rochester, Minnesota 55904-3716

Dear Ms. Hameister:

Thank you for your question concerning certificates of real estate value (CRV's). You have asked if filing a CRV is necessary when processing deeds that have a consideration of less than $500 stated on the deed.

Minnesota Statutes 272.115, subdivision 1, states that:

> "whenever any real estate is sold for a consideration in excess of $1,000 [emphasis added], whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located when the deed or other document is presented for recording."

Therefore, it is not necessary to file a CRV for considerations of $1,000 or less. The *de minimis* amount was changed in the 2000 legislative session.

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

Kathy Hillmer
Redwood County
250 So. Jefferson
P.O. Box 130
Redwood Falls, MN 56283

Dear Ms. Hillmer:

Thank you for your question concerning Certificates of Real Estate Value (CRV). You have inquired as to what should be listed on the CRV as the “total purchase price” when a house is bought at auction. Specifically, you have asked if the buyer’s premium (fee paid to auctioneer) be included as part of the total purchase price?

In our opinion, the answer is yes. The buyer’s premium should be entered on the CRV as part of the total purchase price. We believe that this would be comparable to when a person purchases a house through a Realtor and the sales commission is included as part of the sale price.

Please make certain that the auction premium is added to the total purchase price and not listed under "seller points", "personal property" or elsewhere on the CRV where it could be misconstrued as some other financial aspect of the sale.

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 10, 2014

Gary Amundson
Property Tax Compliance Officer
gary.amundson@state.mn.us

Dear Mr. Amundson:

Thank you for submitting your question to the Property Tax Division regarding the electronic certification of real estate value (eCRV) requirements. You have provided the following scenario and question.

Scenario:

- John and Jane are married.
- Jane owns a home solely in her name.
- John and Jane decide to sell the home and both sign the deed to convey Jane's ownership interest and John's marital interest.

Question:
Is it acceptable when only Jane provides her name and social security number on the eCRV?

Answer:
If only Jane provides her name and social security number on the eCRV, it is acceptable because John is not required to do so. Jane owns the property in her name only, and therefore John is not an "owner of record." John is simply signing the deed to transfer any interest he may have due to being married to someone who owns the property.

Minnesota Statutes 272.115, subdivision 1 requires that the certificate of real estate value must include the social security number of the "grantors and grantees"; however, the husband in this scenario is not required to do so. The statute continues by stating, "[a] married person who is not an owner of record and who is signing a conveyance instrument along with the person's spouse solely to release and convey their marital interest, if any, in the real property being conveyed *is not a grantor*," for purposes of the CRV statute. Therefore, for purposes of the CRV statute, John is not a "grantor" that is required to provide his social security number.

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

DEPARTMENT OF REVENUE

Local Board of Appeal and Equalization (LBAE)

May 12, 2003

Sylvia Schriefels
Washington County Assessor's Office
Washington County Government Center
14900 61st Street North
Stillwater, Minnesota 55082

Dear Sylvia:

Your question to John Hagen regarding "courtesy" letters has been forwarded to me for reply. You have indicated that in the past, Washington County has provided "courtesy" letters to property owners who appear before the local board of appeal and equalization advising them of the board's actions. You have asked us if the local assessor or county assessor's office should be responsible for sending these letters.

It is our opinion that the letters should be sent by the county assessor's office. The statutes do not clearly indicate when the local assessor's responsibility ends. However, we have said in the past that it ends when the local assessor turns in their assessment. Even though the local assessor is required to attend the local board of appeal and equalization, it is the county assessor's job to make any changes to the assessment that are ordered by the local board. Additionally, because of the varying levels of sophistication of local assessors, we are concerned that, in some cases, any action or inaction taken by the local board may not be communicated with taxpayers. For these reasons, we feel that the county assessor is in the best position to provide the necessary follow up letter.

If you have further questions, please contact our division.

Very truly yours,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-0335
e-mail: stephanie.nyhus@state.mn.us

July 2, 2003

Patricia Stotz
Mille Lacs County Assessor
Courthouse
635 2nd Street SE
Milaca, Minnesota 56353

Dear Ms. Stotz:

This is in response to your email of June 30, 2003, to Steve Hurni concerning a situation where a property owner appealed their value to the local board of appeal and equalization and was granted a reduction by the local board. Due to a scheduled reassessment this year, a letter was sent requesting an appointment to view the property. The owner called and refused entry by the assessor. In the process of sending a certified letter and a copy of the law stating that they would be unable to appeal their value, it was discovered that this same property owner refused access to the assessor last year as well. A certified letter was sent documenting that refusal and making them aware that they could not appeal their value because of the refused entry. For some reason, this refusal by the property owner to let the assessor view her property was not noted at the time of the local board of appeal and equalization.

Ms. Stotz has made the assumption that, because the boards are over they cannot remove the adjustment made by the local board of appeal and equalization.

We disagree. Minnesota Statute 274.01, subdivision 1(b) provides in part:

> *"The board may not make an individual market value adjustment or classification change that would benefit the property in cases where the owner or other person having control over the property will not permit the assessor to inspect the property and the interior of any buildings or structures."*

Our reading of this statute causes us to conclude that the local board of appeal and equalization lacks the statutory authority to adjust the valuation or classification in a beneficial way on any property where the assessor was denied access to the property. Consequently, because the statute prohibits the board from making a change, for all practical purposes, the change was not made. In our opinion, the valuation should be returned to the value it was before the board adjustment. We would also recommend that the property owner be advised of this action by the assessor.

Very truly yours,

JOHN F. HAGEN, Manager
Information and Education Section
Property Tax Division
Phone (651) 296-0336
e-mail: john.hagen@state.mn.us

MINNESOTA · REVENUE

Memo

May 10, 2004

To: John Hagen

From: Jacque Betz

Re: Quorum requirements at local boards/Role of the clerk

I researched this question and have determined that it is not appropriate for the clerk to be a voting member of the local board of appeal and equalization. I also did not find any authority for a town supervisor to appoint a clerk as a voting member to meet the quorum requirements in order to hold the meeting.

Per Minnesota Statutes, section 274.01, subdivision 1, paragraph a, the **city or town board** serves as the local board of appeal and equalization, except in cities whose charters provide for a board of equalization or in any city or town that has transferred its local board of appeal and equalization power and duties to the county board.

M.S. 366.01, subdivision 1 states the following:

> *"The supervisors of each town constitute a board to be designated 'The Town Board of .....' Unless provided otherwise, two supervisors shall be a quorum. In towns operating under option A, three shall be a quorum."*

"Option A" means that the town has five board supervisors. The statute specifies that a majority of the members constitute a quorum. Minnesota Statutes, section 274.01, subdivision 1, paragraph e also reaffirms the quorum requirement by stating that "a majority of the members may act at the meeting…"

Therefore, in order for a local (town) board of appeal and equalization to meet the quorum requirements, a majority of the town supervisors must be present.

An e-mail from John Verlennich to you dated Oct. 16, 1995, stated the following:

> *"I spoke with John Dooley, attorney for the Minnesota Township Association. He said most township boards have a total of 5 members. Three are supervisors and one clerk and one treasurer. The clerk and treasurer cannot vote. Only the three supervisors, of which one is the chairman, can vote. The local board of review is a regular business meeting as a function of the board. It requires a quorum of the supervisors. If the board has 3 supervisors, only 2 need be present at the local board of review for a quorum."*

This clarifies that the quorum requirements must be met by having a majority of the town supervisors present and that only the town supervisors are voting members of the board.

April 18, 2005

brad.averbeck@state.mn.us

Dear Brad,

Thank you for your question regarding Red Lake County Local Boards of Appeal and Equalization. Nancy Amberson, Red Lake County assessor, has seven local board meetings scheduled on Tuesday, April 19, 2005. She has been subpoenaed to appear in court on that day. The county attorney believes that the court subpoena takes precedence over the local board meetings, and we don't dispute that fact. Nancy estimates that she will miss at least three local board meetings. There isn't anyone else in the Red Lake County Assessor's Office, and Nancy, obviously, cannot be in two places at once. You asked for our opinion on how the situation should be handled.

As you know, the county assessor or an assistant is required to attend Local Board of Appeal and Equalization meetings. Minnesota Statutes, Section 274.01, subdivision 1, paragraph (e) states:

> *"…The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but must not vote. The county assessor, or an assistant delegated by the county assessor shall attend the meetings."*

We understand that extenuating circumstances are involved. However, in our opinion, failing to have someone represent the county assessor's office at these meetings is not an option. We recommend that Nancy delegate this duty to the auditor so he/she can attend on behalf of the county assessor's office.

It certainly would be reasonable to instruct the auditor about what to do at the meeting in Nancy's absence. The auditor should not recommend any action on your behalf to the local board. Should someone appeal to the local board, it would be acceptable to recommend that the local board call a recess and reconvene at a date and time in which Nancy can attend or the board can simply vote "no change" and the appellant can appeal to the county board. Keep in mind that the date and time for a reconvene meeting must be scheduled before the initial meeting is recessed.

If you have any further questions, please contact the division.

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

CC Nancy Amberson, Red Lake County Assessor

Jacquelyn Betz/PropTax/MDOR 04/19/2005 11:19 AM

To Sylvia.Schreifels@co.washington.mn.us
Cc Larry Austin/PropTax/MDOR@RISD
Subject County Assessor Attendance at LBAE

Dear Ms. Schreifels:

Thank you for your question regarding attendance at Local Boards of Appeal and Equalization. You asked for the statutory reference requiring the county assessor or an assistant to attend Local Board of Appeal and Equalization meetings.

Minnesota Statutes, Section 274.01, subdivision 1, paragraph (e) states:
"…The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but must not vote. The county assessor, or an assistant delegated by the county assessor shall attend the meetings."

If you have any further questions, please contact the division.

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

06/09/2005 01:49 PM
bruce.munneke@co.washington.mn.us
Larry Austin/PropTax/MDOR@RISD
Local Board Appeals

Dear Mr. Munneke:

Thank you for your question regarding appeals to the Local Board of Appeal and Equalization. You stated that page 21 of the Local Board of Appeal and Equalization Handbook seems to imply that all appeals to the local board need to be presented at the first meeting. The second meeting is then used for making decisions regarding those appeals brought to the local board at the first meeting. You asked what happens if a property owner contacts your office between the first and second meeting and wishes to appeal to the local board. Is their appeal considered to be timely (since they missed the published meeting) and should the appeal be considered by the local board?

First of all, it is important to remember that the best practices recommendations are just that – recommendations. Some boards have bylaws or rules of procedure that may preclude some of the recommendations. It is up to the board members to develop practices that are suitable for their particular board.

Our recommendation is that the board should hear all appeals before making any decisions. This will give the board the opportunity to get a better understanding of what happened in the district so it can make consistent decisions. Whether those decisions are made following all appeals in the initial meeting or the meeting is recessed and the decisions are made at the reconvene meeting is another decision to be made by the board.

If the particular board in the situation you described, hears all appeals in the first meeting, and then makes their decisions on those appeals in the second meeting, the reconvene meeting is not for hearing a property owner's original appeal. Therefore, the appeal would not be considered timely. However, if the board recesses the meeting before all initial appeals are heard, it would be appropriate to allow the property owner to appeal at the reconvene meeting.

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

06/09/2005 01:48 PM

PAposhe@co.chisago.mn.us
Appeals to Local and County Boards

Dear Mr. Poshek:

Thank you for your question regarding Local and County Boards of Appeal and Equalization. You asked if the assessor can be a personal representative of the property owner. In our opinion, the answer is no. An assessor should not act as a personal representative for a property owner. Having said that, we would not consider the activity described in your email as acting like a personal representative.

You provided the following details pertaining to the situation: The property owner received the 2005 Notice of Valuation and Classification and called your office about the value. After inspecting the property, the assessor corrected and lowered the value. The owner agreed with the value and did not appear at the Local Board of Appeal and Equalization meeting. However, the assessor, as agreed, brought the issue to the local board. The recommended reduction is approved by the local board and entered into the Local Board of Appeal and Equalization Record. You asked if that property owner has the right to appeal to the county board.

The answer is yes, the property owner clearly does have the right to appeal to the County Board of Appeal and Equalization. Any appeal made to the local board may be appealed to the county board if the appellant is not satisfied with the local board's decision. Furthermore, any action taken by the local board can be appealed to the county board.

In this situation, the local board approved a change agreed upon by the assessor and the property owner. This agreement would not preclude the property owner from appealing to the county board even though he/she may have been satisfied with the agreement when it was made.

Generally, when a property owner appeals the value of his/her property and the local board grants the property owner the change he/she is seeking, the property owner does not continue the appeal. However, there is nothing that would preclude the property owner from appealing to the county board even if he/she received the outcome sought when appealing to the local board.

If you have additional questions, please contact the division.

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

January 30, 2007

Richard Peterson
Mower County Assessor
County Courthouse
201 First Street NE
Austin, MN 55912

Dear Mr. Peterson:

Thank you for your question regarding local boards of appeal and equalization.

You have a jurisdiction that has lost their 2006 local board of appeal and equalization (LBAE) because a quorum was not present and because there was no trained voting member present at their LBAE meeting. You have asked what a jurisdiction needs to do in order to get their local board back and how soon this can happen.

As you probably know, reinstatement is not automatic. For any city or town that conducts local boards of appeal and equalization meetings looking to reinstate their boards, the following must be done:

- at least one member must take the training (the assessor needs to verify this via our list which can be accessed on our website);
- the board must pass a resolution; and
- the board must notify the assessor by December 1 (for it to be effective the following year).

Therefore, if a city or town lost its LBAE in 2006 due to the fact that either no trained voting member was present and/or a quorum was not present at their LBAE meeting, the soonest they can have their board back would be for the 2008 assessment year.

In this situation, a resolution must be provided to the county assessor by December 1, 2007 to be effective for the 2008 assessment. The Department of Revenue plans on sending out a sample resolution to all county and city assessors for local governments that they can use as a guide in order for them to restore their LBAE duties.

If you have any additional questions or concerns, 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 23, 2007

Judy Liddell
Morrison County Assessor's Office
213 First Avenue SE
Little Falls, MN 56345

Dear Judy:

Thank you for your questions regarding Local Boards of Appeal and Equalization (LBAE) meetings.

Your first group of questions concerns two cities and one township that have elected to transfer their powers and duties to the county. You have asked who is responsible for posting the notices for the open book meetings, who is responsible for putting the information in the local papers, and does the county need to indicate on the postings or on the Notice of Valuation and Classification that these jurisdictions are holding open book meetings.

Minnesota Statute 274.13, Subd. 1c states in part that:

> *"The county shall notify taxpayers whose town or city elected to transfer its powers and duties under section 274.01 to the county. Prior to the time of the county board of equalization, the county shall make available to those taxpayers a procedure for a review of its assessments, including, but not limited to, open book meetings…"*

To answer your questions above, first of all, there is no requirement that open book meetings be either posted or published in the local paper. However, the dates and times of the open book meetings must be stated on the Notice of Valuation and Classification so that property owners are given the opportunity to discuss the valuation and/or classification of their property with county assessment staff. Please note that in a jurisdiction that does not have a Local Board of Appeal and Equalization, the property owner is not required to attend an open book meeting in order to appeal to the County Board of Appeal and Equalization.

You also provided the following information. The city of Little Falls is a charter city that has a specially appointed LBAE staff. After the meeting date was set, you were informed that the newly elected mayor will not be able to attend the LBAE meeting. You asked if a quorum is required of the special board.

As you know, Minnesota Statutes 274.01, Subd. 2, states that:

> *"The governing body of a city, including a city whose charter provides for a board of equalization, may appoint a special board of review. The city may delegate to the special board of review all of the powers and duties in subdivision 1. The special board of review shall serve at the direction and discretion of the appointing body, subject to the restrictions imposed by law. The appointing body shall determine the number of members of the board, the compensation and expenses to be paid, and the term of office of each member. At least one member of the special board of review must be an appraiser, realtor, or other person familiar with property valuations in the assessment district."*

(Continued…)

A quorum is the number of people required to be present before a meeting can conduct business. For Special Boards of Appeal and Equalization meetings, a majority of the voting members must be present in order to meet the quorum requirement. If there is no quorum at the Special Board of Appeal and Equalization meeting, it must be changed to an open book format. Therefore, if there is no quorum present at the city of Little Falls LBAE, it must be changed to an open book format on the spot. Property owners who are not satisfied with the Open Book meeting may appeal to the County Board of Appeal and Equalization and/or appeal to Tax Court.

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

cc Steve Hurni, Regional Rep

February 28, 2008

Robert Moe
Otter Tail County Assessor
505 Fir Ave W
Fergus Falls, Minnesota 56537-1364

Dear Mr. Moe,

Your question pertaining to the posting and/or publishing of Local Board of Appeal and Equalization meeting dates has been forwarded to me for response. You asked whether the meeting dates need to be posted and published, or if posting the dates alone would suffice. You mentioned Minnesota Statute 274.03, which states:

> *"The clerk shall give at least ten days' posted notice of the time and place of the meeting of the board of review."*

The original Department of Revenue Bulletin quoted Minnesota Statute 274.01, stating:

> *"The clerk shall give a posted and published notice of the meeting at least ten days before the date of the meeting"* [emphasis added].

The Local Board of Appeal and Equalization Handbook, issued by the Department of Revenue also states that "The clerk shall publish and post notice of the meeting at least 10 days before the date of the meeting" [emphasis added]. It is our understanding that "posting" typically occurs in the town or city hall, while "publishing" occurs in the local newspaper of the jurisdiction or county. It is also our opinion that both publishing and posting are required ten days before the meeting is to be held.

I hope that this answers your question. If you need further advice, please direct all concerns to proptax.questions@state.mn.us.

Sincerely,

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

March 4, 2008

Angela Nelson, Office Manager
Sibley County Assessor's Office
400 Court Street
Gaylord, Minnesota 55334

Dear Ms. Nelson,

Your email concerning the posting and publishing of Local Board of Appeal and Equalization dates has been forwarded to me for response. You have asked if there is a specific amount of time that the notice of dates for boards of appeal and equalization need to be published. You also asked whether the notices need to be published in newspapers.

In order to answer your questions, one must refer to Minnesota Statutes. In terms of **posted** notice, Minnesota Statutes, section 645.12, subdivision 1 provides:

> *"The term 'posted notice,' when used in reference to the giving of notice in any proceeding or the service of any summons, order, or process in judicial proceedings, means the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district, or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or to be performed."*

Minnesota Statutes, section 645.11 concerning **published** notices states in part:

> *"Unless otherwise specifically provided, the words "published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order, or process in judicial proceedings, mean the publication in full of the notice, or other paper referred to, in the regular issue of a qualified newspaper, once each week for the number of weeks specified."*

Concerning whether the notice needs to be published and posted or posted alone, Minnesota Statute 274.01, subdivision 1, states in part:

> *"The clerk shall give a posted <u>and</u> published notice of the meeting at least ten days before the date of the meeting"* [emphasis added].

The Local Board of Appeal and Equalization Handbook, issued by the Department of Revenue also states that "The clerk shall publish <u>and</u> post notice of the meeting at least 10 days before the date of the meeting" [emphasis added]. It is our understanding that "posting" typically occurs in the town or city hall, while "publishing" occurs in the local newspaper of the jurisdiction or county.

(Continued…)

Referring back to your original question concerning a length of time required to publish notice of the meetings, we are of the opinion that the notice need only be published once, at least ten days before the date of the meeting. This does not preclude any clerk from publishing the notice more than once. We are also of the opinion that a posted notice must be posted at least ten days before the meeting date, but that this notice shall remain posted until said meeting.

I hope that this answers your questions pertaining to the notices of Local Board of Appeal and Equalization. If you have any further questions, 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

May 28, 2009

Robert Wagner
Polk County Assessor
612 N Broadway, Suite 201
Crookston, MN 56721

Dear Mr. Wagner,

Thank you for your recent question concerning Local Boards of Appeal and Equalization (LBAE). You have outlined the following scenario: A township in Polk County convened their LBAE and voted on some appeals, but did not finish their business and adjourn. A reconvene meeting was scheduled. At the reconvene, a quorum was not present. You have asked how to proceed with changes made by the board.

Per the 2009 LBAE Frequently Asked Questions Memo:

> *"It is illegal for the board to conduct a meeting without a quorum. If the board does not have a quorum present at a reconvene, the assessor should take over the meeting and change it to an open book format.* ***The board's decision on any appeals completed and voted upon in the initial meeting will stand.*** *However, any unfinished business would have to be addressed by the assessor in the open book meeting. If the property owner and the assessor cannot agree, the property owner can appeal to the County Board of Appeal and Equalization and/or Tax Court. For failing to be in compliance with the quorum requirement, the board would lose its LBAE duties for the current year and the following year (at a minimum)[emphasis added]."*

The jurisdiction's appeal and equalization powers may be reinstated by resolution of the governing body (provided that at least one member is training certified). The resolution must be provided to the county assessor by December 1 in order to be effective for the following year's assessment (i.e., by December 1, 2010, to be effective for the 2011 assessment).

As an aside, please submit the LBAE Record Form for this township (showing only those changes made by the board at its original meeting) and please notify me as to the township in question, so that we may make appropriate notations while planning for next year's boards.

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

2009356

October 12, 2009

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

Dear Mr. Hurni,

Thank you for your recent questions regarding boards of appeal. They are answered below.

1. If a person makes an appointment for a local board meeting but is a "no show", does the person have the right to appeal to the county board?
Answer: No. Minnesota Statutes, section 274.13, is very specific that an appellant appear before the local board before being eligible to appeal to the county board. We have been liberal with our interpretation that this "appearance" can be in person, in writing, or through a representative. However, if a person has made an appointment to appear before the board and does not show up (and does not designate a representative to appear, and does not appeal in writing), that person has lost his or her right to appeal to the county board.

2. If a local board member has completed training requirements (under M.S. 274.014) but moves to a different jurisdiction, is that person still considered a "trained member"?
Answer: Yes. A board member need only have completed training within the last four years to be in compliance with this requirement. It should not matter that a board member moves to a new jurisdiction within that time frame.

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

MINNESOTA ▪ REVENUE

May 10, 2010

Jerry Kritzeck
Sherburne County Assessor
13880 Business Center Drive
Elk River MN 55330

gerald.kritzeck@co.sherburne.mn.us

Dear Mr. Kritzeck,

Thank you for your recent question to the Property Tax Division regarding taxpayers' eligibility to appeal their Green Acres values to local/county boards of appeal and equalization. You have asked, if a taxpayer successfully appeals the Green Acres value, how is it to be reported? You have referenced an opinion that the Department of Revenue has regarding such appeals. Our stance is that boards may hear appeals if the assessor's judgment on the value of property based on land quality or characteristics for Green Acres purposes has been questioned by a property owner, but that the boards of appeal and equalization may not make changes that affect the Department of Revenue's indicated Green Acres average value for the county.

For the most part, we envision boards of appeal and equalization making changes in cases where an assessor had valued a property for Green Acres purposes as tilled, when it was in fact pastured (or vice versa). This would not change the Department of Revenue's value for the county; it would only change the taxable value attributed to a specific parcel of property going from the 100% tilled value to the 50% non-tilled value. Based on how our record forms are currently set up, I would recommend not entering value changes to the form, but providing an explanation in the appropriate field ("Explanation for Change"). This must be filled out as completely as possible; you may enter as much information as is necessary, as we will have access to that cell from the electronic spreadsheet. An example would be, "was valued for Green Acres purposes as tilled; changed Green Acres value to pasture."

However, if there was an instance where the assessor's judgment on the Green Acres value was appealed, it is less clear how this change would be reported. We initially discussed this internally, and determined that if a board of appeal made such a change, it would need to be reported separately to the Regional Representative for that jurisdiction so that we could ensure that changes had a logical basis and did not change the DOR-determined average Green Acres value for that county. We discussed this briefly with the regional representative for most of Region 3, Steve Hurni. Based upon his recommendations, we believe that these changes should be reported as follows:

1. On the record form, under "Explanation for change", write that it is a Green Acres appeal and that additional follow-up information will be forthcoming.
2. In a separate document (e.g. Word document or Excel spreadsheet), provide the following information:

a. Jurisdiction and CT Code
b. Parcel number and property owner name
c. Reason for change
d. Explanation of what the change is
e. Number of acres changed
f. Green Acres value prior to and after board's decision
g. Any other information you deem relevant.

The information should be forwarded to your regional rep, and the Property Tax Division's member of staff in charge of filing these record forms will also be contacting you for the additional information. After this information has been reported to the Regional Representative, the rep may call you to determine whether the changes needed further review or if it needed to be appealed to another level (e.g. County Board or State Board).

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

April 11, 2011

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

Dear Ms. Trebil,

Thank you for your question regarding the availability of a fact sheet that addresses board of appeal and equalization adjustments if interior inspection is refused/denied. The Department of Revenue does not have a fact sheet available that references this situation. The situation is addressed in Minnesota Statute 274.01, subdivision 1; paragraph (b) which states:

> *"The board may not make an individual market value adjustment or classification change that would benefit the property if the owner or other person having control over the property has refused the assessor access to inspect the property and the interior of any buildings or structures as provided in section 273.20."*

In other words, if the assessor was denied access to the property, the board may not make any individual market value adjustments or classification changes that would benefit the property. 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

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

Tel: (651) 556-6104
Fax: (651) 556-3128

MINNESOTA · REVENUE

May 18, 2011

Lee Brekke
Wadena County Assessor's Office
lee.brekke@co.wadena.mn.us

Dear Mr. Brekke

You had sent a letter to the Information and Education Section questioning a motion that was taken at the Blueberry Township's April 12, 2011 Local Board of Appeal and Equalization meeting. In the letter you state that a taxpayer appealed his classification due to his concern that his homestead was changed from 100% to 50% due to the taxpayer refusing to give his wife's social security number. The board granted 100% homestead to the taxpayer. You are asking for the Department of Revenue's opinion on what the correct classification should be for this property.

MN Statute 273.124, Subdivision 13(c) states:

> *"c) Every property owner applying for homestead classification must furnish to the county assessor the Social Security number of each occupant who is listed as an owner of the property on the deed of record, the name and address of each owner who does not occupy the property, and the name and Social Security number of each owner's spouse who occupies the property. The application must be signed by each owner who occupies the property and by each owner's spouse who occupies the property, or, in the case of property that qualifies as a homestead under subdivision 1, paragraph (c), by the qualifying relative [emphasis added]."*

We agree that if the taxpayer refuses to provide his wife's social security number that the homestead classification should remain at 50%. If the taxpayer does provide his wife's social security number the 100% homestead classification may be granted. Additionally, because there are specific statutory requirements for establishing homestead, and it is not clear that these requirements were met, we would suggest that you contact the property owner. The property owner may resubmit an application for full homestead with all of the necessary information, or the local board's change should be appealed to the County Board of Appeal and Equalization.

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

Sincerely,

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

MINNESOTA · REVENUE

May 2, 2012

Dean Champine
Lyon County Assessor's Office
deanchampine@co.lyon.mn.us

Dear Mr. Champine,

Thank you for your recent question regarding a value change that was made at a Local Board of Appeal and Equalization meeting that took place in the city of Taunton. You have provided us with the following information:

> At the meeting, the board voted to increase the value of an elevator by $322,500 due to construction of a large grain bin, scale and driveway. The board did not notify the property owner prior to the meeting. You have asked if the change in value would be valid, and if so what is the appeal process for the elevator? You also asked if the change is not valid, then what steps will you need to take to have the increase denied?

MN Statute 274.01, subdivision 1 section (b) states:

> *"…No assessment of the property of any person may be raised unless the person has been duly notified of the intent of the board to do so [emphasis added]…"*

Therefore, if a local board raised an assessment without duly notifying the owner, the action is null and void. As the county assessor you will need to notify the local board that this particular change was null and void due to the fact that the property owner was not notified according to statute.

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

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
An equal opportunity employer

MINNESOTA · REVENUE

April 24, 2013

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

Dear Mr. Hurni

Thank you for your recent email regarding local board of appeal and equalization. You provided us with the following information:

> A county has requested a clarification regarding Minnesota Statute 274.01, subdivision 3 and Minnesota Statute 274.014, subdivision 3, regarding when a jurisdiction transfers their Board of Appeal and Equalization (BAE) duties to the County and wishes to retain a contract (local) assessor.
>
> You have asked: Is the only way for the jurisdiction to transfer the BAE duties and retain a contract (local) assessor to not be in compliance with MN Statute 274.014? Is there a way that allows the jurisdiction to retain a contract (local) assessor and formally transfer the BAE duties?

Previously, the only option for transferring the local board duties to the county board meant that the local jurisdiction had to give up its local assessor as well. Some jurisdictions saw this option as a loss of control, and therefore, it was not considered to be an option for the city or town. The quorum and training requirements for local boards were implemented to improve the local board process so that the boards function fairly and objectively. The intent of the legislation was not to force or require a jurisdiction which voluntarily transfers its Local Board of Appeal and Equalization duties to the County Board of Appeal and Equalization to give up its local assessor, while allowing for a local board that must transfer its duties to the county board for failing to meet the training or quorum requirements may retain its local assessor.

Therefore, if the town board or city council deems that property owners would be best served with an open book meeting, which also would relieve the board from having to make difficult value and classification decisions, the board or council should contact the county assessor and inform him/her of the jurisdiction's intent to be treated as though it did not meet the quorum or training requirements. It should clarify that the city or town is transferring its duties to the county board, but will retain its local assessor. The town board or city council must notify the county assessor of this decision in writing by December 1 to be effective for the following assessment year.

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 1, 2013

Kimberly A Karch, CMA
Otter Tail County Assessor Department
KKarch@co.ottertail.mn.us

Dear Ms. Karch:

Thank you for submitting your question to the Property Tax Division regarding agricultural homesteads. You have provided the following: A property consists of four contiguous tracts of land. As of December, 2011, the property was owned by a trust. Through a Trustees' Deed of Distribution dated April 3, 2012, the grantor's son and daughter inherited the land. The current ownership of the properties is as follows:

Parcel 1: 150 acres owned by the son and daughter as individuals, class 2a
Parcel 2: 100 acres owned by the son and daughter as individuals, class 2a
Parcel 3: 19 acres owned by the son with a life estate to his step-mother, class 1a
Parcel 4: 5 acres

When the property was distributed, the 5 acres of parcel 4 were not included in the deed, and it remained in the father's trust. For the 2013 assessment, the classification of the 5 acres was changed to Seasonal Residential Recreational.

In February 2013, a corrected deed was recorded that transferred the property to the son and daughter. The daughter has appealed the 2013 classification based on the new ownership. This tract of land has agricultural use that is contiguous to parcels 1 and 2. You have asked if the classification may be changed during the 2013 appeals process, or if a change must wait until the 2014 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. Classification may be changed during the appeals process if a local board of appeal and equalization (or the assessor at an open book meeting) determines that a classification change is warranted. The use of the property as of January 2 of the assessment year is paramount in determining the appropriate classification.

In the past, we have advised that the classification of a property may change to agricultural during the assessment year in cases where homestead is extended during that same assessment year. If parcel 4 would be homesteaded along with parcels 1 and 2, for example, parcel 4 should be reclassified as agricultural homestead during the 2013 assessment. If it is not a case of extending homestead, it is less clear that the agricultural classification change should be made during the 2013 assessment, but any classification change is at the discretion of the board of appeal or the assessor.

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

5/16/2013

Gale Bondhus
Cottonwood County Assessor
Gale.bondhus@co.cottonwood.mn.us

Dear Ms. Bondhus,

Thank you for your recent question regarding a percentage increase for an entire section located within your county. This increase was made at a Local Board of Appeal and Equalization (LBAE) meeting that took place in the Town of Delton. You have provided us with the following information:

> *Staff from the County Assessor's Office was recently at a township LBAE meeting in which the town board supervisors reduced a ridge adjustment (rock outcroppings) on all parcels in a section. The ridge adjustments changed from 11% to 16% reduction on the farm land in that section. A property owner came in to discuss values of buildings, land, etc. on his son's 40 acres of land and his own 200 acres. The board ended up adjusting all taxable parcels in that section, including the 40 acre tract of land for the owner's son.*

You don't agree with the adjustments, and you are asking for our opinion on how you should handle this situation.

Minnesota Statute, section 274.01 outlines the powers and duties of the LBAE. Blanket changes are not a power of the LBAE. Since the power isn't listed in 274.01, the LBAE does not have the power to make a blanket change.

According to the information you provided to us, it appears that the local board for the Town of Delton did make a blanket change on Section Nine along the red rock ridge. This action of the Town of Delton Local Board of Appeal and Equalization is null and void. As the county assessor you will need to notify the local board that this particular change was null and void due to the fact that blanket changes are not a power of the local board.

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

February 19, 2014

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

Dear Ms. Moreland,

Thank you for submitting your question to the Property Tax Division regarding local boards and when they transfer their duties to the county permanently. You are asking for guidance on the language in Minnesota Statute 274.014, subdivision 3 and our interpretation of the word "permanent". We apologize for the delayed response; we have consulted with our attorneys to be sure our interpretation is correct.

Scenario:

- Minnesota Statute 274.01, subdivision 3 states:
  - "The town board of any town or the governing body of any home rule charter or statutory city may transfer its powers and duties under subdivision 1 to the county board, and no longer perform the function of a local board. Before the town board or the governing body of a city transfers the powers and duties to the county board, the town board or city's governing body shall give public notice of the meeting at which the proposal for transfer is to be considered. The public notice shall follow the procedure contained in section 13D.04, subdivision 2. A transfer of duties as permitted under this subdivision must be communicated to the county assessor, in writing, before December 1 of any year to be effective for the following year's assessment**. This transfer of duties to the county may either be *permanent or for a specified number of years*, provided that the transfer cannot be for less than three years. Its length must be stated in writing. A town or city may renew its option to transfer. The option to transfer duties under this subdivision is only available to a town or city whose assessment is done by the county."**
- Carlton County has always believed that the underlined statement above is only for those boards that opted to transfer their duties for a given period (at least three years).
- After the stated period, the board should decide if it would like to renew its transfer of duties or try to reinstate its board.

Question:

- What is the Department of Revenue's interpretation of the underlined statement?
- Does a city that transferred its powers permanently (or did not specify the length of the transfer in writing) have any opportunity to reinstate their board?

Answer:
Jurisdictions that transferred their duties permanently, or that did not specify the time period of transfer, do not have the option to reinstate their boards of appeal and equalization.

It is reasonable to conclude that the legislature's use of the term "permanent" in Minnesota Statue 274.01, subdivision 3, means an unlimited and everlasting period of time. The American Heritage Dictionary, 3rd Edition, defines "permanent" as "lasting or remaining without essential change" or "not expected to change in status [or] condition…." Essentially, the common usage of the term "permanent" is to suggest it is something that lasts forever.

Using this interpretation of the statute's term "permanent," a permanent transfer of local board duties to a county will indeed result in an everlasting assignment of that authority. This also applies to local boards that transferred their duties, but did not specify the length of the transfer in writing.

If the jurisdictions feel burdened by meeting every three years to renew their transfer of duties to the county, the statute does allow a town or city to set a transfer period that lasts longer than three years, so long as it specifies the period of time. Therefore, the jurisdictions could extend the time period that they transfer their duties to the county and they would not need to meet every three years.

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

April 4, 2016

Matt Sandell
City of Minneapolis Assessor's Office
matthew.sandell@minneapolismn.gov

Dear Mr. Sandell,

Thank you for contacting the Property Tax Division regarding the Local Board of Appeal and Equalization (LBAE) Adobe Record Form. You provided us with the following information.

Scenario:

- In previous years, the city of Minneapolis has had over 600 appeals.
- When the record form was a Microsoft Excel document, the city would upload the information into the Excel form.
- This upload feature was very beneficial for Minneapolis.
- The current Adobe LiveCycle form does not have the same functionality.

Question: Is there a tool that cities/counties can use to upload information into the form? If not, are there any other options?

Answer: At this time, the Adobe Record Form does not have the functionality to upload information. A county/city will have to manually enter information for each appeal. This is a feature we have asked our developers to look into for future use of the Adobe LiveCycle form.

In the meantime, we feel that the amount of appeals that the City of Minneapolis reports on the record form is excessive and entering each appeal would be a time consuming task. Therefore, we are granting the City of Minneapolis the option to continue to use the Excel LBAE Record form for the current and following year (2016 & 2017). This Excel form will **only be allowed** if the city has a total of more than 500 appeals, if the total is less than 500 they should be reported using the Adobe LiveCycle form.

Please note that it is our full intention that after 2017 the City of Minneapolis will be using the Adobe LiveCycle form, even if the upload option isn't available. The Adobe LiveCycle form has multiple benefits which is why the Minnesota Department of Revenue has transitioned to this form. Some of the benefits include accurate reporting, an automatic approval/denial process, catching human error prior to submission, submitting directly from the form, etc…

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

DEPARTMENT OF REVENUE

Manufactured Homes

Property Tax Division Mail Station 3340 Phone: (651) 297-7975
St. Paul, MN 55146-3340 Fax: (651) 297-2166
maureen.arnold@state.mn.us

May 8, 2002

Geri.hillesland@co.mahnomen.mn.us

Dear Geri,

Your April 11, 2002 email to John Hagen regarding the taxation of manufactured homes on Indian reservation land was referred to me for reply.

In that email and a subsequent conversation with John Hagen you described a situation where an enrolled member of an Indian tribe owned a manufactured home that is located on fee owned land. The owner of the land is not Native American but the land is within the boundaries of an Indian reservation. You asked if the manufactured home is exempt from personal property taxes. You also noted that Becker and Clearwater counties exempt such manufactured homes from personal property taxes if the owner of the manufactured home shows them a proof of enrollment card for an Indian tribe.

As you know, when a manufactured home is located on land not belonging to the owner of the manufactured home, the manufactured home is assessed as personal property and taxed accordingly. Since the law is not always clear regarding the authority to tax land within an American Indian reservation, we asked one of our lawyers who specializes in Native American legal issues, Mark Pederson, for his opinion on the question of whether or not a manufactured home in this circumstance would be taxable.

He concluded that since the tax imposed on a manufactured home sitting on an Indian reservation when the owner of the home is a member of that reservation and the land is owned by someone else is not an *in rem* tax (meaning it is against a thing, and not a person) under state law, and since there is no federal law allowing state taxation of Indian owned personal property, that it is doubtful that a court would uphold state taxation.

The bottom line is that the manufactured home owner in your original question does not have to pay the tax since it is a personal property tax.

If a manufactured home is on land that is fee owned by a nontribal member but within boundaries of a reservation, and that manufactured home owner is an enrolled member of that Indian tribe, then because the manufactured home is treated as personal property, the manufactured home owner does not have to pay personal property taxes.

Please note that this only applies when all of the following circumstances are met:

1. The manufactured home is assessed as personal property (i.e. the home is on land not owned by the manufactured home owner);
2. The land which the manufactured home is on must be within reservation boundaries; and
3. The owner of the manufactured home is an enrolled member of that tribe whose reservation the manufactured home is on.

If any one of the above three factors is missing, then the owner of the manufactured home must pay the personal property tax.

Please let me know if you have any further questions.

Sincerely,

Maureen Arnold
County Assessor

cc: Clearwater County Assessor
Becker County Assessor
Beltrami County Assessor
Carlton County Assessor
Cass County Assessor
Cook County Assessor
Crow Wing County Assessor
Dakota County Assessor
Goodhue County Assessor
Hubbard County Assessor
Itasca County Assessor
Kanabec County Assessor
Koochiching County Assessor
Mille Lacs County Assessor
Pine County Assessor
Redwood County Assessor
St. Louis County Assessor
Yellow Medicine County Assessor

December 5, 2002

Johnson.lana@co.olmsted.mn.us

Dear Lana,

Your email to John Hagen regarding manufactured home tax delinquency was referred to me for reply.

In that email you asked for clarification of the new statute, Minnesota Statutes, section 168A.05, subdivision 1a, that requires all personal property taxes be paid on a manufactured home prior to the issuance of a certificate of title. You described a situation in which the prior owner of a manufactured home assessed as personal property owes delinquent taxes. You asked if the current owner of that home is responsible for paying for the personal taxes.

No, the current owner is not responsible. The tax obligation as referenced in the new law only applies to the owner of the property as the law only references *personal* property taxes. Personal property tax is just that, a tax against the person, not the property.

In the situation you described, the previous owner is the party responsible for payment of the personal property taxes during the assessment year they owned the manufactured home, not the current owner. Unlike real estate taxes, the personal property taxes that are owed do not transfer to the current owner simply because the property changes hands.

Please let me know if you have any further questions.

Sincerely,

Maureen Arnold
State Program Administrator, Senior

Property Tax Division
Mail Station 3340

Email: maureen.arnold@state.mn.us
Tel: 651-297-7975
Fax: 651-297-2166

January 21, 2003

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

Dear Bob:

The question you asked of John Hagen regarding manufactured homes assessed as real property was referred to me for reply.

In a telephone conversation with John you inquired about requirements regarding current year taxes before a manufactured home may be moved in conjunction with the new 2002 law that changes requirements for the transfer of titles to manufactured homes assessed as personal property.

As you know, current law requires that in order to transport manufactured homes assessed as real property, a moving permit must be obtained. Such a permit is issued only after written confirmation from the county auditor and treasurer that all real and personal property taxes and assessments have been paid, per Minnesota Statutes, section 169.86. This law did not change during the 2002 legislative session.

The new law only impacts personal property taxes, not real property taxes. The new law, which is found in Minnesota Statutes section 168A.05, subdivision 1a, requires manufactured homes to have a statement from the county auditor or treasurer certifying that all *personal* property taxes levied on the manufactured home and that are due from the *current* owner have been paid before the Registrar of Motor Vehicles can issue a certificate of title. This law became effective last July 1. The statement must come from the auditor or treasurer of the county where the manufactured home is presently located. There is no requirement that real property taxes, or personal property taxes owed by a previous owner, must be paid prior to a transfer of title.

I hope this clears up any confusion and please contact me if you have any further questions.

Sincerely,

Maureen Arnold
State Program Administrator
Property Tax Division
maureen.arnold@state.mn.us
(651) 297-7975

January 21, 2003

Judy Tobin
Beltrami County Assessor's Office
619 Beltrami Avenue NW, Suite 300
Bemidji, MN 56601-3053

Dear Judy:

Your letter to John Hagen has been forwarded to me for a reply. In your letter, you stated you are having problems with a mobile home dealer in your area. Here is a summary of your situation:

> *The dealer sells lots on a contract for deed. In a separate transaction, the dealer sells the same people a mobile home to put on the lot. The property is assessed as real estate on January 2, 2002. However, sometimes the buyers default on the contract resulting in a cancellation of the contract for deed being recorded. You mentioned that two such cancellations were recorded, one in May 2002 and one in July 2002. The mobile home is now gone from the property, but since it has been assessed as real estate, there is a tax on it for 2003. At the time the cancellations were filed, you assumed that the dealer had also taken the mobile home back since you were not notified otherwise. The dealer wants you to remove the mobile home from the real estate and assess it as personal property for 2003 since it still belongs to the buyers. You believe that since the mobile home was there on January 2, 2002, it will have a tax in 2003.*

You are correct. Since the mobile home was located on land that was purchased on a contract for deed by the owner of the mobile home on January 2, 2002, that property (land and building) should be assessed as real estate for the 2002 assessment for taxes payable in 2003. When property that has been purchased on a contract for deed goes back to the seller, it goes back subject to any liens on the property – in this case the taxes. In any case, if the taxes are not paid, the property is subject to tax forfeiture.

If you have further questions, please contact our division.

Sincerely,

STEPHANIE NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
(651) 296-0335 e-mail: stephanie.nyhus@state.mn.us

April 7, 2003

Bhansen@co.hubbard.mn.us

Dear Bob,

Thank you for your email regarding questions you have on the valuation and taxation of manufactured homes.

In that email you indicated that a number of questions have arisen relating to the transfer of title on manufactured homes assessed as real estate. Specifically you asked what the procedures county officials are to use in the following situations:

1) When a manufactured home assessed as real property is sold, along with the land it is on.

2) When a manufactured home assessed as real property is sold, without the land it is on, and the manufactured home:
    a) remains on the property and is not moved; or
    b) is moved off the property.

Regarding the first situation in which the home and the land are sold together, clearly the manufactured home retains its classification as real property. As real property, any liens or delinquent taxes against the manufactured home and property remain with the property. Any real property taxes assessed and due on the manufactured home and land would be payable in the same manner as any other type of real property.

Even though the property would remain as real property, per Minnesota Statutes, section 168A.05, subdivision 1a, which was effective July 1, 2002, before the Registrar of Motor Vehicles can issue a certificate of title, the county auditor or county treasurer must certify that all personal property taxes due from the current owner have been paid. However, this requirement does not apply to homes sold by the owner of a manufactured home park due to abandonment of the home by a tenant of the park or following the termination of a lease after the death of a tenant of the park. Personal property taxes that were assessed against previous owners cannot be collected from the current owner.

In the second situation, in which a manufactured home is sold by itself but remains on the same land, the manufactured home would then be re-classified as personal property. Again, M.S. 168A.05, subdivision 1a, would apply in this situation and personal property taxes that were assessed against previous owners cannot be collected from the current owner. Any real property taxes due on the manufactured home and land would be payable in the same manner as any other type of real property.

For the third scenario in which a manufactured home is sold and then moved away from the property, the classification would depend upon where the home ended up. If it were placed on land owned by the same owner of the manufactured home, then it would retain its real property classification. If it were placed on land not owned by the owner of the manufactured home, then it would be changed to personal property.

Again, M.S. 168A.05, subdivision 1a, would apply in this situation and personal property taxes that were assessed against previous owners cannot be collected from the current owner. As you cited in your letter, per M.S. 272.38, subdivision 1, any real property taxes due on the manufactured home and land would need to be paid prior to the removal of the manufactured home. That subdivision also directs the county auditor as to what action to take if there are suspicions that a structure is to be moved from property before all taxes are paid. Namely, the county auditor may direct the county attorney to bring suit against that person.

Furthermore, M.S. 272.40 indicates that any person who removes or attempts to remove a structure from a tract of land before property taxes are paid in full is guilty of a gross misdemeanor. I imagine you would need to contact your county sheriff or other law enforcement official for an explanation of the procedure to follow in that event.

Please let me know if you have any further questions.

Sincerely,

Maureen Arnold

December 8, 2003

Donna Gabor
Wabasha County Assessor's Office
Courthouse
625 Jefferson Avenue
Wabasha, Minnesota 55981

Dear Donna:

Thank you for your e-mail regarding park model trailers. Please accept my apology for the lateness of this letter. We have experienced some significant staffing changes during the past year. This, coupled with the need to address mandated issues that required completion in a timely manner, has resulted in a number of unacceptably long response times. Again, please accept my apology. We are confident that future responses will be much more timely.

You have asked us three questions to be answered individually.

1. **You have several park model trailers that exceed 8.5 feet in width and are either 32 or 34 feet in length. Most have a loft area. How should these be assessed?**

   Answer: The term "park trailer" is defined in Minnesota Statute 168.011 as a trailer that:

   "(1) exceeds 8-1/2 feet in width in travel mode but is no larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width; and (2) is used as temporary living quarters."

   Therefore, if the square footage is greater than 400 square feet OR it is used as a permanent dwelling, it must be assessed as a manufactured home. If it does not exceed 400 square feet, and it is used for **temporary** living quarters, it may be assessed as a park trailer. If a park trailer has not been moved in the past year, it should be assessed and taxed as a manufactured home. Manufactured homes located on leased land are to be assessed and taxed as personal property. Typically, manufactured homes located on land owned by the owner of the home are to be assessed and taxed as real estate.

2. **Party A sells a manufactured home to Party B. Party B fails to notify the assessor's office of the transfer of ownership but has the title in their name. Party B then sells it to Party C. Party C tries to transfer ownership but there are back taxes. Who is liable for the back taxes?**

   Answer: The owner of record on January 2 is liable for the tax. Some jurisdictions survey park owners each year to verify this information. Since it is a personal property tax, the lien attaches to the person; whereas real estate taxes attach to the land.

(Continued…)

3. **A manufactured home is located on real estate. The land and structure are both owned by the same person. How are the taxes decided on that as real estate taxes are for the previous year – do we have to "guesstament" on just the trailer for the current year or do we do the trailer and the land?**

   Answer: I am assuming that the manufactured home in question will be moved. In this case, when a manufactured home is located on land owned by the owner of the home it should be taxed as real estate. Prior to moving the manufactured home, the owner must pay the tax on the land and structure for the current year and an estimate for next year.

If you have further questions, please contact our division.

Sincerely,

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

March 17, 2004

Dave Oien
Goodhue County Assessor's Office
Courthouse
509 W. 5th Street
Red Wing, MN 55066

Dear Mr. Oien:

Thank your for your question regarding an abandoned manufactured home in mobile home park. You stated that the owner of a mobile home left in the fall of 2003, and the park owner doesn't know where the current owner went. The park owner would like to have the unit moved out of the park in order to demo it. The owner would like to know what constitutes abandonment, and whether or not the movers can move the home since taxes are due by the current owner.

Minnesota Statutes, section 168A.05, subdivision 1a, requires manufactured homes to have a statement from the county auditor or treasurer where the manufactured home is currently located certifying that all personal property taxes (current and delinquent) levied on the manufactured home that are due from the ***current owner*** have been paid before the Registrar of Motor Vehicles can issue a certificate of title.

However, there are exceptions to this requirement. It does not apply to homes sold or disposed of by the owner of a manufactured home park due to abandonment of the home by a tenant of the park or following termination of a lease after the death of a tenant of the park. Minnesota Statutes, section 168A.05, subdivision 1b provides for these exceptions and states the following:

> *The provisions of subdivision 1a shall not apply to (1) a manufactured home which is sold or otherwise disposed of pursuant to section 504B.271 by the owner of a manufactured home park as defined in section 327.14, subdivision 3, or (2) a manufactured home which is sold pursuant to section 504B.265 by the owner of a manufactured home park.*

I attached a copy of Minnesota Statutes, section 504B.271 which addresses property abandoned by the tenant of the park.

If the movers will not move the home without the statement certifying that all personal property taxes have been paid by the current owner, we recommend that the county auditor or county treasurer provide a statement that this provision doesn't apply per Minnesota Statutes, section 168A.05, subdivision 1b since the park owner is disposing of the abandoned manufactured home.

If you have any further questions, please let me know.

Sincerely,

JACQUELYN J. BETZ, Appraiser
Property Tax Division – Information and Education Section
Fax: (651) 556-3128
Phone (651) 556-6099
e-mail: jacquelyn.betz@state.mn.us

Enclosure

April 7, 2005

Karen Roberts
Hubbard County Assessor's Office
Courthouse
3rd & Court Street
Park Rapids, Minnesota 56470

Dear Ms. Roberts:

Thank you for your letter regarding manufactured homes. You attached a copy of the Mobile Home Statement your county currently uses which certifies that the property taxes on a manufactured home have been paid. You stated that you fill out many of these forms and it is becoming very time consuming. You asked if it is appropriate for your office to charge a fee for completing the form.

To the best of our knowledge, there is nothing in Minnesota Statutes that would prohibit you from charging fees for services you provide. Many counties charge fees for photocopies, computer printouts, etc.

In our opinion, if it is an occasional request, it would not be appropriate to charge a fee to complete the Mobile Home Statement. However, if you find one business or person making numerous requests that consume an inordinate amount of time, we recommend creating a fee schedule for these services to compensate for the time lost by employees in completing these forms. If you decide to develop a fee schedule, we would also suggest you obtain approval from the county administrator and the county board of commissioners.

If you have any further questions or concerns, please contact our division.

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

August 17, 2005

Ed Clark
Scott County Assessor's Office
Government Center 112
200 – 4th Avenue West
Shakopee, Minnesota 55379-1220

Dear Ed:

Thank you for your question on an abandoned mobile home. You provided the following:

- May 2003 - An owner abandoned their mobile home located in a manufactured home park.
- September 2003 - The park took possession of the abandoned home through a sheriff's sale with the intent of demolishing it.
- February 2005 - The home was demolished.

You have asked if the home should have been taxable to the manufactured home park for 2004 since it was still located there on January 2, 2004, or if the property would be exempt for 2004 pursuant to Minnesota Statute 168A.05, Subd. 1b. You have also asked if the taxes would be exempt if the park owner had not demolished the home for three to five years.

Minnesota Statute168A.05, states in part:

"Subd. 1a. ***Manufactured home; statement of property tax payment.*** *In the case of a manufactured home as defined in section 327.31, subdivision 6, the department shall not issue a certificate of title unless the application under section 168A.04 is accompanied with a statement from the county auditor or county treasurer where the manufactured home is presently located, stating that all manufactured home personal property taxes levied on the unit in the name of the current owner at the time of transfer have been paid.*

Subd. 1b. ***Manufactured home; exemption.*** *The provisions of subdivision 1a shall not apply to (1) a manufactured home which is sold or otherwise disposed of pursuant to section 504B.271 by the owner of a manufactured home park as defined in section 327.14, subdivision 3, or (2) a manufactured home which is sold pursuant to section 504B.265 by the owner of a manufactured home park."*

Minnesota Statute 504B.271, Subdivision 1, states in part:

*"**Abandoned property.** If a tenant abandons rented premises, the landlord may take possession of the tenant's personal property remaining on the premises, and shall store and care for the property. The landlord has a claim against the tenant for reasonable costs and expenses incurred in removing the tenant's property and in storing and caring for the property.*

The landlord may sell or otherwise dispose of the property 60 days after the landlord receives actual notice of the abandonment, or 60 days after it reasonably appears to the landlord that the tenant has abandoned the premises, whichever occurs last, and may apply a reasonable amount of the proceeds of the sale to the removal, care, and storage costs and expenses or to any claims authorized pursuant to section 504B.178, subdivision 3, paragraphs (a) and (b)…"

(Continued…)

In our opinion, since the property was not demolished until February 2005 (approximately 17 months after the park took possession of the mobile home), the landlord is responsible for taxes payable in 2005 since the mobile home was still located in the manufactured home park on January 2, 2004. The landlord will also be responsible for taxes on the mobile home for the 2005 assessment year for taxes payable in 2006 since the mobile home was not demolished until February 2005.

There is no law stating that mobile homes located in a park are exempt from property taxes if they are abandoned by the owner. If the mobile home had been disposed of 60 days after the landlord received an actual notice of the abandonment, or 60 days after it reasonably appeared to the park owner that the home owner had abandoned the premises, which would have been about November 2003, there would not have been taxes due on the personal property. Even though it was the intent of the manufactured home park to demolish the abandoned mobile home after they took possession of it through a sheriff's sale, it does not pardon them from paying the taxes that were due on it in 2005 and 2006.

A new law was passed during the 2005 Special Legislative Session amending Minnesota Statutes 2004, Section 168A.05, adding subdivision 1c, which states that:

> *"Subd. 1c.* ***Manufactured Home; Exemption for Destruction****. The provisions of subdivision 1a do not apply if title is to be transferred to an owner of a manufactured home park as defined in section 327.14, subdivision 3, who provides to the county auditor or treasurer a notarized statement that the manufactured home is to be destroyed or moved to a site and destroyed."*
>
> *Effective date of this new law is the day following final enactment.*

This law was passed to prevent your situation from happening in the future. Unfortunately, in your case, the landlord is still responsible for the taxes due and payable in 2005 and 2006.

Therefore, it is our opinion that the mobile home should be assessed as real property to the park owner for the 2004 and 2005 assessment years, for taxes payable in 2005 and 2006.

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 29, 2005

Stacy Thorson
Blue Earth County Assessor's Office
Courthouse
204 South Fifth Street
P.O. Box 3567
Mankato, Minnesota 56001-3567

Dear Ms. Thorson,

Thank you for your email regarding manufactured home assessment. You have stated that a manufactured home, not attached to a permanent foundation, has been assessed as part of the real estate of a property. The real estate, including the manufactured home, has recently been sold. The land and other buildings located on the property have been transferred to a Limited Liability Company and the manufactured home has been transferred to a separate LLC. The members of both the LLC's are husband and wife. The owners of the manufactured home have indicated that there are no plans to move it at this time. Their intent is to occupy the manufactured home and claim it as their permanent place of residence. The property in question, which is all on one parcel, consists of a ma & pa resort, seasonal recreational land, a 4-unit apartment, commercial property (store), and the manufactured home. You have asked the following questions.

Q: The property, including the manufactured home, was assessed as real estate. Recently the ownership of the manufactured home and the remainder of the property were split between different ownership entities. In this situation, how should the county collect the property taxes due for the current year?

A: The fact that ownership of the mobile home was transferred to a different owner that the owner of the land does not have an effect on how or when the 2005 property taxes are collected. Since the manufactured home was part of the real estate for the 2004 assessment, the property taxes are collected on May 31 and October 15 for resort property. It should be noted that ownership of the property could not have been split during 2005 without paying all of the 2005 real estate taxes.

Q: If the manufactured home is moved off the property, does the county collect the current and estimated subsequent year taxes?

A: Since the manufactured home is part of the real estate, current year taxes for the entire property must be collected by the county prior to its removal. Minnesota Statute 272.38, subdivision 1 states in part that:

> *"No structures, standing timber, minerals, sand, gravel, peat, subsoil, or topsoil shall be removed from any tract of land until all the taxes assessed against such tract and due and payable shall have been fully paid and discharged...."*

(Continued…)

You do not have to collect the estimated tax due for 2006.

For 2006 assessment, you should assess the manufactured home as personal property since the ownership entity is different from that of the real estate. In this case, if the manufactured home is removed some time in 2006 and is assessed as personal property for the 2006 assessment, you would only have to collect the personal property taxes due on the manufactured home for 2006. Note that, in this case, when the manufactured home is reassessed from real to personal property for the 2006 assessment, the county will collect both the real and personal property taxes due for the 2006 payable year.

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

August 8, 2005

Donna Welsh
Courthouse
201 - 1st Street NE
Austin, MN 55912

Dear Ms. Welsh:

Thank you for your email regarding property taxes on a manufactured home that is assessed and taxed as personal property. You stated that in November 2004 the lender and licensed dealer, Green Tree Loan Company, foreclosed on the manufactured home and it became part of their inventory. You stated that there were no delinquent taxes due on the personal property at the time of foreclosure. You have asked who is responsible for the property taxes on the manufactured home.

Personal property tax is an in-persona tax or, in other words, a tax against the person. The owner of a manufactured home on January 2 of each year is responsible for the personal property taxes to be paid that year. In this case, the owner of the manufactured home on January 2, 2004, was responsible for the personal property taxes that should have been paid on August 31, 2004, and November 15, 2004. In your case, the manufactured home was foreclosed upon in November 2004 and became part of the lender/licensed dealer's inventory. Therefore, the manufactured home is exempt from taxation, beginning with the 2005 assessment, as dealer inventory if the home remained vacant and was not offered for rent during the time it was being marketed for sale. If at any time during the marketing period the home was rented; it is taxable as personal property to the dealer.

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

July 21, 2005

Ms. Donna Welsh
Courthouse
201 - 1st Street NE
Austin, MN 55912

Dear Ms. Welsh:

Thank you for your email regarding property taxes on a manufactured home. You stated that a person purchased a manufactured home in 1999. The manufactured home sits on leased land and is assessed as personal property. The owner wishes to sell the manufactured home this year, but finds that there are unpaid personal property taxes in 1992 and 1993. You asked if the current owner is responsible for delinquent personal property taxes on the manufactured home and if there is a timeline for manufactured home delinquencies to be written off as uncollectible if the county is unable to locate the owner.

First, personal property tax is an in-persona tax or, in other words, a tax against the person. The owner of a manufactured home on January 2 of each year is responsible for the personal property taxes levied in that year. Therefore, the 1992 and 1993 personal property taxes were the responsibility of the person who was the owner of record on January 2, 1992, and January 2, 1993. They are not the responsibility of the current owner.

Minnesota Statutes 168A.05, subdivision 1a, requires manufactured homes to have a statement from the county auditor or treasurer where the manufactured home is currently located certifying that all personal property taxes (current and delinquent) levied on the manufactured home that are in the name of the ***current owner*** have been paid before the Registrar of Motor Vehicles can issue a certificate of title. There is no requirement that personal property taxes owed by a previous owner be paid prior to a transfer of title.

Second, you also inquired about manufactured homes delinquencies and their uncollectible taxes. Chapter 277 of the Minnesota Statutes provides clarification on these issues, specifically Minnesota Statute 277.24, which states:

> *"If at any time in the collection proceedings the county treasurer is satisfied that the tax cannot be collected for any reason or finds that the collection costs are excessive in comparison to the amount of tax involved, the treasurer may cancel the taxes due. A list of canceled taxes must be kept by the treasurer for a period of six years. The list must identify the taxpayer, the amount of uncollectible liability, and the reason for uncollectibility."*

Note that the Delinquent Personal Property Tax Manual (Manufactured Homes) is another source in which you may find information regarding manufactured home delinquencies and uncollectible taxes. If you do not have a copy of the manual, it is accessible on our website at www.taxes.mn.us.

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 5, 2006

Jody Anderson
Kanabec County Assessor's Office
Courthouse
18 North Vine Street
Mora, Minnesota 55051

Dear Jody:

Thank you for your question regarding park model mobile homes. You indicated that you are verifying personal property in your county. You cited Minnesota Statute 327.31, Subd. 6, which defines a manufactured home (attached), and asked how you should handle park model mobile homes.

Section 3432, page 1 of the Property Tax Administrators Manual states:

> "LICENSE PLATES AND CERTIFICATE OF TITLE
> Manufactured homes and park trailers are no longer registered or taxed as motor vehicles, and they are not issued license plates. Manufactured homes and park trailers are exempt from motor vehicle taxation. Manufactured homes and park trailers are to be taxed as personal or real property …
>
> Travel trailers are to be taxed as motor vehicles and should be issued license plates. Travel trailers displaying current registration plates are not eligible for assessment. Travel trailers that are not conspicuously displaying current registration plates on the property tax assessment date are to be taxed as manufactured homes if occupied as human dwelling places. (M.S. 168.012, subdivision 9)"

As stated above, park trailers are exempt from motor vehicle taxation and should be taxed as personal or real property depending on who owns the land and the park trailer. If the owner of the land also owns the manufactured home or park trailer, it should be assessed as real property. If the owner of the manufactured home or park trailer does not own the land on which the manufactured home or park trailer sits, it should be assessed as personal property.

Only travel trailers are to be licensed and taxed as motor vehicles and should be issued license plates. However, travel trailers not conspicuously displaying current registration plates on the property tax assessment date are to be taxed as manufactured homes if occupied.

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

Enclosure

August 15, 2006

Rita Wieneke
Redwood County Assessor's Office
Courthouse
Third and Jefferson
P.O. Box 130
Redwood Falls, Minnesota 56283

Dear Rita:

Your question regarding personal property taxes has been assigned to me for reply. You outlined the following situation. The owner of a manufactured home park would like to remove a condemned trailer from his park to be destroyed. You asked if he can remove the trailer without paying the delinquent personal property taxes on the trailer.

As you are aware, under ordinary circumstances, all current and delinquent personal property taxes levied in the name of the current owner must be paid prior to transferring title on a manufactured home as specified in Minnesota Statute 168A.05, subdivision 1a. However, in 2005, Minnesota Statute 168A.05, subdivision 1c was added to clarify that in the case of a manufactured home that is going to be destroyed, the owner of the manufactured home park does not have to pay the current and delinquent property taxes that were levied in the name of the owner of that manufactured home. It states that:

> ***"Manufactured home; exemption for destruction.*** *The provisions of subdivision 1a do not apply if title is to be transferred to an owner of a manufactured home park as defined in section 327.14, subdivision 3, who provides to the county auditor or treasurer a notarized statement that the manufactured home is to be destroyed or moved to a site and destroyed."*

Therefore, as long as the park owner provides the county auditor or treasurer with a notarized statement that the manufactured home will be destroyed, the title may be transferred to the park owner without paying the personal property taxes that were due in the name of the previous owner.

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

Sincerely,

STEPHANIE NYHUS, SAMA
Information and Education Section
Property Tax Division

2009359

November 24, 2009

Edna Coolidge
Anoka County
2100 Third Avenue
Anoka, MN 55303

Dear Ms. Coolidge:

Thank you for your questions concerning manufactured homes. You have asked the following questions:

1. **When there are delinquent taxes and a sheriff sale is held, who is responsible for paying the taxes?**

   Personal property tax is an in-persona tax or, in other words, a tax against the person. The owner of a manufactured home on January 2 of each year is responsible for the personal property taxes to be paid that year. In general, a sheriff's sale will have no impact on who is responsible for the delinquent taxes. If there is a new owner following the sale (in the case of personal property taxes), that new person will be responsible for the taxes beginning with the taxes imposed at the next assessment date. The previous owners would be responsible for the delinquent or past taxes for the assessment years they occupied the manufactured home.

   A new owner *may* have to pay delinquent taxes in order to receive a Certificate of Title. In that case, that person is only obligated to pay the taxes due from the most-recent owner. (See Minnesota Statutes 168A.05, subdivision 1a.)

   However, if an owner decides to apply for a Certificate of Title, there are three exceptions in Minnesota Statutes 168A.05, subdivisions 1b and 1c, to the requirement that the prior owner's taxes must be paid.

   (1) For persons who purchase or acquire a manufactured home from a park-owner under Minnesota Statutes 504B.271 after the former homeowner, who was renting a spot in the park, abandons the home.
   (2) For persons who purchase or acquire a manufactured home from a park-owner under Minnesota Statutes 504B.271 after the former homeowner, who was renting a spot in the park, abandons the home and terminates the lease by reason of death, as provided for in 504B.265.
   (3) Manufactured home park-owners who acquire manufactured homes – for whatever reason including simple abandonment or abandonment by reason of the death of the owner – and the park-owner certifies that instead of selling or transferring the home as provided under Minnesota Statutes 504B.271, it will be destroyed.

2. **If the manufactured home park is the buyer at a sheriff sale can they transfer title based on Minnesota Statutes 504B.271? If so, who would be responsible for the current and back taxes?**

Under ordinary circumstances, all current and delinquent personal property taxes levied in the name of the current owner must be paid prior to transferring title on a manufactured home as specified in Minnesota Statute 168A.05, subdivision 1a. However, if the park-owner is the buyer at the sheriff's sale, and if one of the exceptions in Minnesota Statutes 168A.05, subdivision 1b or 1c applies (see above), that park-owner can get a Certificate of Title without paying the delinquent taxes.

In any case, the person or entity that buys the home at the sheriff's sale will be responsible for the taxes beginning with the taxes imposed at the next assessment date.

3. Are manufactured home parks exempt from paying taxes on the homes that they own if they are not dealers?

No. Only manufactured homes that are part of a licensed dealer's inventory may be exempt.

4. If the home is abandoned does a sheriff sale have to take place in order to transfer title?

No. If the home is abandoned on-site at a manufactured home park, the park owner can destroy the home, sell it by private sale, give it away, conduct a public sale on their own, have the sheriff sell it on the park owner's behalf, or by any other method. However, if the landlord does not hire the sheriff to conduct a public sale on the landlord's behalf, and the former tenant or their successors return to the home, the landlord will generally be liable for any excess in the home's value above the costs and expenses of storage or moving the home. Therefore, if the abandoned home does have some significant value, it is usually in the landlord's best interests to have the sheriff conduct the sale allowed under Minnesota Statutes 504B.271 for them.

Also, transferring title to a manufactured home is a different matter than obtaining a Certificate of Title. Generally the title for a manufactured home can be transferred to someone simply by giving them a bill of sale. However, that may or may not entitle the new owner to get a Certificate of Title. That may be another beneficial reason for having the sheriff conduct the sale: the sheriff's sale certificate may have more credibility than a landlord's bill of sale.

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

Sincerely,

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

2009407

October 28, 2009

Lee Brekke
Wadena County Assessor
415 Jefferson St S
Wadena, MN 56482

Dear Mr. Brekke:

Thank you for your question concerning the taxation of "park trailers". You have a taxpayer that has questioned the appropriateness of taxing his "park trailer". The trailer is 8 feet 6 inches wide and 43 feet long. The owner has paid for tabs/registration plates for the trailer. You have asked if the trailer should be subject to a property tax.

According to the measurements you provided, the trailer is actually considered a "travel trailer." A travel trailer is a trailer 8.5 feet or less in width and is not subject to property tax if:

1. the trailer is conspicuously displaying a current license and tabs; and
2. the trailer is not being occupied as a human dwelling place.

If the trailer does not meet these criteria, it must be assessed. The type of property tax assessed to the trailer depends on who owns the land that the trailer occupies. If the owner of the trailer owns the land, it should be assessed as real property. If the owner of the property does not own the land, it should be assessed as personal property.

This is outlined in our June 2008 manufactured homes bulletin, which we have included as an attachment to this letter.

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

February 3, 2010

Tyler Diersen
Steele County Assessor's Office
Administrative Center
630 Florence Ave
PO Box 890
Owatonna, MN 55060

tyler.diersen@co.steele.mn.us

Dear Mr. Diersen:

Thank you for your questions concerning manufactured homes owned by dealers. Your questions are answered in turn below.

Who qualifies as a licensed dealer and how do you find out?
The Minnesota Department of Labor and Industry requires an application to be filed in order to become a licensed dealer of manufactured homes (Minnesota Statutes, Chapter 327B). To determine if a dealer is licensed you may request that a dealer provide you with proof of licensure along with the application for exemption.

If a manufactured home is located in a manufactured home park, hooked up to utilities, and for sale by the dealer, should it be exempt or taxable?
Manufactured homes that are owned by a licensed manufactured home dealer and located in a manufactured home park are exempt from taxation as dealer inventory (Minnesota Statute 168.012) if the home or homes remain vacant and are not offered for rent during the time they are being marketed. However, if at any time during the marketing period the home or homes are rented or offered for rent, they become taxable.

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 15, 2010

Rita Wieneke
Deputy Auditor-Treasurer
Redwood County

rita_w@co.redwood.mn.us

Dear Ms. Wieneke,

Thank you for your recent question to the Property Tax Division regarding delinquent taxes on a manufactured home. You have outlined the following scenario: A manufactured home park owner received title to a manufactured home after a sheriff's sale. Prior to the sheriff's sale, there were delinquent taxes on the home. You have asked how those delinquent taxes are to be handled for title transfer purposes.

The manufactured home's delinquent taxes were based on a personal property assessment. Personal property tax is an in-persona tax, or a tax against a person. The owner of a manufactured home on January 2 of each year is responsible for the personal property taxes to be paid that year. In general, a sheriff's sale will have no impact on who is responsible for paying delinquent taxes. A new owner following the sale is responsible for taxes beginning with taxes imposed at the next assessment. The previous owners would be responsible for any delinquent or past taxes for the assessment years which the previous owner occupied the home.

A new owner may have to pay delinquent taxes in order to receive a Certificate of Title. In that case, the person is only obligated to pay taxes due from their most recent period of ownership.

Under ordinary circumstances, all current and delinquent property taxes levied in the name of an owner must be paid prior to transferring title on a manufactured home as specified in Minnesota Statutes, section 168A.05, subdivision 1a. However, if a park-owner is the buyer at a sheriff's sale, and if one of the exceptions in M.S. 168A.05, subdivision 1b or 1c applies (see below), the park owner can get a Certificate of Title without paying the delinquent taxes. These exceptions are:

> *"... a manufactured home which is sold or otherwise disposed of pursuant to section 504B.271 by the owner of a manufactured home park as defined in section 327.14, subdivision 3, or (2) a manufactured home which is sold pursuant to section 504B.265 by the owner of a manufactured home park....*
> *...if title is to be transferred to an owner of a manufactured home park as defined in section 327.14, subdivision 3, who provides to the county auditor or treasurer a notarized statement that the manufactured home is to be destroyed or moved to a site and destroyed."*

In any case, the person or entity that buys the home at the sheriff's sale will be responsible for taxes beginning with taxes imposed at the next assessment date, and these taxes must be paid and current for that same ownership period before title may be transferred again.

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

MINNESOTA ▪ REVENUE

July 9, 2010

Kim Walstad
Dodge County Assessor's Office
kim.walstad@co.dodge.mn.us

Dear Ms. Walstad,

Thank you for your recent questions regarding manufactured home assessment. They were forwarded to me for response. You have outlined the following: A manufactured home in your county has had delinquent personal property taxes since 2004. You have no Certificate of Title or other physical proof of ownership, but you have a name on your tax system as the owner. You have since been told that the actual owner is this person's son. This son returned a verification form created by the Dodge County Assessor's Office ("Manufactured Home Ownership Verification") and stated that he is the owner. You have asked if this is sufficient documentation to change the name on the tax system, and also whether the son may apply for homestead.

As you are aware, because there are delinquent taxes on the property, a Certificate of Title will not be issued until delinquent taxes in the name of the current owner are paid. However, to determine who owns the property, we would recommend asking the occupant (the son) to file a homestead application. If an owner-occupied homestead application is provided, then he (the son) is claiming ownership and is responsible for delinquent taxes on the property. If he files a relative homestead application, then the owner (the father) would also have to sign. This owner (father) must pay the delinquent taxes.

The verification form created by the Dodge County Assessor's Office does not replace a homestead application. Nor does it replace a Certificate of Title for ownership purposes. It may be possible to have the new owner file a confession of judgment in order to clear the delinquent taxes. A homestead application would be the best route to begin determining who owns the property and, therefore, who delinquent taxes are assessed to.

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

February 23, 2012

Denise Jacobs
City of Moorhead Assessor's Office
denise.jacobs@ci.moorhead.mn.us

Dear Ms. Jacobs,

Thank you for your recent question to the Property Tax Division regarding mobile home park cooperatives. You have outlined the following scenario: There is a mobile home park that is located in Moorhead. The mobile home park has become a cooperative. You have asked if the cooperative would be eligible for the property tax refund.

The Minnesota Property Tax Administrator's Manual, *Module 2 – Valuation* states in part:

> *"Class 4c(5)(ii) properties are manufactured home park cooperatives which are owned by a corporation or association organized under chapter 308A (cooperatives) or 308B (cooperative associations) and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park. The park as a whole may be eligible for "homestead treatment" which in this case means a reduced classification rate of .75%, if more than 50% of the lots in the park are occupied by shareholders in the cooperative corporation or association and a class rate of 1.00% if 50% or less are so occupied. If the park meets the requirements for homestead treatment, the residential homestead market value credit under section 273.1384 does not apply and the property taxes assessed against the park are not to be included in the determination of taxes payable for rent paid for property tax refund purposes under section 290A.03."*

In other words, the class 4c(5)(ii) manufactured home park cooperative that you have outlined is not eligible for any type of Property Tax Refund or Rental Refund. Individual structures that are classified as 1a or 1b homestead property may be eligible for the property tax refund, but any tax attributed to the class 4c(5)(ii) land is not included.

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 8, 2012

Nancy Gunderson
Moorhead City Assessor's Office
nancy.gunderson@ci.moorhead.mn.us

Dear Ms. Gunderson,

Thank you for your recent question to the Property Tax Division. You have provided us with the following information:

> You were recently notified that the city of Moorhead has a mobile home co-op that surpassed 50% occupancy of lots by shareholders in late November 2011. The co-op is asking for an abatement for taxes payable in 2012. You have asked, will they qualify for this abatement or would it be a classification change for assessment 2013? You are also asking our opinion on whether you need to verify the 50% occupancy by requesting mobile home homestead applications from the parties noted prior to changing the classification for 2012, pay 2013.

Our suggestion would be to treat this as a homestead situation. Since the co-op surpassed 50% occupancy of lots by shareholders before December 15, 2011 those shareholders would qualify for a mid-year homestead. While this question also results in a classification change for the mobile home co-op, we would still recommend changing the classification after the assessment date, as may also be done for other properties that experience a classification change due to granting homestead (e.g. 4b to 1a, 1a to 1b, 4c to 1c, etc.). Since the mid-year homestead was not granted in 2011 then the abatement for pay 2012 should be granted.

We would strongly recommend that you request homestead applications from the co-op shareholders so that you can make a determination that the park co-op is eligible for homestead treatment and the resultant 4c(5)(ii) classification. As the assessor you have the right to request documentation from the shareholders to prove they are eligible for the homestead treatment.

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

August 30, 2012

Farley Grunig
Jackson County Assessor
Farley.Grunig@co.jackson.mn.us

Dear Mr. Grunig:

Thank you for your question concerning the assessment of manufactured homes. You have asked if Minnesota Statute 168A.142 (Minnesota Laws 2012, Chapter 198) changes the department's guidance on when a manufactured home is treated as real property versus personal property.

This statute is primarily a concern of mortgage issues for lenders. This does not change the current guidance of the department concerning the treatment of manufactured homes as real or personal property. Please continue to classify manufactured homes according to current guidance found in Minnesota Statutes, section 273.125 and the department's Property Tax Administrator's Manual and other department resources. Assessors should continue to abide solely by M.S. 273.125 when deciding whether to assess a manufactured home on the assessment date as real or personal property.

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

October 3, 2012

Kelly Princivalli
Carver County Assessor's Office
kprincivalli@co.carver.mn.us

Dear Ms. Princivalli:

Thank you for your question concerning manufactured homes. You have asked what is required from a mobile home park owner to demolish a mobile home that is technically not theirs because the title for the manufactured home was not transferred.

The following responses to your questions come from an attorney within our legal department.

What is required from a mobile home park to demolish a mobile home that is technically not theirs as the title never transferred ownership to the park?
The basic requirements of someone intending to demolish a manufactured home ("MH") would be either (a) permission from the owner or, (b) that the individual intending to demolish the home is the owner. In the situation you describe, it's made to appear that the prior owner gave what amounts to a bill of sale to the park owner. That made the park owner the owner of the MH. Economically speaking, there has to be very little motivation to get a Certificate of Title if the park owner already has legal title along with possession and control of the MH by virtue of it being located within the MH park.

What obligation would the previous owner have since the title was not ever transferred, but he has the signed title and sales letter?
If there is a detachable "Notice of Sale" form on the Certificate of Title for a MH, the seller/transferor should have detached it, completed it, and sent it to the Department of Public Safety (DPS) within 10 days. However, there is apparently no penalty for failing to do that. Minnesota Statutes, section 168A.30, subd. 2(4) provides an exception for informing the DPS of the facts that would be on the "Notice of Sale" – meaning that it would *not* be a misdemeanor if the seller in this case did not send in the "Notice of Sale."

Mobile Home Parks rarely transfer titles when they take possession. How do we force mobile home parks to transfer titles when the take possession?
As we understand it, it is a misdemeanor under Minnesota Statutes, section 168A.30(4) for a person who is supposed to apply for a MH Certificate of Title not to do so in a timely manner. However, the law also provides that a dealer who buys a vehicle and holds it for resale need not apply for a certificate of title. Perhaps the park owner in this case took possession of the involved MH in the capacity of a dealer for possible resale. That would eliminate their obligation to apply for a Certificate of Title. That would also make the MH tax-exempt as inventory held for resale.

In other words, it appears that the owner of the manufactured home park has sufficient ownership interest to demolish the manufactured home.

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 4, 2013

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 regarding a manufactured home park cooperative. You have provided the following information and question.

Scenario:
A property is owned by a cooperative that is organized under Minnesota Statutes, section 308A. Each unit's owner has a share in the cooperative. While the property is technically available for year-round use, no one uses it that way. The septic is shut off during winter months. The only person who occupies the property year-round is the caretaker.

Question:
Can the property qualify for 4c(5) manufactured home park cooperative classification?

Answer:
Yes. There is nothing in this setup that clearly precludes classification as a class 4c(5)(ii) manufactured home park cooperative. In order to be classified as a manufactured home park cooperative, a property must meet the description in Minnesota Statutes, section 273.124, subdivision 3a:

> *"(a) When a manufactured home park is owned by a corporation or association organized under chapter 308A or 308B, and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park, the corporation or association may claim homestead treatment for the park. Each lot must be designated by legal description or number, and each lot is limited to not more than one-half acre of land.*
>
> *(b) The manufactured home park shall be entitled to homestead treatment if all of the following criteria are met:*
>
> *(1) the occupant or the cooperative corporation or association is paying the ad valorem property taxes and any special assessments levied against the land and structure either directly, or indirectly through dues to the corporation or association; and*
>
> *(2) the corporation or association organized under chapter 308A or 308B is wholly owned by persons having a right to occupy a lot owned by the corporation or association...[emphasis added]."*

The classification rate that applies to this property depends on the number of units that are occupied by shareholders as their primary place of residence. If more than 50 percent of the lots in the park are occupied by shareholders as homestead, the property receives a class rate of 0.75%. If 50 percent or less of the units are homesteaded by shareholders, the class rate is 1.00%.

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

May 30, 2014

Michael Thompson
Scott County Assessor's Office
MThompson@co.scott.mn.us

Dear Mr. Thompson,

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

Scenario:

- There is a park model RV/recreational park trailer located in your county that meets the definition of a park trailer under M.S. 168.002, subd. 23.
- The unit is large enough that it's illegal to drive on the road without the appropriate special permits and therefore will not have current registration plates.
- The owner of the land also owns the trailer.
- The trailer is used seasonally, similar to a cabin.

Question: Is this trailer taxed as real property or personal property?

Answer: The general rule used to decide if the tax is a real property assessment rather than a personal property assessment is if the owner of the park model/park trailer owns the site on which the park model is located and the park model is permanently attached to the real estate, the land and park model should be valued and assessed as real property. The total value is included in the tax base for calculating taxes; the notice provisions and appeal rights are the same as for any real property; and the payment dates and interest and penalty provisions are the same.

According to the information provided it appears that the land and structure are owned by the same individual, so it is all part of the same real property assessment and therefore should be taxable as real property to the owner of the land.

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

July 17, 2014

Amy Rausch
Property Tax Compliance Officer
amy.rausch@state.mn.us

Dear Ms. Rausch:

Thank you for submitting your question to the Property Tax Division regarding licensed travel trailers. You have provided the following scenario and question.

Scenario
A trailer in a campground displays current Wisconsin plates. The trailer spends the entire year in Minnesota. The trailer's owner insists that the Wisconsin plates fit the statutory requirement of Minnesota Statutes, section 168.012, subdivision 9 because the trailer is ". . . conspicuously displaying current registration plates…."

Question
Does a travel trailer need to be registered in Minnesota to be considered exempt personal property?

Answer
We discussed this scenario with our legal staff and we are of the opinion that Minnesota Statutes, section 168.012 does not mandate registration plates to be only Minnesota plates on a travel trailer. The legislature likely considered the highly-mobile nature of travel trailers and fully expected that there would be out-of-state travel trailers in Minnesota on the property tax assessment date that should not be subject to personal property tax while in the state.

With the year-round presence of the trailer in Minnesota and occupied as a human dwelling place, the question of whether it should even have registration tabs may be addressed by the Department of Public Safety's Driver and Vehicle Services Division (DVS). However, assuming the registration is correct, the travel trailer likely meets the requirements for definition as exempt personal 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

MINNESOTA · REVENUE

March 5, 2015

Karen McClellan
Kanabec County Assessor's Office
Address/Email

Dear Ms. McClellan:

Thank you for submitting your question to the Property Tax Division regarding personal property and ownership of manufactured homes. You have provided the following scenario and question

Scenario:

- Your office always requests a copy of the title for proof of ownership before taxing a manufactured home (MH).
- The owner of a MH park sold a MH to a new owner, but that owner didn't transfer the title.
- The former owner provided your office with the new MH owners address.

Question: Who is responsible for the tax on the MH when the title hasn't been transferred?

Answer: Until proof is provided, the county should continue to tax the MH to the previous owner. The county should not create a new personal property tax assessment until they have proof that the title was transferred.

If there is a detachable "Notice of Sale" form on the Certificate of Title for a MH, the seller/transferor should have detached it, completed it, and sent it to the Department of Public Safety (DPS) within 10 days.

Finally, Minnesota Statutes, section 168A.30 outlines potential implications for a person who is supposed to apply for a MH Certificate of Title but does not do so in a timely manner.

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

July 20, 2021

Troy,

Thank you for contacting the Property Tax Division regarding assessment. You provided us with the follow scenario and question:

Scenario:

- A trailer measuring 11 feet wide and 35 feet long has current license plates attached although it meets the definition of a park trailer provided in statute.
- Department of Motor Vehicles (DMV) informed your office the license plates were issued correctly.
- Historically, your county has assessed these structures as personal property with or without a license plate.
- Minnesota Statutes 168.002, Subd. 23 describes park trailers as exceeding 8.5' in travel mode and no larger than 400 square feet. M.S. 168.012, Subd. 9 states that park trailers should not be taxed as motor vehicles and should be taxed as personal property.

Question: Is it correct to continue to assess these types of structures as personal property, even if they have been issued current license plates?

Answer: Yes, if the trailer meets the definition of a park trailer provided in M.S. 168.002, Subd. 23 with or without a license plate on it, it must still be assessed by the assessor under M.S. 273.125. As you point out in your question, this happens from time to time. The Property Tax Administrator's Manual contemplates the issues some registrars will have when presented with an application to license a trailer and the need to categorize it. The registrar will have to rely upon the information provided and at times that leads to a trailer meeting the statutory definition of a park trailer being incorrectly issued license plates and paying a vehicle registration tax.

Your office may advise the owner to contact the DMV to see what options they have regarding the fees paid for the license plate and vehicle registration tax.

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

February 22, 2023

Dear Randy,

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

Scenario:

- The owner of a manufactured home park is not providing the assessor with ownership information of manufactured homes on the property.
- The assessor has attempted to canvass the home park to find ownership information with minimal success.

Question: If the owner of the park does not provide ownership information about the ownership of the manufactured homes in the park, to whom and how should they be assessed?

Answer: Manufactured homes meeting the requirements of Minnesota Statute 273.125, subdivision 8 (c) should be assessed as personal property. The three requirements in the paragraph are:

(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. (emphasis added)

Assuming that requirements two and three are met and that the owner of the manufactured home park is not receiving homestead on any of the units in question, these manufactured homes meet these criteria due to being located in a manufactured home park. If the owner of the manufactured home park has not provided ownership information for any manufactured homes located on the property, it is reasonable for the assessor to assess them as personal property of the owner of the manufactured home park.

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

Personal Property/Real Property

October 21, 2003

Sherwood Vereide
Mower County Auditor
Courthouse
201 1st Street NE
Austin, Minnesota 55912

Dear Mr. Vereide:

Your inquiry of June 2003 has been forwarded to me for reply. Please accept my apology for the lateness of this letter. We have experienced some significant staffing changes during the past year. This coupled with the need to address mandated issues that required completion in a timely manner has resulted in a number of unacceptably long response times. Again, please accept my apology. We are confident that future responses will be more timely.

You asked us several questions regarding properties owned by First Homes, a community land trust. You faxed several documents and have asked us if there was a reason that the documents should not be recorded. In addition, you have asked us if you should issue two tax statements – one for the owner of the land (First Homes) and one for the owners of the building (buyers).

Issue #1 – Recording Documents

We have reviewed the documents you faxed. This is not a typical tax issue and does not fall under any of the statutes administered by the Commissioner of Revenue. That being said, we cannot find anything in statute that would preclude the county from recording these documents. If you have specific questions on specific documents and their record-ability, we suggest you contact your county attorney.

Issue #2 – Tax Statements

In our opinion, there are two ways that the issue of who should receive tax statements can be handled. Option one is technically correct. However, option two is not.

Option One:

Mail the tax statement First Homes. As the owner of the real estate they are technically responsible for payment of the tax. We realize this option is a little more complicated than mailing the tax statement directly to the individual that owns the home since, according to the contract they are the ones responsible for payment of real estate taxes. However, if First Homes did not receive the tax statement and the owner of the house did not pay the tax and it forfeited, First Homes' interest would forfeit as well. This is why we believe it is technically correct to send the tax statement to First Homes. They are the fee owners of the land.

(Continued…)

If your county policy allows, it would be a nice gesture to send a courtesy copy of the tax statement to the owners of the buildings, who according to their agreements will be paying the tax. Or, they could request a duplicate statement as provided for under Minnesota Statute 276.041 which states that:

"Fee owners, vendees, mortgagees, lienholders, escrow agents, and lessees of real property may file their names and current mailing addresses with the county auditor in the county where the land is located for the purpose of receiving notices affecting the land that are issued under sections 276.04, 281.23, and 279.091. A person filing shall pay a filing fee of $15 to the county auditor for each parcel. The filing expires after three years. The county auditor shall give a copy of the list of names and addresses to the county treasurer. Taxpayers of record with the county auditor and mortgagees who remit taxes on their behalf shall receive tax statements and other notices and are not required to file and pay fees under this section."

Option Two:
Send the tax statement to the owner of the house. This option, although not technically correct, would be easier to administer. Since the owner of the house is required by contract to pay real estate taxes on both the land and structures, the simplest method of collecting the tax would be to send the tax statement directly to the individual responsible for the taxes. However, if the tax went unpaid and became delinquent or, worse yet, forfeited for non-payment of tax, you would encounter a great deal of legal issues.

In neither case should two tax statements be issued, one for the house and one for the land. The structure is part of the real estate and should be assessed as such.

The question of homestead is also raised because the person owns the buildings and leases the land from First Homes. It is our opinion that the owners of the buildings are eligible for homestead on the entire property, land and structures if all other qualifications for homestead are met (i.e. the person occupies the property as their principle place of residence, is a Minnesota resident, etc.). This is allowed under Minnesota Statute 273.124, subdivision 7, which states in part that:

"Leased buildings or land. *For purposes of class 1 determinations, homesteads include:*

(a) buildings and appurtenances owned and used by the occupant as a permanent residence which are located upon land the title to which is vested in a person or entity other than the occupant;"

(Continued…)

The final issue is that of property tax refunds. Since the home owners are eligible for homestead, they are also eligible for a property tax refund. The option you choose for mailing tax statements will determine what you need to provide the homeowner for property tax refund purposes. If you choose option one and mail the tax statement to the owner of the land, First Homes, the owner/occupant of the building should be provided with a copy of the tax statement for this purpose. The tax statement should show First Homes as the owner of the property and the home owner/occupant as the taxpayer. This will alleviate confusion when our department processes the property tax refunds. The qualifying tax amount (QTA) should be for the entire value of the homesteaded property – land and buildings.

Hopefully, this answers all of your questions on this issue. Should other issues arise, please contact me. Again, I apologize for the delay in our response time.

Sincerely,

STEPHANIE L. NYHUS, Senior Appraiser
Information and Education Section
Property Tax Division
Phone (651) 296-0335
e-mail: stephanie.nyhus@state.mn.us

C: Brad Johnson, Goodhue County Assessor/Auditor/Treasurer

Brad Johnson
Goodhue County Assessor
509 West 5th Street Room 208
Red Wing, Minnesota 55066

Subject: Personal Property/Real Property

Your recent e-mail questioned if it is appropriate to assess real estate as personal property. You faxed a copy of a severance agreement in which the owner of the house and garage has separated the improvements from the real estate. On the second page of the document, it declares:

> "Said personal property and buildings, even if attached to the above-described real property, shall retain its personal property character, shall be removable from the real estate, shall be treated as personal property with respect to the rights of the parties and shall not become fixtures or a part of the real estate."

The property owners have requested that the county assess the structures as personal property. The county assessor and you believe that the house and garage should continue to be assessed as real estate since the structure is "affixed" to the land regardless of what the severance agreement declares.

We agree. Minnesota Statute 272.03, subdivision 1(a) states:

> *"(a) For the purposes of taxation, "real property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it."*

With the exception of mobile or manufactured homes, there is no potential to assess structures separately from privately owned land no matter what type of agreement the land owner and the owner of the structures have agreed to. The law takes precedence.

If you have any other questions, please contact me.

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

November 23, 2004

Scott D. Varner
City Assessor
City of Anoka
2015 First Ave.
Anoka, MN 55303

Dear Mr. Varner:

Thank you for your question regarding a freestanding hot tub room. You asked if a freestanding hot tub room should be treated as real or personal property. You also asked for the Department's opinion on whether hot tubs (freestanding and built-in) should be treated as real or personal property.

The freestanding hot tub structure is definitely real estate. Even though the structure is movable, it is performing a sheltering function in the same manner as a structure that is a fixture or improvement to the land.

Our opinion of how hot tubs should be treated, either personal or real property, isn't as clear-cut. It depends primarily on the installation of the product.

Minnesota Statutes 272.03, subdivision 1 states in part:

> *"For the purposes of taxation, 'real property' includes the land itself... and all buildings, structures, and improvements or other fixtures on it…and cannot be removed without substantial damage to itself or to the building or structure."*

We will develop a more definitive opinion as we encounter more questions concerning hot tubs.

If you have any further questions, please let me know.

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

2009322

September 25, 2009

Janel Stewart
Hubbard County
301 Court Avenue
Park Rapids, MN 56470

Dear Ms. Stewart:

Thank you for your question concerning the linking of property that is state assessed. You have asked how to link the state assessed property of a company that has both real estate parcels and personal property parcels.

Minnesota Statutes 273.13, subdivision 24, states that:

> "…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…"

Also, concerning personal property, the law states that:

> "In the case of multiple parcels in one county that are owned by one person or entity, only one first tier amount is eligible for the reduced rate."

In our opinion, this means that the real and personal property of the company are linked together and aggregated for the first $150,000 so there is only one preferred tier. For commercial-industrial or utility property the preferred tier can be applied to each contiguous land mass owned by the same company. (For example, on three contiguous parcels you can aggregate the value until you reach $150,000.)

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 19, 2010

Karen Labo
Wright County Auditor/Treasurer's Office

Karen.Labo@co.wright.mn.us

Dear Ms. Labo,

Thank you for your recent question to the property tax division regarding personal property assessment and privately-owned elevator and warehouses located on leased railroad right of way land. You have asked if there is any case in which personal property taxes are due in the year following the assessment year. **All** personal property taxes are due on May 15 of the year of assessment, with one exception in the case of improvements located on leased government land (which is not the case in this scenario, as we understand).

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

June 16, 2010

Dave Sipila
St. Louis County Assessor
sipilad@co.st-louis.mn.us

Dear Mr. Sipila,

Thank you for your recent questions to the Property Tax Division regarding real and personal property assessments for storage units. You have outlined the following scenario: A property owner in your county has a large number of semi trailers used for a rental storage business. Private parties rent these storage units. These trailers are not licensed as motor vehicles, nor have they been moved for many years. You have asked if they are assessable as real estate or personal property.

Minnesota Statutes, section 272.03, subdivision 1, outlines the definition of real property as follows:

> *"For the purposes of taxation, 'real property' includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it."*

The statute does not refer to the size or movable status of the structures, therefore the trailers in question should appropriately be assessed as real property to the owner of the land.

You have also outlined a scenario where shipping containers are used for storage purposes. These containers are rented and moved to a customer's site. Otherwise, the containers are maintained on the site of the owner. In our opinion, if these storage units are rented and moved to a customer's site and are located on that customer's property for an extended period of time (e.g. more than a year), they should be assessed as real estate to that customer. However, we are of the opinion that a "portable storage unit" dealer, who owns units and rents them out to paying customers available at off-site locations, should not have their units taxed as real estate, but rather as personal property.

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 20, 2011

Mark Peterson
Cass County Assessor
Cass County Assessor's Office
PO Box 3000
Walker, MN 56484
mark.peterson@co.cass.mn.us

Dear Mr. Peterson

Thank you for your recent e-mail regarding travel trailers. It has been assigned to me for research and response. In your e-mail you asked the following questions which are answered individually.

1. **We have many seasonal campgrounds and resorts located in Cass County. In most situations, the travel trailers are left at these locations permanently but do display current licenses. Does the current license have to be issued in Minnesota or does a current out of state license also qualify for the exemption?**
   Answer: As you are aware, travel trailers are generally licensed as motor vehicles and are not assessed. They are only assessed when they are not displaying a current license or are used as a human dwelling place. Out of state licenses meet this requirement so long as the current license is conspicuously displayed and the travel trailer is not used as a human dwelling place.

2. **If out of state licenses do qualify, are there any regulations as to how long a travel trailer can be located in Minnesota before it must be licensed here?**
   Answer: Motor vehicles are generally licensed in the state where the owner makes his or her permanent place of residence. While we did not perform an exhaustive search of the statutes, we did find a reference to a 60-day exemption for vehicles of new residents as provided in Minnesota Statutes, section 168.012, subdivision 8. This statute is in the motor vehicle registration statutes and is out of our typical scope. If you would like more information, you may consider contacting the Minnesota Department of Public Safety.

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

MINNESOTA ▪ REVENUE

September 15, 2011

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

Dear Mr. Albertsen:

Thank you for your question concerning the taxation of property. You have a scenario where a piece of land and the structure located on the land were sold/transferred in separate transactions. Therefore, the land and the structure have separate owners. You have asked if the structure can be separated from the land for property tax purposes.

Property taxes apply to real estate, which includes the land and any appurtenances (e.g. structures) attached to the land. Minnesota Statutes, section 272.03 subdivision 1, paragraph (a) outlines real property as follows:

> *"For the purposes of taxation, "real property" includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it."*

For property tax purposes, the land and structure(s) cannot be separated. There are very few instances in which a structure can be taxed separately than the land on which it is located. These include manufactured homes located in manufactured home parks and also structures that are located on land owned by an exempt entity and leased/owned by a taxable entity.

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 12, 2012

Paulson Tami
Olmsted County Assessor's Office
paulson.tami@CO.OLMSTED.MN.US

Dear Ms. Paulson:

Thank you for your question concerning the taxation of portable storage units. The types of units in question are similar to large steel storage containers that are commonly used by the railroad and shipping industry to transport goods. However, in the scenarios you have questioned, individuals are using the crates for storage. A business is renting the crates to paying customers for temporary periods of time.

You have asked how these portable storage units/crates should be taxed for property tax purposes.

The assessment of "portable storage units" is made difficult because, although they *do* provide a containment and shelter function, they are not permanently affixed to the property. In our opinion, the taxation of "portable storage units" is going to depend on a number of different factors and, ultimately, must rely on the professional judgment of the assessor. Assessors should consider the intentional and actual use of the unit, the duration of time the unit is located on the property, the ownership of the unit, and other case specific factors (such as local zoning) when making a judgment on whether a "portable storage unit" should be taxable.

If a unit is rented to a customer for a reasonably temporary period of time, it should not be taxed as real estate to the renter. If you notice that the unit has been located on the renter's property for an extended period of time (e.g. more than a year), it may need to be taxed as real estate. If the property owner actually owns the unit it should be taxed as real estate.

A business or dealer who owns the units and regularly rents them out to paying customers should not have their units taxed as real estate, but rather personal property. However, if you are able to determine that a unit does not move from the business/dealer's property for the assessment year, it should be taxed as real estate.

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

Bridget Solberg
Revenue Tax Specialist Senior
Minnesota Department of Revenue
bridget.solberg@state.mn.us

Dear Ms. Solberg:

Thank you for your question concerning real property taxes. You have asked: What parts of a pool and pool-related equipment are subject to the ad valorem property tax?

In short, only the structure of the pool and the value it provides to the property as determined by the assessor (using market data) is subject to property taxes. Pool equipment, including the filter and any maintenance or replacement costs of such filter, are not considered real property and are therefore exempt from property taxes. Other fixtures/improvements to the property that are permanently affixed to the land may also be subject to property taxes. In some circumstance, this may include decking and other similar improvements. The determination of what constitutes real property is made by the assessor at the time of assessment.

If you have any additional questions, please do not hesitate to contact me at drew.imes@state.mn.us, or by phone at 651-556-6084.

Sincerely,

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

MINNESOTA · REVENUE

March 25, 2014

Loren Benz
Wabasha County Assessor's Office
Loren@co.wabasha.mn.us

Dear Mr. Benz:

Thank you for submitting your question to the Property Tax Division regarding the taxability of a structure in your county. You have provided the following scenario and question.

Scenario:
There is a parcel of privately-owned farm property in Wabasha County. The township hall (owned by Wabasha County Lake Township) sits on this farm property.

Question:
Should the township hall be assessed on the land owner's parcel and be exempt because it is owned by the township, or should the township hall be taxable and assessed to the land owner?

Answer:
The land is taxable because it is owned by a private individual. In order to determine the taxable status of the building, we first refer to the definition of real property under Minnesota Statutes, section 272.03, subdivision 1:

> *"For the purposes of taxation, 'real property' includes the land itself, rails, ties, and other track materials annexed to the land, and all buildings, structures, and improvements or other fixtures on it, bridges of bridge companies, and all rights and privileges belonging or appertaining to the land, and all mines, iron ore and taconite minerals not otherwise exempt, quarries, fossils, and trees on or under it."*

The township hall in the scenario you have outlined is therefore taxable as real property. The land and structures should not be separated on privately-owned property in the situation you have outlined. The land and improvements are taxable to owner of the real property (in this case, the individual and not Wabasha County or Lake Township).

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 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

August 28, 2014

Robin Johnson
Meeker County Assessor's Office
Robin.Johnson@co.meeker.mn.us

Dear Ms. Johnson:

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

Scenario: A farmer has an LP tank that holds 22,000 gallons which is used for grain drying purposes.

Question: Would this tank be taxable as real property? Is there documentation that pertains to the valuation of LP tank for a private individual?

Answer: If the tank constitutes walls, ceilings, roof, or floors; or if the tank provides structural, insulation, or temperature control functions; or if the tank provides protection from the elements, then it is considered to perform the functions similar to that performed by buildings, and is considered taxable as real property. Therefore, the 22,000 gallon LP storage tank is likely taxable as real property.

Additionally, the Information and Education Section is unaware of documentation that pertains solely to the valuation of LP tanks for a private individual. However, it may be helpful to review the Marshall and Swift cost handbook to help with the valuation. Your county's Property Tax Compliance Officer might also be able to assist you.

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

July 22, 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 the taxation of bins and external tanks. You have provided the following scenario and question.

Scenario:
Counties are not taxing the following structures the same:

- Wet grain holding bins used to store grain in conjunction with the grain dryer
- Propane tanks used for grain dryers

Question:
Should these structures be taxable or exempt for property tax purposes?

Answer:
It is the department's guidance that items such as bins and fuel tanks that are used in the process of storing or drying grain are likely taxable as real property. These structures provide a shelter function and are not considered personal property (exempt). The property is taxable based on its use and the fact that it is affixed to taxable real estate. Also, external tanks or bins used only to temporarily hold materials are likely taxable, and how long the storage lasts would be irrelevant.

Property that is primarily used in the production of biofuels (ethanol), wine, beer, distilled beverages, or dairy products should be exempt and considered personal property equipment. However, we are assuming the property in your scenario is not used for the production of listed industries and should be taxable.

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

DEPARTMENT OF REVENUE

Property Tax Refund

06/08/2006 10:04 AM

jbratsch@rb-cpas.com
Property Tax Refund

Dear Jan -

Your question on property tax refund has been assigned to me for reply. You stated that your client owns a house in Carver County that is homesteaded. In addition, they also own a property in northern Minnesota with their son who lives there. You have asked if these parcels qualify for a property tax refund.

The property in Carver County that is homesteaded by your clients may qualify for a property tax refund since it is used as their principal place of residence if it meets all of the other requirements as stated on the M1PR form.

The property in northern Minnesota is less clear. If their son is a partial owner and receives a fractional owner-occupied homestead, it may qualify. However, if the property receives a relative homestead, neither the owner nor the occupying relative can claim a property tax refund.

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

Stephanie L. Nyhus
Principal Appraiser
Property Tax Division

MN Department of Revenue
600 N. Robert Street
St. Paul, MN 55146-3340

October 15, 2008

Lyn Regenauer
Chisago County Assessors Office
Chisago Co. Govt. Center
313 N. Main St. Room 246
Center City, Minnesota 55012-9663

Dear Mr. Regenauer,

Thank you for your recent question concerning the property tax refund. You have outlined the following scenario: A person has 1/3 ownership interest on a property which this person occupies. The person co-owns with two relatives, and is therefore receiving 1/3 owner-occupied homestead and 2/3 relative homestead. You have asked how the property tax refund would be calculated in this scenario.

In our opinion, the property, as classified, qualifies for the property tax refund (PTR) which should be calculated on 100 percent of the total taxable market value (TMV) of the residential property. In this situation, the owner/occupant has a fractional residential homestead based upon the ownership interest in the property and a fractional owner-occupied residential relative homestead based upon the relationship between the occupying and non-occupying owners. Therefore, the qualifying tax amount (QTA) for the PTR is calculated using the total TMV of both the residential owner-occupied and residential relative homestead class rates up to a maximum of ten acres.

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 25, 2009

Cynthia Blagsvedt
Fillmore County Assessor

Dear Ms. Blagsvedt:

Thank you for your inquiry concerning a Property Tax Refund (PTR) for a property in your county. You have presented us with the following scenario:

> *A lawyer transferred all the property of a parent to a daughter and son-in-law instead of splitting off 7 acres with the house for the parents to keep. The correction did not come through until after the 2009 final abstract. For PTR purposes the parents want a new tax statement for 2009 with only their info with the 7 acres. The split parcel did not exist for 2009 so you can't do an abatement because you have no new parcel to put the value above and beyond 7 acres and HG into. Currently for 2009 the parents aren't eligible for PTR because the system shows the daughter and son-in-law's name on it. The parents still have homestead on it for 2009 but are not shown as owner.*

You have inquired as to how to handle this situation.

In our opinion, only persons listed as property owners can receive the property tax refund. As the parents in question are not listed as property owners, they are not eligible for a PTR. In addition, sending out a new tax statement in order to calculate a PTR for a tax parcel that did not actually exist at the time is not appropriate in our opinion.

The details of the property transfer from the parents to the daughter and son-in-law are county issues that should be resolved at the county level. The department is not in a position to comment on the legal issues surrounding the transfer of property. The county attorney and other county officers are better suited to discuss the ramifications of the transfer.

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

2009388

October 28, 2009

Marcia Hetletvedt
Rice County Assessor's Office
County Government Center
320 3rd Street NW, Suite #4
Faribault, MN 55021-6100

Dear Ms. Hetletvedt:

Thank you for your question concerning special ag homesteads. More specifically, you have asked if "actively farming" parcels qualify for the property tax refund (PTR).

For all agricultural homesteads, regardless of whether or not they are special ag homesteads, the HGA is the only portion eligible for a property tax refund.

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 17, 2010

Joy Lindquist
Assessment Specialist
County Assessor's Office
Lake of the Woods County
206 8th Ave SE Ste. 296
Baudette MN 56623

joy_l@co.lake-of-the-woods.mn.us

Dear Ms. Lindquist,

Thank you for your recent question regarding property tax refunds (PTR). You have outlined the following scenario: A property in your county is owned by two related persons. One of the owners occupies. Currently, the property is receiving one-half owner occupied residential homestead and one-half residential relative homestead. You have asked how the qualifying tax amount (QTA) for PTR purposes is calculated in this scenario.

In our opinion, the property qualifies for PTR which should be calculated on 100 percent of the total taxable market value of the residential property. In this situation, the owner/occupant has a fractional owner-occupied residential relative homestead based on the relationship between the occupying and non-occupying owners. Therefore, the QTA for the PTR is calculated using the total TMV of both the residential owner-occupied and the residential relative class rates up to a maximum of ten acres.

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

April 19, 2010

Jackie Meyer
Jackie.Meyer@co.sherburne.mn.us

Dear Ms. Meyer:

Thank you for your question concerning the M1PR (Property Tax Refund) form. You have asked how to properly perform the calculation that is needed to complete line 22 of form M1PR.

The directions to complete line 22 are as follows:

> "Enter line 2 (2009 column) of your Statement of Property Taxes Payable in 2010. If there is no amount on line 2, use line 5 (2009 column) of the Statement of Property Taxes Payable in 2010. If the entries for the prior year column are missing or N/A, the prior year property information is not comparable to the current year information. Generally, this is due to a change in the property, such as the classification, lot size or parcel configuration. To correctly determine line 22, contact your county and ask for a recalculation of the property taxes for the prior year based on the current year's classification or configuration. Include an explanation on how the prior year calculation was derived.
>
> If you are applying for the special refund, you must enter an amount greater than zero on line 22 of Form M1PR."

Therefore, if line 22 cannot be completed by using line 2 or 5 of the Statement of Property Taxes Payable in 2010, the county must, if requested by a taxpayer, recalculate the property taxes for the prior year based on the current year's classification or configuration.

For example:
A parcel is classified as agricultural for assessment year 2008 and reclassified as residential for assessment year 2009. To calculate line 22 of the M1PR, you would use the 2008 estimated market value, the 2008 local tax rate, and the 2009 residential 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

July 22, 2010

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

Dear Ms. Pehrson,

Thank you for your recent question to the Property Tax Division. You have asked if agricultural property, owned by an authorized entity and occupied by a qualifying person, and therefore granted agricultural homestead, would be eligible for property tax refund (PTR) on the house, garage, and first acre of homestead.

As stated in our recently-updated Property Tax Administrator's Manual, Module 4 (Homesteads), page 57, PTR is available on each HGA that is occupied by a qualified person for these actively engaged in farming special agricultural homesteads. So long as the qualified person is actively engaged in farming the agricultural land on behalf of the authorized entity, homestead is granted in the name of the shareholder, member, or partner that occupies the property and is eligible for PTR on the HGA.

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

February 23, 2012

Denise Jacobs
City of Moorhead Assessor's Office
denise.jacobs@ci.moorhead.mn.us

Dear Ms. Jacobs,

Thank you for your recent question to the Property Tax Division regarding mobile home park cooperatives. You have outlined the following scenario: There is a mobile home park that is located in Moorhead. The mobile home park has become a cooperative. You have asked if the cooperative would be eligible for the property tax refund.

The Minnesota Property Tax Administrator's Manual, *Module 2 – Valuation* states in part:

> *"Class 4c(5)(ii) properties are manufactured home park cooperatives which are owned by a corporation or association organized under chapter 308A (cooperatives) or 308B (cooperative associations) and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park. The park as a whole may be eligible for "homestead treatment" which in this case means a reduced classification rate of .75%, if more than 50% of the lots in the park are occupied by shareholders in the cooperative corporation or association and a class rate of 1.00% if 50% or less are so occupied. If the park meets the requirements for homestead treatment, the residential homestead market value credit under section 273.1384 does not apply and the property taxes assessed against the park are not to be included in the determination of taxes payable for rent paid for property tax refund purposes under section 290A.03."*

In other words, the class 4c(5)(ii) manufactured home park cooperative that you have outlined is not eligible for any type of Property Tax Refund or Rental Refund. Individual structures that are classified as 1a or 1b homestead property may be eligible for the property tax refund, but any tax attributed to the class 4c(5)(ii) land is not included.

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

August 28, 2012

Denise Ostlund
Assessing Specialist
City of Minnetonka
dostlund@eminnetonka.com

Dear Ms. Ostlund:

Thank you for your question submitted to the Property Tax Division in regard to homestead classification and property tax refunds. You have provided the following scenario:

A property is classified as 50% homestead and the owner has filed an M1PR. You are asking if the property owner would only receive a 50% property tax refund.

Qualifying tax amounts (QTA) are the amounts listed on Line 1 of the property tax statement which the taxpayer will use when filing for a property tax refund. The QTA is generally calculated using the tax capacity of that portion of the parcel used as the owner's homestead.

For fractional residential homesteads only, the qualifying tax amount (QTA) is calculated using the total taxable market value (TMV) of the entire residential (homestead and non-homestead) portion of the property up to the 10-acre maximum. It should be noted that this is an exception to the general rule for calculating the QTA. Additionally, only one property tax refund per homestead is allowed, regardless of how many people own the property.

If you have any further questions, please feel free to 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 16, 2014

Amanda Lee
Mower County Assessor's Office
amandalee@CO.MOWER.MN.US

Dear Ms. Lee:

Thank you for submitting your question to the Property Tax Division regarding calculating the Qualifying Tax Amount (QTA) on a homestead for Property Tax Refund (PTR) purposes.

Scenario: A property is owned by two relatives and occupied by one. It is ½ owner-occupied homestead and ½ relative homestead. You allocate the owner-occupied homestead and relative homestead values before calculating the QTA, but have learned that other counties use the full value for calculating QTA.

Question: What is the correct way to calculate the QTA?

Answer: The QTA for PTR should be calculated on 100 percent of the total taxable market value of the residential property.

In this situation, the owner/occupant has a fractional owner-occupied residential relative homestead based on the relationship between the occupying and non-occupying owners. Therefore, the QTA for the PTR is calculated using the total TMV of both the residential owner-occupied and the residential relative class rates up to a maximum of ten acres.

We have examples of calculating the QTA in the Property Tax Administrator's Manual, *Module 6 – Property Taxation*, and a number of letters related to calculating the QTA in our Letters Database on the Minnesota Association of Assessing Officers webpage.

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

DEPARTMENT OF REVENUE

Retention Schedules

March 11, 2008

Jackie Meyer
Sherburne County Assessor's Office
13880 Highway 10
Elk River, Minnesota 55330-4607

Dear Ms. Meyer:

Your question regarding record retention schedules has been forwarded to me for response. Minnesota Statutes, section 138.17 outlines how to properly preserve, manage, and destroy government records. Minnesota Statute 138.17, subdivision 7, states the following regarding records management:

> *"It shall be the duty of the head of each state agency and the governing body of each county, municipality, and other subdivision of government to establish and maintain an active, continuing program for the economical and efficient management of the records of each agency, county , municipality, or other subdivision of government. Public officials shall prepare an inclusive inventory of records in their custody, to which shall be attached a schedule, approved by the head of the governmental unity or agency having custody of the records, establishing a time period for the retention or disposal of each series of records."*

Each public agency is responsible for its own records retention schedule. Most counties have adopted a general record retention policy called the *General Records Retention Schedule*, which identifies the appropriate retention periods for certain types of records. If you have questions concerning the *General Schedule*, or believe that Sherburne County has adopted the policies therein, you may contact Charles Rodgers at the State Archives of the Minnesota Historical Society with questions you may have. His email is charles.rodgers@mnhs.org. Another resource available to you is the Minnesota Historical Society "Preserving and Disposing Government Records" manual available online at http://www.mnhs.org/preserve/records/recser.html.

I hope that this will help you with any concerns you may have concerning proper record retention procedures and schedules. If you have further questions, you may direct them to proptax.questions@state.mn.us.

Sincerely,

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

2009049

January 26, 2009

Julie Hackman, Manager
Olmsted County Assessment Services
151 4th Street SE
Rochester MN 55904

Dear Ms. Hackman,

Thank you for your recent inquiry to the Department of Revenue concerning retention of homestead applications. You have been advised by the Minnesota Historical Society that a period of six years is appropriate retention for homestead applications. We have reviewed the opinion that you forwarded to us and have developed a suggested retention schedule which lends greater credibility and insurance to assessors' offices.

We recommend that any time a property is granted homestead, the initial homestead application for that owner is retained as long as homestead is in place. In other words, if a property was purchased and homesteaded in 1999 and is still under same ownership and still homesteaded, the initial application should still be kept on file in the assessor's office. This way, so long as the owners are claiming this property as their primary residence, you will have appropriate paper documentation attesting to this fact. If at any time ownership transfers (via sale or other means) so that the original homestead owner no longer homesteads the property, the previous owner's application may be held to the six-year retention schedule.

Homestead may not be granted without proper application. As property owners are not required to re-apply for homestead each year, it is assumed that that documentation will remain on file so long as homestead is given to a property. If not, an assessor may be accused of malfeasance, as there is no proof that homestead has been properly granted.

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

MINNESOTA ▪ REVENUE

March 31, 2010

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

Dear Mr. Albertsen,

Thank you for your recent question to the Property Tax Division regarding records retention. You have asked if the now-obsolete "letters of intent" which were sent to Green Acres property owners in 2008 need to be kept on file.

In short, unless your county has a records retention policy which requires those letters to be kept for a certain period of time, we believe that it is allowable to destroy those letters. We recommend keeping the new 2009 letters under the guidelines of your county's specific records retention schedule.

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

August 4, 2010

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

Dear Mr. Dangers:

Thank you for your question concerning the retention of homestead applications. You have asked if you may scan digital copies of homestead applications and destroy the originals. You have also asked if there are any other documents in the assessor's office that must be kept in an original format or can all documents be converted to digital format for storage.

Minnesota Statute 138.17 covers how to properly destroy, preserve, and manage government records. It also states that each public agency is responsible for the preservation and care of its government records and must establish its own records retention schedule. However, according to Charles Rodgers at the State Archives of the Minnesota Historical Society, most counties have adopted a general record retention policy called the *General Records Retention Schedule*, which identifies the appropriate retention periods and other requirements for certain types of records.

The requirements of the general schedule allow for documents such as homestead applications to be scanned into a computer system, but this does not necessarily mean that the "physical forms" can be destroyed or disposed of. When the storage medium of records changes (by scanning or microfilming), permission from the Records Disposition Panel is required before the originals can be destroyed or discarded. In general, anytime that you find records that are not on the *General Schedule*, are no longer being created, have changed mediums, or have reached their useful retention, permission to destroy them should be obtained from the Records Disposition Panel.

We highly recommend you contact Charles Rodgers of the Minnesota Historical Society if you have any further questions or doubt that Aitkin County has adopted the *General Records Retention Schedule.* He can be contacted at (651)-259-3266 or charles.rodgers@mnhs.org.

We also advise that you review the following resource that provides general information on government record keeping:

- Minnesota Historical Society: http://www.mnhs.org/preserve/records/recser.html (The "Preserving and Disposing of Government Records" manual is particularly useful and addresses the questions you have asked.)

Thank you for your inquiry. If you have any further questions for us, please direct them to proptax.questions@state.mn.us.

Sincerely,

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

MINNESOTA · REVENUE

July 28, 2014

Brenda Shoemaker
Otter Tail County Assessor's Office
www.co.otter-tail.mn.us

Dear Ms. Shoemaker:

Thank you for submitting your questions to the Property Tax Division regarding the retention of private data. You have provided the following scenario and questions.

Scenario:
Your Assessor's Office is looking into scanning past, present, and future property tax applications for homestead, exemption, and special program applications as well as supporting documents.

Questions:
Are there any Property Tax applications and/or supporting documents that should not be scanned due to security or privacy issues? Can a third party company take these applications off site to be scanned, then put into a shared folder made available only to the Assessor's Office?

Answer:
Although the Department of Revenue has a policy on retention schedules, many counties have been advised by the Minnesota Historical Society concerning the appropriate retention for homestead, exemption and special program applications. The Minnesota Historical Society has a general record retention policy called the *General Records Retention Schedule* which identifies the appropriate retention periods and other requirements for certain types of records.

The requirements of the general schedule allow for documents such as homestead applications to be scanned into a computer system, but this does not necessarily mean that the "physical forms" can be destroyed or disposed of. When the storage medium of records changes (by scanning or microfilming), permission from the Records Disposition Panel is required before the originals can be destroyed or discarded. In general, anytime that you find records that are not on the *General Schedule*, are no longer being created, have changed mediums, or have reached their useful retention, permission to destroy them should be obtained from the Records Disposition Panel.

It is not the Department of Revenue's position to advise on the data storage, access and security of scanned documents so we advise that you work with your county's data practices authority to ensure your office is complying with the data practices act and other property tax-specific data classification statutes to address the issue of scanning the documents and maintaining them electronically.

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

October 7, 2015

Nancy Wojcik
Hennepin County Assistant County Assessor
Nancy.wojcik@hennepin.us

Dear Ms. Wojcik:

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

Scenario:

- Hennepin County is currently writing an eHomestead application to be used for online homestead applications.
- The application will allow the county to print a PDF version of the application at any time.
- With the storage of the data collected rather than the forms, programmers are asking for a recommendation from the Department of Revenue regarding record retention storage of the homestead application.

Question 1: If your county accepts the application with an electronic signature, can the application data fields and electronic signature be stored separate from the application and pulled into an application any time a review is requested?

Answer 1: Yes, as long as all the data fields can be combined as needed to produce a PDF, when requested. The prescribed form from the commissioner must be utilized, and the specific version of the application being viewed must be clearly known. The date of the application and all versions from the previous 10 years (or per your retention policy) must be available.

Question 2: Does the original application at the time of submission need to reprint, or only the most current version of the application?

Answer 2: All versions in the last 10 years (or per your retention policy) would need to be able to be reproduced at any time the application is requested.

Question 3: Does the original application at the time of homestead application have to be stored in the electronic PDF (scan of the document)?

Answer 3: No; it is acceptable to store the signature and data fields separately. However, all application versions for the last 10 years (or per your retention policy) would need to be able to be reproduced at any time the application is requested. The department recommends using time stamps/date stamps to ensure the data is easily recognizable and to ensure no manipulation of the data has occurred.

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

DEPARTMENT OF REVENUE

Sustainable Forest Incentive Act (SFIA)

May 5, 2004

Mary Black
Assistant Assessor
Cook County
411 2nd Street
P.O. Box 1150
Grand Marais, Minnesota 55604-1150

Dear Mary:

Your email has been forwarded to me for a reply. In your email you stated that you have a concerned taxpayer who is enrolled in the Sustainable Forest Incentive Act (SFIA) program. This taxpayer believes he/she is entitled to receive a discount in value because the property must be enrolled in the program for a minimum of eight years.

Minnesota assessors are required to value property at its estimated market value based upon the assumption of a fee simple ownership interest. Simply stated this means that the entire bundle of rights is intact. The assessor, for property tax purposes, cannot decrease the value of a specific property simply because it is enrolled in the SFIA program and cannot be developed for a minimum of eight years. When valuing property, the assessor must base their valuation determination on existing market conditions.

Minnesota Statute 273.11, subdivision 1 provides, in part, that property should be valued at its market value, and states as follows:

> *"All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value."*

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

September 20, 2006

Marci Moreland
Chief Deputy Assessor
Carlton County
Courthouse
P.O. Box 440
Carlton, MN 55718

Dear Marci:

Thank you for your question regarding the Sustainable Forest Incentive Act (SFIA) program. You provided the following. A property owner provided you a copy of an approval letter from our office indicating he had been approved for enrollment in the SFIA program. You currently have the property split classed as timber and seasonal. The property owner insists his property be classed as agricultural due to his property enrolled in SFIA. You asked for our opinion.

As you may already know, land that is not eligible in SFIA includes agricultural land used for agricultural purposes, including pasture, hayfields and cropland.

The first step if all qualifications are met to enroll in the SFIA program is to record a covenant with the county recorder's office in which the land is located pledging not to develop the land. If the property owner is using his land for agricultural purposes, it is inappropriately enrolled in the SFIA program and you clearly do not have it classified correctly.

However, we assume you do have the property correctly classified and the property owner is not using his land for agricultural purposes. Therefore, it would be inappropriate to re-classify the property as agricultural.

If you have further questions or concerns, 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 13, 2008

Cindy Blagsvedt
Fillmore County Assessor's Office
Courthouse
PO Box 67
Preston, Minnesota 55965

Dear Cindy:

Thank you for your question regarding property that is enrolled (or will be enrolled) in the Sustainable Forest Incentive Act (SFIA) program. You have asked if this land should be exempt from property taxes.

Property enrolled in the SFIA program is not tax exempt. The SFIA program provides claimants with an annual incentive payment as described under Minnesota Statute 290C.07. Property that is enrolled in the SFIA program should be valued and classified the same as other properties with similar characteristics.

In your email you referenced “code 941.” This is most likely a computer consortium code that your county uses for tax rate purposes. We do not use this code and therefore we can not tell you what the property would be coded in your county. If, however, “code 941” references tax exempt property, it should not be applied to property enrolled in the SFIA program.

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 24, 2008

Dave Sipila
St. Louis County Assessor's Office
Courthouse
100 North 5th Avenue West
Duluth, Minnesota 55802-1293

Dear Mr. Sipila:

Thank you for your questions concerning Auxiliary Forest Contracts. You have asked the following questions.

Question 1: Were Auxiliary Forest Contracts abolished when the SFIA program came into being?
No. Auxiliary forest contracts are still valid. The last contracts were made in 1974 and have a lifespan of 50 years. Lands under auxiliary forest contracts can be converted to the SFIA program when the contract ends or if the property owner prefers, before the end of the contract. The Commissioner of Revenue cancels any auxiliary forest contract if the owner has made successful application to SFIA and has made payment as according to M.S. 88.49 and M.S. 88.491.

Minnesota Statutes, Section 88.491, Subdivision 2 states the following:

> *"When auxiliary forest contracts expire, or prior to expiration by mutual agreement between the land owner and the appropriate county office, the lands previously covered by an auxiliary forest contract automatically qualify for inclusion under the provisions of the Sustainable Forest Incentive Act; provided that when such lands are included in the Sustainable Forest Incentive Act prior to expiration of the auxiliary forest contract they will be transferred and a tax paid as provided in section 88.49, subdivision 5, upon application and inclusion in the sustainable forest incentive program. The land owner shall pay taxes in an amount equal to the difference between:*
> *(1) the sum of:*
> *(i) the amount which would have been paid from the date of the recording of the contract had the land under contract been subject to the Minnesota Tree Growth Tax Law; plus*
> *(ii) beginning with taxes payable in 2003, the taxes that would have been paid if the land had been enrolled in the sustainable forest incentive program; and*
> *(2) the amount actually paid under section 88.51, subdivisions 1 and 2."*

(Continued…)

Question 2: St. Louis County has a number of parcels that are still being taxed under the terms of the Auxiliary Forest contract and are also enrolled in the SFIA program. Is this okay?
No. Once a property with an auxiliary forest contract is enrolled in the SFIA program the auxiliary forest contract becomes null and void.

Question 3: Who is responsible for monitoring the property to ensure the terms of the Auxiliary Forest contract are being upheld?
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]

Question 4: Does the contract run with the land?
Minnesota Statutes, Section 88.49 states that:

> *"All the provisions of the contract shall be deemed covenants running with the land from the date of the filing of the contract for record."*

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

2009134

April 3, 2009

Steven S. Hurni
Department of Revenue Regional Representative
15085 Edgewood Road
Little Falls, MN 56345

Dear Mr. Hurni,

Thank you for your recent question to the property tax division. You have asked if a property may be enrolled in both Green Acres and the Sustainable Forest Incentive Act (SFIA) concurrently.

The answer is no. Minnesota Statutes, section 290C.02, subdivision 6 precludes land that is "used for residential or agricultural purposes," and land that is enrolled in "the Minnesota agricultural property tax law under section 273.111…" from being enrolled in the SFIA program.

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 10, 2011

Gale Zimmermann
Morrison County Assessor
Galez@morrison.mn.us

Dear Mr. Zimmermann:

Thank you for your question concerning the Sustainable Forest Incentive Act program (SFIA). You have asked if exempt wetlands can qualify for the SFIA program.

Wetlands that are exempt do not qualify for the SFIA program. According to Minnesota Statute 290C.01, the purpose of the SFIA program is to promote sustainable forest resource management on the state's public and private lands. The incentive payment provided by enrollment in the SFIA program is designed to help offset the annual costs of ad valorem property taxes that can discourage long-term forest management investments. Property that is exempt, such as type 3,4, and 5 wetlands, are not being taxed and therefore do not have an annual cost of ad valorem property taxes that need to be offset. Therefore, although statute does not specifically state that exempt wetlands cannot be enrolled in the SFIA program, the intent of the law is such that exempt lands should be excluded from receiving the benefit provided by the SFIA incentive payment.

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 19, 2011

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

Dear Ms. Dunsmore:

Thank you for your question concerning the classification of land enrolled in the Sustainable Forest Incentive Act program (SFIA). Your question has been forwarded to me for reply. You have supplied us with the following scenario:

> A parcel has 10 acres being used for agricultural purposes; 1 acre contains the house, garage, and immediately surrounding land; and 59 acres of property not being used to produce an agricultural crop for sale. Of these 59 acres, 54 are enrolled in the SFIA program.

You have asked if the property enrolled in the SFIA program can receive the rural vacant land classification and the corresponding 0.50 percent class rate due to it being part of an agricultural homestead.

Property being used to produce an agricultural crop for sale cannot be enrolled in the SFIA program. However, class 2b rural vacant that is part of an agricultural homestead may be enrolled in the SFIA program and receive the 0.50 percent class rate.

If you have any 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

MINNESOTA · REVENUE

June 8, 2012

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

Dear Ms. Moreland,

Thank you for your recent question regarding the Sustainable Forest Incentive Act (SFIA). You have provided us with the following information:

> On the parcels where there is a cabin, you have broken out 10 acres as seasonal class and the remainder of the parcel is Rural Vacant Land. You are asking if you should keep the 10 acres of seasonal class or go by the covenant of the SFIA program and change the 10 acres to 3 acres.

After reviewing the information that you have provided us it appears that the classification of the property is correct. The SFIA covenant states:

> *"…A building or structure used exclusively for management activities may be included. An example would be a shed or building that only houses equipment used during management activities. You must subtract three acres for any other structure (house, barn, hunting cabin, etc.)…"*

This statement is not referring to classification, it is referring to the enrolled SFIA acreage. Therefore, if a property is enrolled in the SFIA program and there is a structure on the property the applicant should have excluded three acres on the SFIA application and the classification of the property does not need to be changed. The Department of Revenue administers the SFIA program, therefore if an applicant didn't exclude acreage amount they would be contacted by the Department of Revenue.

You also had a clerical question regarding parcel number errors. You are asking if you can send a spreadsheet with any corrections for us to review. Yes, please email a spreadsheet to the SFIA Administrator, Julie Rosalez.

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

June 29, 2012

Loreen Lindsey
Isanti County Assessor's Office
loreen.lindsey@co.isanti.mn.us

Dear Ms. Lindsey,

Thank you for your recent email regarding properties in your county that are enrolled in the Sustainable Forest Incentive Act (SFIA) program. You provided us with the following questions:

Can a property be classified as agricultural homestead while in SFIA or should it be Residential/ Rural Vacant Land? Or a split of the two?
Property being used to produce an agricultural crop for sale cannot be enrolled in the SFIA program. However, rural vacant land (rural land not used for an agricultural purpose) that is part of an ag homestead may be enrolled in the SFIA program. In other words, any land classified as 2a cannot be enrolled in the SFIA program but 2b land can be enrolled.

Is SFIA similar to 2C where the property owner needs to have a new plan every ten years, or is the annual certification the only requirement?
SFIA is similar to 2C; therefore the enrollee does need to be sure that the Forest Management Plan is revised every ten years by an approved plan writer. Starting in 2013, the Department of Revenue will require that all SFIA enrollees send the DOR a copy of the first page of their plans that show the date the plan was written/revised. There will be more information regarding the Forest Management Plans sent out to the SFIA enrollees sometime in the fall of 2012.

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

April 1, 2013

Steve Hurni
Property Tax Compliance Officer
Minnesota Department of Revenue
steve.hurni@state.mn.us

Dear Mr. Hurni:

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

> A property owner in Becker County has pasture land currently enrolled in the Green Acres program. The property owner no longer wants to actively pasture the land and wants to enroll the acreage in SFIA.
>
> You would like to know if Minnesota Statute 273.111, subdivision 3, paragraph (c) allows the owner to accomplish his goal without being subject to Green Acres payback provisions.

Minnesota Statutes, section 273.111, subdivision 9 (b) provides:

> *"When real property which is being, or has been valued and assessed under this section no longer qualifies under subdivision 3, the portion no longer qualifying shall be subject to additional taxes, in the amount equal to the difference between the taxes determined in accordance with subdivision 4, and the amount determined under subdivision 5. Provided, however, that the amount determined under subdivision 5 shall not be greater than it would have been had the actual bona fide sale price of the real property at an arm's-length transaction been used in lieu of the market value determined under subdivision 5. Such additional taxes shall be extended against the property on the tax list for the current year, provided, however, that no interest or penalties shall be levied on such additional taxes if timely paid, and provided further, that such additional taxes shall only be levied with respect to the last three years that the said property has been valued and assessed under this section."*

Therefore, the property owner would be subject to payback provisions stated above because the owner is voluntarily withdrawing the property from the Green Acres program. Furthermore, there is no provision in subdivision 3, including paragraph (c), that allows property enrolled in Green Acres to transfer to SFIA without being subject to Green Acres pay back provisions.

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

Sincerely,

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

MINNESOTA · REVENUE

February 26, 2014

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

Dear Ms. Dunsmore:

Thank you for your question to the Property Tax Division regarding Sustainable Forest Incentive Act (SFIA) and the 2a agricultural classification. You have provided the following scenario and questions.

Scenario: In your county, you have a parcel of land that is mostly enrolled in SFIA. The owner is collecting maple syrup from the trees and would like the part of his land not enrolled in SFIA to be classified as 2a agricultural. There is not ten contiguous acres of land on this parcel that is not enrolled in SFIA.

Question 1: Does this situation qualify for the 2a agricultural classification?

Answer 1: Under Minnesota Statutes 290C, land used for an agricultural purpose (including pasture, hayfields, and cropland) does not qualify as forest land for SFIA purposes. However, a property can have acres that are enrolled in SFIA and separate acres that receive the agricultural classification. According to Minnesota Statutes 273.13, subdivision 23, in order to be classified as 2a agricultural, the ten acres used for maple syrup production need to be produced by a licensed maple syrup producer.

In this scenario, it appears the parcel does not have a minimum of 10 contiguous acres used for an agricultural purpose; therefore, the remaining land not enrolled in SFIA would not qualify for the 2a agricultural classification.

Question 2: If the property had at least 10 acres not enrolled in SFIA, and the 10 acres were utilized to produce maple syrup, would this parcel qualify for 2a agricultural classification?

Answer 2: Yes, from the scenario provided in question 2, if there were 10 contiguous acres being used for a qualifying agricultural purpose that were not enrolled in SFIA, then that land may qualify for 2a agricultural classification. As indicated above, the maple syrup production would need to be by a licensed maple syrup producer.

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

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

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